

THE GOVERNMENT

No. 54/2010/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

Hanoi, May 21, 2010

DECREE

DETAILING A NUMBER OF ARTICLES OF CINEMATOGRAPHY LAW NO. 62/2006/QH11
AND LAW NO. 31/2009/QH12 AMENDING AND SUPPLEMENTING A NUMBER OF
ARTICLES OF THE CINEMATOGRAPHY LAW

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to June 29, 2006 Cinematography Law No. 62/2006/QH11 and June 18, 2009 Law-No.
31/2009/QH12 Amending and Supplementing a Number of Articles of the Cinematography Law;
At the proposal of the Minister of Culture, Sports and Tourism,*

DECREES:

Article 1. Scope and subjects of regulation

1. This Decree details a number of articles of June 29. 2006 Cinematography Law No. 62/2006/QH11 and June 18.2009 Law No. 31/2009/ QUI2 Amending and Supplementing a Number of Articles of the Cinematography Law.
2. This Decree applies to organizations and individuals engaged or involved in cinematographic activities in Vietnam.

Article 2. Policies to modernize the cinema industry (detailing Clause 1. Article 5 of the Cinematography Law)

1. To invest in building modern indoor and outdoor film studios under the approved master plan on the cinema industry.
2. To modernize technologies and invest in complete and special-use effect-producing and technical equipment sufficient for producing films with modern technologies and up to international technical standards on image and sound and bringing into play artistic creativity to raise the capacity of film production and quality of cinematographic products.
3. To invest in building and renovating modern equipment and stereophonic projectors for cinemas under the approved master plan on the cinema industry.
4. The Ministry of Culture. Sports and Tourism shall coordinate with concerned ministries and branches in formulating schemes for implementation of Clauses 1. 2 and 3 of this Article; and schemes for developing film production and popularizing films so that Vietnamese films will account for at least 30% of total films to be screened at cinemas and at least 40% of total films to be broadcast on television.

Article 3. Policies to encourage organizations and individuals to engage in cinematographic activities (detailing Clause 2, Article 5 of the Cinematography Law)

1. The State will purchase the whole or part of ownership over films having high ideological or art values which are produced by cinematographic establishments. Determination of the purchase price of films shall be based on film quality as ranked by the Central Film Appraisal Council and approved by the Price Appraisal Council under current law.
2. Film-producing cinematographic establishments enjoy value-added tax. Enterprise income tax and export duty incentives under current tax laws.

3. Enterprises and non-business units that build cinemas for screening films for business purposes or build other works for cinematographic activities will be allocated or leased land by the State under the land law.
4. Cinematographic establishments will be exempted from registration fee when registering land use rights or house ownership under law.
5. Peoples Committees of provinces or centrally run cities (below collectively referred to as provincial-level People's Committees) shall adjust local land use master plans, reserving land funds for cinematographic establishments; and adopt incentive policies and regulations to encourage organizations and individuals to engage in cinematographic activities in their localities.

Article 4. Policies on investment under target programs on cinematographic development (detailing Clause 3, Article 5 of the Cinematography Law)

1. To allocate funds for creating large-scale cinematographic works with high art values, specifically as follows:
 - a/ Organizing activities to identify ideological themes in association with historical events and major developments of the nation:
 - b/ Producing films.
2. To invest in scientific research into cinematographic activities through:
 - a/ Developing researches to raise the quality and bring into play social effects of cinematographic works;
 - b/ Applying modern sciences and technologies;
 - c/ Probing domestic and foreign cinematographic markets.
3. To train and retrain personnel:
 - a/ To raise training quality of national specialized cinematographic schools; to compile standard course-books and invest in teaching and learning equipment toward completion, specialization and professionalism in art, technical, economic, and film production, distribution and dissemination management stages;
 - b/ To send qualified officers and talented students to countries with a developed cinema industry for training in arts, techniques and film production, distribution and dissemination management;
 - c/ To attach importance to postgraduate training for supplementing and developing a contingent of leading cinematographic scientists.
4. The Ministry of Culture, Sports and Tourism shall coordinate with concerned ministries and branches in formulating target programs on cinematographic development under Clause 3, Article 5 of the Cinematography Law and Clauses 1, 2 and 3 of this Article and submit them to the Prime Minister for approval.

