

## **Vietnam: Law on Access to Information**

### **Chapter I. General Provisions**

#### **Article 1: Scope of application**

1. This law applies to following state agencies:
  - a. Ministries, ministerial equivalents, government subordinated agencies;
  - b. The People's Councils and the People's Committees at all level;
  - c. Agencies and organisations established by the Prime Minister.
2. This Law also applies to following organisations:
  - a) State funded organisations, associations, federations and state-owned enterprises.
  - b) National funds financed from state budget and local funds contributed by community.
3. This Law does not apply to information created and/or collected for the purpose of analysis pertaining to national security and security of the information obtaining organisations and agencies that are in charge of national security.

#### **Article 2: Application principles**

1. Agencies and organisations within their scope of responsibility are obliged to publish and provide information pursuant to provisions in this Law as well as other related regulations and legislations. Exception is made to state secrecy.
2. Information provision shall be subject to this Law and other provisions under related laws; provisions in this Law shall take precedence should other laws do not contain specific provisions governing information disclosure.

#### **Article 3: Glossary**

Under this Law, following terms are understood as:

- "Information": means data, news prepared, owned and administered by agencies and organisations during the performance of their duty. The information is demonstrated, reproduced and exists in records, drawings, images, films, cassette, slides and any other computerised medium.
- "Documents, records": means documents and records prepared by agencies, organisations; documents and records received by one agency from other agencies.
- "Right to access to information": means the right designated to review, observe or inspect products, documents, records; the right to transcribe, cite, reproduce or obtain records, documents and information in floppy disk, memory device, audio cassette, video cassette or any other formats and medium.

- "Disclosing information": means disclosure of documents, records and information or granting of access to information exists in records, documents or to distribute reproduced formats or copies of records, documents and information.

**Article 4 : Information disclosure principles**

1. Ensuring transparency, accuracy and comprehensiveness of information;
2. Ensuring equality in information access;
3. Ensuring social order and national security;
4. Protecting privacy related information.

**Article 5: Entitlements in request for information**

1. All individuals have the right to information and the right to request information.
2. Foreigners residing in Vietnam and foreign organisations and legal persons operating in Vietnam have the right to information under this Law on the condition that information requested is related to them or to their operation fields.
3. Agencies, organisations and individuals have the right to request agencies prescribed Article 1 of this Law to provide information if such information is necessary to fulfillment and/or protection of their rights and obligations.

**Article 6: Obligations of agencies and organisations where information is held**

1. Agencies, organisations where information is held are obliged to publish information and documents that they develop, stipulate and under this Law, the information and documents are subject to compulsory disclosure.
3. Requested agencies and organisations are obliged to provide information to requester in an accurate, timely and sufficient manner.

**Chapter II: Information Access**

**Article 7: Information to be published or widely disseminated**

1. Agencies and organisations having direct responsibility shall publish following information and documents:
  - a) Draft legal normative documents, legal normative documents, rules and regulations promulgated by state agencies;
  - b) Information pertained to voluntary contributions by the people and their use;
  - c) National and local socio-economic development plans;
  - d) Information pertained to implementation of national policies, projects under administration of ministries, ministerial equivalents or local governments;

- d) Macro-economic information, economic forecast, statistics on economic growth, economic initiatives and actions and other information that certainly generate impacts on financial and capital market;
- e) Information pertained to land appropriation, acquisition, site clearance, and compensation and distribution of economic aids;
- g) Information related to management, utilisation and context of emergency aids, disaster responses and rescue, social aids and aids provided to policy privileged people;
- h) Information required to be disclosed in accordance with laws and regulations.

### **Article 8: Information to be disclosed**

1. Following information is not required to be widely published but disclosed upon request:

- a) Information on activities of leaders of concerned agencies;
- b) Programs, objectives and budget for operation of administrative agencies; information on ongoing public projects including total budget, periodical budget and progress of projects;
- c) Statistics on national and local socio-economic development;
- d) Information on large scale public projects and works; information on implementing projects of public interest;
- d) Information on products, commodities and services that generate adverse impacts on public health and environment;
- e) Information on operation budget of concerned agencies; information on management, utilisation of budget, spending and ad hoc fund; revenue, expenditure, financial and audit information;
- g) Information on indebtedness and debt service;
- h) Information on contracting, tendering that concern both state owned and private owned enterprises.

Information prescribed above subjects to no limits to information that agencies, organisations and individuals request access thereof under Article 10 of this Law.

2. Related agencies, organisations are obliged to disclose information and documents that failure to disclosure may negatively affect public interest and individual's rights.

