

THE GOVERNMENT

No. 01/2012/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

Hanoi, January 04, 2012

DECREE

AMENDING, SUPPLEMENTING, REPLACING OR ANNULLING, CANCELING THE PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURES UNDER SCOPE OF MANAGEMENT FUNCTIONS OF THE MINISTRY OF CULTURE, SPORTS AND TOURISM

THE GOVERNMENT

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

Pursuant to the Law on Promulgation of Legal Documents dated June 03, 2008;

At the proposal of the Minister of Culture, Sports and Tourism,

DECREES:

Article 1. To amend, supplement, replace or annul, cancel the provisions relating to administrative procedures under the scope of management functions of the Ministry of Culture, Sports and Tourism regulated in the following Decrees:

1. The Decree No.100/2006/ND-CP dated September 21, 2006 of the Government detailing and guiding the implementation of a number of Articles of the Civil Code and The Intellectual Property Law regarding the copyright and related rights (hereinafter referred to as the Decree No.100/2006/ND-CP).
2. The Decree No.86/2005/ND-CP of July 8, 2005 of the Government defining the management and protection of underwater cultural heritage (hereinafter referred to as the Decree No.86/2005/ND-CP).
3. The Decree No.98/2010/ND-CP of September 21, 2010 of the Government detailing the implementation of a number of Articles of the Law on Cultural Heritage and the Law on amending and supplementing a number of Articles of the Law on Cultural Heritage.
4. The Decree No.92/2007/ND-CP of June 01, 2007 of the Government detailing the implementation of a number of Articles of the Law on Tourism (hereinafter referred to as the Decree No.92/2007/ND-CP).
5. The Decree No.02/2009/ND-CP of January 06, 2009 of the Government defining the organization and operation of the private libraries of community service (hereinafter referred to as the Decree No.02/2009/ND-CP).
6. The Decree No.103/2009/ND-CP of November 06, 2009 of the Government promulgating the "Regulation on cultural activities and business of public cultural services" (hereinafter referred to as the Decree No.103/2009/ND-CP).

Article 2. The amendment, supplement, replacement or annulment, cancelation of the provisions relating to administrative procedures in the Decrees stipulated in Article 1 of this Decree shall be implemented as follows:

1. The Decree No.100/2006/ND-CP

a) Article 37 is amended and supplemented in Clause 2 as follows:

"2. Foreign individuals, organizations that have works, performances, sound recordings, video recordings, broadcasts protected by copyright and related rights specified in Clause 2, Article 13 and Article 17 of the Law on intellectual property may directly submit or authorize the service or consulting organizations of copyright and related rights to submit one (01) set of dossier directly at the Copyright Office or Representative office of the Copyright Office in Ho Chi Minh City or Representative office of the Copyright Office in the city of Da Nang or the Departments of Culture, Sports and Tourism."

b) To supplement Clause 3 of Article 37 as follows:

"3. Dossier requesting for grant or renewal, replacement of a certificate of registration of copyright and related rights in accordance with provisions in Article 50 of the Law on Intellectual Property; the documents specified in clauses c, d, đ and e, Clause 3, Article 50 of the Law on Intellectual Property must be in Vietnamese; a copy must be notarized or certified; foreign language documents must be translated into Vietnamese and must be notarized or certified."

c) Article 38 is amended and supplemented in Clause 1 as follows:

"1. The Copyright Office is responsible for keeping a copy of the work applied for copyright, a copy of the one formulating the object of concerned right registration; a stamped copy recording the number of the registration certificate returned to the certificate granted subject promulgated in point b, clause 2 of Article 50 of the Law on Intellectual Property, after the certificate of registration of copyright, related rights registration certificate is granted."

2. Decree No.86/2005/ND-CP

a) Article 12 is amended and supplemented in Clause 2, point a, as follows:

"a) Being the objects that meet the requirements specified in Article 40 of the Law on Cultural Heritage and Article 16 of the Decree No.98/2010/ND-CP."

b) Article 13 is amended and supplemented in Clause 3 as follows:

"3. Organization wishing to carry out exploration and excavation of the underwater cultural heritage shall send directly or by post one (01) set of dossier to the Ministry of Culture, Sports and Tourism for permission."

