JUDICIAL EXPERTISE

JUDICIAL EXPERTISE ORDINANCE

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the Xth National Assembly, its 10th session;

This Ordinance prescribes the organization and operation of judicial expertise.

Chapter I

GENERAL PROVISION

Article 1.- Judicial expertise

Judicial expertise means the use of scientific, technical and professional knowledge, means and methods to make professional conclusions on matters related to criminal, administrative cases, civil cases and/or matters (hereinafter referred collectively to as cases) by judicial experts at the requests of procedure-conducting agencies and/or persons with a view to serving the settlement of cases.

Article 2.- Regulation scope

1. This Ordinance prescribes the criteria, rights and obligations of judicial experts, judicial expertise organizations; order and procedures to solicit expertise, the realization of expertise; judicial expertise charges and the State management over judicial expertise.

2. Expertise not solicited by procedure-conducting agencies and/or persons and not aiming to service the settlement of cases shall not be governed by this Ordinance.

Article 3.- Principles for performance of judicial expertise

1. To comply with law, to abide by professional standards.

2. To be honest, accurate, objective.

3. To make professional conclusions only on matters related to cases within the requested scope.

4. To bear personal liability before law for expertising conclusions.

Article 4.- Responsibilities of organizations, individuals for judicial expertise activities

Organizations and individuals have the responsibility to create conditions for judicial experts to perform
the expertise according to the provisions of this Ordinance and other relevant law provisions.

All acts of illegally interfering in or hindering the performance of expertise by judicial experts are strictly forbidden.

**Article 5.-** The State's policies on judicial expertise activities

The State encourages and creates conditions for organizations and individuals to participate in judicial expertise activities; provides professional training and fostering for, and adopts preferential treatment policies towards, judicial experts; ensures material and technical foundations for judicial expertise organizations.

**Article 6.-** Application of international treaties

1. In cases where the international treaties which the Socialist Republic of Vietnam has signed or acceded to contain provisions different from the provisions of this Ordinance, the provisions of such international treaties shall apply.

2. In cases where the Socialist Republic of Vietnam has not yet signed or acceded to any relevant international treaties, the international cooperation in judicial expertise activities shall comply with the principle of reciprocity but must not contravene the laws of the Socialist Republic of Vietnam, international laws and practices.

Chapter II

JUDICIAL EXPERTISE PERFORMERS

**Article 7.-** Judicial expertise performers

The judicial expertise performers shall include:

1. Judicial experts;

2. Casual judicial expertise performers.

**Article 8.-** Judicial experts

1. Judicial experts are those who fully satisfy the standards prescribed in Clause 2 of this Article and do not fall into the cases prescribed in Clause 3 of this Article, are appointed and granted judicial expert's card by competent State bodies according to the provisions of this Ordinance.

2. Vietnamese citizens who permanently reside in Vietnam and fully meet the following standards can be appointed to be judicial experts:

   a) Having university or higher degree and having been engaged in practical professional activities in the branches of their study for five years or more;

   b) Having good moral qualities;

   c) Having full civil act capacity.
3. The following persons shall not be appointed to be judicial experts:

a) Being examined for penal liability or having been convicted but not yet given criminal record remission;

b) Being under administrative probation;

c) Having lost, or been restricted in, civil act capacity.

4. Judicial experts can work in judicial expertise organizations or professional organizations.

**Article 9.- Appointment, relief from duty of judicial experts**

1. The appointment of judicial experts shall be effected in the domains of forensic medicine, psychiatrically forensic medicine, criminological techniques, finance-accounting, construction, culture, environment and other necessary domains.

2. Judicial experts shall be relieved from duty in the following cases:

a) They no longer fully satisfy the criteria prescribed in Clause 2, Article 8 of this Ordinance;

b) They are disciplined with caution or higher penalties for their deliberate violations in professional activities or violation of professional ethics;

c) They are administratively sanctioned for acts of violating law provisions on judicial expertise;

d) They violate the provisions in Article 14 of this Ordinance.

3. The ministers, the heads of ministerial-level agencies, the heads of Government-attached agencies shall appoint, relieve from duty judicial experts at the central level in the fields under their ministries' or branches' management.

The presidents of the People's Committees of the provinces or centrally-run cities (hereinafter referred collectively to as the presidents of the provincial-level People's Committees) shall decide on the appointment and relief from duty of judicial experts in localities at the proposals of the directors of the provincial/municipal Services of Justice after consulting with the directors of the specialized Services.

**Article 10.- Judicial expert's card**

1. Persons appointed to be judicial experts shall be granted judicial expert's cards by the Ministry of Justice at the proposals of ministries, ministerial-level agencies, Government-attached agencies, People's Committees of provinces or centrally-run cities (hereinafter referred collectively to as the provincial-level People's Committees).

2. Within fifteen days after the receipt of written proposals of ministries, ministerial-level agencies, Government-attached agencies or provincial-level People's Committees on the grant of judicial expert's cards, the Ministry of Justice shall have to grant judicial expert's cards to persons who are appointed to be judicial experts.

3. The Ministry of Justice shall make and publicize the list of judicial experts.

4. The Ministry of Justice shall withdraw the judicial expert's cards of judicial experts who are relieved
from duty within fifteen days as from the date of receiving the relief-from-duty decisions of ministers, heads of ministerial-level agencies, heads of Government-attached agencies or presidents of provincial-level People's Committees.

**Article 11.-** Casual judicial expertise performers

1. Persons who are not judicial experts but fully satisfy the criteria prescribed in Clause 2, Article 8 and do not fall into one of the cases prescribed in Clause 3, Article 8 of this Ordinance can be solicited to perform the judicial expertise on a case-by-case basis.

2. Where persons have no university degree but have intensive knowledge about the fields needed to be expertised and prestige in such fields, they can be solicited to perform the judicial expertise on a case-by-case basis.

3. The Ministry of Justice shall make and publicize the list of casual judicial expertise performers prescribed in Clauses 1 and 2 of this Article at the proposal of ministries, ministerial-level agencies, Government-attached agencies or provincial-level People's Committees.

**Article 12.-** Rights of judicial expertise performers

1. To request procedure-conducting agencies or persons that solicit expertise (hereinafter referred collectively to as expertise solicitors) to supply information and/or documents related to expertised objects.

2. To select necessary and suitable methods to conduct expertise according to the contents requested for expertise.

3. To use additional testing results or professional conclusions made by other organizations or individuals in service of the expertise.

4. To be independent in making expertising conclusions.

5. To refuse the expertise in cases where the to-be-expertised objects, the supplied relevant documents are inadequate or invalid for making expertising conclusions; the time is not enough for the expertise or for other plausible reasons.

6. To have their safety ensured when performing the expertise or when participating in the procedures in their capacity as judicial expertise performers.

7. Judicial expertise performers who are salaried by the State budget shall enjoy subsidies and other allowances according to law provisions.

Judicial expertise performers who do not enjoy salaries from the State budget shall be paid the judicial expertise remunerations.

The Government shall specify the regimes of subsidies, allowances and remunerations for judicial expertise performers.

8. Other rights prescribed by the procedural legislation.

**Article 13.-** Obligations of judicial expertise performers
1. To abide by the principles for performance of judicial expertise.

2. To perform judicial expertise strictly according to the contents requested for expertise.

3. To perform expertise strictly within the requested time limit; in case of needing more time for the performance of expertise, to promptly notify such to the expertise-soliciting agencies or persons.

4. To compile expertise dossiers.

5. To be present under the summons of procedure-conducting agencies and explain the expertising conclusions when so requested.

6. To preserve expertise specimen, documents related to the expertised cases or matters.

7. To keep secret the expertising results, information and documents.

8. To refuse expertise in cases prescribed in Article 37 of this Ordinance.

9. To compensate for damage if deliberately making untruthful expertising conclusions, causing damage to relevant individuals or organizations.

10. Other obligations prescribed by procedural legislation.

**Article 14.-** Strictly prohibited acts of judicial expertise performers.

1. Refusing to make expertising conclusions without plausible reasons.

2. Deliberately making untruthful expertising conclusions.

3. Abusing expertise for self-seeking purposes.

4. Disclosing investigating secrets which they know when participating in criminal procedures in their capacity as judicial expertise performers; disclosing secret information which they know when performing the expertise for other cases.

Chapter III

JUDICIAL EXPERTISE ORGANIZATIONS

**Article 15.-** Setting up of judicial expertise organizations

Judicial expertise organizations shall be set up in the field of forensic medicine, psychiatrically forensic medicine and criminological techniques.

**Article 16.-** Forensic expertise organizations

1. The National Institute of Forensic Medicine.

2. The provincial/municipal centers for forensic medicine.

3. The Army Institute of Forensic Medicine, the Forensic Medicine Center of the Criminological
Institute of the Ministry of Public Security.

Article 17.- The National Institute of Forensic Medicine

1. The National Institute of Forensic Medicine is set up under the Prime Minister's decision at the proposal of the Justice Minister and the Health Minister and is attached to the Ministry of Health.

2. The National Institute of Forensic Medicine is a non-business unit with revenues, has the legal person status, its own seal, accounts and head-office.

Article 18.- The provincial/municipal Centers for Forensic Medicine

1. Basing themselves on their local demands and practical conditions, the provincial-level People's Committee presidents shall decide on the establishment of provincial/municipal Centers for Forensic Medicine (hereinafter called the Forensic Medicine Centers for short) at the proposals of the directors of the provincial/municipal Services of Justice after reaching agreement with the directors of the provincial/municipal Health Services, which are attached to the provincial/municipal Health Services.

In provinces or centrally-run cities where Forensic Medicine Centers are yet established, there shall be forensic expertise sections attached to the provincial-level general hospitals.

2. The Forensic Medicine Centers are non-business units with revenues, have the legal person status, their own seals, accounts, which are located in provincial-level general hospitals.

Article 19.- Forensic medicine expertise in the army and the police forces

1. The Defense Ministry has the Army Forensic Medicine Institute.

The military zone-level hospitals shall have forensic medicine experts.

2. The Ministry of Public Security has the Forensic Medicine Center under the Criminological Institute.

The Police Departments of the provinces or centrally-run cities shall have forensic medicine experts.

Article 20.- Psychiatrically forensic medicine expertise organizations

1. The Central Institute of Psychiatrically Forensic Expertise is set up under the Health Minister's decision, after reaching agreement with the Justice Minister, and attached to the Health Ministry.

The Central Institute of Psychiatrically Forensic Expertise is a non-business unit with revenues, has the legal person status, its own seal and accounts.

2. In provinces and centrally-run cities where exist the provincial-level psychiatric hospitals, the psychiatricly forensic expertise centers attached to such hospitals shall be set up for performance of psychiatricly forensic expertise.

The psychiatricly forensic medicine expertise centers are set up under decisions of the provincial-level People's Committee presidents at the proposals of the directors of the provincial/municipal Services of Justice, after reaching agreement with the directors of the provincial/municipal Health Services, which are attached to the provincial/municipal Health Services.

The psychiatricly forensic expertise centers are non-business units with revenues, have the legal
person status, their own seals and accounts.

In provinces and centrally-run cities where there are no provincial-level psychiatric hospitals, the Centers for Social Disease Prevention and Combat or the Psychiatric Departments of the provincial-level general hospitals shall perform psychiatrically forensic medicine expertise when so requested.

3. Hospitals attached to the Defense Ministry and military zone-level hospitals are staffed with psychiatric forensic experts.

**Article 21.-** Criminological expertise organizations

1. The Criminological Institute under the Ministry of Public Security.

2. The Criminological Technique Sections under the Police Departments of the provinces or centrally-run cities.

3. Criminological technique organizations under the Defense Ministry.

**Article 22.-** Functions, tasks and organizational structures of judicial expertise organizations

The Government specifies the functions, tasks, organizational structures and operation of judicial expertise organizations defined in Articles 17, 18, 19, 20 and 21 of this Ordinance.

**Article 23.-** Ensuring material foundations for judicial expertise activities

1. Funding, equipment and facilities, means and other necessary material conditions for operation of judicial expertise organizations shall be provided by the State budget according to law provisions.

2. The professional organizations have the responsibility to create conditions for judicial expertise performers to use their equipment, facilities and means for the performance of judicial expertise.

Chapter IV

JUDICIAL EXPERTISE ACTIVITIES

**Article 24.-** Solicitation of judicial expertise

1. Judicial expertise solicitors may solicit the following individuals, organizations:

   a) The judicial expertise performers defined in Article 7 of this Ordinance;

   b) The judicial expertise organizations defined in Chapter III of this Ordinance;

   c) Professional organizations with adequate professional conditions and material foundations to ensure the expertise performance.

2. In cases where the professional capabilities, the conditions on expertise equipment, facilities and means of the domestic judicial expertise organizations, professional organizations and judicial expertise performers fail to meet the expertise requirements, the subordinate procedure-conducting agencies shall propose their central-level procedure-conducting agencies to solicit foreign expertise individuals or organizations. The solicitation of foreign expertise individuals and organizations shall be effected
through the Justice Ministry.

**Article 25.- Rights of judicial expertise solicitors**

1. To solicit organizations or individuals for performance of expertise.

2. To request organizations or individuals solicited for expertise to return the expertising conclusions strictly according to the requested contents and time limit.

3. To request judicial expertise performers to explain the expertising conclusions.

4. Other rights prescribed by procedural legislation.

**Article 26.- Obligations of expertise solicitors**

1. To solicit expertise in writing.

2. To supply information and/or documents related to expertised objects at the requests of judicial expertise performers.

3. To advance expertise expenses when so requested by individuals, organizations solicited for judicial expertise.

4. Other obligations prescribed by procedural legislation.

**Article 27.- Written solicitation of expertise**

1. A written expertise solicitation shall include the following principal contents:

   a) Name of the expertise - soliciting organization; full name of the procedure-conducting person soliciting the expertise;

   b) Name of the solicited organization; full name of the solicited individual;

   c) Summary of matters related to the to be-expertised object;

   d) Origin and characteristics of the expertised object;

   e) Names of relevant documents or accompanying comparative samples;

   f) Contents requested for expertise;

   g) Date of soliciting the expertise and the deadline for return of expertising conclusions.

2. Where additional expertise or re-expertise is solicited, the written expertise solicitation must clearly state that it is the additional expertise or re-expertise.

**Article 28.- Acceptance of expertise solicitation**

1. Judicial expertise organizations, professional organizations, judicial expertise performers managed by the provincial-level People's Committees shall have to accept and perform the expertises solicited by
procedure-conducting agencies, procedure-conducting persons at the district, provincial or central level.

2. Judicial expertise organizations, professional organizations, judicial expertise performers managed by ministries, ministerial-level agencies or Government-attached agencies shall have to accept and perform the expertises solicited by procedure-conducting agencies, procedure-conducting persons at the central level and complicated expertises solicited by procedure-conducting agencies or persons at the district or provincial level.

3. Judicial expertise organizations, professional organizations, judicial expertise performers must refuse to take the expertise solicitations if they have not enough equipment, facilities and means for expertise performance or the contents requested for expertise do not fall in their respective professional field or fall beyond their professional capability.

4. Basing himself/herself on the provisions in Clauses 1, 2 and 3 of this Article, the Defense Minister shall guide the acceptance of expertise solicitations by procedure-conducting agencies in the army.

Article 29.- Delivery and receipt of expertised objects

1. Where the expertise solicitation is accompanied with to-be expertised objects, the delivery and receipt thereof must be effected with written records. A written record on expertise object delivery and receipt shall include the following principal contents:

   a) Time and place for delivery and receipt of to-be expertised object;

   b) Full names of the representatives of the expertise object-delivering and receiving parties;

   c) Name of the expertised object;

   d) Method of preserving the expertised objects upon the delivery and receipt thereof;

   e) The conditions of the expertised objects upon delivery and receipt;

   f) Relevant documents or objects;

   g) Signatures of the deliverer and the receiver.

2. The delivery and receipt of expertised objects after the expertise is completed shall comply with the Government's regulations.

Article 30.- Expertise performance

1. Where judicial expertise organizations or professional organizations solicited for expertise, the heads of such organizations shall appoint the judicial expertise performers and bear responsibility for the appointment of such persons. The expertise performers shall bear personal liability before law for the expertising conclusions.

2. Where individuals are solicited for expertise performance, they shall accept and perform the expertises. The heads of their managing organizations shall have to create conditions for them to perform the expertises.

Article 31.- Personal expertise, collective expertise
1. Personal expertise means the expertise performed by a person. Collective expertise means the expertise performed by two or more persons.

2. In case of personal expertise, the expertise performers shall perform the entire expertise and take responsibility for their expertising conclusions.

3. In case of collective expertise of a professional field, the expertise performers shall jointly perform the expertise, sign the common written expertising conclusions and jointly bear the responsibility for such expertising conclusions; in case of divergent opinions, each expertise performer shall write his/her own conclusion in the common written expertising conclusions and bear responsibility for such opinion.

In case of collective expertise of many different professional domains, each expertise performer shall perform the expertise work falling under his/her own professional domain and bear responsibility for his/her expertising conclusions.

**Article 32.- Additional expertise**

1. The additional expertise shall be carried out in cases where the contents of the expertising conclusions are unclear, inadequate or when arise new matters related to the details of the cases with previous expertising conclusions.

2. The additional expertise can be performed by the previous judicial expertise performer or other judicial expertise performers.

**Article 33.- Re-expertise**

1. The re-expertise shall be carried out at the requests of procedure-conducting agencies or persons in case of doubt about the expertising results or contradiction between expertising conclusions on the same expertised matters. The re-expertise may be carried out by the previous or other expertise performers according to the provisions of procedural legislation.

2. In case of contradictions between the conclusions of the first expertise and the re-expertise conclusions on the same expertised matters, the second re-expertises must be effected by the expertise councils. The expertise councils shall be set up under decisions of ministers, heads of ministerial-level agencies, heads of Government-attached agencies managing the domains which need to be expertised. Such an expertise council is composed of at least three members with high professional qualifications and prestige in the to be- expertised domains.

3. Where the expertise councils defined in Clause 2 of this Article has already performed the second re-expertise, no more re-expertise shall be carried out, except for special cases decided by the chairman of the Supreme People's Procuracy.

**Article 34.- Written acknowledgement of expertising process**

1. The expertise performers must promptly, fully and truthfully acknowledge in writing the entire expertising process.

2. The written acknowledgement of the expertising process must be included in the expertise dossiers.

**Article 35.- Expertising conclusions**
1. The expertising conclusions must be made in writing with the following principal contents:

a) Full name of the expertise performer;

b) Name of the procedure-conducting agency or full name of the procedure-conducting person that solicits the expertise; the serial number of the written solicitation of expertise;

c) Time of receiving the written solicitation of expertise;

d) Contents requested for expertise;

e) Expertising methods;

f) Conclusions on the expertised objects;

g) Time and place of expertise completion.

2. The written expertising conclusions must be signed by the judicial expertise performers; in cases where organizations are solicited for expertise, the expertising conclusions must also be signed and stamped by the heads of such organizations.

3. In cases where the expertise is carried out before the issuance of decision to institute a criminal case, strictly according to the order and procedures prescribed by the procedural legislation and this Ordinance, the procedure-conducting agency may not solicit expertise any more but use the conclusions of such expertise as the judicial expertise conclusions.

Article 36. - Expertise dossiers

1. The expertise dossiers shall be compiled by the judicial expertise performers and comprise the following documents:

a) Decisions to solicit expertise;

b) Records on delivery and receipt of expertised objects;

c) Written acknowledgement of the expertising process;

d) The expertise photos;

e) The previous expertising conclusions or results of expertise testing, experimentation performed by other persons;

f) Other documents related to the expertise;

g) Expertising conclusions.

2. The expertise dossiers shall be archived for at least thirty years counting from the date of concluding the expertise, except otherwise provided for by law.

The judicial expertise organizations, the professional organizations shall have to preserve and archive
the dossiers on expertises conducted by the judicial expertise performers in their organizations.

3. The expertise dossiers must be presented at the requests of procedure-conducting organizations or persons, that are handling the cases.

**Article 37.** Cases not entitled to conduct judicial expertises

Those who fall into one of the following cases must not conduct judicial expertises:

1. Having conducted procedures in their capacity as investigator, procurator, judge, juror, court clerk or have participated in the procedures in their capacity as counsel, defenders of legitimate rights and interests of the involved parties, witness or interpreter in such cases;

2. Being concurrently the victim, civil plaintiff, civil defendant; persons with rights and interests related to the cases; the lawful representatives, relatives of those persons or defendants, the accused;

3. Being solicited for re-expertise of the same contents in a case for which they already performed the expertise, except otherwise provided for by law;

4. Having other clear grounds to believe that such persons are not impartial in performing the expertise.

Chapter V

**JUDICIAL EXPERTISE CHARGES**

**Article 38.** Judicial expertise charges

1. Organizations and individuals performing judicial expertises are entitled to collect judicial expertise charges.

2. Judicial expertise charge is a sum of money paid as remuneration for judicial expertise and other necessary expenses for expertise performance according to regulations of the Finance Ministry.

**Article 39.** Payment of judicial expertise charge

1. For criminal cases, the judicial expertise charge shall be paid by procedure-conducting agencies and allocated from the State budget according to annual estimates of such agencies.

2. For civil cases, administrative cases, the judicial expertise charge shall be paid by the involved parties according to the provisions of the civil procedure legislation and administrative procedure legislation.

In cases where the involved parties must pay the judicial expertise charge but are poor or policy beneficiaries they can enjoy judicial charge exemption or reduction as provided for by the Government.

**Article 40.** Management and use of judicial expertise charges

Based on the legislation on charges and fees, the Government shall specify the management and use of judicial expertise charges by organizations and individuals performing the judicial expertises.

Chapter VI
STATE MANAGEMENT OVER JUDICIAL EXPERTISE

**Article 41.** Contents of State management over judicial expertise

1. Promulgating and guiding the implementation of legal documents on judicial expertise.

2. Setting up judicial expertise organizations.

3. Appointing, relieving from duty judicial experts; granting, withdrawing judicial expert’s cards; making and publicizing the lists of judicial experts, casual judicial expertise performers.

4. Formulating professional standards on judicial expertise.

5. Providing professional training, fostering and necessary legal knowledge for judicial experts.

6. Examining, inspecting, settling complaints, denunciations and handling violations related to judicial expertise.

7. Supplying operation funding and means as well as material conditions for judicial expertise activities.

8. Entering into international cooperation on judicial expertise.

**Article 42.** Judicial expertise-State management agencies

1. The Government shall perform the uniform State management over judicial expertise.

2. The Justice Ministry shall bear responsibility before the Government for the performance of State management over judicial expertise.

3. The Health Ministry, the Ministry of Public Security, the Defense Ministry, other ministries, ministerial-level agencies shall manage the organization and activities of judicial expertises in the domains under their respective management.

4. Ministries, ministerial-level agencies and Government-attached agencies shall, within the scope of their respective tasks and powers, have to coordinate with the Justice Ministry and concerned ministries or branches in performing the State management over judicial expertise.

5. The provincial-level People's Committees shall perform the State management over judicial expertises in their respective localities according to the provisions of this Ordinance and other relevant law provisions.

**Article 43.** Tasks and powers of the Justice Ministry in the State management over judicial expertise

1. To promulgate or draft and submit to the competent State bodies for promulgation legal documents on judicial expertise and guide the implementation thereof.

2. To grant and withdraw judicial expert's cards; to make and publicize lists of judicial experts, casual judicial expertise performers.

3. To promulgate and guide the use of forms of judicial expertise documents.

4. To work out programs on fostering necessary legal knowledge for judicial experts; to coordinate with
ministries, ministerial-level agencies, Government-attached agencies and provincial-level People's Committees in organizing the fostering of professional and legal knowledge for judicial experts.

5. To perform the State management over international cooperation on judicial expertise.

6. To sum up and report to the Prime Minister on judicial expertise organization and activities.

**Article 44.** Tasks and powers of the Health Ministry, the Public Security Ministry, the Defense Ministry, other ministries, ministerial-level agencies, Government-attached agencies in managing judicial expertise organization and activities in the domains under their respective management

1. To set up judicial expertise organizations according to competence.

2. To appoint, relieve from duty judicial experts according to competence; to make lists of casual judicial expertise performers under their respective ministries' or branches' management.

3. To request the Justice Minister to grant, withdraw judicial expert's cards according to competence.

4. To set professional standards on judicial expertise.

5. To ensure operation funding and means as well as other necessary material conditions for judicial expertise activities.

6. To provide professional training and necessary legal knowledge for judicial experts.

7. To examine, inspect and settle complaints, denunciation against judicial expertise organization and activities according to competence.

8. To sum up and report to the Government on judicial expertise organization and activities.

9. To enter into international cooperation on judicial expertise in the domains under their respective management.

**Article 45.** Tasks and powers of the provincial-level People's Committees in State management over judicial expertise

1. To decide on the establishment of judicial expertise organizations according to competence.

2. To appoint, relieve from duty judicial experts according to competence; to make lists of casual judicial expertise performers in localities.

3. To request the Justice Minister to grant, withdraw judicial expert's cards according to competence.

4. To ensure operation funding and means as well as other necessary material conditions for judicial expertise activities in localities.

5. To provide professional training and necessary legal knowledge for judicial experts in localities.

6. To examine, inspect and settle complaints, denunciations related to judicial expertise according to competence.
7. To sum up and report to the Justice Ministry judicial expertise organization and activities in localities.

**Article 46.** Complaints, denunciations

1. Organizations and individuals are entitled to complain about administrative decisions, administrative acts of State administrative bodies, of competent persons in State administrative agencies in the field of judicial expertise when there are grounds to believe that such administrative decisions or acts are illegal, infringing upon their legitimate rights and interests.

The settlement of complaints about judicial expertise prescribed in this Clause shall comply with the provisions of the legislation on complaints and denunciations.

2. In cases where procedure-participating persons have grounds to believe that the judicial expertise conclusions are inaccurate, non-objective, infringing upon their legitimate rights and interests, they shall have the right to request the procedure-conducting agencies or persons to solicit re-expertise. Within seven days counting from the date of receiving such requests, the procedure-conducting agencies or persons must issue decisions on, or refuse the request for, re-expertise solicitation; in case of refusal, the reasons therefor must be notified in writing to the requesters.

In cases where the requesters disagree with the refusal to solicit re-expertises by the investigating agencies, they may complain with the procuracies of the same level. Within fifteen days counting from the date of receiving the complaints, the procuracies of the same level must consider and settle them. The complaint-settling decisions of the procuracies of the same level shall be the final ones.

In cases where the requesters disagree with the procuracies' or courts' refusal to solicit re-expertise, they shall be entitled to complain with the immediate superior procuracies or immediate superior courts. Within fifteen days as from the date of receiving the complaints, the procuracies or courts must consider and settle them. The complaint-settling decisions of the superior procuracies or superior courts shall be the final ones.

3. Individuals shall have the right to denounce to competent State bodies acts of violating the provisions of this Ordinance by judicial expertise performers.

The settlement of denunciations shall comply with law provisions on complaints and denunciations.

Chapter VII

IMPLEMENTATION PROVISIONS

**Article 47.** Implementation effect

This Ordinance takes implementation effect as from January 1, 2005.

Decree No. 117/HDBT of July 21, 1988 of the Council of Ministers on judicial expertise shall cease to be effective as from the date this Ordinance takes implementation effect.

**Article 48.** Implementation guidance

The Government shall detail and guide the implementation of this Ordinance.

On behalf of the National Assembly Standing Committee
Chairman