



Empowered lives.
Resilient nations.

OFFICE OF THE NATIONAL ASSEMBLY OF VIETNAM

UNITED NATIONS DEVELOPMENT PROGRAMME

PROJECT: STRENGTHENING THE CAPACITY OF REPRESENTATIVE BODIES IN VIETNAM

GUIDELINES ON THE INSTITUTIONALIZATION OF PUBLIC CONSULTATIONS BY THE PEOPLE'S COUNCILS

(Reference material)

For internal use only

AUTHORS

Nguyen Duc Lam

Nguyen Ngoc Thanh

This guideline is prepared with the technical supports from Project ONA-UNDP “Strengthening Capacity of People’s Elected Bodies in Vietnam (Phase III). The views expressed in this publication are those of the author(s) and do not necessarily represent those of the United Nations, including UNDP, or the UN Member States.

PREFACE

Public consultations are important tools which help elected bodies gather sufficient evidence and information to decide policies or laws and to oversee the implementation of these measures. Public consultations enable people to express their opinions, which are then taken into account and considered by local governments. Public consultations have occurred in Viet Nam since the 1980s in the form of gathering views on the Constitution, on draft laws and ordinances and on issues of interest to the people. Public consultations are regulated under the Law on the Promulgation of Legal Documents (2008).

In 2008, the Office of National Assembly (ONA)/United Nations Development Programme (UNDP) project entered its third phase and started a project to enhance public consultation at both the National Assembly and Provincial People's Council level. In terms of its work at People's Council level, an assessment carried out in 2008 identified a four year strategy which identified the following expected outcomes:

- Establish a systematic process for public consultations which in time can be implemented by Vietnam's 63 provinces.
- Prepare guidelines, procedures and mechanisms for good quality and effective planning and implementation of public consultations.
- Enhance the capacity of local People's Council Representatives and staff in conducting public consultations.
- Draw up national and provincial regulations for the institutionalisation of public consultations.

The Project commenced the implementation of four stages aimed at achieving the above expected outcomes. The stages of the implementation plan were:

- **Stage One – 2008 to 2009**: The Project piloted a draft public consultation process and a range of tools in three provinces: Ho Chi Minh City, Lao Cai and Nghe An.¹
- **Stage Two – 2009 to 2010**: The second stage started the roll-out of the public consultation process to seven new provinces. Stage two also improved the quality of the implementation guidelines and started the institutionalization of public consultations at provincial level in the three lead provinces from stage one. Provinces and cities engaged in the Project included Bac Giang, Binh Thuan, Dong Thap, Hai Phong, Hoa Binh, Ho Chi Minh City, Lao Cai, Nghe An, Quang Ngai, and Thanh Hoa.
- **Stage Three – 2010 to 2011**: Six new provinces took part in the Project, including Bac Ninh, Kien Giang, Yen Bai, Nam Dinh, Gia Lai and Binh Phuoc, although Yen Bai subsequently withdrew from the Project. The institutionalization of public consultations in the lead and intermediary provinces from stage two continued. Stage Three also provided awareness raising workshops and other support for provinces not receiving financial assistance from the project.
- **Stage Four – 2011 to 2012**: The objective of stage four was the finalization of the guidelines, procedures, manuals and training materials. These materials are applicable for 63 provinces and

¹ The systematic public consultation process and tools are elaborated in section five of this report.

cities. A further aim is the institutionalization of public consultations process, with PPCs adopting relevant legislation and in time with the Standing Committee of the National Assembly issuing a regulation clarifying the legal framework for public consultations at national and provincial levels.

This set of guidelines is one of the core documents produced in the course of this Project. It is thus a source of reference, disseminating experiences and lessons learnt, and can be updated. The guidelines are designed with the purpose of providing elected Deputies selective information on the current practices of People’s Councils. The authors were Nguyen Duc Lam and Nguyen Ngoc Thanh, with Kit Dawnay providing international expertise. Shortcomings and errors are inevitable. The authors would welcome readers’ comments for further improvement.

CONTENTS

INTRODUCTION	9
PART ONE: OVERVIEW	11
1. What are public consultations and the institutionalization of public consultations?	12
2. Why is the institutionalization of public consultations necessary?	13
3. The legal basis for institutionalization of public consultations.	14
4. Some general principles.	16
PART TWO: LEGISLATIVE PROCESS OF PUBLIC CONSULTATIONS	19
1. Approving the overall plan for the institutionalization of public consultations and putting it on the legislative agenda.	20
2. Selecting forms of the document.	21
3. Developing detailed plans for the institutionalization of public consultations.	23
4. Drafting the outline and contents of the document.	24
5. Collecting comments and opinions, and revising the document	25
6. Approving the resolution or regulation on public consultations.	28
PART THREE: DEVELOPMENT OF THE DOCUMENT REGULATING PUBLIC CONSULTATIONS	31
1. Major contents of the document.	32
2. Drafting techniques.	33
APPENDICES	53
1. Relevant legal documents on public consultations.	53

2. Diagram on the official components of the document.	53
3. Sample of a Resolution of the Provincial People's Council.	55
4. Legal documents on public consultations of some PPCs.	57
5. Proposed contents of PPCs' resolutions on public consultations.	61
6. Assessing the quality of articles of the legal normative document.	65

INTRODUCTION

Public consultations enable people to express their opinions on national policies. Their views are then collected and taken into account by local governments. Public consultations provide elected bodies with sufficient evidence and information to decide on policies or laws and to oversee their implementation.

In Vietnam, local level public consultations are regulated under the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee. Public consultations are, to a limited extent, already applied in the activities of the People's Councils at different levels such as consultative meetings, voter outreach, meetings with constituents, field visits, seminars, and workshops.

Between 2008 and 2012, the Office of the National Assembly and United Nations Development Program Project "Strengthening the capacity of representative bodies Viet Nam (Phase 3)" supported some PPCs in renovating public consultation activities, a process from which lessons have been drawn. These pilot activities made clear the significance and impact of public consultations. However, they also highlighted challenges, including that while current legal normative documents have created a legal foundation for public consultations, a lack of specific regulations on the public consultation process, tools, budget, responsibilities and power of organizations and agencies hampered their conduct. PPCs found different means to resolve this problem. Within the framework of the Project, some PPCs issued topical resolutions, while others

coordination regulations to regulate public consultation activities. Accordingly, a need to ensure the uniform institutionalization of public consultations became apparent.

To this end, the Project prepared guidelines on the institutionalization of public consultations, which will serve as the reference materials for the training of PPCs. These guidelines are a work of reference for People's Council Deputies and their supporting staff, but may also act as a source of reference for those studying law, political science, administration or institutional development as well as for other interested readers. In terms of usage, it is not necessary for readers to read the manual from the beginning to the end; contents can be selected for reading.

The guideline includes the following major contents: concepts of public consultations; the institutionalization of public consultations; why the institutionalization of public consultations is necessary; general principles; the institutionalization process; key matters to include in the legal documents of the People's Councils on public consultations; and drafting techniques. The guidelines also include annexes containing relevant information on the institutionalization of public consultations.

The guideline is designed with the purpose of providing elected Deputies with selective information on the various current practices of the People's Councils. Shortcomings and errors are inevitable. The authors would thus welcome readers' comments for further improvement.

PART ONE: OVERVIEW

Objectives: this section presents the basic concepts of public consultations and the institutionalization of public consultations, so as to provide People's Councils and deputies an overview before regulating public consultations.

Key contents

- What are public consultations and their institutionalization?
- Why is the institutionalization of public consultations necessary?
- The legal basis for institutionalization of public consultations.
 - Some general principles.

1. The concept of public consultations and the institutionalization of public consultations.

1.1. What are public consultations?

The right of the people to participate in the legislative process is enshrined in the legal system of Vietnam. Under a range of laws and regulations, during the development and promulgation of policies or laws, elected and administrative agencies should consult with the public so that promulgated policies and laws meet the requirements of life. To some extent, public consultation activities have occurred in previous activities of the National Assembly and People's Councils at different levels, through tools such as meetings with constituents, field visits, seminars, and workshops.

Public consultations can be understood to be activities of the government in informing, asking, listening to, and discussing with those affected, a decision, a solution, a law or a policy which is planned to be promulgated or is already promulgated. Through public consultations, members of the public can have an opportunity to express their ideas and opinions, so helping the authorities understand the issue before deciding on the promulgation or amendment of policies or laws.

In the term “public consultations”, the public can be understood to be any party whose rights are affected or related to the decisions to be made, including: direct and indirect beneficiaries; protectors; supporters; qualified persons; and those responsible for managing and implementing policies.

1.2. What is the institutionalization of public consultations?

The Constitution of Vietnam and laws on the organization and functioning of the People's Councils enshrine the right of people to engage in the legislative process at the local level and also set out the responsibilities of State agencies to ensure that right. However, these regulations are still general in nature and thus hard to implement. The

institutionalization of public consultations at local level therefore is the promulgation of legal documents by the People's Councils so as to formalize the aforementioned regulations of the Constitution and laws, thereby creating a firm legal foundation for the People's Councils to conduct public consultations.