Article 5. Policies to produce films on order (detailing Clause 4, Article 5 of the Cinematography Law)

1. The State will order the production of feature films on children, historical traditions and ethnic minority groups; documentaries, scientific films, and animated cartoons for children.
2. The selection of state-funded film production projects complies with Article 13 of this Decree.

Article 6. Policies to finance film dissemination (detailing Clause 5, Article 5 of the Cinematography Law)

1. The State will order film shows for political, social and foreign-relation tasks and for children and armed forces units at cinemas in mountainous, island, deep-lying, remote, ethnic minority and other rural areas.

2. The State will order film shows and organize drives of film shows for political, social and foreign-relation tasks on the occasion of major holidays and anniversaries of the country.
3. The State will finance national and international film festivals organized by the Ministry of Culture, Sports and Tourism under Point a. Clause I. Article 41 of the Cinematography Law, which was amended and supplemented in 2009.

Article 7. Policies to reserve land funds under urban-area master plans for building cinemas (detailing Clause 6, Article 5 of the Cinematography Law)

1. Agencies competent to approve urban-area or residential-area master plans shall reserve land funds for building cinemas in central places and ensure the cinema building ratio suitable to the population development size.
2. Cinema-building cinematographic establishments enjoy incentive policies specified in Clause 4, Article 3 of this Decree.

Article 8. Establishment and operation of the Cinematographic Development Assistance Fund (detailing Article 6 of the Cinematography Law)

1. The Prime Minister shall set up the Cinematographic Development Assistance Fund for:
 - a/ Rewarding films of high ideological and art values and social effects under the Fund's organization and operation charter;
 - b/ Supporting the production of experimental art films and directors' first films after consulting the Screenplay Appraisal Council under the Ministry of Culture, Sports and Tourism;
 - c/ Supporting the writing of screenplays, organization of writing camps, organization of field trips for artists and organization of scientific workshops: supporting scientific researches, overseas training of talented cinematographic personnel and overseas introduction of Vietnamese film with a view to encouraging and promoting the development of the national cinema industry.
2. The Cinematographic Development Assistance Fund is an independent cost-accounting unit, operates for not-for-profit purposes and self-finances its operation. It has the legal entity status, seal and accounts at the State Treasury and banks.
3. The Cinematographic Development Assistance Fund specified in Clause 1 of this Article is formed from:
 - a/ State capital from cultural non-business budgets. Annually, based on its operation efficiency, the Fund may receive state supports under current law;
 - b/ Voluntary contributions or financial supports from domestic and foreign agencies, organizations and individuals and other lawful incomes;
 - c/ Sales of state-funded films.
4. The Minister of Culture, Sports and Tourism shall, after reaching agreement with the Minister of Finance, promulgate an organization and operation charter of the Cinematographic Development Assistance Fund.

Article 9. Prohibited acts in cinematographic activities (detailing Clauses 1 and 2, Article 11 of the Cinematography Law)

1. Using image, sound, dialogues or scripts which libel or offend the national emblem, the national flag, the national anthem or typical values of the nation or country; or despise the nation or a religion.
2. Using image, sound, dialogues or scripts which depict savage beat, torture or murder or encourage crimes, unless they are used to criticize or condemn crimes in association with films' contents.

3. Using image, sound, dialogues or scripts which are obscene, depraved, incestuous or contrary to national fine customs and traditions.
4. Using image, sound, dialogues or scripts which express tolerance for or concurrence with social evils or cause panic or enchantment before supernatural forces or devils.
5. Giving vulgar names to films.
6. Using image, sound, dialogues or scripts which contain unlawful contents not specified in Clauses 2 thru 5 of this Article, unless they are used to criticize or condemn such acts.

Article 10. Organization and operation of cinematographic non-business units (detailing Clause 2. Article 12 of the Cinematography Law)

1. Cinematographic non-business units have functions and tasks to serve state management or provide public services in the cinematography sector under law.
2. Conditions, order, procedures and competence for establishing or reorganizing, and autonomy and accountability for task performance, organizational apparatus, payroll and finance of cinematographic non-business units comply with current law.
3. Within the ambit of their functions and tasks, cinematographic non-business units defined in Clause 1 of this Article may carry out the following activities:
 - a/ Producing films at the request of agencies managing non-business units; producing films on order, unless state-funded film production project owners select film production projects under Clause 4. Article 1 of the Law Amending and Supplementing a Number of Articles of the Cinematography Law;
 - b/ Importing films for internal circulation to meet their work requirements;
 - c/ Screening and preserving films to meet state management requirements or provide public services.

