

No.: 81/2013/ND-CP

*Hanoi, July 19, 2013*

**DECREE**

**Detailing a number of articles of and measures to implement the Law on  
Handling of Administrative Violations**

*Pursuant to the December 25, 2001 Law on Organization of the Government;*

*Pursuant to the June 20, 2012 Law on Handling of Administrative Violations;*

*At the proposal of the Minister of Justice,*

*The Government promulgates the Decree to detail a number of articles of and measures to implement the Law on Handling of Administrative Violations.*

**Chapter I**

**DETAILED PROVISIONS ON SANCTIONING OF ADMINISTRATIVE  
VIOLATIONS AND APPLICATION OF ADMINISTRATIVE  
HANDLING MEASURES**

**Article 1. Entities subject to sanctioning of administrative violations**

To be sanctioned for administrative violations are individuals and organizations specified in Clause 1, Article 5 of the Law on Handling of Administrative Violations.

In case a cadre, civil servant or public employee commits an act of violation while performing his/her public duty or task and his/her act is involved in his/her assigned public duty or task, he/she will not be sanctioned in accordance with the law on handling of administrative violations but will be handled in accordance with the laws on cadres, civil servants and public employees.

A state agency that commits an act of violation involved in its assigned task of state management will not be sanctioned in accordance with the law on handling of administrative violations but will be handled in accordance with relevant laws.

**Article 2. Provisions on administrative violations, sanctions, sanctioning levels and remedial measures in decrees on sanctioning of administrative violations in the fields of state management**

1. Provisions on administrative violations must satisfy the following requirements:

a/ Dealing with violations of regulations on law-prescribed obligations, responsibilities and prohibitions regarding the administrative management order in the fields of state management;

b/ Satisfying the requirements of assurance of state administrative management order;

c/ Clearly and specifically describing administrative violations so as to enable their identification and sanctioning in practice.

2. Provisions on sanctions and sanctioning levels for each administrative violation must be based on the following factors:

a/ The nature and degree of infringing upon the state administrative management order of violations. For violations that are simple and not serious, the sanction of caution must be applied;

b/ The average income level and living standards of people in each period of national socio-economic development;

c/ The educational or deterrent effect and reasonability and feasibility of the application of sanctions and sanctioning levels.

3. Provisions on remedial measures for each administrative violation must meet the following requirements:

a/ The administrative violation causes consequences or is likely to cause consequences;

b/ Remedial measures satisfy the requirement of restoration of state administrative management order affected by the administrative violation;

c/ Remedial measures must be clearly and specifically described so as to be feasible and practical.

4. Provisions on the fine frame for each administrative violation must be specific and the difference between the minimum fine and maximum fine of the frame is not too great. Fine levels in an article must be arranged ascendingly.

5. Administrative violations must be specified in decrees on sanctioning of administrative violations in the fields of state management relevant and suitable to the nature of such violations. An administrative violation in a certain field that has a special characteristic may be specified for sanctioning in a decree on sanctioning of administrative violations in another field. In this case, sanctions and sanctioning levels for such violation must be consistent with those of the decree on sanctioning of administrative violations in the relevant field of state management.

**Article 3. Provisions on the sanction of deprivation of the right to use licenses or practice certificates for a definite time or confiscation of material evidences and means used for commission of administrative violations of decrees on sanctioning of administrative violations in the fields of state management**

1. Provisions on deprivation of the right to use licenses or practice certificates for a definite time for administrative violations must be based on the following grounds:

a/ Administrative violations are directly related to activities stated in the licenses or practice certificates;

b/ Administrative violations are serious and infringe upon the state administrative management order.

The duration for which the right to use licenses or practice certificates is deprived of for administrative violations must be provided as a specific time frame with a not too great difference between the minimum duration and maximum duration.

2. Provisions on confiscation of material evidences and means used for commission of administrative violations must be based on the following grounds:

a/ Administrative violations are serious and intentionally committed;

b/ Things, money, goods and means are direct material evidences of administrative violations or directly used for commission of administrative violations; without these things, money, goods and means, such administrative violations cannot be committed.

In case material evidences and means used for commission of administrative violations are narcotics, weapons, explosives, supporting tools, things of historical or cultural value, national treasures, antiques, precious and

rare forest produce and things banned from circulation, confiscation must be applied.

**Article 4. Provisions on the sanction of deprivation of the right to use licenses or practice certificates for a definite time or suspension of operation for a definite time as a principal or additional sanction in decrees on sanctioning of administrative violations in the fields of state management**

Provisions on the sanction of deprivation of the right to use licenses or practice certificates for a definite time or suspension of operation for a definite time as a principal or additional sanction for specific administrative violations in decrees on sanctioning of administrative violations must be pursuant to Articles 21 and 25 of the Law on Handling of Administrative Violations, and Clause 1, Article 3 of this Decree, and based on the characteristics of each field of state management.

**Article 5. Determination of sanctioning competence**

1. The competence to impose fines of each title must be specified in decrees on sanctioning of administrative violations. For a decree concerning many fields of state management, such competence must be specified for each field.

In case the competence to impose fines of the titles specified in Articles 38, 39, 40, 41 and 46 of the Law on Handling of Administrative Violations is determined based on percentages of the maximum fine level in the relevant field specified in Clause 1, Article 24 of the Law on Handling of Administrative Violations, such percentages must be calculated in specific sums of money to be specified in the decrees.

2. For the fields of state management specified in Clause 3, Article 24 of the Law on Handling of Administrative Violations which see administrative violations subject to fines determined according to the number of times of violation and value of material evidences and goods involved in the violations, the competence to impose fines of the titles specified in Articles 38, 39, 40, 41 and 46 of the Law on Handling of Administrative Violations is determined based on percentages of the maximum fine level in such fields, which must be calculated in specific sums of money to be specified in the decrees.

3. In case a decree on sanctioning of administrative violations specifies many titles competent to participate in the sanctioning in different fields of state management, the sanctioning competence of each title must be clearly specified in separate provisions.