The institutionalization of public consultations can be manifested in: resolutions of the People's Councils; Coordination Regulations among the Standing Board of the PPCs, People's Committees and Fatherland Front; or in one chapter on public consultations in the Coordination Regulations among the Standing Board of the PPCs, Delegation of MPs, People's Committees and Fatherland Front.

In any of these forms, the institutionalization of public consultations must meet the normal requirements of the legislative process. The contents and drafting techniques will be presented in part two and three of this guideline.

2. Why is the institutionalization of public consultations necessary?

Firstly, the experiences of PPCs in piloting public consultations show that tools for public consultations have been applied in ways not always matching the provisions of laws. It is thus necessary to establish a uniform basis for the public consultation process by adopting regulations on the authorization of public consultations, on the responsibilities and obligations of stakeholders and on their role in the public consultations process. Such an approach would ensure the institutionalization of public consultations in all provinces.

Secondly, the development of legal normative documents on local government is limited. Gaps relate to the whole legislative process and the improvement of legal documents by the People's Councils and People's Committees. The relevant stages lacking full

legal clarity include the initiation of legislation, its development, analysis, policy assessment, drafting, promulgation, regulatory impact assessment and monitoring, and the evaluation of implementation. In this context, while awaiting the amendment and supplementation of the legal framework at the national level, the institutionalization of public consultations at local level can contribute considerably to dealing with the aforementioned weaknesses.

Thirdly, the institutionalization of public consultations also aims to create a more concrete legal foundation from which people can execute their rights as regulated in the Constitution when participating in work of the State. People will then find it easier to express their opinions and views on issues directly related to their rights and obligations.

3. The legal basis for institutionalization of public consultations

The People's Councils have legal powers to promulgate a topical resolution or another legal document on public consultations, powers which are not in contradiction with regulations on their functions and power. These powers derive from: the Law on the Organization of the People's Council and People's Committee (2003); the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee (2004); Decree No. 91/2006/NĐ-CP guiding the implementation of this Law; and the Resolution of the National Assembly Standing Committee promulgating the operation regulations of the People's Councils.

Firstly, the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee provides that People's Councils can issue legal documents to decide plans, policies and measures so as to ensure the execution of the Constitution, Laws and basic legal documents of senior state agencies.

Under Article 12 of this Law, resolutions of the PPCs can be issued to decide plans, policies and measures for the implementation of laws within the provinces as regulated under Article 16 of the Law on the Organization of the People's Council and People's Committee. Article 16 (item 1) provides that the PPC may take measures to ensure the execution of the Constitution, legal documents of senior agencies and resolutions within the province.

Accordingly, the purpose of the institutionalization of public consultations is to concretize the relevant regulations of the Constitution and Laws issued by the National Assembly, and to make these regulations effective in execution. The institutionalization of public consultations also creates a legal foundation for the people to express their opinions on issued resolutions or those to be issued, so making them practical and feasible in implementation as regulated under Article 16 of the Law.

Secondly, under Article 21 of the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee, the annual legislative program of the PPC should ensure the implementation of the legal documents of senior State agencies, and should ensure the rights and obligations of the people in the localities. Therefore, in addition to "ensuring the implementation of legal documents of senior State agencies" as analyzed, Article 21 of the Law also stresses that the People's Council issues resolutions to "ensure the rights and obligations of the people in the localities". As such, the institutionalization of public consultations should create the legal foundation to enhance the participation of the people in the legislative process.

Thirdly, under the People's Council's Operation Regulations issued with Resolutions of the National Assembly Standing Committee, the People's Councils at all levels are entitled to issue

operational regulations appropriate to local contexts. Thus, the supplementation of a new chapter regarding public consultations in the current coordination regulations among different stakeholders or the promulgation of separate coordination regulations among stakeholders in public consultations, such as institutionalization of public consultations, have legal force on this basis.

4. Some general principles

The institutionalization of public consultations by the People's Council needs to meet the following requirements: constitutionality; legality; consistency; transparency; feasibility; public opinions; and coordination.

4.1. Constitutionality

The legal documents of the People's Council and People's Committee must be in line with the provisions of the Constitution. For example, there should not, for any reasons, be limitations on public participation in the legislative process.

4.2. Legality

Legal documents of the People's Council and People's Committee should be issued under the appropriate authorization, form, rules and procedures. The contents of these documents should not contradict those of senior legal documents. Particularly, any Resolution of the PPC on public consultations should be in line with relevant legal documents of the National Assembly, government and ministries (see more at aforementioned legal basis, and Annex 1 of this Guideline).

4.3. Public opinions

To ensure democracy, openness, and transparency, the draft resolution of public consultations should be presented to organizations, agencies and individuals for their input. These organizations, agencies and individuals have the right to contribute their opinions on the legal

documents of the People's Council. The drafting agency, who is, in this case, the Standing Board of the People's Council, should ensure conditions which enable all stakeholders to contribute their opinions, such as publicizing the draft resolution in the mass media or by organizing workshops and seminars.

4.4. Transparency

The preparation of legal documents should be subject to the highest standards of transparency.

a) Information about a Resolution on public consultations should be posted in local newspapers: legal normative documents of the People's Council should be posted in the local newspapers five days at the latest after the day of approval or signature among stakeholders.

b) A resolution on public consultations should be posted on the local Official Gazette (Provincial Official Gazette): legal normative documents of the PPC should be gazetted. The gazetted documents are valid as the original ones.

c) Information: legal normative documents of the People's Council shall be publicized to the local mass media (such as local radio and TV stations).

4.5. Feasibility

The contents of the resolutions should be in line with the current provisions of laws and with local coordination work amongst the Standing Board of the People's Council, People's Committee, the Standing Committee of the Vietnam Fatherland Front and Provincial MPs Delegation, so laying a clear legal basis for the People's Council to implement public consultation activities. It is necessary to cover all relevant entities, subjects, responsibilities, and details of the public

consultation process in the promulgation and implementation of the People’s Council’s resolutions, so as to ensure feasibility.

4.6. Consensus and coordination

The Standing Board of the PPC should reach an agreement with the Provincial People’s Committee, the Standing Committee of the Fatherland Front and the MPs Delegation to develop plans for the institutionalization of public consultations. The assignment of work should be very clear, appropriate and scientific, so as to facilitate the active participation of all stakeholders, ensuring the quality of the documents.

PART TWO: LEGISLATIVE PROCESS OF PUBLIC CONSULTATIONS

Objectives: This part aims to present the knowledge and experiences most necessary for the institutionalization of public consultations by the PPCs.

Key contents: Steps for the institutionalization of public consultations as applied to the legislative process of the PPCs.

- Approving the overall plan for the institutionalization of public consultations and putting it onto the legislative agenda.
- Selecting the form of the document.
 - Developing detailed plans for the institutionalization of public consultations.
- Drafting the outline and contents of the document.
- Collecting comments and opinions, and revising the document.
- Approving the resolution or regulation on public consultations.



The institutionalization steps in this section take place under the legislative process of the People’s Council, which is chaired by the Standing Board of the People’s Council.

1. Approving the overall plan for the institutionalization of public consultations and putting it on the legislative agenda.

To promulgate legal documents on public consultations at the provincial level, the issue of institutionalization should first be put on the annual legislative agenda of the People’s Council, or on the action plan of the Standing Board of the PPC (if coordination regulations are selected). It is also necessary to decide the form of the legal document on public consultations – whether it will be a resolution or coordination regulations.

As mentioned in Section One, it is of prime importance to place public consultations onto a clearly regulated basis. Under Article 21 of the Law on the Promulgation of Legal Normative Documents of the People’s Council and People’s Committee, matters to consider in deciding whether and when to put the institutionalization of public consultations on the PPC’s annual legislative agenda include:

- Party plans and policies (regarding the increase of democracy and public participation);

- Requirements for state management in the localities (measures for the implementation of the Constitution and laws, and ensuring the implementation of the documents of the senior State agencies), and;
- Ensuring the rights and obligations of people in the localities.

The draft legislative program of the People's Council should be submitted for decision to the People's Council at its year-end session. Therefore, in the case of promulgating a resolution on public consultations, the issue should be put forward at the year-end session of the previous year under procedures regulated by Article 13 of Decree No. 91/2006/NĐ-CP. However, if necessary, the issue of the institutionalization of public consultations can be added as a supplement to the legislative program under process and procedures regulated at Article 14 of the Decree No. 91/2006/NĐ-CP.

If the coordination regulations on public consultations among stakeholders are selected for promulgation, it is not necessary to put them onto the legislative program of the People's Council. However, agreement should be reached in sufficient time to permit them being put onto the annual action plan of the Standing Board of the PPC.

