

Legal news

November 2004

Contents

Publishing activities	2
The Draft of Publishing law and some important matters concerning the publishing activities.....	2
Other Sectors	3
Trading	3
Finance	3
Banking	4
Accounting	4
Insurance.....	4
Land.....	4
SOEs reform.....	5
Industry	5
Healthcare.....	5
Miscellaneous	5
Contact Details	6

This **Legal news** is solely published for our clients and other interested persons. It is intended to be used for general information purpose only and should not be relied upon as legal advice or opinion. Professional advice should be sought for any specific situation. Please direct your inquiries to our offices or persons listed at the end of this Legal news.

This **Legal news** is also available online at www.vision-associates.com

© Vision & Associates 2004. All rights reserved

Publishing activities

The Draft of Publishing law and some important matters concerning the publishing activities

By Nguyen Thi Nhu Hoa

[The Law on Amendment of the law on Publishing was passed by the National Assembly, Legislature XI, at 6th Session from 25 October to 4 December 2004]

The conclusion of Vietnam's Berne Convention requires the country to complete its legal framework on copyright protection.

Among the legal documents in this area, a publishing law passed by the National Assembly in 1993 plays a key role. However, after more than 10 years, the law lags far behind Vietnam's socio-economic development and its publishing activities in particular. The inefficiency of this law has also been partly responsible for the confusion in the country's publishing activities.

In order to overcome this situation, last June, the National Assembly discussed amendments to the 1993 law. The significant amendments of the draft are listed below:

First, the governing objects of the law are extended with the inclusion of publication on internet as a new object.

According to the Draft, not only State bodies and political or social organisations but also other types of organisations are eligible to set up publishing houses. Private sector, under the draft, is given more room to take part in publishing activities. Besides local interests, the law also allows the participation of foreign publishing houses in the market via their representative office in Vietnam. Although the private and foreign sectors in publishing are still limited in some fields and under some specified conditions, this extension has shown the Vietnamese authorities' new viewpoint on the subject.

Second, in respect of the responsibility of individuals involved in publishing, the draft requires standards of knowledge and morals for directors, chief editors and deputy directors of publishing houses. This is the first time that an editor's responsibilities have been set out in detail. The draft proposes that editors "are obliged and have the right to place their name on the publications, to refuse to edit works violating the provisions of the publishing law and share the responsibility for the publication's content edited by them before the law and the director".

These provisions are likely to contribute to effective State management in the field of publishing and ensure an higher quality of publication in the future.

Third, regarding the copyright aspect, copyright violation in Vietnam is widespread and at a serious level. A significant portion of publications circulating in the market is published without consent of the author or owner. To fix this situation, the draft law proposed that publishing houses be allowed to publish or reprint publications only when they obtain consent of the author or owner through an agreement.

Moreover, to avoid the risk to valuable works that publishing houses cannot afford to protect, the Government may consider buying these works.

The State declares its protection of the copyright of bodies, organisations and individuals with respect to their works disseminated through publishing houses.

People violating the provisions of law on copyright in the field of publishing shall suffer administration fines or criminal liability and have to compensate for damages.

Forth, the most important amendments proposed in the draft may be the overall changes to enforcement. First, the amended publishing law governs the violation of the law in three publishing activities: publishing, print and distribution. Next, the draft law introduces a new measure to deal with violations by laying the ground for claims compensation in the case of damages.

With the intention of the State shown in the draft, it is likely that Vietnam's publishing activities shall take place in a more orderly fashion and be under strict control. And upon the issuance of such legal basis, we all expect that rampant piracy will end soon and will meet the requirements of the nation's integration with international practices.

Other Sectors

Trading

- On October 21, 2004 the Government issued Decree 179/2004/ND-CP, with detailed regulation on the implementation of the Ordinance on the quality of goods and other regulations concerning the State management on the quality of goods.
- On November 16, 2004 the Minister of Trade issued Decision 1684/2004/QD-BTM, on regulation on operation of the steering committee for cross-border trading activities with the countries having common frontier.

Finance

- Circular 95/2004/TT-BTC dated October 11, 2004 of the Ministry of Finance, guiding several policies on financial support and tax preference for the development of area for supplying material and the industry of processing farm, forest, aquatic and salt products.
- Circular 99/2004/TT-BTC on October 19, 2004 of the Ministry of Finance, guiding the implementation of Government's Decree 43/2001/ND-CP dated August 01, 2004, regulating financial regime of enterprises trading on insurance and brokerage thereof.
- The Ministry of Finance issued Circular 100/2004/TT-BTC, on value-added tax and corporate income tax of enterprises operating in the field of securities.
- On November 09, 2004 the Ministry of Finance issued Circular 105/2004/TT-BTC, guiding the expenses for debt recovery in the course of liquidation of People's

Credit Funds, which was withdrawn of their certificate of operation or be liquidated.