### **Article 9: Restrictions to information**

1. Agencies, organisations holding information shall not be obliged to provide following information and documents:

- a) Information and documents under any provisions of laws are defined as secrecy; information and documents that holders and owners are bound by laws to maintain their secrecy;
- b) Confidential information and documents received from foreign governments and/or organisations and/or from local government or agencies;

- c) Information and documents, the confidentiality of which is necessary for the safety of central economic, financial, monetary, currency exchange policies and public economic interest;
- d) Information and documents, the disclosure of which shall constitute a threat to national security or relations with other nations, international organisations;
- đ) Information and documents, the disclosure of which may pose infringement to operations of investigation, adjuration agencies; information, the confidentiality of which is necessary for law enforcement, maintenance of public order, prevention, combat and prosecution of criminals; information and documents related to prevention, combat and investigation of criminals, security measures and litigation procedures the disclosure of which shall pose a challenge to performance of duties by investigation, prosecution, adjuration agencies or constitute infringement to rights of defendants in criminal case;
- e) Annual budget or long term budget relating documents which are under their development or preparation process;
- g) Information, documents prepared for tendering process or related to business operation or technical secrecy of other tenderers, except information related to tender price;
- h) Personal information, except information for the purpose of investigation, information that public agencies prepare or receive and require public disclosure; information related to privacy excludes from disclosure, except the case that public interest overrides;
- i) Addresses, telephone numbers or other contact details of witnesses or informants who supply information related to criminals or information to facilitate public agencies to perform their duties; information, access to which may pose a threat to the safety, interest or rights of witnesses, victims or of the party or individual who supply information;
- k) Information, documents on technical processes or conditions or similar information related to production, business secrecy; information related to secrets in business operation; trading secretes, the disclosure of which may undermine competition of a third party, except that competent agencies see greater public interest in disclosure of information in order to safeguard public health, individual lives from dangers posed by operation of relevant bodies.
- l) Information under preparation for the adjuration process and not related to economic status of the indebted, except disclosure of which is necessary for court's actions in recovering property and assest in handling bankruptcy cases;
- m) Information related to internal discussion, documents related to routine duties of public agencies; meeting records; documents containing personal views during policy making process;
- o) Documents prepared by agencies for internal circulation or prepared internally by subordinated agencies, advisors, special experts, or documents available to other public agencies for internal use;
- p) Inter agency correspondence, communications between organisations; between offices subordinated to a same agency; communication between a public agency and their subordinated bodies.

2. Access to information pursuant to clause **1 of this Article** shall be subject to approval by the head of relevant agency and a third party in the case that the disclosure of information relates to the third party.

3. Agencies or organisations holding restricted information, documents may grant information access in following cases:

a) Should the situation is evident that information disclosure or access is necessary to protect public interest and release of information for public interest overrides the harms in disclosing information;

b) Should the situation is evident that disclosure or access of information create no harms;

c) Access to information is necessary to facilitate investigation agency, the court to clarify the truth in investigation, prosecution and adjuration procedures;

d) Information related to a third party and that third party consents to disclosure of such information.

4. Persons entitled to appealing and litigation process or those invocated in a dispute have the right to request public agencies who are handling the case to authorise access to information in a restricted manner, if such information pertains to handling the case that involves the requester.

5. Agencies, organisations and individuals making request for restricted information must present reasons for accessing information, state intended use of the information, and make commitments as to not disseminate the information. Wide dissemination of such information shall result in compensation.

6. Other than provisions stated herein, individuals have the right of access to official documents held in public agencies that relate to requesters except for restricted information.

Should information be found insufficient, or misleading, individuals have the right to request modifications thereof.

#### **Article 10: Information access upon request**

Other than excepts and restrictions pursuant to provisions stated herein, agencies, organisations and individuals have the right to obtain access to information held by agencies, organisations necessary for safeguarding rights and interest and for purpose of livelihood, research, study, production, trading and other purposes.

#### **Article 11: Disclosure of information for public interest**

With regard to restricted information, should they be found that their disclosure is necessary for public interest, the head of relevant state agency may authorise disclosure or release of information to requestors.

#### **Article 12: Declassification and disclosure of confidential information**

1. The Prime Minister decides on information, documents to be declassified and disclosed on the reason that their confidentiality has phased out or on other reasons that their confidentiality is no longer required.

2. Public agencies where information is held are obliged to publish information confidentiality of which has phased out. In the event that information has been transferred to archive, disclosure of such information is decided by the head of the archive.