The Standing Board of the PPC can organize meetings with the Boards of the PPC and the Office of the MPs Delegation and People's Council to explain the plans, before discussing measures for implementation with the leaders of concerned agencies.

2. Selecting the form of the document

In general, the selection of document form for regulating public consultation activities should be in line with the powers of the issuing agency. Furthermore, the selection should match previous practice and the context of the PPCs. It is important to recall that the legal

document on public consultations can be amended and supplemented in line with experiences and lessons learnt. To this end, those PPCs which have regulated public consultations have selected different forms of documents, as set out in the box below.

Box: Selection of the forms of legal document to regulate public consultations

- The PPCs of Dong Thap and Lao Cai *promulgated a resolution together with regulations* on public consultations.
- The PPC of Binh Thuan *supplemented a new Chapter* regarding coordination on public consultations in the Coordination Regulations for the Standing Board of the PPC, the People’s Committee, the MPs Delegation and the Fatherland Front;
- The PPC of Bac Giang *issued a regulation* to coordinate the Standing Board of the PPC, the People’s Committee, and the Fatherland Front in conducting public consultations.

The above mentioned selection process should be based on the practice and context of each province. However, the following issues should be noted:

Firstly, under Item 2, Article 1, of the Law on the Promulgation of Legal Normative Documents of the People’s Council and People’s Committee, a Resolution is the only legal document issued which the People’s Council can issue; all other documents are not legal documents. Therefore, only a resolution of the People’s Council applies to all subjects within the province, and is guaranteed by the State through measures for implementation as regulated by other laws. Coordination Regulations can be used, but only within the provisions described in existing regulations.

Accordingly, a topical resolution on public consultations has the highest legal status.

Secondly, regulations can be understood to be a by-law issued together with a resolution of the People's Council, although this approach is not outlined in any legal documents. Circular No. 55/2005/TTLT-BNV-VPCP guiding some forms and presenting techniques only mentions regulations which are issued together with decrees and decisions. Resolution No. 1139/2007/UBTVQH11 only mentions regulations which are issued together with Resolutions of the National Assembly or National Assembly Standing Committee. Nonetheless, it can logically be assumed that People's Council can issue a regulation together with its resolution, since any such move would be in line with its existing powers.

Thirdly, for provinces which have in place coordination regulations among stakeholders in activities of the People's Council, a new chapter on public consultations can be supplemented, as the existing regulations which already grant the powers have been implemented.

In sum, the three options in the box are in line with the provisions of the key laws. However, the optimal option is to promulgate a resolution on public consultations.

3. Developing detailed plans for the institutionalization of public consultations

To regulate public consultations in a scientific manner, the Office of the MPs Delegation and People's Council need to develop overarching and detailed plans for the institutionalization of public consultations.

- The contents of the plan should include: work to be done when agreeing on the plans for drafting; collecting opinions of different stakeholder on the draft; revising, appraising, finalizing, submitting the draft document to the People's Council for decision; holding meetings, workshops, and seminars; timing; implementers; coordinating agencies; and budget.

After having agreed on the plans, the Office of the MPs Delegation and People's Council should consult with the Boards of the PPC and consolidate collected opinions for the improvement of the draft plan (first draft) to submit to the Standing Board of the PPC for comments. Based on the comments by the Standing Board of the PPC, the Office of the MPs Delegation and People's Council can then finalize the plan (second draft).

The Standing Board of the PPC should then organize a meeting to approve the plan for the institutionalization of public consultations with the participation of the Provincial People's Committee, the Fatherland Front, the MPs Delegation, the Boards of the PPC, the Office of the MPs Delegation and People's Council, the Office of the Provincial People's Committee, the Office of the Fatherland Front, and the Department of Justice. After the meeting, the Standing Board of the PPC should issue the plan for the institutionalization of public consultations within the province.

4. Drafting outline and contents of the document

Drafting group: The Standing Board of the People's Council should assign the Head of the Office of MPs Delegation and People's Council to set up a drafting group which should include those who are competent and experienced in the organization and operation of the People's Council and other elements of the political system.

Outline of the resolution or coordination regulations: this outline should be based on the selected form of document. It is also necessary to define the key contents in the document.

Upon the completion of the outline, it is important to collect opinions on the outline (by writing and through the organization of meetings) for revision. Agencies from whom to collect opinions include the Office of the Provincial People's Committee and Department of Justice, the MPs Delegation, the Boards of PPC, and heads of PPC's Deputy Groups.

Drafting the document: based on the approved plan for the institutionalization of public consultations, the drafting group should draft contents of the resolution or coordination regulations (see the contents and drafting techniques in Part three). There are two possible approaches. A competent and experienced person can be assigned to draft the whole document, on which other members of the drafting group comment. Alternatively, each part of the document can be drafted by different members of the drafting group, with a cross-check and commenting process then applied. The most competent and experienced person should review and consolidate parts of the document into a consistent draft.

The drafting group needs to *review, agree and finalize* the contents and structure of the draft document. It is necessary to consult the head of the Office of the MPs Delegation and People's Council, and the Standing Board of the PPC to agree on the draft prior to consultations.

5. Collecting comments and opinions, and revising the document

Like other legal documents of the People's Council, the document on the institutionalization of public consultations should be subject to wide consultation. Practice in different localities has shown that the Standing Board of the PPC and Drafting Group, can collect

useful opinions on the draft resolution or coordination regulations through consultative meetings.

5.1. The subjects and scope of public consultations

For the document regulating public consultations, it is necessary to consult organizations, agencies, committees, and governments at different levels, with a particular focus on the MPs Delegation, the Provincial People's Committee, the Fatherland Front, the Department of Justice, the Department of Finance, the Standing Board of the People's Council at district and commune levels, and if possible, different groups of people in the localities.

- At district level, it is necessary to consult with the Standing Board of the People's Council, the People's Committee, and the Fatherland Front, and the Standing Board of the People's Council in the communes, wards and towns.
- At provincial level, it is necessary to consult with the MPs Delegation; the Standing Committee of the Fatherland Front; the heads of Provincial People's Committee; the Office of People's Committee; the Department of Justice; Department on Home Affairs; Department on Finance; the Union of Science and Technology Association; and the heads of PPC's Deputy Groups.
- Finally, it is necessary to organize a meeting of the PPC's Party Committee to review the final draft document before submitting it to the PPC at its session.

5.2. Tools for public consultations

Depending on the contents of each draft document, a consultative meeting or consultation in writing may be appropriate. Experience has shown that briefings and focus-group discussion are the main tools used to collect opinions on a draft resolution on public

consultations. In addition, quick surveys can be applied at consultative workshops, seminars, briefings, or web-based consultations, while it is possible to circulate draft documents for comments.

Normally, for those PPCs which have regulated public consultations, the Standing Boards have organized different stages to collect opinions and comments on the draft document. The draft documents may be revised 6 or 7 times before being submitted to the PPC for approval.

5.3. Collection of opinions and amendment of the draft document

The Standing Board of the PPC and heads of its Boards can guide and direct the Office of the MPs Delegation and People's Council in collecting opinions. The drafting group will, based on the collected opinions and comments, revise the draft to submit it to the Standing Board of the PPC.

5.4. The roles of the subjects

When conducting public consultations on the draft document regulating public consultations, the Standing Board of the PPC and the Board of Legislative Affairs should take on the role of guiding, directing, and approving plans, chairing important meetings and giving comments on collected opinions.

The Head of the Office of MPs Delegation and People's Council may chair some consultative meetings on the contents of the draft resolution or coordination regulations as assigned by the Standing Board of the PPC, and guide its staff and members of the drafting group in organizing consultative meetings.

Members of the drafting group participate in all consultative meetings and seminars to listen, take notes and revise the draft document as guided and directed by the Standing Board of the PPC.

6. Considering, approving or signing of the documents regulating public consultations

The final step in promulgating the document regulating public consultations is to approve the resolution or sign the coordination regulations among stakeholders.

6.1. Considering and approving a resolution

The drafting group needs to revise and finalize the Statement, draft Resolution, Coordination Regulations and the attached Resolution (if any) so that the Standing Board of the PPC can consider and sign it at the session.

- Title of the Statement: *The Statement requests the approval of the Resolution on public consultations with regard to the promulgation and implementation of Resolutions of the PPC.* The title of the Resolution is: *Resolution on public consultations with regard to the promulgation and implementation of Resolutions of the PPC*; the title of the Coordination Regulations is *Regulations on public consultations with regard to the promulgation and implementation of Resolutions of the PPC.*
- Documents to be submitted to the PPC should include: the Statement and draft resolution (the Regulations if any); the verification report; opinions of the People's Committee; and other relevant documents (for example, a consolidated report of opinions).
- The Office of the MPs Delegation and People's Council needs to provide deputies with the information and documents related to the Resolution on public consultations so that the PPC's Deputies can thoroughly understand and discuss it at its session.