In case a decree specifies special administrative violations according to Clause 5, Clause 2 of this Decree, the titles competent to sanction administrative violations in the specialized fields of state management may also sanction such special violations specified in decrees on sanctioning of administrative violations in other fields.

4. Documents on empowerment specified in Article 54, Clause 2 of Article 87, and Clause 2 of Article 123 of the Law on Handling of Administrative Violations must clearly state the scope, contents and duration of empowerment, be numbered, dated, signed and stamped. In case agencies or units of empowering persons have no seals, they shall append the seals of superior agencies.

The legal grounds written in a decision on sanctioning an administrative violation issued by an empowered deputy must clearly state the number, date and subject of the empowerment document.

5. Persons assigned to act as heads of agencies and units that have sanctioning competence are competent to sanction administrative violations and vested with the sanctioning competence like the heads.

#### **Article 6. Making of written records of administrative violations and issuance of decisions on sanctioning of administrative violations**

1. Persons competent to make written records of administrative violations include persons with sanctioning competence, civil servants and public employees who are performing their public duties or tasks; captains of aircraft, ships and trains and persons assigned by the captains to make written records.

The titles competent to make written records must be specified in decrees on sanctioning of administrative violations in each field of state management.

2. Persons competent to make written records of administrative violations specified in Clause 1 of this Article may only make written records of violations falling within their assigned public duties or tasks, and shall take responsibility for the making of written records.

3. For each administrative violation, only one written record and one sanctioning decision must be made. For an administrative violation for which a written record has been made but no sanctioning decision has been issued, if the violator refuses to comply with the request or order of the person with sanctioning competence, and still deliberately commits such violation, the latter shall apply deterrent measures and properly handle the administrative violation in order to stop the violation. When issuing a sanctioning decision for such violation, the person with sanctioning competence may additionally apply

aggravating circumstance(s) specified at Point i, Clause 1, Article 10 of the Law on Handling of Administrative Violations, or sanction the failure to comply with the request or order of the person with sanctioning competence and sanction the violation for which a written record has been made but no sanctioning decision has been issued.

For a violation for which a sanctioning decision has been issued and which is still committed by the violator without executing or while executing such decision, it is treated as a new violation.

4. In case an individual or organization committing many administrative violations in the same case, the written record of administrative violation must clearly state each violation. The issuance of sanctioning decisions complies with Clause 3, Article 67 of the Law on Handling of Administrative Violations.

5. When an remedial measure is executed according to Clause 5, Article 85 of the Law on Handling of Administrative Violations, the sanctioning decision must clearly indicate the person responsible for refunding expenses for the remediation.

6. For a violation subject to public notification prescribed in Clause 1, Article 72 of the Law on Handling of Administrative Violations, the sanctioning decision must clearly state grounds for implementation; contents to be publicly notified; and the name of the newspaper or website of the ministerial- or departmental-level management agency or provincial-level People's Committee of the locality where the administrative violation is committed, on which the information on the violation will be publicized.

#### **Article 7. Application of the sanction of deprivation of the right to use licenses or practice certificates**

1. In case an individual or organization commits many administrative violations and is sanctioned once for such violations, including two or more violations subject to the sanction of deprivation of the right to use the same license or practice certificate, the longest duration of deprivation shall be applied.

2. The competence to apply the sanction of deprivation of the right to use licenses or practice certificates does not depend on agencies or persons that have granted such licenses or practice certificates but only complies with the Law on Handling of Administrative Violations.

3. Within 5 working days after issuing a decision on deprivation of the right to use a license or practice certificate, the person competent to issue such

decision shall notify such in writing to the agency or person that has granted the license or practice certificate.

4. When detecting that a license, certificate or operation registration certificate is intentionally erased, modified or falsified or has been granted based on forged papers or documents in the dossier of application for such license or certificate, the person with sanctioning competence shall revoke such license or certificate and notify it to the agency that has granted such license or certificate.

### **Article 8. Publicization in the mass media of the sanctioning of individuals and organizations that commit administrative violations**

1. For a violation subject to publicization specified in Clause 1, Article 72 of the Law on Handling of Administrative Violations, the head of the agency or unit of the person that has issued the sanctioning decision shall, within 3 working days after the issuance of the sanctioning decision, send a document on the publicization and a copy of the sanctioning decision to the person in charge of the newspaper or website of the ministerial- or departmental-level agency or provincial-level People's Committee of the locality where such violation is committed.

2. Information to be publicized includes: Full name, address and occupation of the violating individual or name and address of the violating organization; the administrative violation; consequences or impacts of the violation; the sanctions, remedial measures and time of implementation.

3. When receiving written requests for publicization of information, persons in charge of newspapers or websites shall publicize all information that needs to be publicized.

4. The head of the agency or unit where the person who has issued a sanctioning decision works shall take responsibility for publicized information; and correct erroneous information within one working day after detecting an error or receiving a request for correction. Expenses for correction are paid by the agency or unit of the person who has issued the sanctioning decision. The person in charge of the newspaper or website publicizing such information shall publish the correction on the website or the next issue of the newspaper within one working day after receiving the correction request.

In case the website or newspaper publishes incorrectly the information specified in Clause 2 of this Article, it shall make a correction on its website or next issue in the same column or position of the published incorrect information within one working day and bear expenses for the correction.

5. In case the sanctioning cannot be publicized within the prescribed time limit for force majeure reasons, persons competent to publicize the sanctioning shall report such to their immediate superiors and publicize the sanctioning right after force majeure events are remedied.

6. Expenses for publicization are covered by regular operating funds of agencies or units of persons who have issued publicization decisions.