Article 11. Condition on legal capital for film production business (detailing Point a. Clause 2. Article 14 of the Cinematography Law. which was amended and supplemented in 2009)

1. The legal capital is VND 1.000.000.000 (one billion), which is determined based on:
 - a/ Capital allocation decision of owners, for state enterprises or one- or two-member state limited liability companies with institutional owners;
 - b/ Capital contribution record of founding shareholders, for joint-stock companies, or of founding members, for limited liability companies with two or more members;
 - c/ Investment capital registration of enterprise owners, for private enterprises, partnerships and limited liability companies with individual owners.
2. For contributions in cash, certification of a bank licensed to operate in Vietnam of deposits made by founding members is required. Such a deposit must equal the cash amount contributed by founding members and may be released only after an enterprise is granted a business registration certificate.
3. For contributions in asset, a deed of a valuation organization operating in Vietnam of the results of valuation of assets contributed as capital is required. Such deed must remain valid by the date of submission of dossiers to an agency with licensing competence.
4. For an operating enterprise that wishes to additionally conduct the film production business line, a written certification of an independent audit office that the enterprise's existing capital amount contributed and indicated in the latest financial statement is larger than or equal to the legal capital level specified in Clause 1 of this Article is required.

Article 12. Setting up of Vietnam-based representative offices of foreign cinematographic establishments (detailing Article 43 of the Cinematography Law)

1. Conditions for setting up Vietnam-based representative offices of foreign cinematographic establishments:

A foreign cinematographic establishment that wishes to set up its representative office in Vietnam must have operated for at least 1 year since its establishment or lawful business registration in the country of which it has nationality. A dossier of application for a representative-office setting-up license complies with Clause 2, Article 43 of the Cinematography Law, comprising the following papers:

a/ Audited financial statement or another equivalent document evidencing the foreign cinematographic establishment's existence and operation in the latest fiscal year:

b/ Copy of the operation charter of the foreign cinematographic establishment.

2. The papers specified in Clause 1 of this Article must be translated into Vietnamese and certified and consularly legalized under Vietnamese law by the Vietnamese diplomatic representative mission or consular office in the country of which the foreign cinematographic establishment has nationality.

3. Validity duration of a license

A license to set up a representative office of a foreign cinematographic establishment is valid for 5 years but must not exceed the remaining duration of the written certification of the legal entity status or another equivalent document of such establishment in case the validity duration of business registration certificates of foreign enterprises is provided by the law of the country of which the establishment has nationality.

Article 13. Selection of state-funded film production projects (detailing Clauses 4 and 5, Article 24 of the Cinematography Law and Clause 4, Article 1 of the Law Amending and Supplementing a Number of Articles of the Cinematography Law)

1. Film production project investors shall approve state-funded film production plans and set up screenplay appraisal councils and film production project selection councils for advising investors.

2. Based on approved plans, project investors shall decide to conduct bidding in appropriate forms to select:

a/ Film production enterprises, for film production projects with selected screenplays;

b/ Film production projects, for film production projects with bidding dossiers containing screenplays and film production and distribution plans.

3. Investors shall submit film production projects outside approved budget allocation plans to the Prime Minister for decision and then select film production enterprises or projects under Clauses 1 and 2 of this Article.

4. Selected film production projects must satisfy conditions on equipment, personnel and total cost estimates for film production and art quality requirements.

5. Selection and selection results of state-funded film production projects and enterprises must follow the principles of equitability and objectivity.

6. Order and procedures for selecting film production projects:

a/ Investors of state-funded film production projects shall notify in the mass media themes and requirements of film production projects to be implemented in the subsequent fiscal year and conditions and procedures for organizations and individuals to send their screenplays for selection within 90 days after such projects are publicized:

b/ Investors of state-funded film production projects shall notify film production project selection results after consulting screenplay appraisal councils and film production project selection councils set up under Clause 1 of this Article:

c/ Organizations and individuals that send their film production projects to investors of state-funded film production projects shall pay a screenplay appraisal fee under current law on charges and fees.

7. Screenplay appraisal councils and film production project selection councils of state-funded films:

a/ Investors of state-funded film production projects shall set up screenplay appraisal councils and film production project selection councils:

b/ A screenplay appraisal council is composed of at least 9 members, including a representative of the competent state management agency in charge of cinematography, the film production project investor, the screenwriter, the director and other members;

c/ A film production project selection council is composed of at least 5 members, including representatives of the project investor and finance agency and experts in film production.