- Documents related to the draft resolution shall be sent to PPC Deputies at least five days before the opening session of the PPC's session.
- Procedures on examining and approving the draft resolution of the PPC include: (1) the Representative of the submitting agency (the Standing Board of the People's Council) presents the draft resolution; (2) the Representative of the Board of Legislative Affairs of the People's Council assigned to verify the resolution presents a verification report; (3) and the PPC's Deputies to discuss and vote on the draft resolution. The draft resolution will be approved when more than half of the deputies agree on approval. The chairman of the PPC should sign the resolution.

6.2. The signing of the Coordination Regulations

When the promulgation of coordination regulations among different stakeholders is selected, the Chairman of the PPC, the Chairman of the Provincial People's Committee, the Chairman of the Fatherland Front and the Vice-head of the MPs Delegation should sign the Coordination Regulations upon agreement of contents.

The Standing Members of the Provincial Party Committee, the Standing Board of the PPC, Standing Members of the Provincial People's Committee, the Committee of the Fatherland Front, the MPs Delegation and all stakeholders involved in the consultation process should be present at the signing ceremony.

PART THREE: DEVELOPMENT OF THE DOCUMENT REGULATING PUBLIC CONSULTATIONS

Objectives: This part aims to provide basic knowledge and experiences related to drafting the PPC's document regulating public consultations.

Key contents:

1. Major contents of the document
2. Drafting techniques

1. Major contents of the document regulating public consultations

In those cases where the Resolution or Coordination Regulations is selected for promulgation, the document regulating public consultations should include the following contents:

- Title of the document: “consultation” is suggested.
- Subjects for consultation.
- The entity to direct the consultations.
- Coordination in public consultations.
- Implementing process: time.
- Tools for public consultations.
- Budget.

1.1. Title of the document: “Consultation” is suggested

The Law on Laws 2008 and the Law on the Promulgation of the People’s Council and People’s Committee 2004 contain the phrase collecting opinions on legal documents. Therefore, some have suggested the title of the Resolution or Regulations as “Resolution/Regulations on collecting public opinions of the PPC”.

However, the phrase “collecting opinions” can be formalistic and passive, and does not reflect the proactiveness of the agencies, elected deputies and people involved. This fact shows itself in the promulgation of legal documents, in that people can only be consulted on the draft documents that the drafting agency thinks are “necessary”, can only discuss what the State agencies provide, and can only study a draft document at the time that the State agencies allow and in the time permitted.

Meanwhile, “consultation” means asking for opinions (*question*) to refer to (*reference*), so as to have a more reliable basis

when making decisions, hinting at the two-way relationship between the government and people.

The use of the concept of “consultation” is to emphasize two points. **Firstly**, the need of the People’s Council to consult the people, and the proactiveness of the People’s Council in asking for people's opinions, not its passiveness in “collecting” ideas. **Secondly**, the People’s Council role as a listener, considering the opinions as a reliable source of information for reference when deciding to revise existing policy or issuing new policies. The meaning differs from the mere “collection” of opinions.

1.2. Subjects for consultation

As regulated in Article 23 of the Law on the Promulgation of Legal Normative Documents of the People’s Council and People’s Committee 2004, subjects for consultation include agencies, organizations and individuals who are directly subject to the document, but do not always have to contribute to consultations. However, the resolution or regulations of the Provincial People’s Council needs to extend the provisions on public consultations. This action is not contrary to the provisions of the Law on the Promulgation of Legal Normative Documents of the People’s Council and People’s Committee. By contrast, this approach promotes democracy, attracts attention and incorporates the wisdom of the people into legislative process.

The “people” participating in the legislative process should include:

- (1) Individual citizens;
- (2) Social-political organizations, social organizations, clubs, and associations;

- (3) Beneficiary groups (enterprises, occupational associations);
- (4) Experts, scientists, and activists;
- (5) State agencies (not merely the drafting and approving agencies).

This perception is based on a simple approach, distinguishing between a consulting entity – the drafting agency – and the public outside the drafting agency. The importance of participation is to attract people to contribute voluntarily in considering and commenting on a regulation in a cooperative, objective and constructive fashion.

In the above-mentioned groups, it is important to consult those people who are directly or indirectly affected or stakeholders, whether they are individual citizens, businesses, associations, or state agencies. In addition, in some PPCs with ethnic minority groups, apart from the mentioned groups to be consulted, it is necessary to define responsibilities in consultation with ethnic minorities living in the localities.

2.3. Subjects to organize public consultations

The draft resolution or regulations on public consultations of the People's Council should provide that the Standing Board of the PPCs chair public consultation activities. However, it is necessary to clarify the following few points.

In relation to the case that the Standing Board of the People's Council chairs and directs the drafting of resolutions.

In the case that the Standing Board of the People's Council chairs the drafting of the resolution, regulating that the Standing Board chairs the consultations is in line with Article 23 of the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee in 2004. The entity which should collect opinions is the drafting agency.

In relation to issued resolutions, the Standing Board of the People's Council or its Boards should conduct public consultations by themselves or coordinate its work with the People's Committees so as to improve examination and oversight of policies issued by the People's Council.

For resolutions submitted by the Provincial People's Committee.

For draft resolutions issued by the PPC, submitted by the Provincial People's Committee and being drafted by a Department, the main entity organizing public consultations should be the Department. However, even in relation to these cases, the powers of the Standing Board of the People's Council to chair public consultations are not contrary to Law in 2004, because this resolution is a legal document on public consultations of the People's Council. In such cases, options may be as follows:

Option 1: The drafting agency may organize the collection of opinions as regulated under the Law 2004 (from concerned agencies, organizations and individuals subject directly to the document). The draft document will then be sent to the PPC and its Standing Board containing the results of these consultations. However, this option may create duplication, waste and inconsistency in the local legislative process and in particular the People's Council will not be active in consultation process.

Option 2: To avoid the aforementioned disadvantages, it is possible to regulate the subjects for consultation under the plans that the Standing Board of the People's Council coordinate with the Provincial People's Committee and the Fatherland Front at all stages from the selection of contents for consultation, and throughout the whole consultation process.

2.4. Responsibility to coordinate

It is necessary to regulate the responsibilities for coordination between the PPC, the Provincial People's Committee, the Fatherland Front, and government at all levels in conducting public consultations in three cases: for new resolutions; for issued resolutions; and for arising issues. This is so as to share the burden of human resources with the People's Council and to forge unity and support.

2.4.1. Coordination in selecting topics for public consultations

a) Selecting new resolutions for public consultations

It is necessary to regulate coordination in selecting resolutions on which the PPC may wish to consult when discussing the **legislative program** of the next years under the following procedures:

- Before the year-end session, the Provincial People's Committee can send to the Standing Board of the PPC the registration of contents in the Statement, in proposals to be submitted to the PPC for examination or in a decision, mentioning the drafts for consultation (if any);
- The Standing Board of the PPC can discuss the issue with the Provincial People's Committee, the Standing Committee of the Fatherland Front, and the Boards of the PPC to select resolutions for consultation in discussions on the legislative program of the PPC in the coming year;
- At the year-end session, the PPC examines and decides the legislative program of next year including resolutions for consultation (if any).

b) Selecting issued resolutions for public consultations

Coordination is necessary, and should be regulated in accordance with the document regulating public consultations. Particularly:

- Before the year-end session, the Boards of the PPC should send the draft oversight programs of the Boards for coming year to the Standing Board, requesting details of the issued resolutions subject to consultation (if any).
- Based on the requests of Boards of the PPC (if any), the Standing Board of the PPC can request comments on the documents from the Provincial People's Committee and the Standing Committee of the Fatherland Front.
- The Standing Board of the PPC should draft the oversight program of the PPC in the coming year, including in its draft issued resolutions for consultation (if any) to submit to the PPC at its year-end session.
- At the year-end session, the PPC examines and decides its oversight program for the coming year including the PPC's resolution issues on which to consult (if any).

2.4.2. Coordination in public consultations

a) For new resolutions

For resolutions that the PPC will issue, it is necessary to regulate coordination in implementing public consultations as follows:

- to regulate the responsibility of the drafting agency to conduct public consultations as planned.
- to regulate the responsibility of the People's Committee (or other submitting agencies) to send the request for public consultations to the Standing Board of the PPC (including details of the subjects, localities and tools for public consultations).
- to regulate the responsibility of the Standing Board of the PPC to draft the plan for public consultations on this draft resolution and to organize meetings with the Provincial People's

Committee, the Standing Committee of the Fatherland Front, and the Boards of the PPC so as to forge consensus.

