

LAW
ON JUDICIAL EXPERTISE

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

The National Assembly promulgates the Law on Judicial Expertise.

Chapter I
GENERAL PROVISIONS

Article 1. Scope of adjustment

This Law provides for judicial experts; judicial expertise institutions; ad hoc judicial expertise performer, ad hoc judicial expertise institutions; judicial expertise activities; judicial expertise charge, regulations and policies applicable to judicial expertise activities, and responsibilities of state agencies to judicial expertise institutions and activities.

Article 2. Interpretation of terms

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

1. Judicial expertise means that judicial expertise performers use scientific, technical and professional knowledge, means and methods to make expert conclusions regarding matters related to the criminal investigation, prosecution and trial and enforcement of criminal judgments or settlement of civil cases and matters and administrative cases when solicited by procedure conducting agencies or persons or when requested by expertise requesters specified in this Law.
2. Expertise solicitors include procedure conducting agencies and persons.
3. Expertise requesters are those who have the right to request expertise by themselves after their requests for procedure conducting agencies or persons to solicit expertise are rejected. They include parties involved in civil cases or matters or administrative cases, civil plaintiffs, civil respondents, persons with related rights in criminal cases or their lawful representatives, unless the solicited expertise is related to determination of the criminal liability of the accused or defendants.
4. Judicial expertise individuals and institutions include judicial experts, ad hoc judicial expertise performers, public judicial expertise institutions, non-public judicial expertise institutions and ad hoc judicial expertise institutions.
5. Judicial expertise performers include judicial experts and ad hoc judicial expertise performers.

6. Judicial experts are those who satisfy the criteria specified in Clause 1, Article 7 of this Law and are appointed by competent state agencies to perform judicial expertise.

7. Ad hoc judicial expertise performers are those who satisfy the criteria specified in Clause 1 or 2, Article 18, and Article 20 of this Law and are invited or requested to perform expertise.

8. Ad hoc judicial expertise institutions are agencies or organizations that satisfy the criteria specified in Clauses 19 and 20 of this Law and are solicited or requested to perform expertise.

Article 3. Principles of judicial expertise

1. Compliance with law and professional regulations.
2. Truthfulness, accuracy, objectiveness, impartiality and timeliness.
3. Making of professional conclusions only on the issues within the requested scope.
4. Responsibility before law for expertising conclusions.

Article 4. Responsibilities of individuals and organizations for judicial expertise activities

1. Individuals and organizations that are solicited or requested to perform judicial expertise shall undertake to do so in accordance with this Law and other relevant laws.
2. Other individuals and organizations shall create conditions for judicial expertise performers to perform judicial expertise in accordance with this Law and other relevant laws.

Article 5. State policies on judicial expertise activities

1. The State invests in developing the system of public judicial expertise institutions in areas with great and regular demand for judicial expertise in order to meet requirements of procedure activities; and adopts preferential policies to facilitate the development of non-public judicial expertise institutions.
2. The State adopts preferential policies on professional training and retraining for judicial expertise performers.

Article 6. Prohibited acts

1. Refusing to make judicial expertising conclusions without any plausible reason.
2. Intentionally making untruthful judicial expertising conclusions.
3. Intentionally prolonging the performance of judicial expertise.
4. Taking advantage of judicial expertise to seek personal benefits.
5. Disclosing secret information acquired during the performance of judicial expertise.
6. Enticing or forcing judicial expertise performers to make untruthful judicial expertising

conclusions.

7. Intervening in or obstructing expertise activities of judicial expertise performers.

Chapter II

JUDICIAL EXPERTS

Article 7. Criteria for appointment of judicial experts

1. A Vietnamese citizen who permanently resides in Vietnam and fully satisfies the following criteria may be considered and appointed as a judicial expert:

a/ Being physically fit and having good moral qualities;

b/ Possessing a university or higher degree and having been engaged in practical professional activities in his/her trained area for at least 5 years;

In case a person, who is proposed to be appointed as an expert in forensic medicine, psychiatric forensic medicine or criminological techniques, has worked as an expertise assistant in a forensic medicine, psychiatric forensic medicine or criminological technique institution, his/her period of practical professional activities must be at least 3 years in full;

c/ Possessing a certificate of judicial expertise training or retraining, for a person proposed to be appointed as an expert in forensic medicine, psychiatric forensic medicine or criminological techniques.

2. The following persons may not be appointed as judicial experts:

a/ Those who have lost their civil act capacity or have a limited civil act capacity;

b/ Those who are currently examined for penal liability; those who have been convicted for unintentionally committing a crime or intentionally committing a less serious crime and their criminal record has not been remitted; those who have been convicted for intentionally committing a serious crime, very serious crime or particularly serious crime;

c/ Those who are subject to the administrative sanction of commune-based education or confinement to a compulsory detoxification establishment or compulsory educational establishment.

3. Ministers and heads of ministerial-level agencies shall detail Clause 1 of this Article regarding judicial experts in the areas under their management after reaching agreement with the Minister of Justice.

Article 8. Dossier of proposal for appointment of a judicial expert

1. A written request for appointment of a judicial expert.

2. A copy of a university or higher degree in a major relevant to the professional area in which the candidate is expected to work.

3. The resume and judicial record of the candidate.

4. A written certification of the period of performing practical professional activities, granted by

the agency or organization in which the candidate works.

5. A certificate of judicial expertise training or retraining, for a person proposed to be appointed as a judicial expert in forensic medicine, psychiatric forensic medicine or criminological techniques.

6. Other papers evidencing that the candidate satisfies the criteria prescribed by the minister or head of ministerial-level agency competent to manage the field of expertise.