**Article 9. Execution of decisions on sanctioning of administrative violations in case sanctioned persons die or are missing or sanctioned organizations are dissolved or fall bankrupt**

1. In case the sanctioned person dies or is missing or the sanctioned organization is dissolved or falls bankrupt under Article 75 of the Law on Handling of Administrative Violations while the sanctioning decision remains valid, the person that has issued such decision shall issue a decision on execution of part of the sanctioning decision within 60 days after the sanctioned person dies as stated in the death certificate or is missing as stated in the decision declaring the person missing; or after the sanctioned organization is dissolved or falls bankrupt as stated in the dissolution or bankruptcy decision. An execution decision contains the following:

a/ Termination of the application of sanctions and reason for termination, except the case specified at Point b of this Clause;

b/ The confiscation of material evidences and means used for commission of the administrative violation, and remedial measures which continue to be applied.

2. Individuals and organizations that are managing material evidences and means used for commission of violations shall confiscate such material evidences and means.

Individuals who inherit estates as identified in accordance with the civil law's provisions on inheritance shall continue to execute the remaining part of the sanctioning decision regarding remedial measures.

For sanctioned organizations which are dissolved or fall bankrupt, decisions on execution of part of sanctioning decisions must be sent to agencies, organizations or individuals competent to settle the dissolution or bankruptcy; or to at-law representatives of the dissolved or bankrupt organizations for execution.

3. Within 3 working days after decisions on execution of part of sanctioning decisions are issued, such decisions must be sent to individuals or organizations specified in Clause 2 of this Article.



4. The procedures for execution of contents of sanctioning decisions under Point b, Clause 1 of this Article comply with the provisions of Section 2, Chapter III, Part Two of the Law on Handling of Administrative Violations. In case the time limit for execution of the decision expires but the individual or organization specified in Clause 2 of this Article fails to execute remedial measures, the agency of the person with sanctioning competence who is processing the administrative violation dossier shall organize the execution of these measure. Expenses for execution of remedial measures are deducted from the estates bequeathed by the sanctioned person or remaining assets of the sanctioned dissolved or bankrupt organization, and regarded as expenses prioritized for payment (if any).

5. In case the sanctioned person dies without leaving any inheritance estate or the sanctioned organization is dissolved or falls bankrupt without leaving any assets, the execution of remedial measures complies with Clause 4, Article 85 of the Law on Handling of Administrative Violations.

6. Heirs of the sanctioned person who is dead or missing or at-law representative of the sanctioned organization which is dissolved or falls bankrupt may supervise, file a complaint or institute a lawsuit about expenses and payment of expenses for the implementation of remedial measures mentioned in Clause 4 of this Article.

#### **Article 10. Forms of and procedures for collection and payment of fines**

1. Violators shall pay fines in any of the following forms:

a/ Paying fines directly at the State Treasury or commercial banks as designated by the State Treasury to collect fines written in sanctioning decisions;

b/ Paying directly or remitting fines into accounts of the State Treasury indicated in sanctioning decisions.

c/ Paying fines directly to persons with sanctioning competence specified in Clause 1, Article 56 and Clause 2, Article 78 of the Law on Handling of Administrative Violations or directly to airport authorities or their representatives in case sanctioned persons are passengers transiting the Vietnamese territory for boarding international flights from the Vietnamese territory; flight crew members on flights transiting the Vietnamese territory; flight crew members of foreign airlines on international flights taking off from the Vietnamese territory.

2. In case a sanctioning decision imposes only a fine but the sanctioned person does not reside or the sanctioned organization is not based in the locality where the violation is committed, the person with sanctioning competence may, at the request of the sanctioned person or organization, decide on fine payment in the form specified at Point b, Clause 2 of this Article and send to the violator the sanctioning decision by post as a registered mail within 2 working days after the issuance of the sanctioning decision.

The sanctioned person or organization shall pay the fine into the account of the State Treasury indicated in the sanctioning decision within the time limit specified in Clause 1, Article 73 of the Law on Handling of Administrative Violations.

Within 5 working days after the fine is paid into the account of the State Treasury, the person who temporarily seizes papers to secure the sanctioning under Clause 6, Article 125 of the Law on Handling of Administrative Violations shall return to the sanctioned person or organization such papers by post as registered mails. Expenses for sending the sanctioning decision and returning seized papers are paid by the sanctioned person or organization.

3. In case a person requests postponement of execution of a fining decision or a person or an organization wishes to pay the fine in installments under Articles 76 and 79 of the Law on Handling of Administrative Violations, he/she/it shall send a written request to the person that has issued the sanctioning decision within 5 working days after receiving the sanctioning decision.

4. In case a person requests reduction of or exemption from the remaining part or the whole of the fine under Article 77 of the Law on Handling of Administrative Violations, he/she shall send a written request to who person that has issued the sanctioning decision 10 working days before the time limit stated in the decision on postponement of the sanctioning decision expires.

5. Within 5 working days after receiving a written request for payment of the fine in installments, the person who has issued the sanctioning decision shall reply in writing to the requester. In case of rejection of the request, he/she shall clearly state the reason.

6. In case of late payment of the fine under Clause 1, Article 78 of the Law on Handling of Administrative Violations, the fine-collecting agency shall base itself on the sanctioning decision to calculate and collect an interest for late payment of the fine.

7. Decisions on postponement of execution of sanctioning decisions; reduction of or exemption from remaining part or the whole of the fine; or payment of fines in installments must be in writing.

The duration for consideration and decision on reduction of or exemption from remaining part or the whole of a fine, or on permission for payment of a fine in installments is not included in the period of late payment of fines.

8. The Minister of Finance shall assume the prime responsibility for, and coordinate with related ministries and sectors in, guiding the collection and payment of fines for administrative violations specified in Clauses 1 and 2 of this Article.

**Article 11. Documents on collection and payment of fines for administrative violations and interests for late payment**

1. Documents on collection and payment of fines for administrative violations and interests for late payment must be printed, issued, managed and used uniformly nationwide in accordance with law in order to certify money amounts already paid by sanctioned persons and organizations to agencies competent to collect fines.

