

No.: 01/2012/ND-CP

Hanoi, 04 January 2012

DECREE
**Amend, supplement, replace or cancel, abolish the regulations relating to the
administrative procedures of the management function scale of Ministry of
Culture, Sports and Tourism**

THE GOVERNMENT

Basing on the Law on the Organization of the Government dated 25 December 2001;

Basing on the Law on promulgating the written legislation norms dated 03 June 2008;

After considering the proposal of the Minister of Culture, Sports and Tourism.

DEGREE:

Article 1. To amend, supplement, replace, annul or cancel regulations related to administrative procedures falling under the management functions of Ministry of Culture, Sports and Tourism prescribed in the following Decrees:

1. Decree No.100/2006/ND-CP dated September 9 2006 of the Government detailing and guiding the implementation of a number of articles of the Civil Code, Law on Intellectual Property on copyright and related rights (hereinafter referred to as Decree No.100/2006/ND-CP).

2. Decree No.86/2005/ND-CP dated July 8, 2005 of the Government regulating the management and protection of underwater cultural heritages (hereinafter referred to as Decree No.86/2005/ND-CP).

3. Decree No.98/2010/ND-CP dated September 21, 2010 of the Government detailing the implementation of a number of articles of Law on Cultural Heritages and the Law amending and supplementing some articles of Law on Cultural Heritages.

4. Decree No.92/2007/ND-CP of June 1, 2007, detailing the implementation of a number of articles of the Law on Tourism (hereinafter referred to as Decree No.92/2007/ND-CP).

5. Decree No.02/2009/ND-CP dated January 6, 2009 of the Government providing for the organization and operation of private libraries serving the community” (hereinafter referred to as Decree No.02/2009/ND-CP).

6. Decree No.103/2009/ND-CP of November 6, 2009 of the Government promulgating the “Regulation on cultural activities and business on public culture services” (hereinafter referred to as Decree No.103/2009/ND-CP).

Article 2. Any amendment, supplement, replacement or cancellation or annulment of regulations related to administrative procedures in the Decrees specified in Article 1 of this Decree shall be effected as follows:

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

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

“Foreign individuals and organizations that have works, performances, phonograms, video recordings and broadcasts are entitled to copyright and related rights protection as stipulated in Clause 2 of Article 13 and Article 17 of Law on Intellectual Property may directly or authorize a copyright or related consultancy organization or services to submit one (1) dossier directly to the Copyright Office of Vietnam or the Representative Office of the Copyright Office of Vietnam in Ho Chi Minh City, Representative Office of Copyright Office of Vietnam in Da Nang City or Provincial Department of Culture, Sports and Tourism”

b) Item 37 of Article 37 is added as follows:

“3. A dossier of application for the grant, re-grant or renewal of a certificate of registration of copyright or related rights under Article 50 of the Law on Intellectual Property. The documents prescribed at Points c, d, e and f, Clause 3, Article 50 of the Law on Intellectual Property must be made in Vietnamese; In case of copies, they must be notarized or authenticated; In cases of foreign languages, they must be translated into Vietnamese and must be notarized or authenticated”.

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

“1. The Copyright Office of Vietnam is responsible for maintaining a copy of the copyrighted work, a copy of the identification of one that registers related rights; A sealed copy with the registration number given to the certificate holder as stipulated in Point b, Clause 2, Article 50 of Law on Intellectual Property, after granting a certificate of registration of copyright or registration certificate for **related rights**”.

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

a) Article 12 is amended and supplemented at Clause 2, Point a as follows:

“a) Being the one that meet the requirements specified in Article 40 of the Law on Cultural Heritages and Article 16 of the Decree No.98/2010/ND-CP”.

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

“3. Organizations wishing to explore, excavate underwater cultural heritages must send a (01) dossier to the Ministry of Culture, Sports and Tourism by submitting them directly or by mail to ask for permission”.

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

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

“2. The procedure for licensing research and collecting dsvhpvt is regulated as follows:

a) Overseas Vietnamese and foreign organizations and individuals that apply for research and/or collection must directly submit or send by post (01) a dossier to Director of the Department of Culture, Sports and Tourism, comprising: An application (Appendix I) enclosed with the Project (Appendix II) stating clearly the purposes, location, duration and Vietnamese partners involved in the study and collection of intangible cultural heritages. In cases where the study area is from two or more provinces or centrally-run cities, the dossiers must be submitted directly or sent by post to the Minister Ministry of Culture, Sports and Tourism;

b) Within twenty (20) working days from the date of receiving the application, the Minister Ministry of Culture, Sports and Tourism or Director of the Department of Culture, Sports and Tourism shall have to consider and grant the license. In case of refusal, the reasons therefor must be clearly stated in writing”.

b) Supplement Article 16a as follows:

“Article 16a. Procedures for granting emergency excavation license

1. An applicant for an urgent excavation license shall submit one (1) dossier to Director of the Department of Culture, Sports and Tourism of the locality where the archaeological site is to be excavated for urgent excavation.

2. Director of the Department of Culture, Sports and Tourism shall submit to the President of the provincial People's Committee an emergency excavation license under the provisions of Clause 19, Article 1 of the Law on amendment of and addition to a number of articles of the Law on Cultural Heritages”.

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

“2. Minister of the Ministry of Culture, Sports and Tourism granted the license to bring artifacts, antiques abroad.

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

3. The procedures for licensing to bring artifacts, antiques abroad:

- a) Submit a written request (Appendix III) to the Minister Ministry of Culture, Sports and Tourism by direct submission or by post;
- b) Have a certificate of ownership transfer of the former owner;
- c) One (01) dossier for registration of artifacts, antiques.
- d) Article 26 is amended and supplemented in Clause 4 as follows:

“4. Procedures for granting practice certificates to owners of artifacts, antiques and national treasures shops:

a) The shop owner shall have to send directly or by post a set of dossiers of application for certificates of professional practice of artifacts, antiques and national treasures trading to Provincial Department of Culture, Sports and Tourism;

b) Application for professional practice of trading artifacts, antiques and national treasures include:

An application for the certificate (Annex IV);

Legal copies of relevant professional qualifications;

Curriculum vitae certified by the People's Committee of the local commune, ward or township”.

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

“3. Within fifteen (15) working days from the receipt date of the valid dossier, the Minister Ministry of Culture, Sports and Tourism, Director of the Department of Culture, Sports and Tourism shall have to certify the conditions for establishment and grant museum operation licenses. In case of refusal, the reasons therefor must be clearly stated in writing”.

e) Supplement Article 28a as follows:

“Article 28a. Procedures for certification of eligibility for licensing and procedures for granting licenses for non-public museum activities

1. Organizations and individuals requesting the certification of eligibility for operation licenses for non-public museums shall directly submit or send by post a set of dossiers comprising: Application for Confirmation on eligibility for licensing activities (Appendix V) and museum operation project (Appendix VI) to Director of the Department of Culture, Sports and Tourism where the museum is located.

2. An organization or individual applying for a license to operate a non-public museum shall directly submit or send by post a dossier comprising: An application for a museum operation license (Appendix VII) and certificate for the eligibility for a license to operate museums of Director of the Department of Culture, Sports and Tourism to the President of the People's Committee of the province where the museum is located”.

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

a) Article 22 is amended and supplemented as follows:

“Article 22. Application dossier for license for the establishment of branches or representative offices

1. An application for a license to establish a branch or representative office signed by a competent representative of a foreign tourism business.

2. A valid copy of the business registration certificate, articles of association or equivalent legal paper of the foreign tourism business, certified by the local competent authorities or the business registration agency; In case of establishment of a branch, a letter of authorization must be issued, clearly stating the authorization to the branch head.

3. An audited financial statements or other document of equivalent legal validity proving the actual existence and operation of a foreign tourist business in the fiscal year in which the license is granted (for cases of application for a branch establishment license).

The documents mentioned in Clauses 1, 2 and 3 of this Article must be translated into Vietnamese and authenticated and consularly legalized by Vietnamese diplomatic missions and consulates in foreign countries as per the provisions of the law of Vietnam”.

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

“1. Foreign tourist businesses shall send directly or by post one (01) dossier to the central-level state administrative agency in charge of tourism (for cases of applying for a branch establishment license) or to the provincial-level state agency in charge of tourism (for cases of applying for licenses for establishment of representative offices).

2. Within ten (10) working days as from the date of receiving complete and valid dossiers sent by foreign tourist businesses, the central-level state administrative agency in charge of tourism shall evaluate and grant licenses for branch incorporation to the businesses and notify such to provincial-level state agencies in charge of tourism, tax agencies, statistical offices and concerned state agencies where their branches are headquartered.

3. Within five (5) working days after receiving a complete and valid dossier sent by a foreign tourism business, the provincial-level state agency in charge of tourism shall evaluate and grant a license for representative office incorporation for business and notify the central state administrative bodies in charge of tourism, the provincial-level People's Committee, the tax agency, the statistical office and the concerned State agency where the representative office is headquartered”.

c) Article 24 is amended and supplemented as follows:

“Article 24. Amend, supplement the license of the establishment of branch, representative office

1. Foreign tourism businesses shall directly (or by post) send one set of dossiers of application for amendment or supplementation of licenses for branches or representative offices incorporation to competent agencies, regulated in Clause 1, Article 23 of Decree No.92/2007/ND-CP within ten (10) working days as from the date of changes as follows:

- a) Relocation of the head office of a branch or representative office within a centrally-run province or city;
- b) Change of name or operation contents of branch or representative office;
- c) Change of the head of branch or representative office.

2. A dossier of request for amendment or supplementation of a branch or representative office incorporation license comprises:

a) An application for modification or supplementation of a license for the establishment of a branch or representative office signed by a competent representative of a foreign tourist business;

b) The granted original incorporation license of the branch, representative office

Within ten (10) working days as from the date of receiving the valid dossiers sent by the businesses, the competent authorities of granting branch establishment licenses shall amend and supplement the branch, representative incorporation license and send a copy of the amended branch establishment license to the relevant agencies stipulated in point 2 Article 23 of Decree 92/2007/ND-CP.

Within five (5) working days as from the date of receiving the valid dossiers sent by the businesses, the competent authorities of granting representative office establishment licenses shall amend and supplement the branch, representative incorporation license and send a copy of the amended branch establishment license to the relevant agencies stipulated in point 3 Article 23 of Decree 92/2007/ND-CP.

The term of a amended, supplemented license for branch, representative office incorporation shall not exceed the term of the issued license of branch, representative office incorporation.

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

“1. In the following cases, the foreign tourism business shall send directly or by post one (1) dossier to the agency which has granted the license of branch, representative office incorporation within fifteen (15) days from the date of change:

- a) Change of the name or change of the establishment registration place of a foreign tourism business from one country to another;
- b) Relocation of the head office of a branch or representative office to another centrally-run province or city;
- c) Change of operation contents of foreign tourism businesses;
- d) Relocation of a foreign tourism business within the country where the business is established.

Within ten (10) working days as from the date of receiving the valid dossiers sent by the foreign tourism businesses, the competent authorities of granting branch, representative office establishment licenses shall evaluate, re-grant the license for branch, representative office incorporation to the businesses and send a copy to relevant agencies as stipulated in clause 2, clause 3 of Article 23 Decree No.92/2007/ND-CP”

“3. Where a license for a branch or representative office incorporation is lost, torn or destroyed, the foreign tourism business shall carry out procedures for the re-grant of the license for a branch or representative office incorporation. A foreign tourism business shall directly or by post send one (01) application for re-granting of the license for a branch or representative office incorporation signed by a competent representative of the foreign tourist business to the granting authority as defined in Article 21 of Decree No.92/2007/ND-CP.

Within five (5) working days from the date of receipt of a complete and valid dossier submitted by a foreign tourism business, the agency in charge of granting the license for branch or representative office incorporation shall evaluate, re-grant licenses for branches and representative offices incorporation for the businesses”.

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

“2. Renewal of licenses for branch or representative office incorporation:

a) Within thirty (30) days before expiry date of the license for branches and representative offices incorporation, business shall directly send (or by post) an application for extension of the incorporation license of branch and representative office to the competent agencies defined in Clause 1, Article 23 of Decree No.92/2007/ND-CP.

b) Within ten (10) working days from the date of receiving the application from the business, the competent authority shall consider and extend the incorporation license of the branch or representative office; If approved, the business shall send the original license of branch and representative office incorporation to the competent authority for extension. In case of refusal, the competent agencies must clearly state the reasons therefor in writing”.

e) Article 34 is amended and supplemented as follows:

“Article 34. Procedures for grant, renewal or re-grant of tour guide cards

1. Applicants for the grant or renewal of tour guide cards shall submit directly or by post one set of the dossier as prescribed in Clause 1, Article 74, Clause 1, Article 75 of the Tourism Law to one of the State Tourism Administration Agencies nationwide.

2. Applicants for the re-grant of tour guide cards shall submit directly or by post a set of dossiers as prescribed in Clause 2, Article 75 of the Tourism Law to provincial-level state agencies in charge of tourism where the tour guide card is granted. The term of the re-granted card shall be equal the remaining time of the granted card.

3. Documents enclosed with the dossiers are copies (when filing the dossiers directly, the applicants bring the originals for comparison) or the notarized or authenticated copies (when filing the dossiers by post). In cases where documents are translated into Vietnamese from foreign languages or vice versa, they must be notarized or authenticated”.

5. Decree No.02/2009/ND-CP, Article 6 is amended and supplemented as follows:

“Article 6. Procedures for registration of private library activities

1. A library operation registration dossier consists of:

a) Application for library activities registration (Form No.1, Decree No.02/2009/ND-CP);

b) The list of existing library documents (form No.2 of Decree No.02/2009/ND-CP);

c) Curriculum vitae of the person incorporating the library with the certification of the commune/ward/township People's Committee (hereinafter referred to as the commune level) of the residence place;

d) Library regulations.

2. Number of documents and time for handling: a) The number of dossiers that should be submitted is one;

b) Within three (3) working days after receiving complete and valid dossiers, the dossier-receiving agencies shall have to grant the private library activity registration certificate.

3. Agencies receiving dossiers and granting library operation registration certificates:

The commune-level People's Committee or the Culture and Information Section of the district, town, cities of provinces (hereinafter collectively referred to as the district level) or Provincial Department of Culture, Sports and Tourism shall have to supply dossiers and guide the registration procedures for library operations.

Based on the library's initial source of materials, the library's founder shall submit the operation application dossier to the competent authorities under the following provisions:

a) Libraries with an initial book capital of between 500 and under 1,000 copies shall send dossiers to the commune-level People's Committees where the libraries are headquartered.

b) Libraries with an initial book capital of between 1,000 and under 2,000 copies shall send dossiers to the district-level Culture and Information Offices where the libraries are headquartered;

c) The library with an initial capital of 2,000 copies or more shall send the application to Provincial Department of Culture, Sports and Tourism where the library is located.

After receiving a complete and valid dossier from the founder of the library, the dossier-receiving agency shall have to grant a library operation registration certificate to the library (form No.3 of Decree No.02/2009/ND-CP). In case of refusal, the reasons therefor must be clearly stated in writing”.

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

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

“4. Procedures for granting **labels to control music and theatrical tapes and discs:**

Centrally-run organizations and individuals applying for control labels shall send directly or by post a dossier to the Performance Art Department, Ministry of Culture, Sports and Tourism; Local organizations and individuals send directly or by post a dossier to Provincial Department of Culture, Sports and Tourism.

a) The dossier consists of:

- An application for a control label, clearly stating the name of the music or theatrical tapes or discs, the circulation license number, the number of control labels;

- A copy of the valid circulation license (in the case where Provincial Department of Culture, Sports and Tourism issues a circulation license).

b) Within five (5) working days from the date of receipt of a complete and valid file, the competent authority shall issue a control label; In case of refusal, they must reply in writing, clearly stating the reasons therefor”

c) The Regulation on cultural activities and business on public cultural services, promulgated together with Decree No.103/2009/ND-CP, is amended and supplemented in Clause 2 as follows:

“2. The procedures for granting the public performance license:

Organizations and individuals wishing to organize art performances or fashion shows must send directly or by post a dossier of application for public performance licenses to competent state agencies defined in Clause 1 of this Article.

a) The dossier consists of:

- An application for a public performance license (clearly stating the name of the program, the item, the author, the director, the performer);

- Music and scripts for works proposed for the first public performance; photos or performance costume sample for the fashion performance.

b) Within five (5) working days after receiving complete and valid dossiers, the competent state agencies shall have to grant public performance licenses; In case of refusal to grant licenses, they must reply in writing, clearly stating the reasons therefor; In cases where it is necessary to approve the program before granting the license, the organization or individual applying for the license shall have to create conditions for the approval from the competent state agency”.

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

“2. Owners of tourist accommodation establishments, restaurants, that organize for art and foreign artist teams performing at their establishments without selling tickets for performances must notify in writing the Provincial Department of Culture, Sports and Tourism establishments at the three calendar days prior to the schedule indicated in the notice”.

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

“Article 14. Types of exhibitions that must be notified

Other cultural and art exhibitions of Vietnamese organizations and individuals not otherwise required to apply for permission in Article 13 of this Regulation must inform Provincial Department of Culture, Sports and Tourism of the exhibition place 03 working days in advance according to the notice of exhibition time”

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

“2. Procedures for granting festival licenses: Agencies or organizations wishing to organize festivals as provided for in paragraph 1 of this Article shall send their application for a license to Provincial Department of Culture, Sports

and Tourism where the festival is organized at least 30 working days before the planned opening date of the festival.

a) Contents of the application for festival license (clearly stating the contents of festivals or changes in contents compared to traditional ones, festival time and place, plan of setting up festival-organizing board, ensure the quality and take responsibility before the law for violations and other necessary conditions to ensure security and order in the festival)

b) Within ten (10) working days from the date of the valid application receipt, Provincial Department of Culture, Sports and Tourism shall be responsible for submitting it to the provincial People's Committee. Provincial People's Committee shall, within ten (10) working days from the date of receiving the request from Provincial Department of Culture, Sports and Tourism, be responsible for issuing a license for the organization of the festival; If the provincial People's Committee decentralizes Provincial Department of Culture, Sports and Tourism to grant the license, Provincial Department of Culture, Sports and Tourism shall issue the license within ten (10) working days from the date of receiving a complete and valid dossier. In case of refusal to grant licenses, they must reply in writing, clearly stating the reasons therefor”.

e) Cancel Clause 2, Article 24 of the Regulation on cultural activities and business on public cultural services, promulgated together with the Government's Decree No.103/2009/ND-CP.

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

“2. Dossiers and procedures for licensing discotheque business:

a) A dossier of application for a license comprises:

- An application for a discotheque business license;
- Notarized or certified copy of business registration certificate.

b) The required number of dossier is one;

c) Within ten (10) working days after receiving a complete and valid dossier, Provincial Department of Culture, Sports and Tourism shall have to consider and examine the actual business conditions and grant the license; In case of refusal to grant licenses, they must reply in writing, clearly stating the reasons therefor”.

h) Cancel Clause 5 of Article 30 of the Regulation on cultural activities and business on public cultural services, promulgated together with the Government's Decree No.103/2009/ND-CP.

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

“2. Documents and procedures for granting karaoke business licenses:

a) A dossier of application for a license comprises:

- An application for a karaoke business license, clearly stating the business location, number of rooms, area of each room;

- A notarized or certified copy of business registration certificate

b) The required number of dossier is one.

c) Within seven (7) working days after receiving a complete and valid dossier, the district-level Provincial Department of Culture, Sports and Tourism or the decentralized district-level agency shall have to grant a business license; In case of refusal to grant licenses, they must reply in writing, clearly stating the reasons therefor”.

Article 3. Replace the phrases “Ministry of Culture - Information”, “Department of Culture and Information” by “Ministry of Culture, Sports and Tourism”, “ Provincial Department of Culture, Sports and Tourism” in all documents stipulated in Clauses 1, 2 and 4 Article 1 of this Decree.

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

Article 5. The ministers, the heads of the ministerial-level agencies, the heads of the agencies directly under the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree./.

FOR THE GOVERNMENT
PRIME MINISTER
(signed)
Nguyen Tan Dung