Article 9. Competence, order and procedures for appointment of judicial experts

1. The Minister of Health may appoint forensic medicine and psychiatric forensic medicine experts to work in central agencies.

The Minister of Public Security may appoint criminological technique experts to work in central agencies.

Ministers and heads of ministerial-level agencies may appoint judicial experts in other areas to work in central agencies under their management.

Chairpersons of People's Committees of provinces or centrally run cities (below collectively referred to as provincial-level People's Committees) may appoint local judicial experts.

2. The Ministry of National Defense and the Ministry of Public Security shall select persons satisfying the criteria specified in Clause 1, Article 7 of this Law and propose the Minister of Health to appoint them as their own forensic medicine experts.

The Ministry of National Defense shall select persons satisfying the criteria specified in Clause 1, Article 7 of this Law and propose the Minister of Public Security to appoint them as its own criminological technique experts.

Heads of units of ministries or ministerial-level agencies assigned to manage judicial expertise activities shall select persons satisfying the criteria specified in Clause 1, Article 7 of this Law and propose ministers or heads of ministerial-level agencies to appoint them as judicial experts in the areas of expertise under their respective management.

Heads of specialized agencies of provincial-level People's Committees in charge of judicial expertise shall assume the prime responsibility for, and coordinate with directors of provincial-level Service of Justices in, selecting persons satisfying the criteria specified in Clause 1, Article 7 of this Law, receiving dossiers of persons proposed to be appointed as judicial experts as specified in Article 8 of this Law, and proposing chairpersons of provincial-level People's Committees to appoint local judicial experts.

Within 20 days after receiving a valid dossier, a minister, head of a ministerial-level agency or chairperson of a provincial-level People's Committee shall decide to appoint a judicial expert. In case of refusal, he/she shall notify such in writing to the applicant, clearly stating the reason.

3. Ministries, ministerial-level agencies and provincial-level agencies shall make lists of judicial experts and post them on their websites, and concurrently send them to the Ministry of Justice for making a general list of judicial experts.

Article 10. Dismissal of judicial experts

1. Cases in which a judicial expert shall be dismissed from his/her duty:
 - a/ He/she no longer satisfies the criteria specified in Clause 1, Article 7 of this Law;
 - b/ He/she falls into a case specified in Clause 2, Article 7 of this Law;
 - c/ He/she is disciplined with caution or a higher penalty or is administratively sanctioned for an intentional violation of the law on judicial expertise;
 - d/ He/she commits an act specified in Article 6 of this Law;
 - e/ He/she so requests, in case he/she is a civil servant, public employee, army officer, people's public security officer, professional soldier or defense worker having a decision on job leaving for retirement or resignation.
2. A dossier of request for dismissal a judicial expert from his/her duty comprises:
 - a/ A written request for dismissal from duty of a judicial expert, made by the agency or organization that has proposed the appointment of such person;
 - b/ Documents or papers evidencing that the judicial expert falls into a case specified in Clause 1 of this Article.
3. The Minister of Public Security and the Minister of National Defense shall consider and request the Minister of Health to dismiss forensic medicine experts from duty under their management.

The Minister of National Defense shall consider and request the Minister of Public Security to dismiss criminological technique experts from duty under his/her management.

Ministers and heads of ministerial-level agencies may dismiss from duty judicial experts working in central agencies in the areas under their respective management at the request of heads of units of their ministries or ministerial-level agencies in charge of judicial expertise activities.

Chairpersons of provincial-level People's Committees may dismiss from duty local judicial experts at the request of heads of specialized agencies of their People's Committees after the latter reach agreement with directors of provincial-level Service of Justices.

4. Within 10 days after receiving a valid dossier, a minister, head of a ministerial-level agency or chairperson of a provincial-level People's Committee shall consider and decide to dismiss from duty a judicial expert and modify the list of judicial experts on its website, and concurrently send such dossier to the Ministry of Justice for modification of the general list of judicial experts.

Article 11. Rights and obligations of judicial experts

1. Performing expertise according to the solicitation or request of expertise solicitors or requesters or the assignment by agencies or institutions solicited or requested to perform expertise.
2. Refusing to perform expertise in case the contents to be expertised fall beyond their

professional capacity; objects to be expertised and relevant documents are insufficiently supplied or invalid for making expertising conclusions; the time is not enough for performing expertise or there is another plausible reason. In case of refusal to perform expertise, to notify the refusal in writing to the expertise solicitor or requester within 5 working days after receiving a decision to solicit or request expertise.

3. Attending expertise retraining courses for improving their professional skills and legal knowledge.
4. Establishing judicial expertise offices when fully satisfying the conditions specified in Article 15 of this Law.
5. Establishing or joining judicial experts' associations in accordance with the law on associations.
6. Enjoying regimes and policies provided in this Law and other relevant laws.
7. Having other rights and obligations specified in Article 23 and Clause 1, Article 34 of this Law.

Chapter III

JUDICIAL EXPERTISE INSTITUTIONS

Section 1: PUBLIC JUDICIAL EXPERTISE INSTITUTIONS

Article 12. Public judicial expertise institutions

1. Public judicial expertise institutions may be established by competent state agencies in the areas of forensic medicine, psychiatric forensic medicine and criminological techniques.

In case of necessity, ministers, heads of ministerial-level agencies or chairpersons of provincial-level People's Committees may consider and decide to establish or propose competent agencies to establish public judicial expertise institutions in other areas after reaching agreement with the Minister of Justice.