2. Documents on collection and payment of fines and interests for late payment include:

a/ Fine receipts, which must be printed with a par value and used for on-the-spot collection of fines for administrative violations under Clause 2, Article 69 and Clause 2, Article 78 of the Law on Handling of Administrative Violations in case of a fine of up to VND 250,000 for persons, or VND 500,000 for organizations.

b/ Fine receipts, which are not printed with a par value and used for collection of fines in other cases of sanctioning of administrative violations and collection of interests for late payment of fines;

c/ Written certification of payment of fines into the account of the State Treasury (if any);

d/ Other documents as specified by law.

3. The issuance of fine receipts is prescribed as follows:

a/ The Ministry of Finance shall provide fine receipts to agencies or units of persons competent to sanction administrative violations and agencies and units collecting fines for administrative violations in accordance with law;

b/ Distributing agencies shall notify in writing the distribution before the form of fine receipt is put into use for the first time;

c/ Persons and organizations provided with fine receipts shall manage and use such receipts under this Decree and other relevant regulations.

#### 4. Use of fine receipts:

a/ When using fine receipts, fine collectors shall compare information in sanctioning decisions with contents written in fine receipts under regulations. The total amount of money stated in the fine receipt must be consistent with the fine amount stated in the sanctioning decision;

In case of collection of an interest for late payment of fine as specified in Clause 1, Article 78 of the Law on Handling of Administrative Violations, the receipt must clearly state the collected amount and indicate that it is an interest for late payment of fine.

b/ Persons and organizations liable to pay fines for administrative violations may refuse to pay fines if detecting that fine receipts or documents are improperly made or written inconsistently with sanctioning decisions or state incorrect fine amounts or interests for late payment of fines (if any) and report such to agencies managing persons competent to collect fines, for timely handling.

#### 5. Management of fine receipts:

a/ The management of fine receipts for administrative violations complies with current regulations applicable to each type of receipt;

b/ Agencies and organizations provided with fine receipts shall keep books for monitoring the receipt, issuance, preservation and keeping of receipts under current accounting regulations; and make monthly and quarterly reports on use of fine receipts and annually finalize fine receipts under regulations;

c/ The destruction of fine receipts complies with current regulations applicable to each type of receipt.

6. The Minister of Finance shall specify contents and presentation of fine receipts and other fine collection documents; organize the printing, distribution, management and use of documents on collection of fines for administrative violations and interests for late payment of fines.

### **Article 12. Procedures for handover of confiscated material evidences and means used for commission of administrative violations for auction**

1. For confiscated material evidences and means used for commission of administrative violations not specified at Points a, b, c and d, Clause 1, Article 82 of the Law on Handling of Administrative Violations, within 30 days after the issuance of a confiscation decision, the decision-issuing agency shall sign an auction contract with a professional auction organization in the province or centrally run city where the administrative violation is committed.

In case it cannot hire a professional auction organization, the agency that has issued the confiscation decision shall form an auction council. The composition and auction order and procedures of the council comply with the provisions of the law on asset auction regarding asset auction councils in special cases.

2. After signing an asset auction contract, the agency that has issued the confiscation decision shall hand over the material evidences and means concerned and make a written record of the handover. Such a written record must clearly state the date of handover; person who hands over and person who receives the confiscated material evidences and means; signatures and seals (if any) of these persons; quantity and state of confiscated material evidences and means; responsibility for preserving the confiscated material evidences and means for auction.

In case confiscated material evidences and means are bulky goods or in large quantities, the hired professional auction organization shall sign a contract on asset preservation with the agency currently keeping such material evidences and means. The auction of such assets must be conducted at the place where they are kept.

3. When handing over confiscated material evidences and means, the agency that has issued the confiscation decision shall also send a dossier of handover to the professional auction organization. A handover dossier comprises a written record of handover; the decision on confiscation of material evidences and means; papers and documents evidencing the lawful ownership and use right (if any); documents on valuation of confiscated material evidences and means or other invoices or documents showing their value.

4. In case material evidences and means cannot be auctioned or have been auctioned but the proceeds are not enough to pay expenses specified in Clause 4, Article 82 of the Law on Handling of Administrative Violations, the agency that has issued the confiscation decision may request support from the state budget in accordance with the law on decentralization of the state budget management.

**Article 13. Identification of ages of persons subject to administrative handling measures**

1. A person competent to make dossiers of request for application of administrative handling measures shall identify the ages of persons subject to such measures based on their birth certificates. For a person having no birth certificate or when it is impossible to accurately determine the date of birth based on the birth certificate, he/she may refer to such person's identity card, passport, household registration book or other papers issued by competent agencies which indicate the date of birth.

If the above papers are unavailable, he/she may refer to the civic registration book or other papers, books or documents of the related state agency to identify the age of the person subject to administrative handling measures.

In case the dates of birth stated in the above papers are inconsistent, the date of birth stated in any of these papers which is most beneficial to the person subject to administrative handling measures is used to identify his/her age.

2. In case the papers mentioned in Clause 1 of this Article do not clearly state a date of birth, such date of birth can be identified as follows:

a/ If a specific month is identified but no specific day in such month can be identified, the last day of the identified month is taken as the date of birth;

b/ If a specific quarter of a year is identified but no specific day and month in such quarter can be identified, the last day of the last month of the identified quarter is taken as the date of birth;

c/ If the first or second half of a year is identified but no specific day and month in such half can be identified, the 30<sup>th</sup> of June or 31<sup>st</sup> of December of the identified half is taken as the date of birth;

d/ If a specific year is identified but no specific day and month in such year can be identified, the 31<sup>st</sup> of December of the identified year is taken as the date of birth.

3. The identification of ages in Clauses 1 and 2 of this Article must be presented in writing.

#### **Article 14. Sanctioning of administrative violations of minors**

1. In case of sanctioning administrative violations of minors, if the ages of violators cannot be accurately identified for application of sanctions, persons with sanctioning competence shall choose a sanction which is the most favorable for violators.

2. Before deciding to apply the measure of caution to minors committing administrative violations, persons with sanctioning competence shall consider

conditions for application of admonition prescribed in Article 139 of the Law on Handling of Administrative Violations and Article 15 of this Decree. They may decide to serve a caution on minors only when the conditions for application of admonition are not satisfied.