8. Selection of state-funded film production projects under the Bidding Law shall be based on:

a/ Shooting scripts and implementation plans;

b/ List of principal members joining in film production;

c/ Total cost estimate for the film;

d/ Technical equipment for the project;

e/ Financial capacity;

f/ Production plan and schedule;

g/ Conditions on advance payment.

9. A state-funded film production contract must be made in writing between the investor and film production enterprise, containing the following principal details:

a/ Names, addresses and bank accounts of the contractual parties;

b/ Name, material and main contents of the film, and expected results regarding the film's ideological and art contents:

c/ Rights and responsibilities of the investor and contract performer, covering rights and responsibilities for film copyright, intellectual property rights of the investor and film production enterprise:

d/ Place and method of contract performance;

e/ Contract value and method of payment;

f/ Contract performance progress;

g/ Responsibilities for contract breaches and settlement of disputes:

h/ Time of test upon completion and approval of the film:

i/ Other agreements.

10. The Ministry of Culture, Sports and Tourism shall:

a/ Coordinate with the Ministry of Finance in detailing Clauses 1. 2. 3 and 6 of this Article;

b/ Promulgate a regulation on organization and operation of screenplay appraisal councils and film production project selection councils defined in Clause 7 of this Article.

Article 14. Households duplicating, reproducing, selling or renting films on a small scale and regularly employing less than ten laborers (detailing Clause 2. Article 31 of the Cinematography Law)

1. Households duplicating, reproducing, selling or renting films on a small scale and regularly employing less than ten laborers shall make business registration at district-level business registration divisions.
2. Conditions on a household to duplicate, reproduce, sell or rent films include:
 - a/ Having a lawful use place;
 - b/ Having equipment for inspecting contents and technical quality of films.
3. Households duplicating, reproducing, selling or renting films on a small scale and regularly employing less than ten laborers shall comply with regulations on dubbing, reproduction, sale or rent of films as specified in Clauses 6 and 7. Article 1 of the Law Amending and Supplementing a Number of Articles of the Cinematography Law.

Article 15. Ratio of and time for screening Vietnamese films and time for screening films for under-16 children at cinemas (detailing Clause 4. Article 33 of the Cinematography Law)

1. Cinemas must screen Vietnamese films on the occasion of big anniversaries of the country and for political, social and foreign-relation tasks under regulations of the Ministry of Culture. Sports and Tourism.
2. The ratio of screening Vietnamese feature films to total film shows must be at least 20%. Vietnamese feature films must be screened in the daily timeframe from 18 hours to 22 hours and may be screened at other hours.
3. The screening of films for under-16 children at cinemas must finish before 22 hours.

Article 16. Activities of mobile film projection teams (detailing Clauses 1 and 2. Article 34 of the Cinematography Law)

1. The State will invest in celluloid film projectors or other film projecting equipment for mobile film projection teams in mountainous, island, deep-lying, remote and other rural areas.
2. The State will furnish special-use motor vehicles for provincial-level mobile film projection teams.
3. Expenses for film shows in mountainous, island, deep-lying, remote, ethnic minority and other rural areas comply with the Government's regulations on classification of regions and areas.
4. The Ministry of Culture. Sports and Tourism shall assume the prime responsibility for. and coordinate with the Ministry of Finance in. guiding Clauses I. 2 and 3 of this Article.

Article 17. Ratio of and time for broadcasting on television Vietnamese films and films for under-16 children (detailing Clause 2. Article 35 of the Cinematography Law)

1. Broadcasting Vietnamese films on television nationwide on the occasion of big anniversaries of the country and for political, social and foreign-relation tasks complies with regulations of the Ministry of Culture. Sports and Tourism.
2. The ratio of the time volume for broadcasting Vietnamese feature films on each television station to the total time volume for broadcasting films must be at least 30%. Vietnamese feature films must be broadcast in the daily timeframe from 20 hours to 22 hours and may be broadcast at other hours.
3. The time volume for broadcasting films for under-16 children must account for at least 5% of the total time volume for broadcasting films. The broadcasting of films for under-16 children must finish before 22 hours every day.