Banking

- On November 01, 2004 the State Bank of Vietnam issued Circular 07/2004/TT-NHNN, on the amendment of Article 17.2 of Circular 08/2001/TT-NHNN dated September 06, 2001, on the organization and operation of finance leasing company.
- Decision 1452/2004/QD-NHNN dated November 10, 2004 of the State Bank of Vietnam, on the foreign currency exchange activity of credit institutions permitted to have foreign currency trading.

Accounting

- The Government issued Decree 185/2004/ND-CP on November 04, 2004, on administrative sanctions in the field of accounting.

Insurance

- The Ministry of Finance issued Circular 98/2004/TT-BTC on October 19, 2004, guiding the implementation of Government's Decree 42/2001/ND-CP dated August 01, 2004, on the implementation of the Law on Insurance business.

Land

- On October 15, 2004 Hanoi People's Committee issued Decision 156/2004/QD-UB, on the amendment of a some procedures of transference, conversion, lease, sublease, inheritance, mortgage of land-use right in Hanoi.
- On October 29, 2004 the Government issued Decree 181/2004/ND-CP, providing guidelines for the implementation of the Land Law passed in 2003.
- On the same day the Government issued Decree 182/2004/ND-CP on administrative sanction in the field of land.
- The Ministry of Natural Resources and Environment issued Decision 24/2004/QD-BTNMT on November 01, 2004, regulating the form of land-use right certificate.
- Circular 29/2004/TT-BTNMT on November 01, 2004 of the Ministry of Natural Resources and Environment, providing guidelines the preparation, adjustment and management on cadastral file.
- On the same day the Ministry of Natural Resources and Environment issued Circular 30/2004/TT-BTNMT, guiding the preparation, adjustment and appraisal of land-use schedule.

- On November 16, 2004 the Government issued Decree 188/2004/ND-CP, regulating the method for setting land price, price frame of all kinds of land and setting a price of specific kind of land at region.

SOEs reform

- Government's Decree 180/2004/ND-CP dated October 28, 2004, on the establishment, restructure and liquidation of State enterprises.
- On November 16, 2004 the Government issued Decree 187/2004/ND-CP, for the replacement of Decree 64/2002/ND-CP, regulating the equitization of SOEs.

Industry

- The Ministry of Industry issued Decision 115/2004/QD-BCN on October 27, 2004, promulgating the eligibility for enterprises operating in the field of automobile manufacture and assembly.

Healthcare

- Decision 3737/QD-BYT dated October 25, 2004 of the Ministry of Health, promulgating the list of foreign enterprises, which are granted certificate for operation in the field of medicine in Vietnam.

Miscellaneous

- On October 29, 2004 the Prime Minister issued Decision 186/2004/QD-TTg, regulating the functions, tasks, rights and organizational structure of National Information Center and Forecast on socio –economic situation.
- The Ministry of Internal Affairs issued Decision 78/2004/QD-BNV, on the issuance of the list of scale of different ranks and grades of civil servants at State offices and State professional units.
- Interministerial Circular 79/2004/TTLT/BNV-BLDTBXH-BTC on November 04, 2004 of the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Internal Affairs, the Ministry of Finance, guiding the implementation of Government's Decree 102/2004/ND-CP, with detailed regulation on the implementation of a number of articles of Ordinance on secret codification service.

Contact Details

Hanoi Head Office

Mr. Pham Nghiem Xuan Bac

Managing Partner

Mr. Pham Minh Hai

Partner, Consulting

Ms. Le Quynh Anh

Partner, Legal

Ms. Le Thi Kim Dzung

Partner, Intellectual Property

Unit 2, 1st Floor, International Center

17 Ngo Quyen, Hanoi, Vietnam

Tel: 84-4 934-0629 / 824-1623 Fax: 84-4 934-0631

E-mail: vision@hn.vnn.vn

Ho Chi Minh City Office

Mr. Dang The Duc

Partner, Manager

Unit 8A1, 8th Floor, Han Nam Office Building

65 Nguyen Du, District 1, Ho Chi Minh City, Vietnam.

Tel: 84-8 823-6495 / 823-6501 Fax: 84-8 823-6496

E-mail: hcmvision@hcm.vnn.vn

www.vision-associates.com