2. Public judicial expertise institutions in forensic medicine include:

- a/ The National Institute of Forensic Medicine under the Ministry of Health;
- b/ Provincial-level forensic medicine centers;
- c/ The Army Institute of Forensic Medicine under the Ministry of National Defense;
- d/ The Forensic Medicine Center of the Criminological Institute, the Ministry of Public Security.

3. Public judicial expertise institutions in psychiatric forensic medicine include:

- a/ The Central Institute of Psychiatric forensic medicine under the Ministry of Health;
- b/ Regional psychiatric forensic medicine centers under the Ministry of Health.

Based on psychiatrically forensic expertise requirements of legal proceedings and practical conditions of regions and areas nationwide, the Minister of Health shall consider and decide to establish regional psychiatric forensic medicine centers after reaching agreement with the Minister of Justice.

4. Public judicial expertise institutions in criminological techniques include:
 - a/ The Criminological Science Institute under the Ministry of Public Security;
 - b/ Criminological technique Division of provincial-level Police Departments;
 - c/ The Criminological Technique Expertise Division of the Ministry of National Defense.
5. Based on local needs and practical conditions, the criminological technique sections of provincial-level Police Departments may have forensic medicine experts to perform forensic examination of corpses.
6. Public judicial expertise institutions have their own seals and accounts in accordance with law.
7. The Government shall stipulate in detail the functions, tasks, organizational structure and working regulation of public judicial expertise institutions specified in this Article.

Article 13. Ensuring physical foundations for public judicial expertise institutions

1. Public judicial expertise institutions have their physical foundations, operation funds, equipment, facilities, means and other necessary conditions provided by the State to perform judicial expertise.
2. Public judicial expertise institutions have their operation funds allocated from the state budget and other sources in accordance with law.
3. The Ministry of Health shall stipulate physical foundations and expertise equipment, facilities and means for public judicial expertise institutions in the areas of forensic medicine and psychiatric forensic medicine.

The Ministry of Public Security shall stipulate physical foundations and expertise equipment, facilities and means for public judicial expertise institutions in the area of criminological techniques.

Section 2: NON-PUBLIC JUDICIAL EXPERTISE INSTITUTIONS

Article 14. Judicial expertise offices

1. Judicial expertise offices are non-public judicial expertise institutions established in the areas of finance, banking, construction, antiques, relics and copyright.
2. A judicial expertise office established by one judicial expert shall be organized and operate as a private enterprise. A judicial expertise office established by two or more judicial experts shall be organized and operate as a partnership.

The legal representatives of judicial expertise offices are their heads, who must be judicial experts.

Article 15. Conditions for establishment of judicial expertise offices

1. A judicial expert may establish a judicial expertise office when fully satisfying the following conditions:

a/ Having worked as a judicial expert for at least 5 full years in the field in which he/she wishes to establish a judicial expertise office;

b/ Having an establishment scheme specified at Point d, Clause 2, Article 16 of this Law.

2. Cadres, civil servants, public employees, army officers, people's public security officers, professional soldiers and defense workers are prohibited from establishing judicial expertise offices.

Article 16. Licensing of establishment of judicial expertise offices

1. Chairpersons of provincial-level People's Committees of localities in which judicial expertise offices are expected to be located shall consider and decide to license the establishment of such judicial expertise offices at the request of directors of provincial-level Service of Justices.

2. A judicial expert who applies for a license to establish a judicial expertise office shall send a dossier of application to the provincial-level Service of Justice. Such a dossier comprises:

a/ An application for a license;

b/ A copy of the decision on appointment of the judicial expert;

c/ The draft regulation on organization and operation of the judicial expertise office;

d/ The judicial expertise office establishment scheme, which must clearly state the establishment purpose(s); projected name, personnel and location of the office; conditions of physical foundations and expertise equipment, facilities and means as specified by the ministry or ministerial-level agency in charge of the relevant expertise field and implementation plan.

3. Within 30 days after receiving a complete and valid dossier of application for a license to establish a judicial expertise office, the director of the provincial-level Service of Justice shall examine such dossier and reach agreement with the head of the specialized agency of the provincial-level People's Committee in charge of judicial expertise, then submit it to the chairperson of the provincial-level People's Committee for consideration and decision.

Within 15 days after receiving a dossier from the provincial-level Service of Justice, the chairperson of the provincial-level People's Committee shall consider and decide to license the establishment of the judicial expertise office. In case of refusal to license, he/she shall notify such in writing, clearly stating the reason. The refused applicant may file a complaint or institute a lawsuit in accordance with law.

Article 17. Operation registration of judicial expertise offices

1. Within one year after the chairperson of the provincial-level People's Committee decides to license its establishment, a judicial expertise office shall register its operation with the provincial-level Service of Justice.

The decision licensing the establishment of a judicial expertise office shall be invalidated if such

judicial expertise office fails to register its operation within one year after the chairperson of the provincial-level People's Committee issues such decision.

2. A judicial expertise office shall send to the provincial-level Service of Justice a dossier for operation registration which comprises:

a/ An application for operation registration;

b/ Its organization and operation regulation;

c/ Papers evidencing its satisfaction of the operation conditions according to the establishment scheme mentioned at Point d, Clause 2, Article 16 of this Law;

d/ A copy of the establishment licensing decision.

3. Within 30 days after receiving a complete and valid dossier, the provincial-level Service of Justice shall assume the prime responsibility for, and coordinate with the specialized agency of the provincial-level People's Committee in charge of judicial expertise in, inspecting the satisfaction of the conditions stated in the establishment scheme mentioned at Point d, Clause 2, Article 16 of this Law, and granting an operation registration certificate. In case of refusal, it shall notify such in writing, clearly stating the reason, and concurrently report such to the chairperson of the provincial-level People's Committee for consideration and decision to revoke the establishment licensing decision. The refused applicant may file a complaint or initiate a lawsuit in accordance with law.