- to regulate the responsibility of the Provincial People's Committee to send through the draft resolution early along with the statement to the Standing Board of the PPC to conduct public consultations.
- to regulate the responsibility of the Provincial People's Committee and the Standing Committee of the Fatherland Front to send people to participate in public consultation activities of the Standing Board of the PPC or Boards of the PPC as planned.
- to regulate the responsibility of the Standing Board of the PPC to send results at the earliest opportunity to the Provincial People's Committee and the Standing Committee of the Fatherland Front.
- to regulate the responsibility of the Provincial People's Committee to discuss with the Standing Board of the PPC, the Standing Committee of the Fatherland Front, the heads of PPC's Boards, and the heads of relevant committees the revision of the draft resolution before submitting it to the PPC.

b) To issued resolutions

For public consultations on issued resolutions, it is necessary to regulate the responsibility of the Provincial People's Committee, the Departments and the Fatherland Front to work together in discussing and agreeing plans for public consultations and in sending people to participate in public consultation activities as planned.

2.4.3. Coordination in cases of arising new issues

In addition, coordination elements should be included in the regulations. These should state that where problems arise, and **at the request** of key counterparties or in response to mass media interest,

the Standing Board of the PPC will agree to request that the People's Committee conduct public consultations or assign Boards of the PPC to **chair and coordinate** consultations on that issue with the Provincial People's Committee, and Standing Committee of the Vietnam Fatherland Front.

2.5. Time for public consultations

As stipulated, the submitting agency shall send the draft resolution to Boards of the People's Council for verification at least 15 days before the opening session of the People's Council session. This timeline should be taken as a basis for calculating the time period needed to conduct public consultations.

It is necessary to regulate that public consultations start promptly, so as to increase the amount of time for: conducting public consultations and increasing the responsibility of State agencies. Practice in localities shows that such regulations are feasible because the People's Committee and drafting agency are involved from the beginning, are not passive and are prepared in good time.

Timeline to include in regulations:

- Time to agree on policies for consultation;
- Time to agree on the plan;
- Time to start and complete;
- Time to consolidate collected opinions, and to develop the report on public consultations;
- Time for the final meeting among Standing Board of the People's Council, the People's Committee, the Fatherland Front and others.

It is necessary to regulate a sufficient period of time for the People's Council to conduct public consultations (from the time when the Standing Board of the People's Council receives the draft

resolution sent by the People's Committee to when it sends its report on public consultations). In Binh Thuan, this period of time is at least 40 days (See box below). However, there may be provisions to increase this period.

Box: Timeline for public consultations in Binh Thuan province

- In early **November** of preceding year: select resolutions for public consultations in the year ahead.
- At least **90 days** before the opening session of the People's Council: the Provincial People's Committee should send a request for the plan of public consultations to the Standing Board of the PPC.
- The Standing Board then decides the plan for public consultations. The drafting agency conducts public consultations.
- At least **75 days** before the opening session of the People's Council: the Provincial People's Committee sends the statement and draft revised resolution to the Standing Board of the PPC.
Start of the public consultation process of the PPC.
- At least **35 days** before the opening session of the People's Council: the Standing Board of the PPC sends the report on public consultations to the Provincial People's Committee, and the Fatherland Front. **Completion of the public consultation process.**
- At least **20 days** before the opening session of the People's Council: the Provincial People's Committee meets with stakeholders to discuss the revision of the draft resolution before submitting it to the People's Council.

2.6. Tools for public consultations

Based on analysis of the pilot public consultation activities held by 20 PPCs over the past three years, and based on Article 23, Resolution No. 91/2006/NĐ-CP, the document regulating public consultations of the PPC should focus on the tools as mentioned below, and should contain a clear explanation for each tool.

- District and commune consultative meetings: the meeting aims to gather the opinions of people living in the district or commune on the contents of the resolutions under consultation. The People's Council decides the list of people to be invited to the meeting and the meeting procedures.
- Commune meetings: the meeting aims to hear the views of representatives of households (communes or villages) on contents of the resolutions under consultation. The chairing agency decides the meeting procedures.
- Social survey: the People's Council itself or the procuring service of another organization or agencies can conduct social surveys on the contents of resolutions through the delivery, filling out and collection of questionnaires, and individual in-depth interviews.
- Field visits: the People's Council establishes a field visit mission to selected localities to discuss the contents of the resolutions under consultation. Selected interlocutors may be households, enterprises, organizations and management agencies.
- Workshops, seminars with organizations and agencies: Depending on their objectives, requirements and contexts, the Standing Board and Boards of the People's Council may decide to organize consultative workshops, seminars, or briefings to listen to the opinions on the contents of resolutions of consulted subjects (management agencies, representatives from

enterprises, organizations, committees, experts, scientists, institutes and universities). The list of invited persons can then be prepared. The chairing agency decides procedures of these workshops, seminars and briefings.

- Stakeholders' meeting (public hearings): The Leader of the People's Council may decide to organize public hearings on the contents of the resolutions so as to clarify details. Agencies with different ideas on the contents can be invited. The chairing agency may decide the procedures for the public meetings.
- Internet-based consultation and mass media: The Chairman of the People's Council keeps all concerned persons informed of the resolution's contents, calls for opinions and comments by a range of means, including the website of the People's Council, newspapers, electronic newspapers, local TV and Radio Stations, telephone and fax numbers, and emails.

It is important to regulate that the Standing Board of the PPC decides which of the above mentioned tools are appropriate to the context, practical conditions and capacity of the PPC.

The Standing Board of the People's Council is authorized and responsible for regulating the procedures for each public consultation tool, particularly social surveys and public hearings if necessary.

2.7. Budget for public consultations

It is necessary to implement provisions on the budget for public consultations from the annual budget of the People's Council. This is of special significance for poor and mountainous PPCs with ethnic minorities. PPCs may refer to the cost norms for public consultation activities of Binh Thuan PPC for guidance. The cost norms for public consultation activities in mountainous PPCs may be higher than others.

2.7.1. The legal basis for regulating the budget for public consultation activities

Under Article 55 of the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee, and Article 25 of Resolution No. 91/2006/NĐ-CP, the budget for the development of legal documents of the People's Council and People's Committee is estimated as part of the regular budget of the People's Council and People's Committee. Public consultations on resolutions of the People's Council are a legislative activity, which should be budgeted for.

2.7.2. Budgeting, management, use and settlement of budget for public consultations

Up to the end of 2011, the budgeting, management, use and settlement of budget for the development of legal documents by the People's Council and People's Committee operate under **Inter-ministerial Circular No. 09/2007/TTLT-BTP-BTC** dated 15/11/2007 of the Ministries of Finance and Justice. However, after four years of implementation, the Circular is inappropriate and presents challenges for local agencies.

In October 2011, the Ministries of Finance and Justice completed a **draft Inter-ministerial Circular** guiding the budgeting, management, use and settlement of the state budget when ensuring the development and improvement of the system of legal documents of the People's Council and People's Committee. The PPCs may use it to regulate the budget for public consultations as follows:

- The budget for development and improvement of legal documents (including public consultations activities) **ensured by the State budget** should be incorporated in the annual

budget of the PPCs as regulated at the Law on State Budget and other guiding documents.

- **Cost items** for the development and improvement of legal documents of the People's Council and the People's Committee can be applied to public consultation activities. These might include: costs for assessment; an evaluation on the implementation of laws regarding the development and improvement of legal documents; costings for workshops and seminars on the development, improvement and implementation of laws; consultancy fees for experts involved in the development and improvement of legal documents; costs for the introduction of legal documents and the collection of public opinions on legal documents; and translation fees for documents.
- **The cost level** for the development and improvement of legal documents of People's Council and People's Committee is higher than that of the old Inter-ministerial Circular. The draft Inter-ministerial Circular regulates cost levels for other items, which are implemented and applied in accordance with current financial guidelines. This is a good basis from which PPC can issue cost norms for public consultations.
- Based on specific cost norms regulated under the new Inter-ministerial Circular, financial capacity and the complexity of **each legal document**, the PPC regulates specific cost norms for the development and improvement of each legal document of the People's Council and People's Committee at the appropriate level.

2. Drafting techniques

The resolution of the PPC regulating public consultations should be in the official form of the sample legal document.

2.1. General principles

The presentation and lay-out of contents in the legal document should meet the following requirements:

- 1) Accuracy of language.
- 2) Clarity (transparency) and understandability (easy to understand) of the language.
- 3) Sufficient revision of subjects and fields of social relations to avoid gaps in legal documents.
- 4) Avoiding “legalisms”.
- 5) Useful and stable legal terms.
- 6) Cost-effectiveness.
- 7) Consistency of legal documents.**

2.2. Structure of the legal documents

As regulated under item 3, Article 5 of the Law on the Promulgation of Legal Normative Documents 2008, “A legal normative document with a wide scope of the adjustment may, depending on its content, be structured in parts, chapters, sections, articles, clauses and points; a legal normative document with a narrow scope of the adjustment may be structured in articles, clauses and points. Every part, chapter, section and article in a legal normative document must have a title”. With the scope of the adjustment, the Resolution on public consultations should be structured in articles with specific names (see the sample Resolution on public consultations at the annex). The structure of the documents should effectively cover the contents in a logical fashion.