### **Article 15. Admonition**

1. Admonition is an educational measure applied in substituting of caution to minors committing administrative violations to make these minors aware of their violations.

2. Persons subject to and conditions for application of admonition:

a/ Minors who are between full 14 and under 16 years old and sanctioned for administrative violations when they willingly report, admit and sincerely repent their violations;

b/ Minors who are between full 16 and under 18 years old and sanctioned for administrative violations subject to caution when they willingly report, admit and sincerely repent their violations.

3. Persons with sanctioning competence shall base themselves on the conditions specified in Clause 2 of this Article to consider and decide to apply admonition. Admonition is imposed orally on the spot, and not in writing.

### **Article 16. Making of dossiers for application of administrative handling measures**

1. A dossier for application of the measure of education in commune, ward or township to a person committing a violation specified in Clauses 3 and 5, Article 90 of the Law on Handling of Administrative Violations is made if such person has been sanctioned at least twice for such administrative violation within the last 6 months.

2. A dossier for application of the measure of consignment to reformatory or compulsory educational institution to a person committing a violation specified in Clause 4, Article 92 and Clause 1, Article 94 of the Law on Handling of Administrative Violations is made if such person has been applied the measure of education in commune, ward or township and administratively sanctioned at least twice for such violation within the last 6 months.

3. A dossier for application of the measure of consignment to compulsory detoxification establishment is not made for a person who is currently involved in a drug detoxification establishment in the community in accordance with the law on drug prevention and control.

## **Article 17. Notification of dossier making and examination of legality of dossiers of request for application of administrative handling measures**

1. After completely making a dossier of request specified in Clause 4, Article 97; Clause 3, Article 99; Clause 3, Article 101; and Clause 3, Article 103 of the Law on Handling of Administrative Violations, within 3 working days, the dossier-making agency shall notify in writing the dossier making to the person subject to the measure or parent or guardian of the minor violator. The written notice must clearly state the to-be-applied administrative handling measure in the dossier, the right to read, take notes and copy necessary contents of the dossier of the person receiving the notice.

2. The examination of the legality of dossiers of request for application of administrative handling measures specified in Clause 1 of this Article conducted by commune-level justice-civic registration officers or heads of district-level justice sections must ensure the properness and completeness, as prescribed by the law on handling of administrative violations, of the following matters:

a/ Documents and papers in the dossiers as prescribed in Clause 3, Article 97; Clauses 1 and 2, Article 99; Clauses 1 and 2, Article 101; and Clauses 1 and 2, Article 103 of the Law on Handling of Administrative Violations;

b/ The statute of limitations for application of administrative handling measures as specified in Clause 2, Article 6 of the Law on Handling of Administrative Violations; persons subject to application of administrative handling measures as specified in Articles 90, 92, 94 and 96 of the Law on Handling of Administrative Violations;

c/ The competence, the order and procedures for making the dossier as prescribed.

3. Documents on legality examination must bear signatures of persons with competence and stamps. For communes, such documents must be certified by commune-level People's Committees. Documents on legality examination must be sent together with dossiers of request for application of administrative handling measures.

## **Article 18. Responsibilities of persons competent to handle administrative violations while performing public duties**

1. When sanctioning administrative violations or considering applying administrative handling measures, competent persons shall:

a/ Have the order on performance of public duties, wear uniforms and badges of their sectors as prescribed;



b/ Handle violations promptly and properly according to the nature and severity of violations and in accordance with the law on handling of administrative violations and the rules and regulations of each sector;

c/ Be polite and serious, and refrain from harassing violators and receiving money or other assets from violators, tolerating or concealing violators or violating prohibitions.

2. Persons committing violations specified in Clause 1 of this Article or prohibited acts specified in Article 12 of the Law on Handling of Administrative Violations or other laws shall, depending on the nature and severity of their violations, be disciplined or examined for penal liability. If causing damage, they shall pay compensations in accordance with the law on responsibility of the State to pay compensations.

## **Chapter II**

### **STATE MANAGEMENT OF THE IMPLEMENTATION OF THE LAW ON HANDLING OF ADMINISTRATIVE VIOLATIONS**

#### **Section 1**

#### **CONTENTS OF STATE MANAGEMENT OF THE IMPLEMENTATION OF THE LAW ON HANDLING OF ADMINISTRATIVE VIOLATIONS**

##### **Article 19. Formulation and improvement of the law on handling of administrative violations**

1. Studying, formulating and improving policies and law on handling of administrative violations.

2. Elaborating and submitting to competent agencies for promulgation or promulgating according to the competence of elaborating agencies legal documents on handling of administrative violations.

3. Reviewing and monitoring the implementation of legal documents on handling of administrative violations in order to promptly detect infeasible, impractical, overlapping or contradictory provisions for amendment and supplementation, or requesting competent agencies to amend and supplement them.

4. Reviewing the implementation of the law on handling of administrative violations in order to improve the system of legal documents on handling of administrative violations.

##### **Article 20. Dissemination of law, provision of guidance, professional training and retraining in the law on handling of administrative violations**

1. Studying and compiling documents to serve the dissemination of law and professional training and retraining in the law on handling of administrative violations.

2. Organizing professional training and retraining for persons engaged in the handling of administrative violations.

3. Disseminating the law on handling of administrative violations with contents and in forms suitable to different target groups.

4. Providing professional guidance on application of the law on handling of administrative violations.

**Article 21. Examination of implementation of the law on handling of administrative violations**

1. Contents of the examination of the implementation of the law on handling of administrative violations include:

a/ Promulgation of legal documents concerning the handling of administrative violations;

b/ Dissemination, professional training and retraining, provision of professional guidance, allocation of resources and other conditions to assure the implementation of the law on handling of administrative violations in ministries, sectors and localities;

c/ Application of the law on handling of administrative violations;

d/ Observance of the regime of making statistics on handling of administrative violations;

dd/ Building and management of a national database on handling of administrative violations and provision of information for such database;

e/ Settlement of complaints and denunciations about the handling of administrative violations.

2. The examination is conducted in the following cases:

a/ Under directions of the Prime Minister;

b/ At the request of ministries, sectors and provincial-level People's Committees;

c/ At the request of provincial-level Justice Departments and district-level Justice Sections on the basis of monitoring the implementation of the law on handling of administrative violations;

d/ The implementation of the law on handling of administrative violations under the interdisciplinary management meets with many difficulties or problems or in complicated cases.

3. Examination methods:

a/ Regular, subject- or locality-based examination;

b/ Irregular examination;

c/ Interdisciplinary examination.

4. Competence to issue examination decisions:

a/ The Minister of Justice may issue examination decisions for the cases specified at Points a, b and d, Clause 2 of this Article. The Justice Minister shall report to the Prime Minister for consideration and decision the cases specified at Point d, Clause 2 of this Article which are complicated, interdisciplinary or national;

b/ Chairpersons of provincial- or district-level People's Committees may issue examination decisions for the cases specified at Points c and d, Clause 2 of this Article under their management.

5. An examination decision must clearly state the composition of the examination team; duration, contents and place of examination; name of the agency or unit subject to examination; responsibilities of the examination team, and be sent to the agency or unit subject to examination.

6. Reports on examination results:

a/ Within 15 days after completing an examination, the head of the examination team shall make and send a written report on examination results to the person that has issued the decision to form the examination team and concurrently to the examined agency;

In case the report on examination results requests the examined agency to consider and handle recommendations of the examination team, the examined agency shall, within 30 days after receiving the report, consider and handle recommendations and forward the report to the person that has issued the decision to form the examination team;

b/ A report on examination results must contain the following details: The implementation of the law on handling of administrative violations; results obtained; limitations, inadequacies; difficulties and problems and reasons; recommendations and proposals.

#### **Article 22. Coordination in inspection of the implementation of the law on handling of administrative violations**

The coordination in inspection of the implementation of the law on handling of administrative violations between the Ministry of Justice and other related ministries and ministerial-level agencies; between provincial-level Justice Departments and professional agencies of provincial-level People's Committees and agencies at all levels based in provinces and centrally run cities, and district-level People's Committees may be carried out when there are petitions and reports of individuals, organizations and the press on the application of the law on handling of administrative violations which seriously effects the rights and legitimate interests of individuals and organizations.

#### **Article 23. National database on handling of administrative violations**

1. The national database on handling of administrative violations is built on the basis of integrating e-data from the databases on handling of administrative violations of ministries, ministerial-level agencies and People's Committees at all levels.

2. The building, management, exploitation and use of the national database comply with the decree on the national database on handling of administrative violations.

#### **Article 24. Statistics on handling of administrative violations**

1. Statistics on the handling of administrative violations serve as a basis for evaluating the situation and forecasting the trend of administrative violations, proposing solutions, improving policies and laws, and serving the reporting on the implementation of the law on handling of administrative violations and state management of the handling of administrative violations.

2. Statistical information on the handling of administrative violations must be collected in accordance with the law on statistics.

#### **Article 25. Reports on the implementation of the law on handling of administrative violations**

1. Reports on the implementation of the law on handling of administrative violations include reports on the sanctioning of administrative violations and

reports on the application of administrative handling measures, which are made on a biannual and annual basis.

2. A report on the sanctioning of administrative violations must contain:

a/ General evaluations and assessments of the situation of administrative violations and sanctioning of administrative violations on in localities and sectors;

b/ Number of detected and handled violations; violators; application of sanctions and remedial measures; measures to deter and assure sanctioning of administrative violations; common violations;

c/ Results of execution of sanctioning decisions: Total collected fine amount; quantity of confiscated material evidences and means; number of licenses and practice certificates deprived of the use right for a definite time; number of violators suspected form operation for a definite time; number of unexecuted sanctioning decisions; number of decisions on postponement, reduction of or exemption from fines; number of violation cases of enforcement; number of violation cases involving complaints or lawsuits;

d/ Implementation of the measure of admonition against minor violators in substitution of administrative handling measures;

dd/ Number of dossiers showing signs of crime forwarded to competent agencies for penal liability examination;

e/ Difficulties and problems in the implementation of the law on handling of administrative violations; proposal and recommendations.

3. A report on the application of administrative handling measures must contain:

a/ General evaluations and assessments of the application of the measure of education in commune, ward or township and making of dossiers of request for application of administrative violation measures in localities; number of violation cases involving complaints or lawsuits;

b/ Number of violators subject to the measure of education in commune, ward or township and number of dossiers of request for application of administrative violation measures by the court;

c/ Number of violators subject to the measure of management at families in substitution of administrative handling measures;

d/ Organization of the execution of decisions on application of administrative handling measures decided by the court; number of cases eligible for postponement or exemption from execution of such decisions; and management of persons eligible for postponement or suspension from execution of such decisions under Article 113 of the Law on Handling of Administrative Violations;

dd/ Number of persons currently executing the administrative handling measure at compulsory detoxification institutions; persons eligible for reduction of the execution duration or suspension or exemption from the execution of this measure for the remaining duration; persons whose places of residence are unidentifiable and who are eligible for suspension or exemption from execution of this measure for the remaining duration and should be transferred to medical establishments for treatment;

e/ Number of persons currently executing the administrative handling measure at compulsory education institutions or reformatories; number of persons eligible for reduction of the execution duration or suspension or exemption from execution of this measure for the remaining duration; number of persons whose places of residence are unidentifiable and who are eligible for suspension or exemption from execution of this measure for the remaining duration and should be transferred to medical establishments for treatment;

g/ Number of persons whose places of residence are unidentifiable and who are minors or ill and incapable of working and should be transferred to social protection establishments;

h/ Difficulties and problems; proposals and recommendations.

4. The time of collection of data for biannual reports is between the 1<sup>st</sup> of October of a year and the 31<sup>st</sup> of March of the subsequent year; for annual reports, that time is between the 1<sup>st</sup> of October of a year and the 30<sup>th</sup> of September of the subsequent year.

## **Section 2**

### **RESPONSIBILITY TO PERFORM THE STATE MANAGEMENT OF IMPLEMENTATION OF THE LAW ON HANDLING OF ADMINISTRATIVE VIOLATIONS**

#### **Article 26. Responsibilities of the Ministry of Justice**

The Ministry of Justice shall take responsibility before the Government for performing the state management of implementation of the law on handling of administrative violations, having the following tasks and powers:

1. Regarding formulation and improvement of the law on handling of administrative violations:

a/ To propose to competent agencies the formulation and improvement of the law on handling of administrative violations;

b/ To elaborate and promulgate according to its competence or submit to competent agencies for promulgation legal documents guiding the implementation of the Law on Handling of Administrative Violations;

c/ To assume the prime responsibility for, and coordinate with the Government Office, ministries and ministerial-level agencies in, formulating a program on elaboration of decrees detailing the implementation of and providing measures to implement the Law on Handling of Administrative Violations; to guide, examine and urge ministries and ministerial-level agencies in proposing and implementing such program.

d/ To request agencies in charge of elaborating legal documents to study, amend and supplement the law on handling of administrative violations based on proposals of agencies, organizations and individuals and the practical management of implementation of the law on handling of administrative violations; to assume the prime responsibility for, and coordinate with the Government Office and related agencies in, studying and proposing to the Prime Minister and Government plans on addressing limitations and problems in the practical application of the law on handling of administrative violations;

dd/ To review the implementation of the law on handling of administrative violations.

2. Regarding monitoring of implementation of the law on handling of administrative violations:

a/ To guide, examine and urge ministries, ministerial-level agencies, People's Councils and People's Committees at all levels in implementing the law on handling of administrative violations, and promptly detect difficulties and problems for proposing measures to address them;

b/ To give its opinions on the application of the law on handling of administrative violations as assigned by the Government and the Prime Minister.

3. To guide the law on handling of administrative violations according to its competence or at the request of ministries, ministerial-level agencies and localities.

4. To guide the dissemination of the law on handling of administrative violations; to assume the prime responsibility for, and coordinate with related ministries and ministerial-level agencies in, providing professional guidance, training and retraining for implementation of the law on handling of administrative violations.

5. To assume the prime responsibility for, and coordinate with other ministries, ministerial-level agencies and related agencies and organizations in, conducting interdisciplinary examination of the implementation of the law on handling of administrative violations in the cases specified at Points a, b and d, Clause 2, Article 21 of this Decree.

6. To propose ministries and ministerial-level agencies in organizing inspection upon receiving petitions or reports of individuals and organizations on the implementation of the law on handling of administrative violations which seriously affects the rights and legitimate interests of such individuals and organizations; to appoint its persons to join interdisciplinary inspection teams formed by ministries and ministerial-level agencies.

7. To build the national database on the handling of administrative violations; to guide the management, exploitation and use of this database in accordance with law.

8. To set up and maintain operation of an e-portal to receive reports, recommendations and results of handling of administrative violations under regulations.

9. To promulgate and implement the regime of making statistics on the handling of administrative violations.

10. To make and submit to competent agencies reports on the implementation of the law on handling of administrative violations.

11. To perform the tasks specified in Article 27 of this Decree.

#### **Article 27. Responsibilities of ministries and ministerial-level agencies**

1. To perform the tasks of formulating and improving the law on handling of administrative violations within the scope of their management as defined in Article 19 of this Decree.

2. To make reports on the sanctioning of administrative violations according to their sanctioning competence with the contents specified in Clause 2, Article 25 of this Decree, then send them to the Ministry of Justice before April 20, for biannual reports; or before October 20 for annual reports.



The Ministry of Labor, War Invalid and Social Affairs shall report on the application of the measure of consignment to compulsory detoxification institutions with the contents specified at Points d, dd, g and h, Clause 3, Article 25 of this Decree.

The Ministry of Public Security shall report on the application of the measure of education in communes, wards or townships; consignment to reformatories or compulsory education institutions, with the contents specified at Points a, b, d, e, and h, Clause 3, Article 25 of this Decree.

3. To make statistics under their management.

4. To build databases on the handling of administrative violations within their sanctioning competence; to direct agencies and units in providing information to serve the building of these databases and include such information in the national database at the Ministry of Justice.

To direct their attached agencies and units in coordinating with one another in providing information on the handling of administrative violations to the Ministry of Justice for building the national database on the handling of administrative violations.

5. To examine the implementation of the law on handling of administrative violations in the fields under their management.

6. To perform the tasks of dissemination of the law on handling of administrative violations and professional training and retraining in the application of the law on handling of administrative violations under their management.

7. To build physical foundations, consolidate the organizational structure and allocate resources for implementation of the law on handling of administrative violations under Clause 2, Article 4 of the National Assembly's Resolution No. 24/2012/QH13 on implementation of the Law on Handling of Administrative Violations.

8. Their legal departments shall assume the prime responsibility for assisting their ministers or heads in monitoring the implementation of the law on handling of administrative violations in the fields under their management, regarding the tasks specified in Clauses 2, 5 and 6 of this Article and other tasks assigned to them.

### **Article 28. Responsibilities of the Ministry of Home Affairs**

1. To perform the tasks specified in Article 27 of this Decree.

2. To elaborate and propose to the Prime Minister for promulgation state payrolls for personnel engaged in the implementation of the law on handling of administrative violations based on proposals of the Ministry of Justice and other related agencies.

### **Article 29. Responsibilities of the Ministry of Finance**

1. To perform the tasks specified in Article 27 of this Decree.

2. To assume the prime responsibility for, and coordinate with the Ministry of Justice in, guiding and funding the state management of the implementation of the law on handling of administrative violations in accordance with the Law on the State Budget.