4. A judicial expertise office may commence its operation after receiving an operation registration certificate.

Chapter IV

AD HOC JUDICIAL EXPERTISE PERFORMERS, AD HOC JUDICIAL EXPERTISE INSTITUTIONS

Article 18. Ad hoc judicial expertise performers

1. A Vietnamese citizen who permanently resides in Vietnam and fully satisfies the following conditions may be selected as an ad hoc judicial expertise performer:

a/ Being physically fit and having good moral qualities;

b/ Possessing a university or higher degree and having been engaged in practical professional activities in his/her trained field for at least 5 years.

2. A person who possesses no university degree but has deep knowledge about and abundant experience in the field or expertise may be selected as an ad hoc judicial expertise performer.

3. Ad hoc judicial expertise performers shall perform expertise upon receiving an expertise solicitation or request in accordance with this Law. They have the rights and obligations provided in Clauses 1, 2, 3, 6 and 7, Article 1 of this Law.

Article 19. Ad hoc judicial expertise institutions

1. An ad hoc judicial expertise institution must satisfy the following conditions:
 - a/ Having the legal person status;
 - b/ Conducting professional activities suitable to the contents to be expertised as solicited or requested;
 - c/ Having sufficient professional personnel and physical foundations for judicial expertise.
2. Ad hoc judicial expertise institutions shall perform expertise upon receiving an expertise solicitation or request in accordance with this Law. Their heads shall receive and assign judicial expertise performers.
3. Ministries, ministerial-level agencies, government-attached agencies and specialized agencies of provincial-level People's Committees shall only perform judicial expertise upon receiving solicitations of expertise solicitors.

Article 20. Making and announcement of lists of ad hoc judicial expertise performers and ad hoc judicial expertise institutions

1. The Ministry of Construction, the Ministry of Finance, the Ministry of Culture, Sports and Tourism, the Ministry of Information and Communications, the Ministry of Planning and Investment, the Ministry of Natural Resources and Environment, the Ministry of Transport, the Ministry of Science and Technology, the Ministry of Agriculture and Rural Development, the State Bank of Vietnam, other ministries and ministerial-level agencies and provincial-level People's Committees shall annually select, make and announce lists of ad hoc judicial expertise performers and ad hoc judicial expertise institutions in the areas under their respective management in order to meet expertise requirements of procedural activities.

These lists enclosed with information on expertise specialties, experience and capacity of ad hoc judicial expertise performers and ad hoc judicial expertise institutions shall be posted on the websites of ministries, ministerial-level agencies and provincial-level People's Committees, and concurrently sent to the Ministry of Justice for making a general list.

2. In special cases, expertise solicitors may solicit professionally qualified persons or institutions outside the announced lists to perform expertise, clearly stating the reason for solicitation.

At the request of procedure conducting agencies or persons, ministries, ministerial-level agencies and specialized agencies of provincial-level People's Committees managing the areas subject to expertise shall recommend individuals or institutions fully qualified for performing expertise outside the announced lists.

Chapter V

JUDICIAL EXPERTISE ACTIVITIES

Article 21. Rights and obligations of judicial expertise solicitors

1. Judicial expertise solicitors have the following rights:
 - a/ To invite individuals or institutions defined in Clause 4, Article 2 of this Law to perform expertise;
 - b/ To request individuals or institutions defined at Point a, Clause 1 of this Article to notify

expertising conclusions strictly according to requested contents and time limit;

c/ To request individuals or institutions that have performed judicial expertise to explain their expertising conclusions.

2. Judicial expertise solicitors have the following obligations:

a/ To select suitable institutional or individual expertise performers according to the characteristics and requirements of cases and issues to be expertised;

b/ To issue written decisions to solicit expertise;

c/ To supply information and documents relevant to expertised objects at the request of individual or institutional judicial expertise performers;

d/ To advance a judicial expertise charge upon soliciting expertise; to pay on time and in full the charge to individuals or institutions performing expertise upon receiving expertising conclusions;

e/ To assure safety for judicial expertise performers in the course of expertise performance or when participating in legal proceedings in the capacity as judicial expertise performers.

Article 22. Rights and obligations of judicial expertise requesters

1. Expertise requesters may request in writing procedure conducting agencies or persons to solicit expertise. In case procedure conducting agencies or persons refuse such requests, they shall notify such in writing to expertise requesters within 7 days. Upon the end of that time limit or from the day of receiving a notice of refusal to solicit expertise, expertise requesters may request expertise by themselves.

2. Expertise requesters have the following rights:

a/ To request individual or institutional judicial expertise performers to notify expertising conclusions within the agreed time limit and according to the requested contents;

b/ To request individual or institutional judicial expertise performers to explain their expertising conclusions;

c/ To request courts to summon judicial expertise performers that have performed the expertise to participate in court hearings to explain or present expertising conclusions;

d/ To request procedure conducting agencies or persons to solicit re-expertise; to request additional expertise in accordance with Clause 1, Article 29 of this Law.

3. Judicial expertise requesters have the following obligations:

a/ To supply information and documents relevant to expertised objects at the request of judicial expertise performers and take responsibility for the accuracy of supplied information and documents;

b/ To advance a judicial expertise charge when requesting expertise; to pay on time and in full the charge to individuals or institutions performing expertise upon receiving expertising conclusions.

4. Expertise requesters may only request expertise by themselves before the courts issue decisions on first-instance trial of their cases.