3. The Decree No.98/2010/ND-CP

a) Article 8 is amended and supplemented in Clause 2 as follows:

"2. Procedures for licensing the study, collection of intangible cultural heritage are provided as follows:

a) Overseas-based Vietnameses or foreign organizations or individuals requesting for research, collection must submit directly or by post (01) one set of dossier comprising: an application (Appendix I) enclosed with a scheme (Appendix II) specifying the objectives, location, duration and Vietnamese partners participating in the study or collection of intangible cultural heritage to the directors of the Culture, Sports and Tourism Departments. In case the study or collection is conducted in two or more provinces, centrally-run cities, the dossier (01 set) shall be submitted directly or by post to the Minister of Culture, Sports and Tourism;

b) Within twenty (20) working days from the date of receiving the application, the Minister of Culture, Sports and Tourism or the Director of the Department of Culture, Sports and Tourism is responsible for the consideration of permit. In case of refusal, the reasons must be stated in writing. "

b) Article 16a is supplemented as follows:

"Article 16a. Procedures for granting emergency excavation permit

1. Organization applying for emergency excavation permit submits directly (01) set of dossier to the Director of the local Department of Culture, Sports and Tourism where archaeological place needs to be made an urgent excavation is located.

2. Director of the Department of Culture, Sports and Tourism is responsible for submitting to the provincial-level People's Committee president to grant the emergency excavation permit under the provisions of Clause 19, Article 1 of the Law on amending and supplementing a number of Articles of the Law on cultural heritage. "

c) Article 21 is amended and supplemented in Clauses 2 and 3 as follows:

"2. The Minister of Culture, Sports and Tourism shall grant the permit for carrying vestiges, antiques abroad.

Within fifteen (15) working days from the date of receipt of valid dossiers, the Minister of Culture, Sports and Tourism shall grant the permit. In case of refusal, the reasons must be stated in writing.

3. Procedures of granting the permit for carrying vestiges, antiques abroad:

a) An application (Appendix III) sent directly or by post to the Minister of Culture, Sports and Tourism;

b) A certificate of transfer of ownership from the former owner;

c) A (01) set of registration dossier of vestiges or antiques. "

d) Article 26 is amended and supplemented in Clause 4 as follows:

"4. Procedures for granting a practice certificate for the owner of the shop trading vestiges, antiques and national precious objects:

a) The shop owner must send directly or by post (01) set of dossier of application for a business practice certificate of vestiges, antiques and national precious objects to the Department of Culture, Sports and Tourism;

b) A dossier of application for a business practice certificate of vestiges, antiques and national precious objects includes:

An application for a certificate (Appendix IV);

Legal copies of relevant professional qualifications;

Curriculum vitae certified by the People's Committee of commune, ward or town where the owner resides. "

đ) Article 28 is amended and supplemented in Clause 3 as follows:

"3. Within fifteen (15) working days from the date of receipt of valid dossier, the Minister of Culture, Sports and Tourism, Director of Department of Culture, Sports and Tourism are

responsible for certifying the eligible conditions for establishment and permit of operation of museum. In case of refusal, the reasons must be stated in writing."

e) Article 28a is supplemented as follows:

"Article 28a. Procedures for certifying eligible conditions for permit and procedures for granting operation permit of non-public museum.

1. Organizations and individuals desiring for certifying eligible conditions for operation permit of non-public museum send directly or by post (01) set of dossier comprising: an application for certification of eligible conditions for operation permit (Appendix V) and the museum operation scheme (Appendix VI) to the Director of the Department of Culture, Sports and Tourism where the headquarter of the museum is located.

2. Organizations and individuals desiring for operation permit of non-public museum send directly or by post (01) set of dossier comprising: An application for a museum operation permit (Appendix VII) and written certification of eligible conditions for museum operation permit of the Director of Culture, Sports and Tourism to the provincial-level People's Committee president where the headquarter of the museum is located. "

4. The Decree No.92/2007/ND-CP

a) Article 22 is amended and supplemented as follows:

"Article 22. Dossier applying for a permit to establish branch or representative office

1. An application for a permit to establish a branch, representative office signed by the authorized representative of the foreign tourism enterprise.

2. A valid copy of the business registration certificate, operation charter or papers of equivalent legal validity of foreign tourism enterprise certified by a competent agency in the locality where that enterprise is established or makes business registration; for the establishment of a branch, a paper of authorization is required, stating clearly the scope of authorization to the head of the branch.

3. The audited financial statement or other paper of equivalent legal validity proving the existence and real operation of foreign tourism enterprise in the fiscal year preceding the year of consideration of the permit grant (for the case of applying for a permit for the establishment of branch).

The documents referred to in Clauses 1, 2 and 3 of this Article must be translated into Vietnamese and authenticated or legalized in consular by the overseas Vietnamese diplomatic mission or consulate in accordance with Vietnamese law provisions."

b) Article 23 is amended and supplemented in Clauses 1, 2 and 3 as follows:

"1. Foreign tourism enterprise sends directly or by post (01) set of dossier to the central level state management agency in charge of tourism (if applying for a branch establishment permit) or to the provincial level state management agency in charge of tourism (if applying for a representative office establishment permit).

2. Within ten (10) working days after receiving complete and valid dossier sent from foreign tourism enterprise, the central level state management agency in charge of tourism evaluates the dossier, grants a branch establishment permit to the enterprise, and notifies to the provincial level state management agency in charge of tourism, the tax agency, statistical agency and relevant state agencies where its branch is located.

3. Within five (05) working days after receiving complete and valid dossier sent from foreign tourism enterprise, the provincial level state management agency in charge of tourism evaluates the dossier, grants a representative office establishment permit to the enterprise, and notifies to the central level state management agency in charge of tourism, provincial-level People's Committee the tax agency, statistical agency and relevant state agencies where the representative office is located. "

c) Article 24 is amended and supplemented as follows:

"Article 24. Amendment and supplement of branch or representative office establishment permits

1. Foreign tourism enterprise sends directly (or by post) a (01) set of dossier requesting for amendment, supplement of branch or representative office establishment permits to the competent agency specified in Clause 1, Article 23 of the Decree No.92/2007/ND-CP, within ten (10) working days from the date of the change as follows:

- a) Change of the locations of branches, representative offices within a province or city directly under the Central Government;
- b) Change of the name or the content of operation of a branch or representative office;
- c) Change of the head of the branch, representative office.

2. Dossier requesting for amendment and supplement of a branch or representative office establishment permit comprises:

- a) An application for amendment and supplement of the branch or representative office establishment permit, signed by an authorized representative of the foreign tourism enterprise;
- b) The original of the granted branch or representative office establishment permit.

Within 10 working days after receiving a valid dossier sent from the enterprise, the agency competent to grant branch establishment permits shall amend, supplement permit to establish a branch, representative office for enterprise and send a copy of the modified permit to the relevant agencies specified in Clause 2, Article 23 of the Decree No.92/2007/ND-CP.

Within five (05) working days after receiving a valid dossier sent from the enterprise, the agency competent to grant representative office establishment permits shall amend, supplement permit to establish a representative office for enterprise and send a copy of modified permit to establish a representative office to the relevant agencies specified in Clause 3, Article 23 of the Decree No.92/2007/ND-CP.

The term of the amended and supplemented permit to establish a branch, representative office does not exceed the term of the granted permit to establish a branch, representative office."

d) Article 25 is amended and supplemented in Clauses 1 and 3 as follows:

"1. In the following cases, foreign tourism enterprise sends directly or by post (01) set of dossier to the agency granted the branch/representative office establishment permit within fifteen (15) days from the date of change:

- a) Change of name or place of establishment registration of foreign tourism enterprise from one country to another country;
- b) Change of location of head office of branch, representative office from one province or centrally-run city to another;

- c) Change of the operation contents of the foreign tourism enterprise;
- d) Change of location of foreign tourism enterprise within the country where the enterprise is established.

Within ten (10) working days after receiving complete and valid dossier sent from foreign tourism enterprise, agency competent to grant permit to establish branch, representative office evaluates, re-grants the permit to establish branch, representative office for the enterprise and send a copy of the re-granted permit to establish branch, representative office to the relevant agencies under the provisions of Clause 2, Clause 3 Article 23 of the Decree No.92/2007/ND-CP."

"3. When its branch or representative office establishment permit is lost, torn or destroyed, the foreign tourism enterprise shall carry out procedures of application for re-granting the permit. The foreign tourism enterprise sends directly or by post an (01) application for re-granting the permit to establish a branch, representative office, signed by the authorized representative of the foreign tourism enterprise to the licensing agency specified in Article 21 of the Decree No.92/2007/ND-CP.

Within five (05) working days after receiving complete and valid dossier sent from foreign tourism enterprise, agency competent to grant permit to establish branch, representative office evaluates, re-grants the permit to the enterprise. "

đ) Article 26 is amended and supplemented in Clause 2 as follows:

"2. Extension of branch, representative office establishment permit:

a) Within thirty (30) days before the license to establish branch, representative office expires, the enterprise sends directly (or by post) an application for extension of the permit to establish branch, representative office to the competent agencies defined in Clause 1, Article 23 of the Decree No.92/2007/ND-CP.

b) Within ten (10) working days from the date of receipt of application sent from the enterprise, the competent agency shall consider, extend the permit to establish branch or representative office; if it is approved, the enterprise shall send the original permit to establish branch, representative office for the competent agency to extend. In case of refusal to extend, the competent agency must state clearly the reasons in writing. "

e) Article 34 is amended and supplemented as follows:

"Article 34. Procedures for granting, changing, re-granting tourist guide's card

1. A person applying for granting or replacing a tourist guide's card shall submit directly or by post a set of dossier prescribed in Clause 1, Article 74; Clauses 1 and 2, Article 75 of the Tourism Law to one of the provincial level state agencies in charge of tourism in the whole country.

2. A person applying for re-granting a tourist guide's card shall submit directly or by post a set of dossier prescribed in Clause 2 of Article 75 of the Tourism Law to the provincial level state agency in charge of tourism where he/she was granted the tourist guide's card. The duration of the re-granted card is equal to the remaining validity duration of the card granted.

3. Documents attached dossier is a copy (when direct filing, the applicant shall bring the original for comparison) or a notarized or certified copy (if filing by mail). In case the document is

translated into Vietnamese from a foreign language, the foreign language documents must be notarized or authenticated. "

5. The Decree No.02/2009/ND-CP

Article 6 is amended and supplemented as follows:

"Article 6. Procedures for registration of operation of private libraries

1. Dossier registering for library operation includes:

- a) An application for registration of library operation (Form No.1 of the Decree No.02/2009/ND-CP);
- b) A list of existing library documents (Form No.2 of the Decree No.02/2009/ND-CP);
- c) The curriculum vitae of the person who establishes the library certified by the People's Committee of commune, ward or township (hereinafter referred to as the commune level) where he/she resides;
- d) Rules of library.

2. The number of dossier and settling time:

- a) The number of dossier needs to be submitted is 01 set;
- b) Within three (03) working days after receiving complete and valid dossier, the dossier-receiving agency shall issue a certificate of operation registration of private library.

3. Agencies receiving dossier and granting certificate of operation registration of library:

Commune-level People's Committee or the Departments of Culture and Information of urban, rural districts, towns or provincial cities (hereinafter referred to as the District level) or the provincial Departments of Culture, Sports and Tourism are responsible for providing dossier; guiding procedures for registration of library's operation.

Based on the initial number of documents of the library, the person who establishes the library shall send a registration dossier for operation to the competent agencies in accordance with provisions as follows:

- a) The library that has initial number of books between 500 and less than 1,000 books shall send a set of dossier to the commune-level People's Committee, where the library is located;
- b) The library that has initial number of books between 1,000 and less than 2,000 books shall send a set of dossier to the District-level Department of Culture and Information, where the library is located;
- c) The library that has initial number of books of 2,000 or more books shall send a set of dossier to the Department of Culture, Sports and Tourism, where the library is located;

After receiving the complete and valid dossier of the person who establishes the library, the dossier receiving agency shall issue a certificate of operation registration of library (Form No.3 of the Decree No.02/2009/ND -CP). In case of refusal, the reasons must be clearly stated in written reply.

6. The Decree No.103/2009/ND-CP

a) Article 5 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP is amended and supplemented in Clause 4 as follows:

"4. Procedures of application for control labels of music and theatrical tapes and discs:

Organizations, individuals under the central level applying for granting control labels sent directly or by post 01 set of dossier to the Department of Performing Arts, Ministry of Culture, Sports and Tourism; organizations, individuals under the local level send directly or by post 01 set of dossier to the Department of Culture, Sports and Tourism.

a) The dossier includes:

- An application for control labels stating: the title of the music or theatrical tape or disc, number of the circulation permission decision and quantity of control labels;
- A legally valid copy of the circulation permission decision (for cases in which Culture, Sports and Tourism Departments grant circulation permits).

b) Within five (05) working days after receiving complete and valid dossier, the competent agency must grant control labels; in case of refusal, the reasons must be clearly stated the reasons in written reply."