The relationship between each element of a legal document must be clear. For example, units of the structure should logically be

connected under contents, time, level of importance, rules and procedures, etc.

A logical structure of a legal document will enable readers to understand the contents of the document, particularly contents that they are interested in.

It is necessary to ensure a level of correspondence between the content of the structure's units and the title of that structure. If contents of the structure's unit do not match the title, or if any one or a few other articles do not contain contents within the title of the structure, the draft has not been well prepared.

2.3. Language

The language used in legal documents should be accurate, general, simple and understandable. Terms should be substantively clear with explanation of definitions. Requirements for language used in legal documents are as follows:

1) Short sentences. A long sentence may make its contents incomprehensible. Long sentences should only be used if needed.

2) Clear words. Ambiguous words should not be used. An ambiguous word may make the sentence incomprehensible or be misunderstood. Ambiguous words like "appropriate", "exact", and "satisfactory" may make readers understand the sentence in a different way, or may grant an entity an indefinite or limitless right.

4) Sufficient use of words. Do not use useless words or words of similar meaning. The deletion of useless words will make the legal documents short and understandable.

5) Consistency in use of words. To ensure the consistency and understandability of legal documents, the principle "one word, one concept" should be adhered to. That is, each concept is used with one word, and one word contains one concept.

For example: draftsmen can use the phrase “tham vấn nhân dân” or “tham vấn công chúng”, but only one term should be used from beginning to the end of the document.

6) Use of words with right functions

- Do not use old words which have been replaced by new and accepted ones.
- Avoid local language; use local language only when indicating local things, phenomena or local words that are generalized.
- Do not use slang and colloquial language to ensure the formality of the document.
- In principle, it is better that legal documents use as few terms as possible so as to enable readers to understand the document. If necessary, definitions of terms should be mentioned.
- Do not use abbreviated words in legal documents as legal language should be readable and clear.

7) Use of correct Vietnamese grammar and spelling

- Each sentence should be comprised of subject and predicate.
- Punctuation should be used correctly.
- It is necessary to avoid errors of tone, rhyme, the first consonant, the allocation of positions between the signal manifesting a sound, and capitalization.

8) Sentences in legal documents must also meet requirements of **administrative writing style**.

- Do not use three kinds of sentences: imperatives, questions and expressions.

- Do not use question marks, ellipsis, or exclamation marks in the legal documents.
- The document shall be coherent in contents.
- Use numbers in parentheses to avoid misunderstanding.
- Record numbers regarding time: in words of all the units of days, months, years.
- When presenting and showing the time limit, the provisions of the Civil Code should be followed.

3.3. Presenting techniques in legal documents

The draft should be effective and clear regarding acts that the normative document expects to revise. In other words, rules must specify who, does what and under what circumstances. To this end, People's Council can refer the following criteria:

1) Use of verbs in the present tense. Legal documents apply only to acts that take place after the legal documents are issued, except for a few legal documents with retroactive effect. Therefore, legal normative are mainly expressed in present tense, and rarely in the past or future tenses.

2) Arrangement of legal documents under the following principles:

- General provisions are presented before specific provisions on the same issues.
- Provisions on contents are presented before provisions on procedures on the same issue.
- Provisions on common cases are presented before provisions on particular cases.
- Provisions on rights and obligations are presented before the sanctions.

3) Use of active sentences. Limit the use of passive sentences. A passive sentence will not clarify the subjects of the action, that is, not clearly answer the question “who?” Passive sentences are vulnerable to abuse and can be avoided during implementation, because the subject is not clearly defined.

For example: Provision: “The meeting to discuss and agree on the plan for public consultations shall be organized” will be difficult to implement as it is not clear who is responsible for organising the meeting. It should read: “The Standing Board is responsible for organizing the meeting to discuss and agree on the plan for public consultations with the People’s Committee, Standing Committee of the Fatherland Front, and Boards of the People’s Council”.

4) Empowerment. It is important not to establish general empowerment. It is most important to create causality in determining the subjects responsible for implementing the obligations.

For example: Provision “The people have the right to contribute their opinions on the decisions of commune government” does not clarify which subjects are responsible for implementing specific tasks such as posting the draft decision or providing addresses to receive opinions, etc.

5) Capacity to implement orders. Do not regulate lifeless things or people with insufficient civil capacity (infants) to implement an order.

For example: Provision “The plan for public consultations should include contents A, B, C” is not tight, because it is impossible to request a thing like “the plan” to ensure the aforementioned contents. A better provision requires the chairing agency to put these contents in the plan.

3.4. Official form of the document

The official lay-out of the legal document is regulated under Circular 55/2005/TTLT-BNV-VPCP. There are some noteworthy points as follows:

1) Title of the document: A legal document has its own title/name. The naming of legal documents shall follow the principles:

- Clarify the kind of legal document (Resolution or Regulation);
- The title of the document shall be appropriate to its contents;
- The title of the document can be distinguished;
- The title of the document shall be short and general.

Short titles should be considered for the convenience of readers and users, particularly in citation. Short titles must meet the common requirements on titles of the documents.

2) Bases for promulgation: in accordance with Viet Nam’s legislative practice, legal documents should contain information on their legal bases for promulgation. In relation to promulgating legal documents on public consultations, the bases for promulgation might include the Law on the Organization of the People’s Council and People’s Committee, the Law on the Promulgation of Legal Normative Documents of the People’s Council and People’s Committee, and the Resolution on Operation Regulation of the People’s Council.

Notes: The bases for the promulgation of legal documents are senior legal documents on the same issues; others will not have the same legal force, even Party documents.

3) Explanation of terms: Legal terms should be understood consistently across the whole legal system. If the terms are used in relation to new contents, an explanation is needed.

In the case of provisions on public consultations, the term “consultation” should be explained. For public consultation tools, a

definition of each tool is needed, particularly a definition of public hearings.

4) Implementing article: An implementing article is a legal document on public consultations which includes the valid time processing of old documents (if any).

- When promulgating a new Resolution/Regulation on public consultations or when supplementing old ones, it is necessary to remove previous relevant documents.
- Time of effect: it is important to set out the time laws and ordinances will come into effect. A resolution issued by a PPC should be in effect in 10 days after the day of approval, excepting resolutions regulated with a later day of effect.

ANNEXES

1. Relevant legal documents

The Constitution 1992, amended in 2001 (Article 53).

Law on the Organization of the People's Council and People's Committee 2004.

Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee 2004.

Resolution of the National Assembly Standing Committee in 2005 Resolution No. 753/2005/NQ-UBTVQH11 issuing the Operation Regulations of the People's Council.

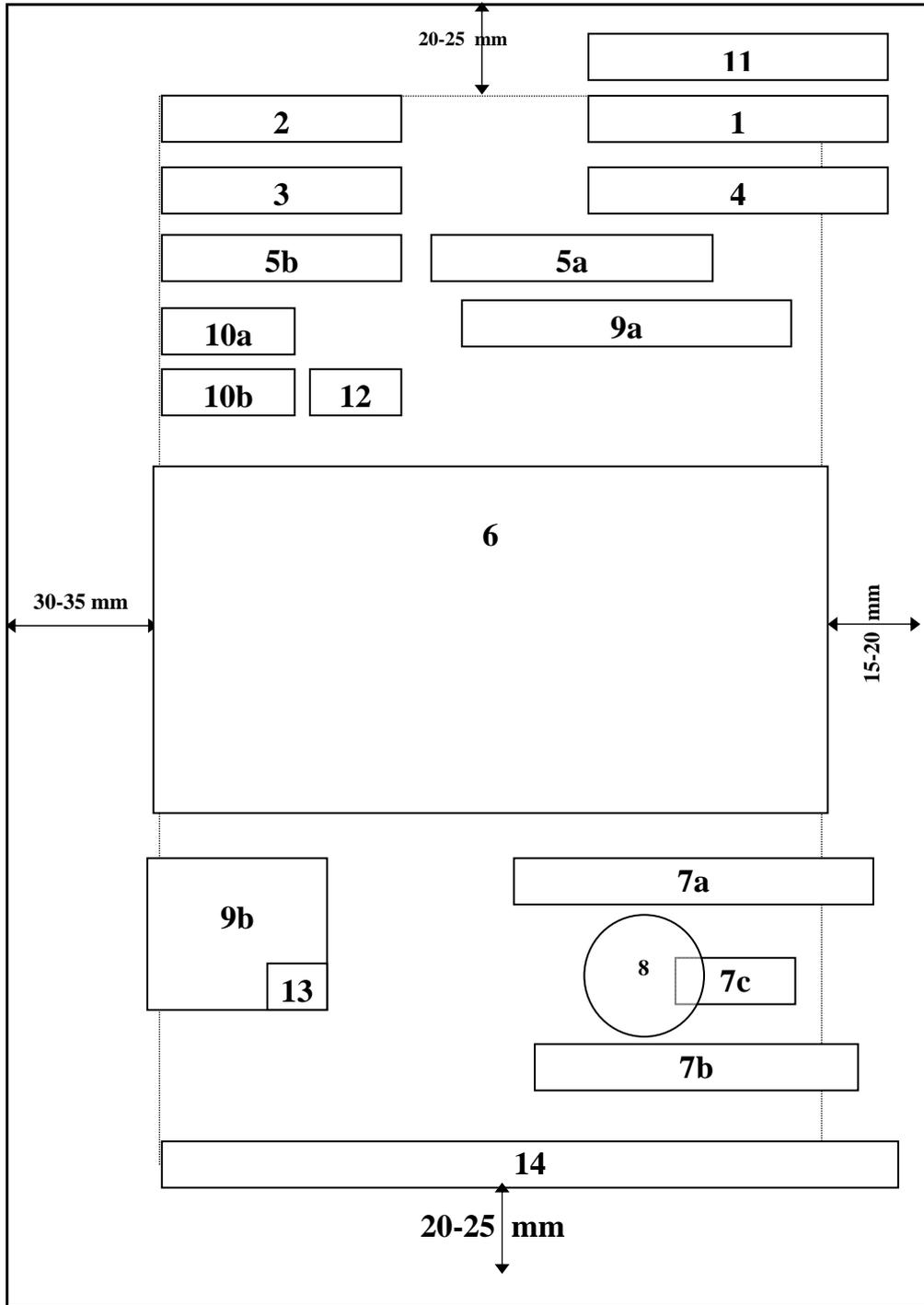
Resolution No. 91/2006/NĐ-CP in 2006 regulating the implementation of the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee.