Article 23. Rights and obligations of judicial expertise performers when performing judicial expertise

1. Judicial expertise performers have the following rights:

a/ To select necessary and appropriate methods of performing expertise according to contents requested for expertise;

b/ To use additional experimental or testing results or professional conclusions made by other institutions or individuals for their expertise;

c/ To be independent in making expertising conclusions.

2. Judicial expertise performers have the following obligations:

a/ To comply with the principles of judicial expertise;

b/ To perform expertise strictly according to contents requested for expertise;

c/ To make and notify expertising conclusions within the requested time limit; in case of additional time needed for performance of expertise, promptly notify such to expertise solicitors or requesters;

d/ To prepare expertise dossiers;

e/ To preserve expertised samples and documents relevant to expertised cases or matters;

f/ Not to notify expertising results to other parties, unless so agreed in writing by expertise solicitors or requesters;

g/ To bear personal responsibility for their expertising conclusions. In case of intentionally making untruthful expertising conclusions, thus causing damage to individuals or institutions, to pay compensations for damage or refund expenses in accordance with law.

3. In addition to the rights and obligations specified in Clauses 1 and 2 of this Article, judicial expertise performers have other rights and obligations provided by the law on procedure.

Article 24. Rights and obligations of institutions solicited or requested to perform judicial expertise

1. Institutions solicited or requested to perform judicial expertise have the following rights:

a/ To request expertise solicitors or requesters to supply information and documents necessary for expertise;

b/ To refuse to perform expertise if the conditions necessary for the expertise are insufficient;

c/ To receive a judicial expertise charge in advance upon receiving judicial expertise solicitations or requests; to have judicial expertise expenses promptly and fully paid when notifying expertise

results.

2. Institutions solicited or requested to perform judicial expertise have the following obligations:

a/ To receive and assign their persons whose professional qualifications are relevant to few contents subject to expertise to perform expertise, and take responsibility for these persons' professional capacity; to assign persons to coordinate the expertise in case the expertise must be performed by many persons;

b/ To ensure equipment, facilities, means and other necessary conditions for expertise;

c/ To pay compensations for damage in case their assigned expertise performers intentionally make wrong expertising conclusions, thus causing damage;

d/ To notify in writing expertise solicitors or requesters within 5 working days after receiving expertise solicitation or request decisions, and, in case of refusing expertise solicitations or requests, clearly state the reason.

Article 25. Solicitation of judicial expertise

1. Expertise solicitors shall issue written decisions to solicit judicial expertise and send such decisions enclosed with the expertised objects and related documents and objects (if any) to individual or institution performing expertise.

2. A decision to solicit expertise must contain the following details:

a/ Name of the expertise-soliciting agency; full name of the person competent to solicit expertise;

b/ Name of the institution or full name of the person solicited for expertise;

c/ Name and characteristics of the object(s) to be expertised;

d/ Title(s) of enclosed relevant document(s) or sample(s) for comparison (if any);

e/ Contents requested for expertise;

f/ Date of solicitation and time limit for notification of expertising conclusions.

3. In case of additional expertise or re-expertise, a decision to solicit expertise must clearly state whether it is additional expertise or re-expertise.

Article 26. Requests for judicial expertise in civil cases or matters, administrative cases or criminal cases

1. Expertise requesters shall send to individuals or institutions performing expertise written requests for expertise enclosed with objects to be expertised, relevant documents and objects (if any) and copies of papers evidencing that they are involved parties in civil cases or matters or administrative cases, civil plaintiffs or respondents, persons with related rights and obligations in criminal cases or their lawful representatives.

A written request for judicial expertise must contain the following details:

- a/ Name of the institution or full name of the requester;
- b/ Contents requested for expertise;
- c/ Name and characteristics of the expertised object(s);
- d/ Title(s) of related document(s) or enclosed sample(s) for comparison (if any);
- e/ Date of request for expertise and time limit for notification of expertising conclusions;
- f/ Signature and full name of the expertise requester.

Article 27. Transfer and receipt of dossiers and objects of solicited or requested expertise

1. Dossiers and objects of solicited or requested expertise may be directly handed over and received directly or sent by post to individuals or institutions performing expertise.
2. The direct handover and receipt of dossiers and objects of solicited or requested expertise shall be recorded in writing. A record of handover and receipt must contain the following details:
 - a/ Time and place of handover and receipt of the expertise dossier;
 - b/ Full names of the representatives of the parties handing over and receiving the expertised object;
 - c/ The expertise solicitation decision or written request for expertise; the object to be expertised; and related documents and objects;
 - d/ Method(s) of preservation of the expertised object and related documents and objects upon handover and receipt;
 - e/ Conditions of the expertised object and related documents and objects upon handover and receipt;
 - f/ Signatures of the representatives of the parties handing over and receiving the expertised object.
3. The sending of dossiers and objects of solicited or requested expertise by post shall be done through the registered mail service. Individuals or institutions that receive dossiers sent through the registered mail service shall preserve these dossiers and make a written record upon breaking their package seals in accordance with Clause 2 of this Article.
4. For the handover and receipt of persons subject to forensic medicine or psychiatric forensic medicine expertise, the expertise solicitors or requesters shall assume the prime responsibility for, and coordinate with individuals or institutions solicited to perform expertise in, managing these persons in the course of expertise.
5. Upon completing expertise, individuals or institutions performing expertise shall return expertised objects to expertise solicitors or requesters, unless otherwise provided by law.
Expertise solicitors or requesters shall receive back expertised objects in accordance with law.
The return and receipt of expertised objects after the completion of expertise shall comply with Clauses 2 and 3 of this Article.