### **Article 13: Forms of widely publishing**

Information and documents are to be widely published pursuant to Article 7 in this Law shall be communicated in following forms:

1. Posted on website of public agencies;
2. Published on official gazette;
3. Published on widely circulated publications;
4. Public notice.

### **Article 14: Access to information upon request**

1. Access to information may be granted by describing verbally information sought to the requester, by written response to information request, by provision of document to requesters for research, duplication or inspection, observation at the office of the public agencies or access may take following forms:

- a) Provision of copies or converting information into other formats;
- b) Allowing the requester to read or transcribe contents in the documents;
- c) Provision of information contained in the documents to the requester;
- d) Allowing requesters to inspect, observe requested information or documents.

2. Public agencies mandated to providing information are obliged to determine convenient and less costly forms of communications which least disturbing to routine operation of public agencies.

3. Persons having hearing, vision or verbal impairments are entitled to request forms of access appropriate to their capacity.

### **Article 15: Fees charged against information access**

1. In requesting access to information in the form hardcopy or any electronic formats, the requester has to pay fees for information provided at the rate established by public agencies.

2. Fees changed against information access include:

- a) Fee against requesting: 30.000 VND (or to be determined by the Minister of Finance).
- b) duplication costs;
- c) Costs to cover searching, research, collection of documents in the event that searching takes more than 5 man working hours;

Costs to cover reproduction, searching research and collection of documents must be reasonable.

3. Fee levels for ordinary and standardised services must be publicised. Fees for other services shall be determined on case by case basis and shall be notified to the requester at the time requested access is approved.
4. The agency providing information shall notify to the requesters of all costs related to information access, modes of payments and may request the requester to pay in advance of obtaining the access.
5. Revenues collected from information access must be credited to the account of information disclosing agencies.
6. Agencies and organisations providing information shall determine costs based on expenditures for duplication, and possible searching expenditures, if any.
7. The Minister of Finance shall determine specific costs for accessing information in electronic medium.

**Article 16: Fee waiving**

1. Information, records are to be widely published pursuant to this Law shall be free of charge. Reproduction costs shall be charged if copies of information are requested.
2. No costs shall incur upon modified information provided by public bodies that have earlier provided insufficient or incorrect information.
3. The poor, the handicapped and policy privileged shall be granted free of charge access to information.

**Chapter III: Request and access procedures**

**Article 17: Filing a request for information**

1. All individuals have the right to make either a written request or verbal request for information. If the requester is not allowed to make verbal request or find that verbal request is not sufficient enough may make a written request.

Written request for information must exist in Vietnamese and sent to public agencies where requested information is held.

Written request may be sent via post mail service or via electronic medium to contact addresses of the public agencies pursuant to **Article 26 of this Law**.

2. Request for information includes following details:

- a) Full name, address and working place of the requester
- b) ID number of the requester
- c) Description of requested information and records:

Provision of information is conditional on availability of details prescribed at items **a, b and c of this** clause.

3. Requester is not bound to present reasons for information request nor to provide personal information, except for request for restricted information which requires presentation of reasons and usage purposes.

**Article 18: Announcement of the fact that the requested information is not held by the agency**

In the case that public agencies or organisations do not hold requested information, they shall notify to requester within 15 working days beginning from the day of receiving the request.

**Article 19: Decision on information access**

1. Public agencies and organisations shall review and handle request for information sent to them following procedures stipulated in this Law.

2. In providing a part or entire requested record or information, public agencies and organisations shall prepare a decision to grant access which shall be subsequently notified to the requester, the written notification shall specify information or records approved for access as well as any details pertained to granted access.

The Notification may be sent via post mail service or in electronic medium.

3. Should requested information be found not held or request for information be refused, public agencies must prepare a written decision on refusal or non-availability and be notified to the requester.

The notification may be sent via post mail service or in electronic medium.

4. Decision to grant access must state:

- a) Scope of access for requested information;
- b) Time limit for access;
- c) Location where information can be accessed;
- d) Forms of communication and access;
- đ) Fees involved information access.

5. The decision to grant access shall be handed directly to the requester or sent to the requester in electronic medium.

**Article 20: Obligations in approving request for information**

1. Response to request for information shall be decided by the head of public agency where information is held. The head of public agency may delegate his authority to his staff dealing with granting requested information other than restricted ones.

When a part of requested record or information requires consultation with staff from other public agency, this staff shall have to determine whether to grant or refuse access requested.

2. Related staff, officers shall have to determine at their earliest whether to grant or refuse access requested or whether to grant instant access or access to a copy of the requested information or record.