### **Article 30. Responsibilities of People's Committees at all levels**

Within the scope of their functions, tasks and powers, People's Committees at all levels shall:

1. Report on the implementation of the law on handling of administrative violations:

a/ Chairpersons of commune-level People's Committees shall report on the implementation of the law on handling of administrative violations in the fields under local management to district-level People's Committees before April 5, for biannual reports, or before October 5, for annual reports;

District-level Justice Sections shall advise and assist chairpersons of district-level People's Committees in reporting on the implementation of the law on handling of administrative violations in their localities;

b/ Heads of professional agencies of provincial-level People's Committees and agencies at all levels based in provinces or centrally run cities, and district-level People's Committees shall report on the implementation of the law on handling of administrative violations in the fields under their management to provincial-level Justice Departments before April 10, for biannual reports, or before October 10, for annual reports, so that provincial-level Justice Departments can summarize these reports and send reports to provincial-level People's Committees.

Provincial-level Justice Departments shall advise and assist chairpersons of provincial-level People's Committees in reporting on the implementation of the law on handling of administrative violations in their localities.

c/ Chairpersons of provincial-level People's Committees shall send reports on the implementation of the law on handling of administrative violations in the

fields under local management to the Ministry of Justice before April 20, for biannual reports, or before October 20, for annual reports;

d/ Chairpersons of People's Committees at all levels shall, within the scope of their powers, report on the contents specified in Clause 2, Article 25 of this Decree.

Chairpersons of provincial-level People's Committees shall report on the contents specified at Points a, b, c, g and h, Clause 3, Article 25 of this Decree.

2. In the course of implementation of the law on handling of administrative violations, if People's Committees at all levels find that legal provisions on handling of administrative violations are infeasible, impractical, overlapping or contradictory, they shall request the agencies in charge of elaborating such provisions or the Ministry of Justice to study and revise them.

3. Perform the tasks of making statistics under their management.

4. Perform the tasks of disseminating the law on handling of administrative violations and providing professional training and retraining in the application of the law on handling of administrative violations under their management.

5. Form interdisciplinary teams to examine of the implementation of the law on handling of administrative violations in the cases specified at Points b, c and d, Clause 2, Article 21 of this Decree.

6. Organize inspections at the request of provincial-level Justice Departments or upon receipt of reports or petitions of individuals, organizations or the press on the application of the law on handling of administrative violations which seriously affects the rights and legitimate interests of local individuals and organizations in the cases specified in Article 22 of this Decree.

7. Direct the building of physical foundations, consolidation of the organizational structure and allocation of resources for implementation of the law on handling of administrative violations under Clause 2, Article 4 of the National Assembly's Resolution No. 24/2012/QH13 on implementation of the Law on Handling of Administrative Violations.

8. Provincial-level People's Committees shall build legal databases on the handling of administrative violations; direct provincial-level departments and sectors in providing information to serve the building of these databases.

Provincial-level Justice Departments shall assist provincial-level People's Committees in building databases on the handling of administrative violations and integrating data into the national database at the Ministry of Justice.

## **Chapter III IMPLEMENTATION PROVISIONS**

### **Article 31. Funds for organizing the implementation of the law on handling of administrative violations**

1. Funds for the state management and organization of the implementation of the law on handling of administrative violations come from the state budget and are incorporated in state budget estimates of related agencies and units in accordance with the Law on the State Budget.

2. Central agencies and local agencies and units shall make estimates of funds for organizing the implementation of the law on handling of administrative violations concurrently with making their annual budget estimates, and send them to same-level finance agencies for summarization and submission to competent authorities for consideration and decision.

### **Article 32. Forms of written records and decisions to be made in the sanctioning of administrative violations**

Attached to this Decree are appendices of forms of written records and decisions to be made in the course of sanctioning of administrative violations.

Based on the forms of written records and decisions attached to this Decree, ministers, heads of ministerial-level agencies and provincial-level People's Committees may issue suitable written record and decision forms for use in their sectors, fields and localities and prescribe the management and use of these forms in the sanctioning of administrative violations. When necessary, to meet requirements of the state management, ministers and heads of ministerial-level agencies may issue written record and decision forms and other necessary forms after reaching agreement with the Minister of Justice.

### **Article 33. Effect**

1. This Decree takes effect on July 19, 2013.

2. This Decree replaces Decree No. 128/2008/ND-CP of December 16, 2008, detailing a number of articles of the 2002 Ordinance on Handling of Administrative Violations, and the 2008 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Handling of Administrative Violations; and Decree No. 124/2005/ND-CP of October 6, 2005, providing fine receipts and management and use of fines for administrative violations.

3. The provisions on support funds for agencies and organizations handling administrative violations from the source of collected fines for administrative

violations in Clause 7, Article 32 of Decree No. 48/2011/ND-CP of June 21, 2011, on sanctioning of administrative violations in maritime activities; Clause 3, Article 52 of Decree No. 34/2010/ND-CP, which replaced Decree No. 152/2005/ND-CP; Clause 3, Article 47 of Decree No. 117/2009/ND-CP of December 31, 2009, on handling of violations in environmental protection; Clause 2, Article 11 of Decree No. 72/2010/ND-CP of July 8, 2010, on prevention and combat of environmental crimes and other environmental violations; Clause 2, Article 70 of Decree No. 23/2009/ND-CP of February 27, 2009, on sanctioning of administrative violations in construction; real estate business; exploitation, production and trading of construction materials; management of technical infrastructure facilities; management of house and office development; Clause 1, Article 36 of Decree No. 73/2010/ND-CP of July 12, 2010, on sanctioning of administrative violations in security and social order and safety; and Clause 1, Article 30 of Decree No. 68/2010/ND-CP of June 15, 2010, on sanctioning of violations in the electricity sector, cease to be effective on the effective date of this Decree.

#### **Article 34. Implementation responsibility**

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, and related agencies shall implement this Decree.

**On behalf of the Government  
Prime Minister**

**(Signed)**

**NGUYEN TAN DUNG**