b) Article 7 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP is amended and supplemented in Clause 2 as follows:

"2. Procedures of application for public performance permits:

Organizations or individuals wishing to organize art performances or fashion shows send directly or by post to 01 set of dossier of application for public performance permits to the competent state agencies specified in Clause 1 of this Article.

a/ The dossier includes:

- An application for a public performance permit (stating the names of the program and performance items, author, director and performers);
- The music or script, for the works applied for first public performance; photos or model designs of performance costumes, for a fashion show.

b/ Within five (05) working days after receiving a complete and valid dossier, competent state agency shall grant the public performance permit. In case of refusal, the reasons must be clearly stated in written reply. For cases which require program review before permit grant, the organization or individual wishing for the permit shall create conditions for such review by a competent state agency."

c) Article 8 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP is amended and supplemented Clause 2 as follows:

"2. Owners of hotels, restaurants or bars that organize performances given by foreign art troupes or artists at their establishments without sale of tickets shall notify in writing these performances to Culture, Sports and Tourism Departments 03 days prior to the scheduled date stated in the notice."

d) Article 14 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP is amended and supplemented as follows:

"Article 14. Exhibitions subject to notification

Other cultural, art exhibitions of Vietnamese organizations, individuals other than those specified in Article 13 of this Regulation must be notified with the Department of Culture, Sports and Tourism where the exhibitions are held 03 working days prior to the date of exhibition stated in the notice."

đ) Article 18 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP is amended and supplemented in Clause 2 as follows:

"2. Procedures of application for festivity organization permits: Agencies or organizations wishing to organize festivities defined in Clause 1 of this Article shall send permit application dossiers to the Culture, Sports and Tourism Departments where festivities are held at least 30 working days before the expected opening date of such festivities.

a) The content of the application for festival organization permit (clearly stating the content of the festivity or the changing content compared to the tradition, time and place of the festivity, a plan to set up a festival organizing board, commitment on quality assurance and taking responsibilities before law if violating and other necessary conditions for ensuring security and order during the festivity).

b/ Within 10 working days after receiving complete and valid dossier, the Culture, Sports and Tourism Department shall submit the proposal to the provincial-level People's Committee which shall grant festivity organization permits within 10 working days after receiving such proposal. In cases the provincial-level People's Committees decentralize the provincial-level Culture, Sports and Tourism Departments to grant the permits, Within 10 working days after receiving complete and valid dossiers, the Culture, Sports and Tourism Departments shall grant permits. In case of refusal, the reasons must be clearly stated in written reply."

e) To annul Clause 2, Article 24 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP.

g) Article 25 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP is amended and supplemented in Clause 2 as follows:

"2. Dossier and procedures for grant dance hall business permit:

a/ A dossier requesting for permit comprises:

- An application for a dance hall business permit;
- A notarized or certified copy of business registration certificate.

b) Number of dossier set to be submitted is 01.

c) Within ten (10) working days after receiving complete and valid dossier, the Department of Culture, Sports and Tourism is responsible for considering, checking the actual business conditions and granting the permit ; in case of refusal, the reasons must be clearly stated in written reply.

h) To annul Clause 5, Article 30 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP.

i) Article 31 of the Regulation on cultural activities and trade of public cultural services, issued together with the Decree No.103/2009/ND-CP is amended and supplemented in Clause 2 as follows:

"2. Dossier and procedures of application for karaoke business permit:

a/ A dossier requesting for permit comprises:

- An application for a karaoke business permit clearly stating the karaoke business location, the number of rooms and the area of each room;
- A notarized or certified copy of business registration certificate.

b) Number of dossier to be submitted is 01.

c/ Within 7 working days after receiving complete and valid dossier, the provincial Department of Culture, Sports and Tourism or decentralized district-level agencies shall grant karaoke business permits. In case of refusal, the reasons must be clearly stated in written reply."

Article 3. Replacing the phrase "Ministry of Culture and Information", "Department of Culture and Information" by "Ministry of Culture, Sports and Tourism", "Department of Culture, Sports and Tourism" in all documents specified in Clauses 1, 2 and 4 of Article 1 of this Decree.

Article 4. This Decree takes effect from February 27, 2012.

Article 5. The Ministers, heads of ministerial-level agencies, the heads of the Governmental agencies, Presidents of the People's Committees of provinces and cities directly under the Central Government shall implement this Decree.

**FOR THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

Unofficial translated by LPVN