3. In case a period of 15 working days of the receipt of request has passed without an official decision being made on whether to grant or refuse access, the related staff shall have to inform in writing the requester of delay reasons and the date an official decision is expected.

#### **Article 21: Grounds for refusal of access**

1. Request for information may be refused in following cases:

- a) Restricted or prohibited information or record;
- b) Information and records that are publicly available in websites, gazette and widely accessible;
- c) Repetitive requests;
- d) Request for information in such a quantity that exceeds capacity of public agencies to provide or interferes with normal operation of public agencies;
- đ) Technical capacity of public agencies is not enough to satisfy information requested;
- e) Provision of information or requested records would incur unreasonable costs;
- g) Provision of information shall prompt illegal advantages in using the information or constitutes an infringement to copyright.

2. In case of refusal to provide information, public agencies shall indicate adequate reasons and basis for refusal as well as the requester's right to appeal and lodge complaint with their specified time limits and agencies to which the refusal can be appealed or complained.

3. Requester having their requested refused may appeal to the higher administrative agency.

#### **Article 22: Time limits for information provision**

1. Information is to be provided within shortest time and not later than 15 working days of the receipt of the request

2. In the event that requested information is not clear or too ambiguous, public agencies shall request the requester to clarify and specify information requested. Time limits for response to request shall be set from the time a clear request is made.

If the requester fails to clarify his request within 15 working days at the request of public agency, his request shall not be responded.

3. Time limit set for providing information is 30 days. This time limit applies within 2 years of the day this law becomes effective.

#### **Article 23: Extension of time limit for information provision**

1. Extension applies to following cases:

Information or records are required in such a quantity that exceeds the capacity of public agency to provide or causes the agency technical difficulties;

- b) Requested information or records relate to a third party, disclosure of which requires consent from this third party;

Should the third party not consent to disclosure of information related to them, public agencies shall only provide information or records not relevant to that third party;

c) Information is requested in a large quantity that warrant more time for preparation.

2. Extended time is 30 days. Public agencies shall inform the requester of the extension and reasons for extension.

## **Chapter IV: Promotional measures**

### **Article 24: Methods to publish information**

1. In the event that information has been publicly made available on websites and local newspaper is due to certain reasons not accessible by certain groups of populations, public agencies shall have to select medium to communicate information appropriate to local conditions and situation.

2. Depending on types of information that public agencies shall determine type of information for annual disclosure and periodical disclosure.

### **Article 25: Operation of website of public agencies**

1. In order to facilitate access to information by agencies, organisations and individuals, public agencies stated in clause 1 Article 1 of this Law must establish and operate their official website pursuant to following time lines:

a) Ministries and ministerial equivalents: at latest within six months of the announcement to promulgate this Law;

b) People's Council and Committee at all levels: at latest within one year of the announcement to promulgate this Law, except for cases that required resources and capacity are not yet available.

2. Public agencies in charge of budget allocation shall take those time lines into account in their allocation work.

### **Article 26: Publishing information on the website of public agencies**

1. Three months prior to this Law becoming effective, public agencies stated in clause 1 **Article 1 of this Law** shall maintain and keep their website updated with following information:

a) Information on their organizational branches, official provisions on their functions, tasks, responsibility and authority; organizational structure, organizational distribution, oregano-diagram, necessary legal framework, procedures and administrative processes;

b) Official activities attended by leaders and their staff;

c) Guidelines on administrative formats, completion of administrative procedures and forms;

d) Postal addresses, telephone, fax numbers and email of staff and website administrators and information officers;

đ) Other information deemed necessary to be publicly available.

2. Public agencies shall nominate a staff to administer their official website to ensure that information exists on the website is up to date, accurate and comprehensive.

**Article 27: Appeal and complaint**

1. The requester may appeal the public agencies in following cases:

a) Having their request refused in part or in entirety;

b) Obtaining access to information later than expected and extension of time limit in their judgment is not reasonable and appropriate;

c) Being charged with unreasonable fees.

2. The requester may also lodge their complaint to relevant administrative court.

3. In the event that the requester send their appeal or complaint to wrong public agencies, the recipient agency shall inform the appellant or complainant of appropriate addresses.

**Chapter V: Final Provisions**

**Article 28: Amending relating regulations**

Within 2 years of the promulgation of this Law, the Ordinance on State Secrecy and other legislations shall have to be amended.

**Article 29: Detailed regulations**

The government shall stipulate detailed procedures for accessing information.

**Article 30: Effect**

This Law becomes effective from 01 June 2012.