Article 28. Individual expertise, collective expertise

1. Individual expertise is an expertise performed by a person. Collective expertise is an expertise performed by two or more persons.
2. In case of individual expertise, expertise performers shall perform the expertise, sign written expertising conclusions and bear personal responsibility for such expertising conclusions.
3. In case of collective expertise of a professional field, expertise performers shall jointly perform the expertise, sign common written expertising conclusions and bear joint responsibility for such expertising conclusions; in case of divergent opinions, each expertise performer shall write his/her own opinions in the common written expertising conclusions and bear responsibility for such opinions.

In case of collective expertise of different professional areas, each expertise performer shall perform the expertise falling under his/ her professional area and bear responsibility for his/her expertising conclusions.

Article 29. Additional expertise and re-expertise

1. Additional expertise shall be conducted in case expertising conclusions are unclear or inadequate or when new issues arise related to details of the case or matter which has been expertised. The solicitation of or request for additional expertise shall be made as for first-time expertise.
2. Re-expertise shall be conducted in case there is a ground to believe that the first-time expertise is inaccurate or in a case specified in Clause 2, Article 30 of this Law.
3. Expertise solicitors may decide at their own will or at the request of expertise requesters to solicit re-expertise. In case expertise solicitors do not accept re-expertise requests, they shall notify such in writing to expertise requesters, clearly stating the reason.

Article 30. Expertise councils

1. In case there is a difference between first-time expertising conclusions and re-expertising conclusions on the same content, the second-time re-expertise shall be decided by the expertise solicitor. The second-time re-expertise shall be conducted by an expertise council.

The Ministers or heads of ministerial-level agencies managing the areas of expertise shall decide to set up councils to conduct second-time expertise. An expertise council is composed of at least 3 members with high professional skills and reputation in the area of expertise. It shall operate under the mechanism of collective expertise provided in Clause 3, Article 28 of this Law.

2. In special cases, the Chairman of the Supreme People's Procuracy or the President of the Supreme People's Court shall decide on re-expertise after obtaining conclusions of the expertise council.

Article 31. Written records of the judicial expertise process

1. Judicial expertise performers shall promptly, fully and truthfully record in writing the whole expertise process and results.
2. Written records of the expertise process must be filed in expertise dossiers.

Article 32. Judicial expertising conclusions

1. Judicial expertising conclusions are written comments or assessments made by judicial expertise performers on expertised objects according to solicited or requested expertise contents. A judicial expertise conclusion must contain the following details:

- a/ Full name of the individual or institution performing expertise;
- b/ Name of the procedure conducting agency or full name of the procedure conducting person that solicits expertise; serial number of the expertise-soliciting document or full name of the expertise requester;
- c/ Information identifying the expertised object;
- d/ Time of receipt of the written expertise solicitation or request;
- e/ Contents requested for expertise;
- f/ Method of expertise;
- g/ Conclusion(s) on the expertised object;
- h/ Time and place of expertise performance and completion.

2. For expertise performed by an individual, the signature of the expertise performer must be authenticated in accordance with the law on authentication.

For expertise performed by an institution, the head of the institution shall sign and append a stamp on written expertising conclusions and the institution performing the expertise shall bear responsibility for expertising conclusions.

For expertise performed by an expertise council mentioned in Clause 1, Article 30 of this Law performs expertise, the person having decided on the setting up of the council shall sign and append a stamp on written expertising conclusions and bear responsibility for the legal status of the expertise council.

3. In case an expertise is performed before the institution of a criminal case strictly according to the order and procedures provided in this Law, procedure conducting agencies may use conclusions of such expertise as judicial expertising conclusions.

Article 33. Judicial expertise dossiers

1. A judicial expertise dossier made by a judicial expertise performer comprises:

- a/ The expertise solicitation decision or written request for expertise, and enclosed documents (if any);
- b/ The written record of handover and receipt of the dossier and object of solicited or requested expertise;
- c/ The written record of the expertise process;
- d/ Expertise photos (if any);
- e/ Previous expertising conclusions or results of the expertise test or experimentation performed by another person (if any);
- f/ Other documents related to the expertise (if any);
- g/ Judicial expertising conclusions.

2. Judicial expertise dossiers must be made according to a uniform form. The Ministry of Public Security, the Ministry of Health and other ministries and ministerial-level agencies shall, within the ambit of their tasks and powers, coordinate with the Supreme People's Court and the Supreme People's Procuracy in setting a uniform form of judicial expertise dossier.

3. Individual and institutional judicial expertise performers shall preserve and keep expertise dossiers for cases of expertise they have performed in accordance with the law on archive.

4. Judicial expertise dossiers must be presented upon the request to procedure conducting agencies or persons that are competent to settle criminal or administrative cases, civil cases or matters.

Article 34. Cases ineligible for performing judicial expertise

- 1. A person who falls into any of the following cases may not perform judicial expertise:
 - a/ Any of the cases prescribed by the procedure law in which he/she must refuse to participate in the procedure or must be changed;
 - b/ He/she is invited to perform re-expertise of the same content in a case or matter for which he/she has performed expertise, unless otherwise provided by law.
- 2. An institution which falls into any of the following cases may not perform judicial expertise:
 - a/ It has rights or obligations related to the case or matter in accordance with the procedure law;
 - b/ There is a clear ground to believe that it may not be objective and impartial in performing expertise.

Article 35. Legal assistance in judicial expertise

1. Requests for judicial expertise to be performed by foreign individuals or institutions may only be made if objects which need to be expertised are located overseas or if the professional capacity or conditions of expertise equipment, facilities and means of domestic individual or

institutional judicial expertise performers fail to meet expertise requirements.

2. Individual or institutional judicial expert performers may accept cases of judicial expertise and perform judicial expertise at the request of foreign competent procedure conducting agencies.

3. The order, procedures and charges for providing legal assistance in judicial expertise between Vietnam and foreign countries comply with the law on legal assistance.

Chapter VI

JUDICIAL EXPERTISE CHARGE, ENTITLEMENTS AND POLICIES APPLICABLE TO JUDICIAL EXPERTISE ACTIVITIES

Article 36. Judicial expertise charge

Expertise solicitors or expertise requesters shall pay a judicial expertise charge to individual or institutional judicial expertise performers in accordance with the regulation on judicial expertise charge.

Article 37. Entitlements for judicial expertise performers and participants

1. Judicial experts, ad hoc judicial expertise performers, assistants of judicial expertise performers who are paid salary by the state budget, persons assigned by competent state agencies to be present or perform duties during the period of expertise in case of post-mortem examination, autopsy or exhumation of dead bodies are entitled to a judicial expertise allowance based on cases or matters subject to expertise.

2. In addition to the case-by-case judicial expertise allowance specified in Clause 1 of this Article, full-time judicial experts of public judicial expertise institutions are also entitled to an occupational preferential allowance and other allowances.

3. The Government shall stipulate in detail this Article.

Article 38. Policies for judicial expertise activities

1. Non-public judicial expertise institutions may enjoy preferential policies provided by the Government.

2. Individual or institutional judicial expertise performers and ad hoc judicial expertise performers that make active contributions to judicial expertise activities shall be honored, commended and rewarded in accordance with the law on emulation and commendation.

3. Ministries, ministerial-level agencies and provincial-level People's Councils shall base themselves on their respective capabilities, practical conditions and competence to provide other entitlements and policies in order to attract capable experts and institutions to participate in judicial expertise activities.

Chapter VII

RESPONSIBILITIES OF STATE AGENCIES FOR JUDICIAL EXPERTISE

ORGANIZATION AND ACTIVITIES

Article 39. Agencies in charge of state management of judicial expertise

1. The Government shall perform the uniform state management of judicial expertise.
2. The Ministry of Justice shall assist the Government in performing the uniform state management of judicial expertise.
3. The Ministry of Health; the Ministry of Public Security; the Ministry of National Defense; the Ministry of Finance; the Ministry of Construction; the Ministry of Culture, Sports and Tourism; the Ministry of Natural Resources and Environment; the Ministry of Transport; the Ministry of Science and Technology; the Ministry of Agriculture and Rural Development; the State Bank of Vietnam, and other ministries and ministerial-level agencies shall perform the state management and take responsibility to the Government for judicial expertise organization and activities in the areas under their respective management; and coordinate with the Ministry of Justice in unifying the state management of judicial expertise.
4. Provincial-level People's Committees shall, within the ambit of their tasks and powers, perform the state management of judicial expertise in their localities.

Article 40. Tasks and powers of the Ministry of Justice

1. To promulgate or propose competent state agencies to promulgate legal documents on judicial expertise, and guide the implementation of these documents.

To assume the prime responsibility for elaborating and submitting to the Prime Minister strategy, master plan and plans on general development of judicial expertise; and coordinate with other ministries and ministerial-level agencies in elaborating the development strategy, master plan and plans for each field of judicial expertise.

2. To give written opinions on the establishment of public judicial expertise institutions falling under the deciding competence of line ministries and ministerial-level agencies or provincial-level People's Committees; in case of necessity, to propose ministries, ministerial-level agencies and provincial-level People's Committees to consider and establish public judicial expertise institutions to meet expertise requirements of procedural activities.
3. To formulate programs on legal knowledge training for judicial experts; to coordinate with other ministries and ministerial-level agencies in organizing professional and legal knowledge training courses for judicial experts.
4. To enumerate and make a general list of individual and institution performing judicial expertise and post it on its e-portal.
5. To urge the performance of the tasks of state management of judicial expertise by ministries, ministerial-level agencies and provincial-level People's Committees; to request ministries, ministerial-level agencies and provincial-level People's Committees to report on judicial expertise organization and activities; to report to the Government on judicial expertise organization and activities nationwide.
6. To assume the prime responsibility for, or request related ministries, ministerial-level agencies

or provincial-level People's Committees to organize the examination and inspection of judicial expertise organization and activities.

7. To perform the state management of international cooperation on judicial expertise.

Article 41. Tasks and powers of ministries and ministerial-level agencies performing specialized management of judicial expertise

1. To promulgate or propose competent state agencies to promulgate legal documents on judicial expertise in the expertise areas under their respective management, and guide the implementation of these documents.

2. To promulgate judicial expertise regulations or guide the application of professional regulations to judicial expertise activities according to the requirements and particularities of the expertise areas under their management.

3. To assume the prime responsibility for, and coordinate with the Ministry of Justice in, deciding the establishment, consolidation and strengthening of public judicial expertise institutions under their management in accordance with this Law.

4. To appoint and dismiss judicial experts according to their competence; to make and announce lists of ad hoc judicial expertise performers and ad hoc judicial expertise institutions mentioned in Clause 1, Article 20 of this Law.

5. To ensure expertise funds, equipment, facilities and means and other necessary material conditions for public judicial expertise institutions under their management to satisfy the requirements of assigned tasks.

6. To annually evaluate the quality of operations of judicial expertise institutions, ad hoc judicial expertise institutions, and judicial expertise performers in the areas under their management.

7. To specify conditions of physical foundations and expertise equipment, facilities and means of judicial expertise offices in the areas under their management.

8. To formulate and implement programs and plans on training in judicial expertise and legal knowledge for judicial experts in the areas under their management.

9. To examine, inspect and settle complaints and denunciations about judicial expertise organization and activities in the areas under their management; to coordinate with the Ministry of Justice in examining and inspecting judicial expertise organization and activities in accordance with Clause 6, Article 40 of this Law.

10. To implement international cooperation on judicial expertise in the areas under their management.

11. To annually review judicial expertise organization and activities in the areas under their management and send reports thereon to the Ministry of Justice for summarization and reporting to the Government.

Article 42. Tasks and powers of the Ministry of Health, the Ministry of Public Security and

the Ministry of National Defense

In addition to the tasks and powers specified in Article 41 of this Law, the Ministry of Health, the Ministry of Public Security and the Ministry of National Defense have the following tasks and powers:

1. The Ministry of Health:

- a/ Performing the state management of the areas of forensic medicine and psychiatric forensic medicine expertise;
- b/ Promulgating professional regulations in the areas of forensic medicine and psychiatric forensic medicine expertise;
- c/ Specifying criteria of forensic medicine and psychiatric forensic medicine experts;
- d/ Providing training and retraining and granting certificates of professional skills in forensic medicine or psychiatric forensic medicine expertise in accordance with Point c, Clause 1, Article 7 of this Law.

2. The Ministry of Public Security:

- a/ Performing the state management of criminological technique expertise;
- b/ Promulgating professional regulations on criminological technique expertise;
- c/ Specifying criteria of criminological technique experts;
- d/ Providing training and retraining and granting certificates of professional skills in criminological technique expertise in accordance with Point c, Clause 1, Article 7 of this Law;
- e/ Making annual statistics on solicitation of judicial expertise, assessment of judicial expertise performance and use of judicial expertising conclusions in the system of investigation agencies under their management;
- f/ Guiding investigation agencies under their management in applying legal provisions on solicitation of judicial expertise and evaluation and use of judicial expertising conclusions;
- g/ Ensuring funds and guiding the payment of judicial expertise charges in the system of investigation agencies under their management;
- h/ Annually reviewing and sending to the Ministry of Justice reports on solicitation of judicial expertise, assessment of judicial expertise performance and use of judicial expertising conclusions in the system of investigation agencies under their management.

3. The Ministry of National Defense has the rights and powers specified at Points e, f, g and h, Clause 2 of this Article.

Article 43. Tasks and powers of provincial-level People's Committees

1. Provincial-level People's Committees have the following tasks and powers:

- a/ Establishing public judicial expertise institutions; deciding on licensing the establishment of judicial expertise offices; making and announce lists of judicial expertise institutions and ad hoc

judicial expertise institutions in their localities;

b/ Appointing or dismissing judicial experts according to their competence; making and announcing lists of judicial experts in their localities;

c/ Ensuring operation funds and means, physical foundations and other necessary conditions for public judicial expertise institutions in their localities;

d/ Organizing professional and legal knowledge training for judicial experts in their localities;

e/ Annually evaluating the organization and quality of judicial expertise activities in their localities; ensuring the quantity and quality of judicial experts and ad hoc judicial expertise performers, promptly and qualitatively meeting expertise requirements of procedural activities in their localities;

f/ Examining, inspecting and settling complaints and denunciations about judicial expertise according to their competence; and coordinating with the Ministry of Justice in examining and inspecting the judicial expertise organization and activities in accordance with Clause 6, Article 40 of this Law;

g/ Sending reports on judicial expertise organization and activities in their localities to the Ministry of Justice and concurrently to related ministries and ministerial-level agencies for performing the state management tasks specified in Articles 40, 41 and 42 of this Law.

2. Provincial-level Service of Justices shall assist provincial-level People's Committees in the state management of judicial expertise in their localities; assume the prime responsibility for, and coordinate with specialized agencies in, assisting provincial-level People's Committees in managing operations of judicial expertise offices.

Specialized agencies of provincial-level People's Committees shall assist provincial-level People's Committees in the state management of the specialized areas of judicial expertise and be answerable to the latter for judicial expertise organization and activities in these areas; and coordinate with provincial-level Service of Justices in assisting provincial-level People's Committees in performing the state management of judicial expertise in their localities.

Article 44. Responsibilities of the Supreme People's Court and the Supreme People's Procuracy

1. To guide the application of legal provisions on solicitation of judicial expertise and evaluation and use of judicial expertise results in the systems of People's Court and People's Procuracy.

2. To make statistics on solicitation of judicial expertise, assessment of judicial expertise performance and use of judicial expertising conclusions in the systems of people's courts and People's Procuracy, and report them to the National Assembly in annual work reports.

3. To coordinate with the Ministry of Justice in making statistics and reports on solicitation of judicial expertise, assessment of judicial expertise performance and use of judicial expertising

conclusions.

4. To ensure funds for and guide the payment of the judicial expertise charge in the systems of people's courts and People's Procuracy

Chapter VIII

IMPLEMENTATION PROVISIONS

Article 45. Effect

.1. This Law takes effect on January 1, 2013.

2. Ordinance on Judicial Expertise No. 24/2004/PL-UBTVQH11 ceases to be effective on the effective date of this Law.

3. From the effective date of this Law, the provisions of the Criminal Procedure Code, the Civil Procedure Code and the Administrative Procedure Law on judicial expertise which are different from those of this Law will be superseded by the provisions of this Law.

Article 46. Implementation detailing and guidance

The Government, Supreme People's Court and Supreme People's Procuracy shall detail and guide the implementation of articles and clauses assigned to them in this Law.

This Law was passed on June 20, 2012, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 3rd session.

**THE NATIONAL
ASSEMBLY
CHAIRMAN**
(signed)

Nguyen Sinh Hung