Inter-ministerial Circular No. 55/2005/TTLT-BNV-VPCP in 2005 guiding the official form and presenting techniques of legal documents.

Inter-ministerial Circular No. 09/2007/TTLT-BTP-BTC guiding the management and use of State budget to ensure the development of legal documents of the People's Council and People's Committee.

2. Diagram of units in the official form of the legal document

(A4-sized paper: 210 mm x 297 mm; Inter-ministerial Circular No. 55/2005/TTLT-BNV-VPCP dated 06/5/2005 of the Ministry of Home Affairs and Office of the Government)



Notes

- Number : Units in the official form of the document**
- 1 : Official name of the country
 - 2 : Name of issuing agency
 - 3 : Number and code of the document
 - 4 : Issuing place and promulgation time
 - 5a : Title and key contents of the document
 - 5b : Key contents of the official administrative letter
 - 6 : Contents of the document
 - 7a, 7b, 7c : Title, full name and signature of authorized person
 - 8 : Seal of the agency
 - 9a, 9b : Receivers
 - 10a : Signal of confidentiality
 - 10b : Signal of urgent level
 - 11 : Signal of returning, guidance on the scope of circulation
 - 12 : Signal of the Draft document
 - 13 : Signal of the typist and number of circulation
 - 14 : Address of the agency; E-Mail; Website; telephone number, Telex, Fax numbers

3. Sample Resolution of the People's Council (under Inter-ministerial Circular No. 55/2005/TTLT-BNV-VPCP)

PEOPLE'S COUNCIL
..... (1)

SOCIALIST REPUBLIC OF VIET NAM
Independence - Freedom - Happiness

No: /20..(2)../NQ-
HĐND

..... (3)...., *Day* *month* *year* 20..(2)..

RESOLUTION

..... (4)

PEOPLE'S COUNCIL..(1)...
TERM... SESSION...

Pursuant to the Law on the Organization of the People's
Council and People's Committee dated 26/11/2003;

In pursuant to..... (5)

DECIDES:

Article 1. (6).....

Article 2.

Article.....

This Resolution had been approved by the public
consultations..... (1)..... Term.... session.....

Receivers:

-

-

- File: VT, ...(7). A.XX(8).

CHAIRMAN

(Sign and seal)

Nguyen Van A

Notes:

(1) Name of the province/city; district, town, city; commune, ward.

(2) Year of promulgation.

- (3) Issuing place.
- (4) Key contents of the Resolution.
- (5) Other bases for the promulgation of the Resolution.
- (6) Contents of the Resolution.
- (7) Abbreviation of drafting agency, and number of circulation (if necessary).
- (8) Signal of the typist, duplication and number of circulation (if necessary).

4. Some legal documents on public consultations of PPCs

4.1. Resolution of Dong Thap PPC

PROVINCIAL
PEOPLE'S COUNCIL
OF DONG THAP

No: 37/2010/NQ-
HĐND

SOCIALIST REPUBLIC OF VIET NAM
Independence - Freedom - Happiness

Cao Lanh city, 18th of December, 2010

RESOLUTION

Issuing Regulation on public consultations of Dong Thap PPC

DONG THAP PROVINCIAL PEOPLE'S COUNCIL
TERM VII - SESSION15

Pursuant to the Law on the Organization of the People's Council and People's Committee dated on 26/11/2003;

Pursuant to the Law on the Promulgation of Legal Normative Documents of the People's Council and People's Committee dated on 03/12/2004;

Pursuant to Resolution No. 753/2005/NQ-UBTVQH11 dated on 02/4/2005 of the National Assembly Standing Committee issuing the Operation Regulation of the People's Council;

Upon consideration of Statement No. 16 /TTr-TT.HĐND dated 07/12/2010 of the Standing Board of the Provincial People's Council on the promulgation of Resolution with the Regulations on public consultations of Dong Thap PPC; and of the verification report of the Board of Legislative Affairs of the PPC and opinions of PPC deputies.

DECIDES:

Article 1. To issue Resolution on Regulation of public consultations of Dong Thap PPC (Regulation attached).

Article 2. The Provincial People's Committee and relevant organizations and agencies are responsible for coordinating public consultation activities as per the request of the Standing Board and Boards of the PPC.

Article 3. Assigns the Standing Board, Boards of the PPC, Office of the MPs Delegation and People's Council to implement this Resolution.

This Resolution is approved by the VII Dong Thap PPC, and takes effect 10 days after 18/12/2010.

Receivers:

- ONA, Gov't Office (I-II)
- Standing Committee of the Provincial Party Committee, Provincial People's Committee, Fatherland Front;
- MPs Delegation, UBKTTU;
- PPC Deputies;
- Departments, Boards, sectors;
- Standing Board of People's Council, People's Committees of districts, towns and city;
- Provincial official gazette;
- File.

CHAIRMAN

(Signed)

Le Vinh Tan

4.2. Summary of Chapter XIII (on coordination in public consultations), Coordination Regulations of Binh Thuan PPC

Article 52: Objectives, significance of public consultations

Article 53: Bases for the selection of contents for public consultations

Article 54: Coordination in selecting contents for public consultations (resolution to be issued, existing resolution and arising issues)

Article 55: Development of the plan for public consultations, including tools for public consultations

Article 56: Coordination process in conducting public consultations on new resolutions

Article 57: Coordination process in conducting public consultations on existing resolutions

Article 58: Coordination process in conducting public consultations on arising issues

Article 59: Responsibility to oversee, monitor the implementation after public consultations

Article 60: Budget for public consultations

4.3. Regulation with Resolution on public consultations of Lao Cai PPC

Article 1. Scope of the adjustment, and subjects.

Article 2. Objectives and significance of public consultations.

Article 3. Process to select contents for public consultations.

Article 4. Public consultation tools.

Article 5. Development and implementation of plans for public consultations.

Article 6. Public consultations on draft resolutions of the PPC.

Article 7. Public consultations on issued resolutions of the PPC.

Article 8. Overseeing the settlement of recommendations after public consultations.

Article 9. Budget for public consultations.

Article 10. Implementing article.

5. Proposed contents for the Resolution on public consultations of the PPC

The below-mentioned Resolution on public consultations of the PPCs should present the contents mentioned in Section Three of this guideline.

Article 1. Scope and subjects of regulation

1. This Resolution provides in detail for the implementation of public consultations of PPC on legislation or oversight on the results of the implementation of resolutions of the PPC.

2. This Resolution provides for the responsibilities of: the Standing Board of the PPC; the Boards of the PPC; Groups of PPC Deputies; Provincial People's Committee; the People's Committees at different levels including Departments; the Standing Boards of People's Council at different levels; and concerned organizations, agencies and individuals; in implementing public consultations.

Article 2. Contents for public consultations

1. Policies in the draft resolution that the PPC will issue under the annual legislative program of the PPC.

2. Policies in the resolution of the PPC which have been issued under the annual oversight program of the PPC.

3. Arising policy issues under the authorization of the PPC.

Article 3. Subjects for public consultations

1. Subjects for public consultations include:

- a) Citizens or groups of citizens who are directly or indirectly subject to the policies;
- b) State agencies, governments at different levels;
- c) Social-political organizations, social organizations, social and occupational organizations;
- d) Enterprises and service providers;
- e) Institutes, training institutions, experts, scientists, and intellectuals.

2. The Standing Board of the PPC decides the scope of subjects to be consulted. The People's Council is responsible for consulting with those subject to the policies.

Article 4. Entity to organize and conduct public consultations

1. The Standing Board of the PPC directs the implementation of public consultations.
2. The Provincial People's Committee, Standing Committee of the Provincial Fatherland Front, governments at different levels are responsible to coordinate in implementing public consultations.
3. The Office of the MP Delegation and People's Council takes responsibility for assisting the Standing Board of the PPC at the same level to conduct public consultations.

Article 5. Tools for public consultations

1. Public consultations are conducted through the following tools:
 - a) Commune meetings;
 - b) Consultative meetings with households;
 - c) Social survey;
 - d) Field visits;
 - e) Consultative workshops, seminars with organizations, agencies, and individuals;

- f) Stakeholders' meeting (public hearings);
- g) Internet-based consultations and mass media.

2. The Standing Board of the PPC decides the appropriate tools for public consultations.

3. The Standing Board of the PPC is authorized to regulate public consultation process for the aforementioned tools.

Article 6. Public consultation process for new resolutions

1. Each November, based on the Resolution of the PPC on the legislative program of the coming year, the Standing Board of the PPC agrees with the People's Committee and the Standing Committee of the Fatherland Front of the same level to select resolutions on which to hold consultations in the coming year so as to submit to the People's Council at its year-end session.

2. Based on the request for conducting public consultations of the Provincial People's Committee, the Standing Board of the PPC shall develop an overall plan for public consultations on selected resolutions, and shall agree the plan with the People's Committee, and Standing Committee of the Fatherland Front at least 90 days before the opening session of the PPC.

The Standing Board of the PPC shall include the following contents in the overall plan for public consultations: issues under consultation; subjects; scope and scale for public consultations; time; tools for public consultations; key activities; assignment of work; coordination in public consultations; budget for public consultations.

3. Based on the agreed overall plan for public consultations among the Standing Board of the PPC, People's Committee, Standing Committee of the Fatherland Front, the submitting agency is responsible for directing the drafting agency to conduct public consultations and study the opinions of consulted people.

4. The drafting agency is responsible for sending the draft revised resolution to the Standing Board of the PPC at least 75 days before the opening session of the PPC.

5. The Standing Board of the PPC chairs and assigns the work in implementing public consultations on the draft resolutions under the agreed overall plan among the Standing Board of the PPC, People's Committee, and the Standing Committee of the Fatherland Front.

6. The Standing Board of the PPC directs the Office of MPs Delegation and People's Council shall send the report on results of public consultations and other attached documents to the People's Committee, submitting agency, Standing Committee of the Fatherland Front of the same level at least 30 days before the opening session of the PPC.

7. The submitting agency is responsible for directing the drafting agency to study the report on results of public consultations and other attached documents to revise the resolution. The submitting agency sends the draft revised resolution to the Standing Board and Boards of the PPC at least 15 days before the opening session of the PPC.

8. If different ideas exist between the Standing Board of the PPC and the submitting agency on the draft revised resolution, the Standing Board of the PPC is responsible for reporting to the PPC for consideration and decision.

9. The Standing Board of the PPC is responsible for sending the report on the results of public consultations and other attached documents to the PPC Deputies as provided for by regulations on sending documents at the PPC sessions.

Article 7. Public consultation process for issued resolutions

1. Each November, based on the Resolution of the PPC on the legislative program of the coming year, the Standing Board of the PPC shall agree with the Heads of the PPC's Boards to select resolutions

for consultation in the coming year so as to submit them to the People's Council at its year-end session.

2. Based on the request for conducting public consultations of the PPC's Boards, the Standing Board of the PPC shall chair the development of an overall plan for public consultations on selected resolution, and shall agree on the overall plan with the People's Committee and Standing Committee of the Fatherland Front.

The overall plan for public consultations should include contents as regulated at item 2, Article 6 of this Resolution.

3. The Standing Board of the PPC chairs and assigns the work in implementing the overall plan for public consultations. The People's Committee, the Standing Committee of the Fatherland Front, organization, agencies and individuals are responsible for coordinating or sending people to participate in public consultation activities in the agreed plan.

4. The Standing Board of the PPC directs the Office of the MPs Delegation and People's Council to develop a report on public consultations, and to send the report and other attached documents to the People's Committee, Standing Committee of the Fatherland Front and PPC Deputies.

5. Based on the collected information, the Standing Board of the PPC requests the Provincial People's Committee to direct its Departments to deal with challenges and shortcomings in the implementation of resolutions, or to consider and submit to the PPC for amendment and supplementation, or promulgation of new resolutions.

6. The Standing Board of the PPC is responsible for reporting the results of public consultations at the latest session of the People's Council of the same level.

Article 8. Public consultation process for arising issues

1. The Standing Board of the PPC by itself or under the request of the People's Committee, Standing Committee of the Fatherland Front, Boards of the PPC and Deputies at the same level shall select contents for public consultations.

2. The Standing Board of the PPC chairs or assigns Boards of the PPC to coordinate with the People's Committee and the Standing Committee of the Fatherland Front to conduct public consultations on selected contents.

3. After public consultations, the Standing Board of the PPC or its Boards directs the development of the report on public consultations and sends the report to the People's Committee, Standing Committee of the Fatherland Front, and PPC Deputies.

4. Upon receipt of the report on public consultations, the Provincial People's Committee is responsible for settling and response recommendations mentioned in the report under provisions of law.

5. The PPC, the Standing Board of the PPC, its Boards, Deputies and Standing Committee of the Fatherland Front are responsible for overseeing, monitoring and urging Provincial People's Committee and relevant agencies to settle recommendations after public consultations.

Article 9. Responsibility to give feedback

The Standing Board of the PPC takes responsibility for deciding the means and methodology to give feedback to the consulted people, organizations, and agencies.

Article 10. Budget for public consultations

1. The budget for public consultations is ensured by the State and estimated in the annual cost estimation of the People's Council as regulated by the Law on State Budget and other guiding documents.

2. Items, cost norms, allocation of budget, budgeting, management, use and settlement ensuring the implementation of

public consultation activities must all comply with relevant legal provisions.

3. The Office of the MPs Delegation and People's Council is responsible for estimating the budget for public consultations to submit to authorize agency for approval and decision.

Article 11. Implementing article

This Resolution is approved by the X PPC, term Y, session Z on date ... month ... year...and takes effect after 10 days since the day of approval.

Annex 6: Questions to assess the quality of an article of the legal document²

	Level of clarification and transparency					Legal validity and predictability		
	<i>Clarification level of the title</i>	<i>Scope of the adjustment</i>	<i>Definition of actions</i>	<i>Use of language</i>	<i>Level of anticipation</i>	<i>Overlapping level</i>	<i>Compatibility</i>	<i>Settlement by authorized agency</i>
	1	2	3	4	5	6	7	8
Criteria	Is the title/name of the article clear, with sufficient information on the content of the article?	Do readers find it easy to define the subjects and actions within the scope of adjustment of the article?	Are the actions mentioned in the article clear enough to enable readers to understand the implementing method?	Is the article short enough? Is it possible to use short sentences? Is it possible to use simpler language to ensure that readers can understand?	Are the anticipated results that the article seeks clear for those people responsible for their implementation?	Do the provisions of the article overlap with other laws, ordinances, decrees, circulars, or resolutions?	Are contents of the article compatible with provisions of other legal documents (laws, ordinances, decrees, circulars, resolutions and other documents)?	Is the duty of the authorized agency regulated in the article?
Scale	Not clear = 1; Almost no =2; Almost clear= 3, 4; Clear = 5	Not easy = 1; Almost no =2; Almost easy = 3, 4; Easy = 5	Not clear = 1; Almost no=2; Not sure = 3; Almost clear= 4; Clear = 5	Too long and difficult to understand =1; Long and rather difficult to understand = 2; Possible to improve = 3; Understandable = 4; Easy to understand = 5	Not clear=1, Almost no=2, Rather clear=3, Clear =4, Very clear =5	No = 5; Sometimes=3, Yes= 1.	No =1; Almost yes= 3; Yes = 5	No=1; Yes =5

². Source: Center Institute for Economic Management (CIEMS) and Scott Jacobs.

GUIDELINES ON THE INSTITUTIONALIZATION OF PUBLIC CONSULTATIONS BY THE PEOPLE'S COUNCILS

Publication

BUI VIET BAC

Director of Hong Duc Publishing House

Block A2-261, Thuy Khe street, Thuy Khe ward, Tay Ho District, Hanoi

1000 copies size 17x24 cm total pages: 70
Licence for publication: No.
Printed in: Hoang Minh Joint Stock Company
Printed and filed in April 2012