Article 18. Competence to grant film dissemination permits (detailing Point a. Clause 1. Article 38 of the Cinematography Law and Point b. Clause 12. Article 1 of the Law Amending and Supplementing a Number of Articles of the Cinematography Law)

1. The Ministry of Culture, Sports and Tourism may grant film dissemination permits for:

a/ Feature films produced or imported by cinematographic establishments nationwide, except the cases specified in Clause 3 of this Article;

b/ Documentaries, scientific films and animated cartoons produced or imported by central cinematographic establishments:

c/ Films produced through cooperation for provision of film production services or joint venture with foreign partners.

2. Provincial-level People's Committees may grant film dissemination permits for documentaries, scientific films and animated cartoons produced or imported by local cinematographic establishments.

3. Provincial-level People's Committees may grant feature film dissemination permits if in the preceding year local cinematographic establishments satisfy the following conditions:

a/ Having produced at least 10 celluloid films permitted for dissemination:

b/ Having imported at least 40 celluloid films permitted for dissemination.

In a year if a locality fails to satisfy both conditions specified in this Clause, the provincial-level People's Committee of that locality will, in the subsequent year, no longer have the competence to grant feature film dissemination permits.

4. From the 25th to 31st of December every year, based on the quantity of celluloid films permitted for dissemination which are produced and imported by local cinematographic establishments, the Ministry of Culture, Sports and Tourism shall notify provincial-level People's Committees of the latter's satisfaction or non-satisfaction of the conditions for granting feature film dissemination permits in the subsequent year.

Article 19. Order and procedures for requesting organization of or participation in film festivals or showing foreign films in Vietnam (detailing Clause I. Article 41 of the Cinematography Law, which was amended and supplemented in 2009)

1. Specialized or theme film festivals:

a/ When organizing specialized or theme film festivals, ministries, ministerial-level agencies, government-attached agencies, provincial-level People's Committees and the Vietnam Cinematography Association shall send to the Ministry of Culture, Sports and Tourism applications for organization of film festivals and film festival charters;

b/ Within 30 days after receiving a complete and valid dossier, the Ministry of Culture, Sports and Tourism shall issue a written approval or clearly state the reason for disapproval.

2. Conditions, order and procedures for showing foreign films in Vietnam:

a/ Vietnamese and foreign organizations and individuals may show foreign films in Vietnam for non-business purposes:

b/ A dossier of application for showing foreign films in Vietnam complies with Clause 3, Article 41 of the Cinematography Law, which was amended and supplemented in 2009, and comprises the film's Vietnamese voice-over and the film. The Ministry of Culture, Sports and Tourism shall specify a form of such application;

c/ Organizations and individuals that show foreign films in Vietnam shall pay a film appraisal fee under the law on charges and fees;

d/ Within 15 working days after receiving a complete and valid dossier under Point b. Clause 2 of this Article, the Ministry of Culture, Sports and Tourism shall issue a written approval or clearly state the reason for disapproval.

Article 20. Grant of business eligibility certificates to film production enterprises (detailing Clause 2. Article 14 of the Cinematography Law. which was amended and supplemented in 2009)

1. The grant of business eligibility certificates to film production enterprises complies with Clause 1; Point a. Clause 2; and Points a and b. Clause 3. Article 14 of the Cinematography Law. and Clause 2. Article 1 of the Law Amending and Supplementing a Number of Articles of the Cinematography Law.

2. Film production enterprises established and operating before January 1. 2007. shall carry out procedures to apply for business eligibility certificates within 1 year after this Decree takes effect.

Article 21. Handling of violations related to cinematography (detailing Article 53 of the Cinematography Law)

1. Individuals who violate the law on cinematographic activities shall, depending on the nature and severity of their violations, be disciplined, administratively sanctioned or examined for penal liability; and. if causing damage, they shall pay compensations under law.

2. Organizations which violate the law on cinematographic activities shall, depending on the nature and severity of their violations, be administratively sanctioned; and. if causing damage, they shall pay compensations under law.

3. The sanctioning of administrative violations in cinematographic activities complies with regulations on sanctioning of administrative violations in cultural activities.

Article 22. Effect

1. This Decree takes effect on July 7. 2010.

2. This Decree replaces the Government's Decree No. 96/2007/ND-CP of June 6. 2007. detailing and guiding a number of articles of the Cinematography Law.

Article 23. Guidance and implementation responsibilities

1. The Ministry of Culture, Sports and Tourism shall coordinate with concerned ministries and branches in detailing the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, and organizations and individuals engaged or involved in cinematographic activities in Vietnam shall implement this Decree.-

**OB BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung