THE GOVERNMENT **--------**	**SOCIALIST REPUBLIC OF VIETNAM** **Independence - Freedom – Happiness** **----------**
No. 145/2020/ND-CP	*Hanoi, December 14, 2020*

DECREE

ELABORATION OF SOME ARTICLES OF THE LABOR CODE ON WORKING CONDITIONS AND LABOR RELATIONS

Pursuant to the Law on Government Organization dated June 19, 2015; the Law dated November 22, 2019 on Amendments to the Law on Government Organization and the Law on Local Government Organization;

Pursuant to the Labor Code dated November 20, 2019;

Pursuant to the Labor on Investment dated June 17, 2020;

Pursuant to the Law on Enterprises dated June 17, 2020;

At the request of the Minister of Labor, War Invalid and Social Affairs;

The Government promulgates a Decree on elaboration of some Articles of the Labor Code on working conditions and labor relations.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Decree elaborates the following Articles of the Labor Code on working conditions and labor relations:

1. Labor management: Clause 3 Article 12.

2. Employment contracts: Clause 4 Article 21; Point d Clause 1 Article 35, Point d Clause 2 Article 36; Clause 4 Article 46; Clause 4 Article 47; Clause 3 Article 51.

3. Outsourcing: Clause 2 Article 54.

4. Dialogue in the workplace and implementation of internal workplace democracy regulations: Clause 4 Article 63.

5. Salaries: Clause 3 Article 92; Clause 3 Article 96; Clause 4 Article 98.

6. Working time, rest periods: Clause 5 Article 107, Clause 7 Article 113, Article 116.

7. Labor regulations and material responsibility: Clause 5 Article 118; Clause 6 Article 122; Clause 2 Article 130; Article 131.

8. Female employees and gender equality: Clause 6 Article 135.

9. Domestic workers: Clause 2 Article 161.

10. Settlement of labor disputes: Clause 2 Article 184; Clause 6 Article 185; Clause 2 Article 209; Clause 2 Article 210.

Article 2. Regulated entities

1. Workers, trainees and apprentices mentioned in Clause 1 Article 2 of the Labor Code.

2. Employers mentioned in Clause 2 Article 2 of the Labor Code.

3. Other organizations and individuals relevant to the implementation of this Decree.

Chapter II

LABOR MANAGEMENT

Article 3. Employee book

Preparation, update, management and use of employee books prescribed by Clause 1 Article 12 of the Labor Code are elaborated as follows:

1. Within 30 days from the inauguration date, the employer shall make employee books at the headquarters, branches and representative offices.

2. The employee book may be a physical or electronic book and must contain basic information about each employee, including: full name, gender, date of birth, nationality, residence, ID/passport number, professional qualifications, vocational qualification level, work position, type of employment contract, starting date; social insurance participation, salary, promotion and pay rise; annual leave; overtime hours; training; violations, material responsibility, occupational accidents, occupational diseases, date of employment contract termination and reasons for termination.

3. The employer shall enter and update the information specified in Clause 2 of this Article from the day on which the employees starts to work; manage, use and present the employee book to labor authorities and relevant authorities when requested as per regulations.

Article 4. Employment report

Declaration of employment status and periodic reports on changes of employees mentioned in Clause 2 Article 12 of the Labor Code are elaborated as follows:

1. The employer shall declare the employment status in accordance with the Government's Decree No. 122/2020/ND-CP dated October 15, 2020.

2. The employer shall submit biannual reports (before June 05) and annual reports (before December 05) on changes of employees to the Provincial Department of Labor, War Invalids and Social Affairs through the National Public Service Portal according to Form No. 01/PLI in Appendix I hereof and send notifications to the social insurance authorities of the districts where the headquarters, branches and representative offices are located. In case the employer cannot submit the report through the National Public Service Portal, physical reports (Form No. 01/PLI in Appendix I hereof) shall be sent to the Provincial Department of Labor, War Invalids and Social Affairs and the social insurance authorities of the districts where the headquarters, branches and representative offices are located.

Provincial Departments of Labor, War Invalids and Social Affairs shall update information in physical reports submitted by the employers and complete Form No. 02/PLI in Appendix I hereof.

3. Provincial Departments of Labor, War Invalids and Social Affairs shall submit biannual reports before June 15 and December 15 to the Ministry of Labor, War Invalid and Social Affairs on employment status in their provinces through National Public Service Portal according to Form No. 02/PLI in Appendix I hereof

Provincial Departments of Labor, War Invalids and Social Affairs that cannot submit their reports through the National Public Service Portal may submit physical reports to the Ministry of Labor, War Invalid and Social Affairs.

Chapter III

EMPLOYMENT CONTRACTS

Section 1. CONTENTS OF EMPLOYMENT CONTRACST WITH EMPLOYEES HIRED AS DIRECTORS OF STATE-INVESTED ENTERPRISES

Article 5. Contents of employment contracts with employees hired as Directors of enterprises 100% charter capital of which is held by the State or enterprises over 50% charter capital or voting shares of which is held by the State

The employment contract with an employees hired as Director of an enterprise 100% charter capital of which is held by the State or an enterprise over 50% charter capital or voting shares of which is held by the State according to Clause 4 Article 21 of the Labor Code shall have the following primary contents:

1. Name, headquarters address of the enterprise according to its Certificate of Enterprise Registration; full name, date of birth, ID/passport number, phone number, mailing address of the President of the Board of Members or Company President or President of the Board of Directors.

2. Full name, date of birth; gender; nationality; professional qualifications; address of residence in Vietnam, address of overseas residence (if the employee is a foreigner); ID/passport number; phone number and mailing address; number of the work permit issued by a competent authority or a document confirming the work permit exemption; other documents requested by the employer (if the employee is a foreigner).

3. Works that may and may not be done by the employee; performance requirements and duties of the employee.

4. Location of work.

5. The contract duration shall be negotiated by both parties and shall not exceed 36 months. In case the employee is a foreigner, the contract duration shall not exceed the duration of the work permitted issued by a competent authority.

6. Details and duration of the employee's responsibility for protection of the enterprise's business and technological secrets and actions against violations.

7. Rights and obligations of the employer, including:

a) Provision of information for the employee to serve the performance of his/her duties;

b) Inspection, supervision and evaluation of the employee's performance;

c) The rights and obligations prescribed by law;

d) Issuance of the work regulations applied to the Director;

dd) Fulfillment of obligations to the employee: payment of salary and bonuses; payment of social insurance, health insurance and unemployment insurance; provision of means of work, travel and accommodation; provision of training;

e) Other rights and obligations agreed upon by both parties.

8. Rights and obligations of the employee, including:

a) Performance of works specified in the employment contract;

b) Reporting and proposing solutions for the issue that arise during performance of the works specified in the employment contract;

c) Reporting the management and use of capital, assets, employees and other resources;

dd) Entitlement to: salary and bonus; specific working time and rest periods; means of work, travel and accommodation; social insurance, health insurance and unemployment insurance; training; other benefits agreed upon by both parties;

dd) Other rights and obligations agreed upon by both parties.

9. Conditions and procedures for revising and unilateral termination of the employment contract.

10. Rights and obligations of the employer and the employee upon termination of the employment contract.

11. Labor discipline, material responsibility, settlement of labor disputes and complaints.

12. Other contents agreed upon by both parties.

Article 6. Contents of the employment contract with an employee hired as Director of an enterprise not more than 50% charter capital or voting shares of which is held by the State

The contents of the employment contract with an employee hired as Director of an enterprise not more than 50% charter capital or voting shares of which is held by the State shall comply with Clause 1 Article 21 of the Labor Code.

Section 2. TERMINATION OF EMPLOYMENT CONTRACTS

Article 7. Prior notice period upon unilateral termination of employment contracts in special works and lines of business

Special works and lines of business and prior notice period upon unilateral termination of employment contracts prescribed in Point d Clause 1 Article 35 and Point d Clause 2 Article 36 of the Labor Code are elaborated as follows:

1. Special works and lines of business include:

a) Aircrew members; aircraft maintenance technicians, aviation repairmen; flight coordinators;

b) Enterprise managers defined by the Law on Enterprises; the Law on Management and use of State Investment in Enterprises;

c) Crewmembers working on Vietnamese vessels operating overseas; crewmembers dispatched to foreign vessels by Vietnamese dispatching agencies;

d) Other cases prescribed by law.

2. When an employee mentioned in Clause 1 of this Article or his/her employer unilaterally terminates the employment contract, a prior notice shall be provided:

a) At least 120 days before the termination date if the employment contract has an indefinite term or a term of at least 12 months;

b) At least one fourth (1/4) of the employment contract duration if the duration is less than 12 months.

Article 8. Severance allowance, redundancy allowance

1. The employer shall pay severance allowance in accordance with Article 46 of the Labor Code to the employee who has work on a regular basis for at least 12 months when his/her employment contract is terminated in accordance with Clauses 1, 2, 3, 4, 6, 7, 9 and 10 Article 34 of the Labor Code, except in the following cases:

a) The employee is eligible for retirement pension as prescribed in Article 169 of the Labor Code and social insurance laws.

b) The employee leaves his/her job for at least 05 consecutive days without justified reasons according to Point e Clause 1 Article 36 of the Labor Code. Justified reasons are prescribed in Clause 4 Article 125 of the Labor Code.

2. The employer shall pay redundancy allowance in accordance with Article 47 of the Labor Code to the employee who has work on a regular basis for at least 12 months when he/she loses his/her job in the cases specified in Clause 11 Article 34 of the Labor Code.

If the employees has work for the employer on a regular basis for at least 12 months but the employment period as the basis for calculation of redundancy allowance mentioned in Clause 3 of this Article is shorter than 24 months, the employer shall pay a redundancy allowance of at least 02 months' salary.

3. The employment period as the basis for calculation of severance allowance or redundancy allowance is the total period over which the employee has worked for the employer in reality (hereinafter referred to as "actual work period") minus (-) the period over which the employee participates in unemployment insurance and the period over which the employer pays severance allowance or redundancy allowance. Where:

a) The actual work period includes: actual work period; probation period; employer-provided training period; sick leave and maternal leave according to social insurance laws; paid recovery period after an occupational accident or disease according to occupational hygiene and safety laws; paid leave period for fulfillment of citizen's duties; work suspension period through no fault of the employee; weekly breaks prescribed in Article 111, paid leave prescribed in Article 112, Article 113, Article 114, Clause 1 Article 115; period over which the employee has to perform duties of the employee representative organization prescribed in Clause 2 and Clause 3 Article 176; and work suspension period prescribed in Article 128 of the Labor Code.

b) The period over which the employee participates in unemployment insurance includes: the period over which the employee participates in unemployment insurance and the period over

which participation in unemployment insurance is not mandatory but the employer has paid in addition to salary an extra amount equal to the unemployment insurance premium according to labor and unemployment insurance laws.

c) The work period as the basis for calculation of severance allowance or redundancy allowance shall be expressed as years (full 12 months); If the number of months of an incomplete year is 06 months or less, it will be considered ½ year; if the number of months of an incomplete year is more than 06 months, it will be considered 01 year.

4. Determination of the actual work period mentioned in Point a Clause 3 of this Article in some special cases:

a) When a wholly state-owned enterprise or an equitized state-owned enterprise (employer) terminates the employment contract with an employee who had worked in the public sector before January 01, 1995 and started to work for such employer and has not received the lump-sum severance allowance or redundancy allowance, the actual work period shall include the period over which the employee worked in the public sector and the period over which the employee has worked for the employer

The time over which the employee worked in the public sector before January 01, 1995 includes the periods over which he/she worked in state agencies, public service providers, political organizations, socio-political organizations, armed force units while getting paid by state budget, and state-owned enterprises.

b) In case an employee works for an employer under consecutive employment contracts as prescribed in Clause 2 Article 20 of the Labor Code but has not received severance allowance or redundancy allowance when each of the employment contracts is terminated, the actual work period shall be the total work period under the employment contracts minus (-) the work period under any employment contract that is invalidated due to violations of law, involvement of works banned by law or disciplinary dismissal of the employee; employment contract illegally terminated by the employee (if any).

c) In case the employee keeps working for at enterprise or cooperative under the labor utilization plan prescribed in Clause 1 Article 44 of the Labor Code after division, consolidation or acquisition; sale, lease, conversion; transfer of rights to ownership or enjoyment of assets, the employer shall determine the actual work period as the basis for payment of severance allowance and redundancy allowance as follows:

c1) In case the employment contract is terminated as prescribed in Clauses 1, 2, 3, 4, 6, 7, 9 and 10 Article 34 of the Labor Code, the actual work period as the basis for calculation of severance allowance shall be the total work period under the employment contracts with the employer before and after the division, consolidation or acquisition; sale, lease, conversion; transfer of rights to ownership or enjoyment of assets.

C2) In case the employment contract is terminated as prescribed in Clause 11 Article 34 of the Labor Code, the actual work period as the basis for calculation of redundancy allowance shall be

the total work period under the employment contracts with the employer after the division, consolidation or acquisition; sale, lease, conversion; transfer of rights to ownership or enjoyment of assets; the actual work period as the basis for calculation of severance allowance shall be the total work period under the employment contracts with the employer before the division, consolidation or acquisition; sale, lease, conversion; transfer of rights to ownership or enjoyment of assets.

c3) The employer shall pay severance allowance for the period from the day on which the employee was employed to work in the public sector for the last time to January 01, 1995 before the division, consolidation or acquisition; sale, lease, conversion; transfer of rights to ownership or enjoyment of assets mentioned in Point a of this Clause.

5. Salary as the basis for calculation of severance allowance and redundancy allowance:

a) The salary as the basis for calculation of severance allowance and redundancy allowance is the average salary of the last 06 months before the employee resigns or loses the job.

b) In case the employee works for the employer under consecutive employment contracts as prescribed in Clause 2 Article 20 of the Labor Code, the salary as the basis for calculation of severance allowance and redundancy allowance is the average salary of the last 06 months before the last employment contract is terminated. In case the last employment contract is invalidated due to lower salary than the region-based minimum wage announced by the Government or lower than the salary specified in the collective bargaining agreement, the salary as the basis for calculation of severance allowance and redundancy allowance shall be negotiated by both parties but must not be lower than the region-based minimum wage or the salary specified in the collective bargaining agreement.

6. Expenditures on payment of severance allowance and redundancy allowance shall be recorded as production and business costs or operating costs of the employer.

Section 3. SETTLEMENT UPON INVALIDATION OF EMPLOYMENT CONTRACTS

Article 9. Settlement of partially invalidated employment contracts

A partially invalidated employment contract prescribed in Clause 1 Article 51 of the Labor Code shall be settled as follows:

1. When part of the employment contract is invalidated, the employer and the employee shall revise the invalidated content to ensure its conformity with the collective bargaining agreement and the law.

2. Rights, obligations and interests of both parties during the period from first day on which the employee works under the partially invalidated employment contract to the day on which the contract is revised shall be settled in accordance with the effective collective bargaining agreement or, if such a collective bargaining agreement is not available, in accordance with law.

In case the salary under the invalidated employment contract is lower than the minimum salary prescribed by labor laws or the effective collective bargaining agreement, both parties shall negotiate the salary to ensure conformity with regulations. The employer shall pay the difference between the initial salary and the re-negotiated salary for the actual work period under the invalidated employment contract.

3. In case both parties cannot reach a consensus on revision of the invalidated content:

a) The employment contract will be terminated;

b) Rights, obligations and interests of both parties during the period from first day on which the employee works under the partially invalidated employment contract to the day on which the contract is terminated shall be settled in accordance with Clause 2 of this Article;

c) Severance allowance shall be provided in accordance with Article 8 of this Decree.

d) The work period under the invalidated employment contract shall be included in the actual work period as the basis for provision of benefits as prescribed by law.

4. Other issues relevant to partially invalidated employment contracts shall be settled by court in accordance with the Civil Procedure Code.

Article 10. Settlement of fully invalidated employment contracts that are concluded ultra vires or against regulations on employment contract conclusion

1. When an employment contract is fully invalidated, the employer and the employee shall re-conclude the employment contract in accordance with regulations of law.

2. Rights, obligations and interests of both parties during the period from first day on which the employee works under the fully invalidated employment contract to the day on which the contract is re-concluded shall be settled as follows:

a) If the rights and interests of the parties to the invalidated employment contract are not less beneficial than those prescribed by law or effective collective bargaining agreement, the former shall apply.

b) If the content about rights, obligations and interests of each party of the employment contract is not conformable with law does not affect other parts of the contracts, regulations of Clause 2 Article 9 of this Decree shall apply;

c) The work period under the invalidated employment contract shall be included in the actual work period as the basis for provision of benefits as prescribed by law.

3. In case the fully invalidated employment contract is not re-concluded:

a) The employment contract will be terminated;

b) Rights, obligations and interests of the employee during the period from first day on which the employee works under the invalidated employment contract to the day on which the contract is terminated shall be settled in accordance with Clause 2 of this Article;

c) Severance allowance shall be provided in accordance with Article 8 of this Decree.

4. Other issues relevant to employment contracts that are fully invalidated because they are concluded ultra vires or against regulations on employment contract conclusion shall be settled by court in accordance with the Civil Procedure Code.

Article 11. Settlement of employment contracts that are fully invalidated because of unlawful contents or involvement of works banned by law

1. When an employment contract is fully invalidated, the employer and the employee shall conclude a new employment contract in accordance with law.

2. Rights, obligations and interests of the employee during the period from first day on which the employee works under the invalidated employment contract to the day on which the new contract is concluded shall be settled in accordance with Clause 2 Article 10 of this Decree.

3. In case a new employment contract is not concluded:

a) The employment contract will be terminated;

b) Rights, obligations and interests of the employee during the period from first day on which the employee works under the invalidated employment contract to the day on which the contract is terminated shall be settled in accordance with Clause 2 of this Article;

c) The employer shall pay the employee an amount of money that is equal to at least a monthly region-based minimum wage for each year of work. The period of work under the invalidated employment contract as the basis for calculation of this amount shall be determined in accordance with Point a Clause 3 Article 8 of this Decree;

d) Provide severance allowance for employment contracts concluded before the invalidated employment contract in accordance with Article 8 of this Decree, if any.

4. Other issues relevant to settlement of employment contracts that are fully invalidated because of unlawful contents or involvement of works banned by law shall be handled by the court in accordance with the Civil Procedure Code.

Chapter IV

LABOR DISPATCH

Section 1. GENERAL PROVISIONS

Article 12. Dispatching agencies

A dispatching agency means an enterprise that is established in accordance with the Law on Enterprises and is licensed to provide labor dispatch services; hires and enters into employment contracts with employees then dispatch them to work for other employers while still maintaining their labor relation with the enterprise with which their employment contracts are concluded (the dispatching agency)

Article 13. Client enterprises

Client enterprises are enterprises, organizations, cooperatives, households and individuals that have full legal capacity and hire dispatched employees to do the jobs on the list of the dispatching agencies for a specific period of time.

Article 14. Dispatched employees

Dispatched employees are workers who have full legal capacity and are hired by dispatching agencies under employment contracts and dispatched to work for the client enterprises.

Section 2. DISPATCHING AGENCIES' DEPOSITS

Article 15. Payment and use of deposits

1. Enterprises shall pay the deposits specified in Clause 2 Article 21 of this Decree at Vietnamese commercial banks or foreign bank branches (FBB) that are established and operating in accordance with Vietnam's law (hereinafter referred to as "receiving banks").

2. The deposits shall be used for payment of salaries, social insurance, health insurance, unemployment insurance, occupational accident and disease insurance premiums and provision of other benefits for dispatched employees in accordance with the employment contracts, collective bargaining agreements, rules and regulations of the dispatching agencies; payment of compensation to the dispatched employees in case the dispatching agency violates the employment contracts or causes damage to the dispatched employees due to failure to protect lawful rights and interests of the dispatched employees.

Article 16. Payment of deposits

1. The dispatching agency shall pay deposits will receive an interest on these deposits in accordance with regulations of the receiving bank and law.

2. The receiving bank shall issue a certificate of deposit payment (Form No. 01/PLIII in Appendix III hereof) after the dispatching agency completes the depositing procedures. In case any of the information on the certificate is changed (name, headquarters address, deposit account number), the dispatching agency shall send a written request and supporting documents to the bank.

Article 17. Management of deposits

1. The receiving bank shall freeze the deposit paid by the dispatching agency and manage the deposits in accordance with depositing laws.

2. The receiving bank shall decide whether to allow the dispatching agency withdraw or extract the deposit and request the dispatching agency to pay additional deposit in accordance with Article 18, Article 19 and Article 20 of this Decree.

3. The receiving bank must not allow the dispatching agency to withdraw the deposit without a written permission of the President of the People's Committee of the province.

Article 18. Withdrawal of deposits

1. The President of the People's Committee of the province where the dispatching agency is headquartered will permit the dispatching agency in the following cases:

a) The dispatching agency is facing difficulties and is not financially capable of paying salaries, social insurance, health insurance, unemployment insurance, occupational accident and disease insurance premiums and provide other benefits for the dispatched employees under their employment contracts, collective bargaining agreement, rules and regulations of the dispatching agency after 30 days from the payment deadline as prescribed by law;

b) The dispatching agency is facing difficulties and is not financially capable of paying compensation for breaching the employment contracts with the dispatched employees or for the damage to the dispatched employees due to the dispatching agency's failure to ensure lawful rights and interests of the dispatched employees after 60 days from the deadline for paying compensation as prescribed by law;

c) The dispatching agency is not licensed;

d) The dispatching agency has its licensed revoked or cannot have its license renewed or reissued;

dd) The dispatching agency has paid deposit at another Vietnamese commercial bank or FBB.

2. An application for permission of the President of the People's Committee of the province for deposit withdrawal consists of:

a) A written request for permission for deposit withdrawal;

b) The plan for use of the withdrawn deposit: reasons for withdrawal, list of employees, amount, time and method of payment in the cases specified in Point a and Point b Clause 1 of this Article;

c) A report and documents proving fulfillment of obligations to dispatched employees in the cases specified in Point d Clause 1 of this Article;

d) The certificate of deposit payment in the cases specified in Point dd Clause 1 of this Article.

3. An application for withdrawal of deposit submitted to the receiving bank consists of:

a) A written request for deposit withdrawal as prescribed in Point a Clause 2 of this Article;

b) The written permission of the President of the People's Committee of the province (Form No. 02/PLIII in Appendix III hereof);

c) Deposit withdrawal documents required by the receiving bank (if any).

4. Deposit withdrawal procedures:

a) The dispatching agency shall submit 01 application prescribed in Clause 2 of this Article to the Department of Labor, War Invalids and Social Affairs of the province where it is headquartered;

b) The Department of Labor, War Invalids and Social Affairs shall receive the application, issue a receipt note specifying the date of receipt; verify the application within 05 working days from the day on which adequate documents are received and submit it to the President of the People's Committee of the province for decision;

c) Within 05 working days from the receipt of the application from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall decide whether to issue the permission for deposit withdrawal and send it to the dispatching agency and the receiving bank. If the application is rejected, the President of the People's Committee of the province shall send a written response to the dispatching agency specifying the reasons for rejecting;

d) After the written permission is issued by the President of the People's Committee of the province, the dispatching agency shall submit the application specified in Clause 3 of this Article to the receiving bank;

dd) If the application is satisfactory, the receiving bank shall allow the dispatching agency to withdraw the deposit within 01 working day from the day on which the application is received.

In the cases of deposit withdrawal specified in Point a and Point b Clause 1 of this Article, the amounts and compensations to the dispatched employees shall be directly paid by the receiving bank under the plan approved by the President of the People's Committee of the province after deducting banking fees.

Article 19. Extraction of deposits in case a dispatching agency fails to fulfill its obligations to the dispatched employees

1. In case the dispatching agency fails to pay and provide benefits for the dispatched employees according to Clause 2 Article 15 of this Decree upon the expiration of the 60-day time limit, the

Department of Labor, War Invalids and Social Affairs shall send a written request for payment and provision of benefits for the dispatched employees after consulting with the social insurance authority and relevant organizations. If the dispatching agency does not make payment or submits an application for withdrawal of the deposit for making payment within 10 days from the day on which the request is sent by the Department of Labor, War Invalids and Social Affairs, the Department of Labor, War Invalids and Social Affairs shall request the President of the People's Committee of the province to grant permission for extracting the dispatching agency's deposit to pay and provide benefits for the dispatched employees following the procedures below:

a) The Department of Labor, War Invalids and Social Affairs shall request the dispatching agency to submit a report including the list of dispatched employees, unpaid amounts, compensations and benefits of each employee. The dispatching agency shall submit the report within 05 working days from the receipt of the request. Within 03 working days from the receipt of the request from the dispatching agency, the Department of Labor, War Invalids and Social Affairs shall request the President of the People's Committee of the province to consider permitting the extraction of the dispatching agency's deposit;

b) Within 05 working days from the receipt of the request from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall consider issue a decision on extracting the dispatching agency's deposit (Form No. 03/PLIII in Appendix III hereof);

c) Within 07 working days from the receipt of the decision from the President of the People's Committee of the province, the receiving bank shall extract the dispatching agency's deposit and make payments to the dispatched employees on the list enclosed with the decision after deducting banking fees. Payments shall be made in the following order of priority: salaries, social insurance, health insurance, unemployment insurance; occupational accident and disease insurance; other benefits for the dispatched employees under the employment contracts, collective bargaining agreement, rules and regulations of the dispatching agency.

2. The Department of Labor, War Invalids and Social Affairs shall supervise the process of making payment and compensation to the dispatched employees in accordance with Clause 1 of this Article and submit a report to the People's Committee of the province.

Article 20. Payment of additional deposits

1. Within 30 days from the day on which the deposit is withdrawn for making the payments prescribed in Point a and Point b Clause 1 Article 18 and Article 19 of this Decree, the enterprise shall pay additional deposits to conform to Clause 2 Article 21 of this Decree.

2. If the dispatching agency fails to pay the additional deposit within 30 days from the expiration of the time limit prescribed in Clause 1 of this Article, the receiving bank shall send a written notice to the Department of Labor, War Invalids and Social Affairs and the President of the People's Committee of the province where the dispatching agency is headquartered. Within 15 days from the receipt of such notice, the Department of Labor, War Invalids and Social Affairs

shall propose revocation of the dispatching agency's license to the President of the People's Committee of the province in accordance with Clause 4 Article 28 of this Decree.

Section 3. CONDITIONS, AUTHORITY, PROCEDURES FOR ISSUANCE, RENEWAL, REISSUANCE, REVOCATION OF LABOR DISPATCH LICENSES AND LIST OF WORKS PERMITTED FOR LABOR DISPATCH

Article 21. Licensing conditions

1. The legal representative of the dispatching agency shall:

a) be an enterprise executive as prescribed by the Law on Enterprises;

b) not have any criminal conviction;

c) have at least 03 years (36 months) of working in labor dispatch or labor supply in the last 05 years before the application for licensing is submitted.

2. The enterprise has paid a deposit of 2.000.000.000 VND (2 billion Vietnam dongs).

Article 22. Authority for issuing, renewing, reissuing and revoking the labor dispatch license

The President of the People's Committee of the province where the dispatching agency is headquartered has the authority to issue, renew, reissue and revoke its license.

Article 23. Labor dispatch license

1. The labor dispatch license shall be printed on an A4 paper (21 cm x 29,7 cm). The front side of the license has blue pattern on a white background with the national symbol watermark and black border. The back side also has the national emblem and the text GIẤY PHÉP HOẠT DỘNG CHO THUÊ LẠI LAO DỘNG" ("LABOR DISPATCH LICENSE") on a blue background.

2. The content of the labor dispatch license shall comply with Form No 04/PLIII in Appendix III hereof.

3. License duration:

a) A license shall be valid for up to 60 months;

b) A license may be renewed multiple times, each renewal must not exceed 60 months;

c) The expiration date of a reissued license is the same as that on the previously issued license.

Article 24. Application for licensing

1. The application form No. 05/PLIII in Appendix III hereof.

2. The résumé of the dispatching agency's legal representative according to Form No. 07/PLIII in Appendix III hereof.

3. The judicial record form No. 1 of the legal representative. If the legal representative is a foreigner, use the judicial record of his/her home country.

The documents prescribed in this Clause must be issued within 06 months before the application is submitted. Documents in foreign languages must be translated into Vietnam, authenticated and consularly legalized as prescribed by law.

4. Documents proving the legal representative's period of working in labor dispatch or labor supply prescribed in Point c Clause 1 Article 21 of this Decree. To be specific:

a) An authenticated copy of the employment contract or decision on employment and designation of the enterprise's legal representative;

b) An authenticated copy of the decision on designation or election of the legal representative as the case may be or copy of the Certificate of Enterprise Registration.

The documents prescribed in Point a and Point b of this Clause must be translated into Vietnam, authenticated and consularly legalized as prescribed by law if they are written in foreign languages.

5. The certificate of deposit payment (Form No. 01/PLIII in Appendix III hereof).

Article 25. Licensing procedures

1. a) The applicant shall submit 01 application prescribed in Article 24 of this Decree to Department of Labor, War Invalids and Social Affairs of the province where it is headquartered.

2. After making sure the application contains adequate documents as prescribed in Article 24 of this Decree, the Department of Labor, War Invalids and Social Affairs shall issue a receipt note specifying the date of receipt.

3. Within 20 working days from the receipt of the satisfactory application, the Department of Labor, War Invalids and Social Affairs shall examine the application and propose issuance of the license to the President of the People's Committee of the province.

In case the application is not satisfactory, within 10 working days from the receipt of the application, the Department of Labor, War Invalids and Social Affairs shall send a written request for supplementation of the application to the applicant.

4. Within 07 working days from the receipt of the proposal from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall

consider issuing the license; in case the application is rejected, provide a written response and explanation.

5. The application will be rejected in the following cases:

a) The conditions specified in Article 21 of this Decree are not fully satisfied;

b) A fake license is used for labor dispatch operation;

c) The legal representative used to be the legal representative of an enterprise whose license was revoked because of the reasons specified in Points d, dd, e Clause 1 Article 28 of this Decree over the last 05 years before the application is submitted;

d) The legal representative used to be the legal representative of an enterprise that used a fake license.

Article 26. License renewal

1. A dispatching agency may have its license renewed if:

a) The conditions specified in Article 21 of this Decree are fully satisfied;

b) The license does not have to be revoked in any of the cases specified in Article 28 of this Decree;

c) Reports are submitted in accordance with regulations of this Decree;

d) The application for license renewal is sent to the Department of Labor, War Invalids and Social Affairs at least 60 days before its expiration date.

2. An application for license renewal consists of:

a) The application form No. 05/PLIII in Appendix III hereof;

b) The documents prescribed in Clause 5 Article 24 of this Decree;

c) The documents prescribed in Clauses 2, 3 and 4 Article 24 of this Decree in case the legal representative is also changed.

3. License renewal procedures

a) The dispatching agency (license holder) shall submit the application prescribed in Clause 2 of this Article to the Department of Labor, War Invalids and Social Affairs of the province where it is headquartered. After making sure that the application contains adequate documents, the Department of Labor, War Invalids and Social Affairs shall issue a note of receipt specifying the date of receipt;

b) Within 15 working days from the receipt of the satisfactory application, the Department of Labor, War Invalids and Social Affairs shall propose renewal of the license to the President of the People's Committee of the same province. In case the application is not satisfactory, within 7 working days from the day on which the application is received, the Department of Labor, War Invalids and Social Affairs shall send a written request for supplementation of the application to the license holder.

c) Within 07 working days from the receipt of the proposal from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall consider renewing the license; in case the application is rejected, provide a written response and explanation.

4. In case the dispatching agency fails to fully satisfy the conditions specified in Clause 1 of this Article or in any of the cases specified in Clause 5 Article 25 of this Decree, the President of the People's Committee of the province shall send a written response to the dispatching agency and provide explanation for rejection.

Article 27. License reissuance

1. A dispatching agency shall apply for reissuance of the license by the President of the People's Committee of the province in the following cases:

a) Any of the following information on the license is changed: the dispatching agency's name, headquarters address (but still in the same province), the legal representative;

b) The license is lost;

c) The license is so damaged the information thereon is no longer sufficient;

d) The headquarters are moved to another province.

2. An application for reissuance of the license consists of:

a) The application form No. 05/PLIII in Appendix III hereof;

b) Copy of the Certificate of Enterprise Registration in case the enterprise's name is changed or the headquarters are relocated within the same province or the license is damaged;

c) The documents prescribed in Clauses 2, 3 and 4 Article 24 of this Decree in case the legal representative is changed.

d) The documents prescribed in Clauses 2, 3, 4 and 5 Article 24 of this Decree in case the license is lost;

dd) The previously issued license in the cases specified in Point a, Point c Clause 1 of this Article.

3. Procedures for reissuance of the license in the cases specified in Points a, b and c Clause 1 of this Article:

a) The dispatching agency (license holder) shall submit the application prescribed in Clause 2 of this Article to the Department of Labor, War Invalids and Social Affairs of the province where it is headquartered. After making sure that the application contains adequate documents, the Department of Labor, War Invalids and Social Affairs shall issue a receipt note specifying the date of receipt;

b) Within 15 working days from the receipt of the satisfactory application, the Department of Labor, War Invalids and Social Affairs shall propose reissuance of the license to the President of the People's Committee of the same province. In case the application is not satisfactory, within 07 working days from the day on which the application is received, the Department of Labor, War Invalids and Social Affairs shall send a written request for supplementation of the application to the license holder.

c) Within 07 working days from the receipt of the proposal from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall consider reissuing the license; in case the application is rejected, provide a written response and explanation.

4. Procedures for reissuance of the license in the cases specified in Point d Clause 1 of this Article:

a) The application shall consist of: the application form No. 05/PLIII in Appendix III hereof; copy of the Certificate of Enterprise Registration issued by the business registration authority of the province to which the headquarters are relocated (hereinafter referred to as "new location"); the license issued by the President of the People's Committee of the province from which the headquarters are relocated (hereinafter referred to as "old location");

b) The license holder shall submit the application prescribed in Point a of this Clause to the Department of Labor, War Invalids and Social Affairs of the new location. After making sure that the application contains adequate documents, the Department of Labor, War Invalids and Social Affairs shall issue a receipt note specifying the date of receipt;

c) Within 10 working days, the Department of Labor, War Invalids and Social Affairs of the new location shall send a written requests to the Department of Labor, War Invalids and Social Affairs of the province where the license was originally issued (old location) for provision of copies of the application for issuance of the license and confirmation that the license is not revoked;

d) Within 07 working days from the receipt of the documents send by the Department of Labor, War Invalids and Social Affairs of the new location, the Department of Labor, War Invalids and Social Affairs of the old location shall provide information about the operation of the license holder in the latter's province and copies of the application for issuance of the license as requested.

In case the license has to be revoked as prescribed in Clause 1 Article 28 of this Decree, the Department of Labor, War Invalids and Social Affairs of the old location shall request the President of the People's Committee of the province to revoke the license and send a notice to the Department of Labor, War Invalids and Social Affairs of the new location;

dd) Within 06 working days from the day on which the notice is received, the Department of Labor, War Invalids and Social Affairs of new location shall propose the reissuance of the license to the President of the People's Committee of the same province.

In case the license is revoked by the President of the People's Committee of the old location as prescribed in Point a Clause 1 Article 28 of this Decree, the Department of Labor, War Invalids and Social Affairs of the new location shall request the license holder to complete the application and propose issuance of the license to the President of the People's Committee of the same province.

In case the license is revoked by the President of the People's Committee of the old location as prescribed in Points c, d, dd and e Clause 1 Article 28 of this Decree, the Department of Labor, War Invalids and Social Affairs propose rejection of the application to the President of the People's Committee of the same province;

e) Within 04 working days from the receipt of the proposal from the Department of Labor, War Invalids and Social Affairs of the new location, the President of the People's Committee of the province shall decide whether to issue the license; in case the application is rejected, provide a written response and explanation.

Article 28. Revocation of the license

1. A dispatching agency will have its license revoked in the following cases:

a) It wishes to terminate the labor dispatch operation;

b) It is dissolved or declared bankrupt by the court;

c) Any of the conditions specified in Article 21 of this Decree is not satisfied;

d) It allows another organization or individual to use its license;

dd) It dispatches employees to do the works that are not on the list of works permitted for labor dispatch in Appendix II hereof;

e) It forges documents in the application for issuance, renewal or reissuance of the license; falsifies the license; uses a fake license.

2. An application for license revocation in the cases specified in Point a and Point b Clause 1 of this Article consists of:

a) The application form No. 06/PLIII in Appendix III hereof;

b) The issued license or a document assuming legal responsibility in case the license is lost;

c) The report on labor dispatch operation (Form No. 09/PLIII in Appendix III hereof);

d) Copies of the labor dispatch contracts that are still effective when the license is revoked.

3. Procedures for license revocation in the cases specified in Point a and Point b Clause 1 of this Article:

a) The license holder shall submit the application prescribed in Clause 2 of this Article to the Department of Labor, War Invalids and Social Affairs of the province where it is headquartered;

b) The Department of Labor, War Invalids and Social Affairs shall receive the application, issue a receipt note specifying the date of receipt. Within 10 working days from the receipt of the satisfactory application, the Department of Labor, War Invalids and Social Affairs shall review the effective labor dispatch contracts and request the license holder to provide benefits for the employees in accordance with Article 29 of this Decree, and propose revocation of the license to the President of the People's Committee of the same province;

c) Within 07 working days from the receipt of the proposal from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall issue a decision on revocation of the license (Form No. 08/PLIII in Appendix III hereof).

4. Procedures for license revocation in the cases specified in Points c, d, dd and e Clause 1 of this Article:

a) Upon discovery of the events mentioned in Point c, d, dd or e Clause 1 of this Article, the Department of Labor, War Invalids and Social Affairs of the province where the license holder is headquartered shall carry out inspection, collect evidence and propose revocation of the license to the President of the People's Committee of the same province;

b) Within 07 working days from the receipt of proposal from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee shall issue a decision on revocation of the license;

c) Within 03 working days from the receipt of the revocation decision, the license holder shall submit the license to the People's Committee of the province.

5. The license shall not be reissued for 05 years from the day on which it is revoked due to violations against regulations of Points c, d, dd and e Clause 1 of this Article.

Article 29. Responsibilities of the dispatching agency when its license is revoked or its application for renewal or reissuance of the license is rejected

Within 15 working days from the receipt of the document of the President of the People's Committee of the province about rejection of the application for renewal or reissuance of the license or revocation of the license, the dispatching agency shall finalize all ongoing labor dispatch contracts, settle the lawful rights and interests of the dispatched employees and the client enterprises in accordance with labor laws; announce its shutdown on at least one licensed online newspapers for 07 days.

Article 30. List of works permitted for labor dispatch

The list of works permitted for labor dispatch is provided in Appendix II hereof.

Section 4. LABOR DISPATCH-RELATED RESPONSIBILITIES

Article 31. Responsibilities of dispatching agencies

1. Publicly post the original license at the headquarters and authenticated copies of the license at its branches and representative offices (if any). In case of relocation to another province, send an authenticated copy of the license to the Department of Labor, War Invalids and Social Affairs of the new location for monitoring.

2. Submit labor dispatch reports (Form No. 09/PLIII in Appendix III hereof) every 06 months (by June 20 and December 20) to the President of the People's Committee and Department of Labor, War Invalids and Social Affairs of the province where the dispatching agency is headquartered (and Department of Labor, War Invalids and Social Affairs of the new location in case of relocation to another province).

3. Promptly report the labor dispatch-related incidents to local authorities or at the request of labor authorities.

4. Fulfill all responsibilities of a dispatching agency prescribed in Article 56 of the Labor Code and this Chapter.

Article 32. Responsibilities of receiving banks

1. Comply with regulations on opening deposit accounts, deposit payment, use of deposits paid by dispatching agencies and other regulations relevant to these accounts.

2. Submit quarterly reports on deposit payment by dispatching agencies (Form No. 11/PLIII in Appendix III hereof) to provincial branches of State Bank of Vietnam, Presidents of the People's Committee and Departments of Labor, War Invalids and Social Affairs of the provinces where they are headquartered by the 15th of the first month of the succeeding quarter.

3. Fulfill all responsibilities of a receiving bank prescribed in this Chapter.

Article 33. Responsibilities of Provincial Departments of Labor, War Invalids and Social Affairs

1. Disseminate regulations of law on employment and labor dispatch among employers, employees and relevant organizations in their provinces.

2. Provide guidance; carry out inspection and supervision of implementation of labor dispatch laws in their provinces.

3. Submit biannual reports by July 20 and January 20 on deposit payment and issuance of labor dispatch licenses in their provinces (Form No. 10/PLIII in Appendix III hereof) to the President of the People's Committee of the same province and the Ministry of Labor, War Invalid and Social Affairs.

4. Fulfill all responsibilities of Provincial Departments of Labor, War Invalids and Social Affairs prescribed in this Chapter.

Article 34. Responsibilities of Presidents of the People's Committees of provinces

1. Send a notice to the Ministry of Labor, War Invalid and Social Affairs and within 05 working days from the day on which a labor dispatch license is issued, renewed, reissued or revoked. In case a dispatching agency is relocated another province, the same notice shall be sent to the President of the People's Committee of the province where its license was originally issued.

2. Publish information about issuance, reissuance, renewal and revocation labor dispatch licenses on the websites of the People's Committees of provinces.

3. Fulfill all responsibilities of Presidents of the People's Committees of provinces prescribed in this Chapter.

Article 35. Responsibilities of the Ministry of Labor, War Invalid and Social Affairs

1. Disseminate, provide guidance on and inspect the implementation of labor dispatch laws.

2. Publish information about issuance, reissuance, renewal and revocation labor dispatch licenses on the website of the Ministry of Labor, War Invalid and Social Affairs.

3. Fulfill all responsibilities of the Ministry of Labor, War Invalid and Social Affairs prescribed in this Chapter.

Article 36. Responsibilities of State Bank of Vietnam

Carry out inspection; supervise banks receiving and managing deposits of dispatching agencies as prescribed by law.

Chapter V

DIALOGUE IN THE WORKPLACE

Section 1. Holding dialogue in the workplace

Article 37. Responsibility to hold dialogue in the workplace

1. The employer shall cooperate with the internal employee representative organization (if any) in organizing dialogue in the workplace in accordance with Clause 2 Article 63 of the Labor Code.

In case of employees that are not members of the internal employee representative organization, the employer shall cooperate with the internal employee representative organization (if any) in instructing and enabling these employees to choose their representatives (hereinafter referred to as "representative group") who will participate in the dialogue in accordance with Clause 2 Article 63 of the Labor Code. The quantity of representatives shall comply with Clause 2 Article 38 of this Decree.

2. The employer shall include the following contents about dialogue in the workplace as prescribed in Clause 2 Article 63 of the Labor Code in their internal workplace democracy regulations:

a) Rules for dialogue in the workplace;

c) Composition and quantity of participants of each party and quantity thereof according to Article 38 of this Decree;

c) Frequency and time of dialogues in a year;

d) How to organize periodic and ad hoc dialogue when requested by either party or over an incident

dd) Responsibilities of the parties to the dialogue according to Clause 2 Article 63 of the Labor Code;

e) Application of Article 176 of the Labor Code to representatives of employees who are not executive members of the internal employee representative organization;

g) Other contents (if any).

3. In addition to the responsibilities specified in Clause 1 and Clause 2 of this Article, the employers shall:

a) Assign representatives of the employer to participate in the dialogue in the workplace as per regulations;

b) Arrange location, time and necessary equipment for the dialogue in the workplace;

c) Submit reports on dialogue in the workplace and internal workplace democracy regulations to labor authorities when requested.

4. The internal employee representative organization and the representative group shall:

a) Assign representatives to participate in the dialogue as per regulations;

b) Comment on the internal workplace democracy regulations;

c) Collect the employees' opinions; prepare the agenda of the dialogue;

d) Participate in the dialogue with the employer in accordance with Clause 2 Article 63 of the Labor Code, this Decree and the internal workplace democracy regulations.

5. Employers, employees and employee representative organizations are encouraged to hold dialogues in occasions other than those specified in Clause 2 Article 63 of the Labor Code if appropriate under their business and workplace conditions and in accordance with their internal workplace democracy regulations.

Article 38. Composition and quantity of participants in dialogue and quantity thereof

Pursuant to Clause 2 Article 63 of the Labor Code, the composition and quantity of participants in dialogue in the workplace and quantity thereof shall comply with the following regulations:

1. The employer's party:

The employer shall assign at least 03 persons to represent the employer in the dialogue depending on the business conditions, personnel organization and in accordance with the internal workplace democracy regulations, including the employer's legal representative.

2. The employees' party:

a) Depending on the business conditions, personnel organization, structure and quantity of employees, and gender equality, the internal employee representative organization and the representative group shall appoint participants in the dialogue as follows:

a1) At least 03 persons if the employer has fewer than 50 employees;

a2) 04 – 08 persons if the employer has 50 – 149 employees;

a3) 09 – 13 persons if the employer has 150 – 299 employees;

a4) 14 – 18 persons if the employer has 300 – 499 employees;

a5) 19 – 23 persons if the employer has 500 – 999 employees;

a6) At least 24 persons if the employer has at least 1000 employees.

b) On the basis of the quantity of the employees' representatives specified in Point a of this Clause, the internal employee representative organization and the representative group shall appoint a number of participants in the dialogue according to the ratio of quantity of their members to total quantity of employees.

3. The list of participants specified in Clause 1 and Clause 2 of this Article shall be periodically compiled at least once every 02 years and disclosed at the workplace. In case a person can no longer participates, the employer, employee representative organization or representative group shall consider appointing a new participant and announce it at the workplace.

4. When holding the dialogue in accordance with Clause 2 Article 63 of the Labor Code, in addition to the participants specified in Clause 3 of this Article, both parties may invite all employees or relevant employees to participate; ensure participation of female employees if the dialogue involves rights and interests of female employees prescribed in Clause 2 Article 136 of the Labor Code.

Article 39. Holding periodic dialogues in the workplace

1. The employer shall cooperate with the internal employee representative organization and representative group in holding periodic dialogues in accordance with Point a Clause 2 Article 63 of the Labor Code and internal workplace democracy regulations.

2. Participants in periodic dialogues are those specified in Clause 3 Article 38 of this Decree. Time, location and method of holding periodic dialogues shall be arranged by both parties according to their conditions and internal workplace democracy regulations.

3. Within 05 working days before the day on which a periodic dialogue is held, each party shall send their dialogue topics to the other party.

4. A periodic dialogue shall only be initiated when it is participated in by the employer's legal representative or authorized person and 70% of the employees' representatives prescribed in Clause 3 Article 38 of this Decree. Minutes of the dialogue process shall be taken. The minutes shall bear signature of the employer's legal representative or authorized person and representatives of each employee representative organization (if any) and representative of the representative group (if any).

5. Within 03 working days from the end of the dialogue, the employer shall announce the main contents of the dialogue at the workplace; The employee representative organization (if any) or representative group (if any) shall disseminate these contents to employees that are their members.

Article 40. Holding dialogue when requested by either party or both parties

1. A dialogue shall be held at the request of either party or both parties if:

a) The dialogue topics are accepted by the employer's legal representative; or

b) The dialogue topics are accepted by at least 30% of the employees' participants prescribed in Clause 3 Article 38 of this Decree.

2. Within 05 working days from the receipt of the dialogue topics mentioned in Clause 1 of this Article, the receiving party shall send a written response which specifies the time and location of dialogue. The employer and the employees' representatives shall cooperate with each other in holding the dialogue.

3. Minutes of the dialogue shall be taken. The minutes shall bear signatures of the parties' representatives in accordance with Clause 4 Article 39 of this Decree.

4. Within 03 working days from the end of the dialogue, the employer shall announce the main contents of the dialogue at the workplace; the employee representative organization (if any) or representative group (if any) shall disseminate these contents to employees that are their members.

Article 41. Holding dialogue over an incident

1. In case the employer must consult with the internal employee representative organization about employees' performance according to Point a Clause 1 Article 36; dismissal of employees according to Article 42; employment plan according to Article 44; pay scale, payroll and productivity norms according to Article 93, reward scheme according to Article 104 and labor regulations according to Article 118 of the Labor Code:

a) The employer shall send a document specifying the issues that need discussing to the employees' representatives;

b) The employees' representatives shall collect opinions from the employees whom they represent; compile them into a document and send it to each internal employee representative organization and representative group for sending to the employer; female employees' opinions must be collected if the dialog topics are relevant to their rights and interests;

c) On the basis of collected opinions, the employer shall hold the dialogue to discuss the topics and share information about the issues raised by the employer;

d) Both parties shall determine the composition and quantity of participants, time and location of dialogue in accordance with the internal workplace democracy regulations;

dd) Minutes of the dialogue shall be taken. The minutes shall bear signatures of the parties' representatives in accordance with Clause 4 Article 39 of this Decree;

e) Within 03 working days from the end of the dialogue, the employer shall announce the main contents of the dialogue at the workplace; the employee representative organization (if any) or

representative group (if any) shall disseminate these contents to employees that are their members.

2. In case of employee suspension prescribed in Clause 1 Article 128 of the Labor Code, the employer, the employee representative organization and the suspended employee that is a member may discuss in writing or in person through representatives of the employer and the employee representative organization.

Section 2. IMPLEMENTATION OF THE INTERNAL WORKPLACE DEMOCRACY REGULATIONS

Article 42. Rules for implementation of the internal workplace democracy regulations

1. Amicability, cooperation, honesty, equality, transparency.

2. Respect for lawful rights and interests of the employer, employees, relevant organizations and individuals.

3. Compliance to law and social ethics.

Article 43. Information to be disclosed by the employer

1. The employer shall disclose the following information to the employees:

a) The employer’s business performance;

b) Labor regulations, pay scale, payroll, productivity norms, rules and regulations and other regulatory documents of the employer relevant to employees’ interests, duties and responsibilities;

c) Collective bargaining agreements participated in by the employer;

d) Establishment, contribution to and use of reward and benefit funds and other funds to which employees contribute (if any);

dd) Trade union contributions; payment of social insurance, health insurance and unemployment insurance premiums;

e) Rewards and commendations given; disciplinary actions taken; settlement of complaints and denunciations relevant to employees' rights, duties and interests;

g) Other contents prescribed by law.

2. The employer shall disclose the information mentioned in Clause 1 of this Article using the method prescribed by law. In case such no specific method is prescribed by law, the employer

shall choose one of the following disclosure methods and specify it in the internal workplace democracy regulations in accordance with Article 48 of this Decree:

a) Publicly posting the information at the workplace;

b) Making announcements during meetings and dialogues between the employer and the internal employee representative organization or representative group;

c) Sending written notifications to the internal employee representative organization, which will subsequently notify employees;

d) Making announcements on the internal information system;

dd) Other methods that are not banned by law.

Article 44. Methods of commenting and topics on which employees may comment

1. Employees may comment on the following topics:

a) Formulation of and revisions to rules and regulations and other regulatory documents of the employer relevant to employees' rights, duties and interests;

b) Formulation of and revisions to the pay scale, payroll, productivity norms; proposed collective bargaining contents;

c) Proposals, implementation of solutions for saving costs, improving productivity, work conditions, environmental safety, fire safety;

d) Other contents relevant to the employees' rights, duties and interests;

2. Employees shall make comments on the topics mentioned in Clause 1 in accordance with the methods prescribed by law. If commenting methods are not prescribed by law, employees may choose one of the following methods according to business conditions and internal workplace democracy regulations:

a) Making comments directly or through the internal employee representative organization or representative group during the employee conference or dialogue in the workplace;

b) Directly sending comments or proposals;

c) Other methods that are not banned by law.

Article 45. Issues employees may decide and decision making methods

1. An employee may decide the following issues:

a) Conclusion, revision, termination of the employment contract as prescribed by law;

b) Participation in the internal employee representative organization;

c) Participation in strikes as prescribed by law;

d) Vote on collective bargaining contents that have been agreed upon in order to concluded the collective bargaining agreement as prescribed by law;

dd) Other contents prescribed by law or agreed upon by the parties.

2. Decision making methods shall comply with regulations of law.

Article 46. Processed employees may supervise and supervision methods

1. Employees may supervise the following processes:

a) Execution of employment contracts and the collective bargaining agreement;

b) Implementation of the labor regulations, rules and regulations and other regulatory documents of the employer relevant to employees' rights, duties and interests;

c) Use of reward and benefit funds and other funds to which employees contribute;

d) Trade union contributions; payment of social insurance, health insurance and unemployment insurance premiums by the employer;

dd) Implementation of regulations on rewards, commendations and disciplinary actions; settlement of complaints and denunciations relevant to employees' rights, duties and interests.

2. Employee supervision methods shall comply with regulations of law.

Article 47. Employee conferences

1. Annual employee conferences shall be held by the employer in cooperation with the internal employee representative organization (if any) and the representative group (if any) in the form of plenary conferences or delegate-only conferences.

2. The employee conference agenda shall comply with Article 64 of the Labor Code and agreements between two parties.

3. Type, agenda, participants, time, location responsibility to hold employee conferences, method of disseminating outcomes of the conferences shall comply with internal workplace democracy regulations prescribed in Article 48 of this Decree.

Article 48. Responsibility to promulgate internal workplace democracy regulations

1. The employer shall promulgate internal workplace democracy regulations in order to implement regulations on dialogue in the workplace and implementation of workplace democracy in accordance with this Decree.

2. After the internal workplace democracy regulations are formulated or revised, the employer shall consult with the internal employee representative organization (if any) and the representative group (if any) before promulgating them. In case there are opinions offered by internal employee representative organization with which the employer do not concur, explanation must be provided.

3. The internal workplace democracy regulations must be made publicly available to the employees.

Chapter VI

SALARIES

Section 1. NATIONAL SALARY COUNCIL

Article 49. Functions of National Salary Council (NSC)

NSC shall be established by the Prime Minister in accordance with Clause 2 Article 92 of the Labor Code and will provide consultation for the Government regarding:

1. Region-based minimum wages (including monthly and hourly minimum wages).

2. Policies on salaries of employees according to the Labor Code.

Article 50. Duties of National Salary Council (NSC)

1. Carry out surveys; collect information; carry out analysis of salaries and subsistence standards of workers, business performance of enterprises, labor demand – supply relation, employments and unemployment in the economy, and other relevant factors as the basis for determination of minimum wages.

2. Prepare reports on minimum wages based on the factors prescribed in Clause 3 Article 91 of the Labor Code.

3. Review the subsistence standards of workers and their families; apply minimum wages to separate regions.

4. Hold annual negotiations to propose to the Government the plan for adjustments to region-based minimum wages (including monthly and hourly minimum wages).

5. Provide consultation for the Government regarding policies on salaries of employees in enterprises, agencies, organizations and cooperatives in accordance with the Labor Code.

Article 51. Composition of NSC

1. NSC has 17 members: 05 members are representatives of the Ministry of Labor, War Invalid and Social Affairs; 05 members are representatives of Vietnam General Confederation of Labor; 05 members are representatives of some central employer representative organizations; 02 members are independent experts (hereinafter referred to as "independent members). To be specific:

a) The President of NSC is a Deputy Minister of Labor, War Invalid and Social Affairs;

b) 03 Vice Presidents of NSC include a Vice President of Vietnam General Confederation of Labor, a Vice President of Vietnam Chamber of Commerce and Industry and a Vice President of Vietnam Cooperative Alliance (VCA);

c) Other members of NSC: 04 representatives of the Ministry of Labor, War Invalid and Social Affairs; 05 representatives of Vietnam General Confederation of Labor; 03 representatives of central employer representative organizations (including 01 representative of Vietnam Association of Small and Medium Enterprises and 02 representatives of 02 central labor-intensive trade associations); 02 independent members are experts or scientists specialized in salaries, economics, society (except those working at agencies, units, research institutes, universities of the Ministry of Labor, War Invalid and Social Affairs, Vietnam General Confederation of Labor and central employer representative organizations).

2. The President and Vice Presidents of NSC mentioned in Point a and Point b Clause 1 of this Article shall be designated and discharged by the Prime Minister. The Minister of Labor, War Invalid and Social Affairs is authorized by the Prime Minister to designate and discharge other members of NSC mentioned in Point c Clause 1 of this Article. The Presidents and Vice Presidents of NSC work on a part-time basis and have a term of office of up to 05 years.

3. NSC has a technical department and assistance department, which will assist NSC and its President in preparing technical reports relevant to the duties of NSC and performance of its administrative tasks. Members of the technical department and assistance department are personnel of the organizations that participate in NSC and relevant organizations and work on a part-time basis.

Article 52. Operation of NSC

1. NSC shall work as a collective via meetings chaired by the President; open and democratic discussions; voting under majority rules.

2. NSC has its own seal which s managed by the Ministry of Labor, War Invalid and Social Affairs as prescribed by law.

3. Funding for operation of NSC shall be included in annual budget for regular expenditures of the Ministry of Labor, War Invalid and Social Affairs and other lawful sources of funding as

prescribed by law. The management, use and reporting of state funding shall comply with regulations of law on state budget and their guiding documents.

Article 53. Responsibility for establishment and operation of NSC

1. The Presidents of Vietnam General Confederation of Labor, Vietnam Chamber of Commerce and Industry, VCA, Vietnam Association of Small and Medium Enterprises shall appoint representatives to participate in NSC and send a list of their representatives to the Ministry of Labor, War Invalid and Social Affairs.

2. The President of Vietnam Chamber of Commerce and Industry shall preside over and consult with the President of VCA in selecting and requesting two central trade associations to appoint representatives as members of NSC.

3. The President of NSC shall discuss with the Vice Presidents, propose independent members to the Minister of Labor, War Invalid and Social Affairs; issue regulations on operation of NSC, the technical department and assistance department.

4. The Minister of Labor, War Invalid and Social Affairs shall request the Prime Minister to consider issuing the decision on establishment of NSC; propose designation of the President and Vice Presidents of NSC to the Prime Minister; decide designation and discharge of other members of NSC.

5. The Minister of Planning and Investment shall provide the results of surveys in living standards, labor, employment, enterprises and other relevant statistics at the request of NSC.

Section 2. SALARY PAYMENT FORMS, OVERTIME PAY, NIGHT WORK PAY

Article 54. Salary payment forms

The forms of salary payment prescribed in Article 96 of the Labor Code are elaborated as follows:

1. The form of salary payment shall be specified in the employment contract on the basis of consensus between the employer and the employee. To be specific:

a) Time-based salary shall be paid to the employee monthly, weekly, daily or hourly as agreed in the employment contract. To be specific:

a1) Monthly salary is the salary for a month’s work;

a2) Weekly salary is the salary for a week’s work. In case monthly salary is specified in the employment contract, the weekly salary equals (=) the monthly salary multiplied by (x) 12 months and divided by (:) 52 weeks;

a3) Daily salary is the salary for a days' work. In case monthly salary is specified in the employment contract, the daily salary equals (=) the monthly salary divided by (:) the number of normal working days in a month as decided by the employer. In case weekly salary is specified in the employment contract, the daily salary equals (=) the weekly salary divided by (:) the number of working days in a week as specified in the employment contract;

a4) Hourly salary is the salary for an hour's work. In case monthly, weekly or daily salary is specified in the employment contract, the hourly salary equals (=) the daily salary divided by (:) the number of normal working hours in a day as prescribed by Article 105 of the Labor Code.

b) Piece rate pay is paid to piece workers according to the quantity and quality of products, productivity norms and unit prices of the products.

c) Fixed salary is paid according to the quantity and quality of works and time needed for completion of these works.

2. Payment of salaries in the forms specified in Clause 1 of this Article shall be made transferred to the employees' bank accounts. In the latter case, the employers shall pay the fees for opening accounts and transferring salaries.

Article 55. Overtime pay

Overtime pay prescribed in Clause 1 Article 98 of the Labor Code is elaborated as follows:

1. An employee receiving time-based salaries will receive overtime pay for working outside of the normal working hours prescribed in Article 105 of the Labor Code shall be calculated as follows:

Overtime pay	=	Hourly salary in a normal working day (normal hourly salary)	x	At least 150% or 200% or 300%	x	Overtime hours

Where:

a) Hourly salary in a normal working day (hereinafter referred to as "normal hourly salary") is the actual salary of the work in the month or week in which the employee works overtime (excluding overtime pay, night work pay, salary of public holidays and paid leave prescribed by the Labor Code; bonuses prescribed in Article 104 of the Labor Code; rewards for innovation; mid-shift meal allowance, allowances for travel, communication, housing, daycare, infant care; financial assistance upon death or marriage of a family member, the employee's birthday, occupational diseases, other allowances and benefits that are not relevant to the performance of the works or position specified in the employment contract) divided by (:) the total number of working hours of the same month or week, which must not exceed the number of normal working days of a month and normal working hours of a day or a week as decided by the enterprise, excluding overtime hours;

b) At least 150% of the normal hourly salary in case of overtime work on normal days; at least 200% of the normal hourly salary in case of overtime work during weekly breaks; at least 300% of the normal hourly salary in case of overtime work during public holiday or paid leave, excluding the daily salary during public holidays or paid leave in case the employee receives daily salary.

2. Employees receiving piece rate pay will be receive overtime pay for working outside of the normal working hours in order to increase the quantity or volume of products according to the productivity norms under agreement with the employer. Overtime pay will be calculated as follows:

Overtime pay	=	Piece rate in a normal working day (normal piece rate)	x	At least 150% or 200% or 300%	x	Additional quantity of products

Where:

At least 150% of the normal piece rate in case of overtime work on normal days; at least 200% of the normal piece rate in case of overtime work during weekly breaks; at least 300% of the normal piece rate in case of overtime work during public holidays or paid leave.

3. Employees that work overtime during public holidays that are also weekly breaks will receive the overtime pay for working during public holidays. Employees that work overtime on compensatory days off that are also weekly breaks will receive the overtime pay for working during weekly breaks.

Article 56. Night work pay

Night work pay prescribed in Clause 2 Article 98 of the Labor Code is elaborated as follows:

1. Night work pay for employees receiving time-based salaries:

Night work pay	=	| Normal hourly salary	+	Normal hourly salary	x	At least 30% |	x	Night work hours

Where: Normal hourly salary is determined in accordance with Point a Clause 1 Article 55 of this Decree.

2. Night work pay for employees receiving piece rate pay:

Night work pay	=	| Normal piece rate	+	Normal piece rate	x	At least 30% |	x	Night work hours

Article 57. Night overtime pay

Employees who work overtime at night as prescribed in Clause 3 Article 98 of the Labor Code will receive overtime pay as follows:

1. For employees receiving time-based salaries:

Night overtime pay	=	Normal hourly salary	x	At least 150% or 200% or 300%	+	Normal hourly salary	x	At least 30%	+ 20% x	Daytime hourly salary of a normal working day, during weekly breaks, public holidays or paid leave	x	Extra night work hours

Where:

a) Normal hourly salary is determined in accordance with Point a Clause 1 Article 55 of this Decree;

b) Daytime hourly salary of a normal working day, during weekly breaks, public holiday or paid leave is determined as follows:

b1) Daytime hourly salary of a normal working day shall be at least 100% of the normal hourly salary if the employee does not work overtime during the daytime of the same day (before the night work); at least 150% of the normal hourly salary if the employee works overtime during the daytime of the same day (before the night work);

b2) Daytime hourly salary during weekly breaks shall be at least 200% of the normal hourly salary;

b3) Daytime hourly salary during public holidays or paid leave shall be at least 300% of the normal hourly salary.

2. For employees receiving piece rate pay:

Night overtime pay	=	Normal piece rate	x	At least 150% or 200% or 300%	+	Normal piece rate	x	At least 30%	+ 20% x	Daytime piece rate of a normal working day, during weekly breaks, public holidays or paid leave	x	Quantity of extra products during night work

Daytime piece rate of a normal working day, during weekly breaks, public holidays or paid leave is determined as follows:

a) Daytime piece rate of a normal working day shall be at least 100% of the normal piece rate if the employee does not work overtime during the daytime of the same day (before the night work); at least 150% of the normal piece rate if the employee works overtime during the daytime of the same day (before the night work);

b) Daytime piece rate during weekly breaks shall be at least 200% of the normal piece rate;

c) Daytime piece rate during public holidays or paid leave shall be at least 300% of the normal piece rate.

Chapter VII

WORKING HOURS, REST PERIODS

Article 58. Time periods included in paid working hours

1. Rest breaks prescribed in Clause 2 Article 64 of this Decree.

2. Work-specific breaks.

3. Breaks that are necessary and accounted for in productivity norms due to natural human needs.

4. Rest periods to which female employees that are pregnant, raising a child under 12 months of age or during menstruation are entitled as prescribed in Clause 2 and Clause 4 Article 137 of the Labor Code.

5. Work suspension periods through no fault of the employees.

6. Periods of meetings, learning, training required or accepted by the employer.

7. Time periods over which trainees and apprentices directly perform or participate in performance of work as prescribed in Clause 5 Article 61 of the Labor Code.

8. Time periods over which employees who are members of the management board of the internal employee representative organization are employed to perform the duties prescribed Clause 2 Decree Clause 3 Article 176 of the Labor Code.

9. Time spent on health check-up, medical examination for occupational diseases, medical evaluation for determination of work capacity reduction due to occupational accidents or diseases if arranged or required by the employer.

10. Time spent on registration and medical examination for military service if the employees are paid for as prescribed by military service laws.

Article 59. Employees' consent to overtime work

1. Except for the cases specified in Article 108 of the Labor Code, the employer must obtain the employees' consent to the following matters when organizing overtime work:

a) Overtime hours;

b) Overtime location;

c) Overtime works.

2. In case the employees' consent is made into a separate document, refer to form No. 01/PLIV in Appendix IV hereof.

Article 60. Overtime limits

1. The total overtime must not exceed 50% of normal working hours in 01 day if the overtime occurs within a normal working day, except for the cases specified in Clause 2 and Clause 3 of this Article.

2. In case the employer has regulations on weekly normal working hours, the normal working hours plus overtime must not exceed 12 hours in 01 day.

3. In case of part-time employment prescribed in Article 32 of the Labor Code, the normal working hours plus overtime hours must not exceed 12 hours in 01 day.

4. The total overtime hours must not exceed 12 hours a day during public holidays and weekly days off.

5. The periods specified in Clause 1 Article 58 are deductible when calculating the total overtime hours in the month or year for determination of conformity prescribed in Point b and Point c Clause 2 Article 107 of the Labor Code.

Article 61. Cases in which overtime work exceeding 200 hours but not exceeding 300 hours is permissible

In addition to the cases specified in Point a, Point b, Point c, Point d Clause 3 Article 107 of the Labor Code, overtime work exceeding 200 hours but not exceeding 300 hours is permissible in the following cases:

1. The works are urgent and cannot be delayed due to objective factors that are directly relevant to performance of state agencies and units, except the cases specified in Article 108 of the Labor Code.

2. Provision of public services; medical services; educational and vocational training services.

3. Production and business operation works at enterprises whose normal working hours do not exceed 44 hours per week.

Article 62. Notification of overtime work exceeding 200 hours but not exceeding 300 hours per year

1. When organizing overtime work that is exceeding 200 hours but not exceeding 300 hours per year, the employer shall notify the Departments of Labor, War Invalids and Social Affairs of:

a) The province where the overtime work takes place;

b) The province where the employer is headquartered if it is different from the province mentioned in Point a of this Clause.

2. The notification shall be sent within 15 days from the initiation date of the overtime work.

3. The notification shall be prepared according to Form No. 02/PLIV in Appendix IV hereof.

Article 63. Shifts and organization of shift work

1. A shift is a period of time that begins when an employee starts work and ends when he/she finishes and hand over the work to another, including working time and rest break.

2. Organization of shift work means assignment of at least 02 people or 02 groups of people who take turn to work in the same position in 24 hours.

3. Employees may do multiple consecutive shifts and include the rest break prescribed in Clause 1 Article 109 of the Labor Code in working time if the shifts are organized in accordance with Clause 2 of this Article and fully satisfy the following conditions:

a) A shift lasts at least 06 hours;

b) The break time between two shifts does not exceed 45 minutes.

Article 64. Rest breaks

1. The minimum rest break of 45 consecutive minutes prescribed Clause 1 Article 109 of the Labor Code apply to employees who work at least 06 hours per day, including at least 03 hours of night work as prescribed in Article 106 of the Labor Code.

2. The rest break included in working time of employees doing consecutive shifts mentioned in Clause 3 Article 63 of this Decree shall not be shorter than 30 minutes (or 45 minutes for night work).

3. The employer shall decide the time of rest break, which must not be at the beginning or the end of a shift.

4. Except for the case of doing consecutive shifts specified in Clause 3 Article 63 of this Decree, it is recommended that the employer and employees negotiate inclusion of rest breaks in working time.

Article 65. Periods included in working time as the basis for calculation of annual leave

1. Vocational training and apprenticeship period prescribed in Article 61 of the Labor Code if the employee works for the employer after the end of the vocational training or apprenticeship period.

2. Probation period if the employee keeps working for the employer after the end of the probation period.

3. Personal leave prescribed in Clause 1 Article 115 of the Labor Code.

4. Unpaid leave if accepted by the employer and not exceeding 01 month per year totally.

5. Leave taken due to occupational accidents or diseases if not exceeding 6 months totally.

6. Sick leave if not exceeding 02 months per year totally.

7. Maternal leave prescribed by social insurance laws.

8. Period of performance of duties of the internal employee representative organization that is included in working time as prescribed by law.

9. Work suspension and leave through no fault of the employee.

10. Suspension period after which the employee is exonerated or exempt from disciplinary actions.

Article 66. Determination of annual leave days in special cases

1. The number of annual leave days of an employee who has worked for less than 12 months mentioned in Clause 2 Article 113 of the Labor Code equals (=) annual leave days plus (+) extra leave days (if any) divided by (:) 12 months multiplied by (x) actual working months in the year.

2. In case an employee has an incomplete month of work, it will be considered a complete month (01 month) if the total working days and paid leave days (holidays, annual leave, personal leave prescribed in Article 112, Article 113, Article 114 and Article 115 of the Labor Code) make up of at least 50% of the normal working days of the month.

3. The entire period of time over which the employee works at state organizations and state-owned enterprises shall be included in the working time as the basis for determination of extra leave days according to Article 114 of the Labor Code if the employee keeps working at such state organizations and state-owned enterprises.

Article 67. Travel allowances, salary during travel, annual leave and other paid leave days

1. Travel allowances and salary during travel in addition to annual leave prescribed in Clause 6 Article 113 of the Labor Code shall be negotiated by both parties.

2. The salary as the basis for paying an employee during paid personal leave, annual leave and public holidays according to Article 112, Clause 1 and Clause 2 Article 113, Article 114, Clause 1 Article 115 of the Labor Code is the salary written in his/her employment contract that is effective at that time.

3. The salary as the basis for paying an employee for untaken annual leave days according to Clause 3 Article 113 of the Labor Code is the salary written in his/her employment contract of the month preceding the month in which the employee resigns or loses his/her job.

Article 68. Some works with unusual working hours and rest periods

1. In addition to the works of special nature specified in Article 116 of the Labor Code, the following works have unusual working hours and rest periods:

a) Natural disaster, fire and epidemic response;

b) Sports and fitness-related works;

c) Production of drugs and biological vaccines;

d) Operation, maintenance, repair of gas distribution pipelines and gasworks.

2. The Minister of Labor, War Invalid and Social Affairs shall specify the working hours and rest periods of employees doing seasonal works and order-based processing works.

3. Other Ministries and central authorities shall specify working hours and rest periods of the works of special nature listed in Article 116 of the Labor Code and Clause 1 of this Article after reaching a consensus with the Ministry of Labor, War Invalid and Social Affairs.

Chapter VIII

LABOR DISCIPLINE, MATERIAL RESPONSIBILITY

Article 69. Internal labor regulations

Internal labor regulations prescribed in Article 118 of the Labor Code are elaborated as follows:

1. Every employer shall issue their own internal labor regulations. An employer that has at least 10 employees shall have written internal labor regulations. Written regulations are not required if the employer has fewer than 10 employees but labor discipline and material responsibility must be included in the contents of the employment contracts.

2. The labor regulations must not contradict labor laws and relevant laws. Primary contents of labor regulations include:

a) Specific working hours, rest periods in 01 day, 01 week; work shifts; beginning and ending time of shifts; overtime work (if any); special cases of overtime work; extra rest breaks; breaks between shifts; weekly days off; annual leave, personal leave, unpaid leave;

b) Workplace order; work area, movement during working hours; code of conduct; dress code; compliance to job assignment by the employer;

c) Occupational hygiene and safety in the workplace: responsibility to comply with rules and regulations, procedures and measures for assurance of occupational hygiene, occupational safety and fire safety; use and preservation of personal safety equipment and other equipment serving assurance of occupational hygiene and safety at the work place; cleaning, decontamination and disinfection at the workplace;

d) The employer's regulations on preventing and combating sexual harassment in the workplace; procedures for taking actions against sexual harassment in the workplace as prescribed in Article 85 of this Decree;

d) Protection of the employer's assets, business secrets, technological secrets and intellectual property: A list of assets, documents, technological secrets, business secrets, intellectual property; responsibility, measures for protection thereof; definition of infringements upon these assets and secrets;

e) Specific cases in which employees may be temporarily reassigned against their employment contracts according to Clause 1 Article 29 of the Labor Code;

g) Specific employees' violations and corresponding disciplinary actions;

h) Material responsibility: Cases in which the employee has to pay compensation for causing damage to or losing tools, instruments or assets; exceeding material consumption limits; compensation levels in proportion to the damage caused; persons having the power to claim compensation;

i) Persons having the power to take disciplinary actions: persons having the power to conclude employment contracts on behalf of the employer as prescribed in Clause 3 Article 18 of the Labor Code or specific persons specified in the internal labor regulations.

3. Before issuing or revising the internal labor regulations, the employer shall consult with the internal employee representative organization (if any) in accordance with Clause 1 Article 41 of this Decree.

4. The issued labor regulations shall be sent to every internal employee representative organization (if any) and all employees. Primary contents of internal labor regulations shall be publicly posted where necessary at the workplace.

Article 70. Disciplinary procedures

Disciplinary procedures prescribed in Clause 6 Article 122 of the Labor Code are specified below:

1. In case an employee's violation is discovered when it is committed, the employer shall prepare a violation record and inform the internal employee representative organization of which the employee is a member, the employee's legal representative if the employee is under 15. In case an employee's violation is discovered after it is committed, evidence of such violation must be gathered.

2. Within the time limit for disciplinary procedures specified in Clause 1 and Clause 2 Article 123 of the Labor Code, the employer shall hold a disciplinary hearing as follows:

a) At least 05 working days before the disciplinary hearing is held, the employer shall notify the mandatory participants prescribed in Point b and Point c Clause 1 Article 122 of the contents, time and location of the hearing, full name of the employee facing disciplinary procedure and his/her violations. Make sure the participants receive the notification before the hearing takes place;

b) Upon receipt of the employer's notification, the mandatory participants prescribed in Point b and Point c Clause 1 Article 122 of the Labor Code shall send the employer confirmation of their participation. In case any of the mandatory participants cannot participate in the hearing, the employee and the employer shall reach an agreement on change of time and/or location of the hearing. In case such n agreement cannot be reached, the employer shall make the final decision;

c) The employer shall conduct the disciplinary hearing at the time and location mentioned in Point a and Point b of this Clause. In case any of the mandatory participants mentioned in Point b and Point c Clause 1 Article 122 does not confirm his/her participation or is not present, the employer shall still conduct the hearing.

3. Minutes of the disciplinary hearing shall be taken and ratified before the end of the hearing. The minutes shall bear the signatures of the participants as prescribed in Point b and Point c Clause 1 Article 122 of the Labor Code. In case a person refuses to sign the minutes, the minutes taker shall specify his/her full name and reasons for refusal in the minutes.

4. Within the time limit for disciplinary procedures specified in Clause 1 and Clause 2 Article 123 of the Labor Code, the person having the power to initiate disciplinary procedure shall issue a disciplinary decision and send it to the mandatory participants specified in Point b and Point c Clause 1 Article 122 of the Labor Code.

Article 71. Compensation procedures

Compensation procedures prescribed in Clause 2 Article 130 of the Labor Code are specified below:

1. In cases where an employee causes damages or loses an asset assigned by the employer or otherwise causes damage to the employer's assets or exceeds the consumption limit, the employer will request the employee to prepare a written report on the incident.

2. Within the time limit for claiming compensation specified in Article 72 of this Decree, the employer shall conduct a compensation hearing as follows:

a) At least 05 working days before the compensation hearing is held, the employer shall notify the participants, including: the persons specified in Point b and Point c Clause 1 Article 122 of the Labor Code and the valuer (if any). Make sure these participants receive the notification before the hearing takes place. The notification shall specify the hearing time and location, full name of the employee that causes the damage and the damage caused by him/her;

b) Upon receipt of the employer's notification, the mandatory participants mentioned in Point a of this Clause shall send the employer confirmation of their participation. In case any of the mandatory participants cannot participate in the hearing, the employee and the employer shall reach an agreement on change of time and/or location of the hearing. In case such n agreement cannot be reached, the employer shall make the final decision;

c) The employer shall conduct the compensation hearing at the time and location mentioned in Point a and Point b of this Clause. In case any of the mandatory participants mentioned in Point a of this Clause does not confirm his/her participation or is not present, the employer shall still conduct the hearing.

3. Minutes of the compensation hearing shall be taken and ratified before the end of the hearing. The minutes shall bear the signatures of the participants as prescribed in Point a Clause 2 of this Article. In case a person refuses to sign the minutes, the minutes taker shall specify his/her full name and reasons for refusal in the minutes.

4. The compensation decision shall be issued within the time limit for claiming compensation; specify the damage caused and the causes of damage; the compensation level; deadline and method of compensation payment. The decision shall be sent to the participants mentioned in Point a Clause 2 of this Article.

5. Other cases of compensation for damage shall comply with regulations of the Civil Code.

Article 72. Time limits for claiming compensation

The time limits for claiming compensation prescribed in Clause 2 Article 130 of the Labor Code are specified below:

1. The time limit for claiming compensation is 06 months from the day on which the employee causes damages or loses an asset of the employer or otherwise causes damage to the employer's assets or exceeds the consumption limit.

2. Compensation shall not be claimed against employees during the periods in the cases specified in Clause 4 Article 122 of the Labor Code.

3. At the end of the period specified in Clause 4 Article 122 of the Labor Code, if the time limit for claiming compensation has not expired or the remaining time is shorter than 60 days, the time limit may be extended for up to 60 more days from the end of the period specified in Clause 4 Article 122 of the Labor Code.

Article 73. Labor discipline and material responsibility-related complaints

A person who is disciplined, suspended from work or has to pay compensation is entitled to file a complaint to the employer or a competent authority in accordance with regulations of the Government on settlement of labor complaints individual labor disputes following the procedures in Section 2 Chapter XIV of the Labor Code.

In case the employer decides to dismiss an employee against the law, in addition to the obligations and responsibilities prescribed by regulations of the Government on settlement of labor complaints individual labor disputes following the procedures in Section 2 Chapter XIV of the Labor Code, the employer also has the responsibilities specified in Article 41 of the Labor Code.

Chapter IX

FEMALE EMPLOYEES AND GENDER EQUALITY

Section 1. GENERAL PROVISIONS

Article 74. Employers having large numbers of female employees

It is considered that an employer has a large number of female employees if such employer has:

1. 10 - 99 female employees that account for at least 50% of the total number of employees.

2. 100 - 999 female employees that account for at least 30% of the total number of employees.

3. 1000 female employees or more.

Article 75. Worker-populated areas

Worker-populated areas include:

1. Any industrial zone, industrial complex, processing and exporting zone, economic zone or hi-tech zone (hereinafter referred to as “industrial zone”) that has at least 5000 workers with social insurance in the enterprises within in the industrial zone.

2. Any commune and commune-level town with at least 3000 workers having registered permanent or temporary residences therein.

Article 76. Room for breast milk pumping and storage

The room for breast milk pumping and storage is a private area that is not a bathroom or toilet booth; has electricity and water supply, furniture, a fridge, electric fan or air conditioner. The room must be conveniently located and covered from public areas and other employees' sight so female employees can breastfeed or pump and store their breast milk.

Article 77. Kindergarten centers and classes

Kindergarten centers and classes preschool education institutions defined in Article 26 of the Law on Education, including:

1. Junior kindergarten centers and classes for children aged 03 – 36 months.

2. Senior kindergartens and independent senior kindergarten classes for children aged 03 – 06 years.

3. Combined kindergartens and independent preschool classes for children aged 03 months – 06 years.

Section 2. ASSURANCE OF GENDER EQUALITY AND REGULATIONS EXCLUSIVELY APPLIED TO FEMALE EMPLOYEES

Article 78. Employees' right to equality; implementation of measures for assurance of gender equality

1. Employees' right to equality:

a) Employers have the responsibility to ensure equality of male and female employees; implement measures for assurance of gender equality in terms of recruitment, employment, training, salary, rewarding, promotion, remuneration payment, social insurance, health insurance, unemployment insurance, working conditions, labor safety, working hours, rest periods, sick leave, maternal leave, other material and spiritual benefits;

b) The State shall ensure the equality of male and female employees; implement measures for assurance of gender equality in labor relation as prescribed in Point a Clause 1 of this Article.

2. Employers shall consult with female employees or their representatives when making decisions relevant to their rights, obligations and interests in accordance with Clause 1 Article 41 of this Decree.

3. The State encourages employers to:

a) Give priority to hiring females if they are qualified for works that are suitable for both genders; renew employment contracts with female employees when their employment contracts expire;

b) Provide benefits for female employees that are better than those prescribed by law.

Article 79. Improvement of benefits and working conditions

1. Employers ensure there are adequate restrooms at the workplace in accordance with regulations of the Ministry of Health.

2. Employers are encouraged to cooperate with internal employee representative organizations in:

a) Preparing plans and implementing solutions for ensuring constant availability of works for both male and female employees; applying flexible time table, part-time work schedules, work-from-home; provision of advanced training; provision of training for female employees in extra vocations that are suitable for females' physiology and motherhood;

b) Building art, sports, health facilities, housing and other amenities serving employees in worker-populated areas.

Article 80. Healthcare for female employees

1. During periodic health check-ups, female employees will be provided with gynecological examinations under the list promulgated by the Ministry of Health.

2. Employers are encouraged to enable female employees who are pregnant to take more leave for antenatal care according to Article 32 of the Law on Social Insurance.

3. Menstrual leave and rest breaks during menstruation:

a) During menstruation period, female employees are entitled to a daily break of 30 minutes which will be included in their working time and fully paid under their employment contracts. The number of days of menstrual leave shall be negotiated by both parties according to the working conditions and the needs of the female employees but must be at least 03 working days per month. Specific days of leave of each month shall be informed by the employee to the employer;

b) In case a female employee wishes to have more flexible rest periods, both parties shall negotiate rest periods that are appropriate for both the working conditions and the needs of the female employee;

c) In case a female employee does not have the need to take menstrual leave and the employer allows her to work, she will be entitled to, in addition to the salary mentioned in Point a of this Clause, an extra salary that corresponds to the amount of works done by her during the period of

menstrual leave to which she is entitled. The untaken menstrual leave shall not be included in the her overtime work.

4. Rest periods while nursing a child under 12 months of age:

a) A female employee who is nursing a child under 12 months is entitled to a daily break of 60 minutes to for breastfeeding, milking and rest. This daily break time will be fully paid under the employment contract.

b) In case a female employee wishes to have more flexible rest periods, she shall negotiate with the employer about rest periods that are appropriate for both the working conditions and her needs;

c) In case a female employee does not have the need for rest the employer allows her to work, she will be entitled to, in addition to the salary mentioned in Point a of this Clause, an extra salary that corresponds to the amount of works done by her during the rest period to which she is entitled.

5. Employers are encouraged to provide dedicated rooms for milking and breast milk storage in the workplace if possible. A room for milking and breast milk storage is mandatory if the employer has at 1000 female employees or more.

6. Employers are encouraged to enable female employees who are nursing children aged 12 months or older to milk and store their milk in the workplace. The break time for milking and breast milk storage will be negotiated by the employer and these employees.

Article 81. Organization of kindergarten centers and classes in worker-populated areas

1. The People's Committees of provinces shall:

a) Provide land areas for construction of kindergarten centers and classes in worker-populated areas in their land-use plans;

b) Build kindergarten centers and classes to meet local workers' demand;

c) Invest in infrastructure; lease out new or existing buildings and infrastructure for opening kindergarten centers and classes to meet local workers' demand;

d) Oversee implementation of policies on private investment in education; facilitate investment in construction of kindergarten centers and classes in terms of land, loans and administrative procedures;

dd) Fulfill responsibility of the State for education management as prescribed by law.

2. Kindergarten centers and classes in worker-populated areas are entitled to the same benefits as those of independent and private preschool education institutions in areas with industrial zones prescribed in Article 5 of the Government's Decree No. 105/2020/ND-CP.

3. Preschool students that are children of workers in worker-populated areas are entitled to the same benefits as those that are children of workers in the industrial zones prescribed in Article 5 of the Government's Decree No. 105/2020/ND-CP.

4. Preschool teachers working in independent and private kindergarten centers and classes in worker-populated areas are entitled to the same benefits as those of preschool teachers working in independent and private preschool education institutions in areas with industrial zones prescribed in Article 10 of the Government's Decree No. 105/2020/ND-CP.

5. Employers are encouraged to organize or build kindergarten centers and classes or provide financial assistance therein.

Article 82. Employers' financial assistance in day care costs

Employers shall have plan for provision of financial assistance in day care costs incurred by employees. Employers shall decide the level and time of assistance after discussing with the employees through dialogue in the workplace as prescribed in Article 63 and Article 64 of the Labor Code and Chapter V of this Decree.

Article 83. Assistance for employers

1. Employers that invest in construction of kindergarten centers and classes, culture and other welfare works satisfying standards specified in policies on encouragement of private investment will receive incentives in the fields of education, vocational training, healthcare, culture, sports and environment.

Employers that invest in construction of housing for workers will receive incentives prescribed by the Law on Housing.

Employers that invest in or organize kindergarten centers and classes will be eligible for infrastructure rent reduction or exemption.

2. The State will provide assistance for employers as follows:

a) Employers having large numbers of female employees will be eligible for tax reduction as prescribed by tax laws;

b) Additional expenditures on female employees' welfare, assurance of gender equality, preventing and combating sexual harassment in the workplace prescribed in this Decree will be deductible when calculating income subject to corporate income tax as prescribed by the Ministry of Finance.

Section 3. PREVENTING AND COMBATING SEXUAL HARASSMENT IN THE WORKPLACE

Article 84. Sexual harassment in the workplace

1. Sexual harassment defined by Clause 9 Article 3 of the Labor Code may occur in the form of a request, demand, suggestion, threat, use of force to have sex in exchange for any work-related interests; or any sexual acts that thus creates an insecure and uncomfortable work environment and affects the mental, physical health, performance and life of the harassed person.

2. Sexual harassment in the workplace includes:

a) Actions, gestures, physical contact with the body of a sexual or suggestive nature;

b) Verbal sexual harassment: sexual or suggestive comments or conversations in person, by phone or through electronic media

c) Non-verbal sexual harassment: body language; display, description of sex or sexual activities whether directly or through electronic media.

3. The workplace mentioned in Clause 9 Article 3 of the Labor Code means any location where the employee works in reality as agreed or assigned by the employer, including the work-related locations or spaces such as social activities, conferences, training sessions, business trips, meals, phone conversations, communications through electronic media, on shuttles provided by the employer and other locations specified by the employer.

Article 85. Employer's regulations on preventing and combating sexual harassment in the workplace

1. The employer's regulations on preventing and combating sexual harassment shall be included in the labor regulations or issued as an appendix to the labor regulations and have the following primary contents:

a) Sexual harassment in the workplace is prohibited;

b) Detailed and specific descriptions of that are considered sexual harassment in the workplace according to the characteristics of the works and the workplace;

c) Responsibility, deadline and procedures for responding to sexual harassment in the workplace, including those for filing and settling complaints and accusations, and relevant regulations;

d) Disciplinary actions against perpetrators of sexual harassment and false accusations, which depend on the nature and seriousness of the offence;

dd) Compensation for victims and remedial measures.

2. The employer’s regulations on sexual harassment-related complaints and accusations and responses to sexual harassment shall adhere to the following principles:

a) Responses are quick and timely;

b) Privacy, dignity, honor and safety of the victims, plaintiffs and defendants are protected.

Article 86. Responsibility for preventing and responding to sexual harassment in the workplace

1. The employer shall:

a) Implement and supervise the implementation of regulations of law on preventing and combating sexual harassment in the workplace;

b) Organize dissemination of regulations of law on preventing and combating sexual harassment in the workplace among employees;

c) Prevent and/or respond to sexual harassment in the workplace whenever a complaint or accusation is made; take measures to protect the privacy, dignity, honor and safety of the victims, plaintiffs and defendants.

2. Employees shall:

a) Strictly implement regulations on preventing and combating sexual harassment in the workplace;

b) Participate in development of a work environment without sexual harassment;

c) Prevent and report sexual harassment in the workplace.

3. The internal employee representative organization shall:

a) Participate in the formulation, implementation and supervision of the implementation of regulations on preventing and combating sexual harassment in the workplace;

b) Provide information and consultancy and represent sexually harassed employees and employees accused of sexual harassment.

c) Disseminate and provide training in regulations on preventing and combating sexual harassment in the workplace.

4. Employers and internal employee representative organization are recommended to select topic of preventing and combating sexual harassment in the workplace to carry out collective bargaining.

Section 4. RESPONSIBILITY FOR IMPLEMENTATION OF POLICIES ON FEMALE EMPLOYEES AND GENDER EQUALITY

Article 87. Organizing implementation of policies on female employees and gender equality

1. The Ministry of Labor, War Invalid and Social Affairs shall take charge and cooperate with relevant authorities in disseminate policies on female employees, gender equality and preventing and combating sexual harassment in the workplace.

2. The Ministry of Finance shall take charge and cooperate with relevant authorities in providing guidance on implementation of Clause 2 Article 83 of this Decree.

3. The Ministry of Education and Training shall take charge and cooperate with relevant authorities in providing guidance on implementation of Article 81 of this Decree.

4. The Ministry of Health shall:

a) Establish standards for restrooms and toilet booths mentioned in Clause 1 Article 79 of this Decree;

b) Promulgate a list of gynecology tests and procedures mentioned in Clause 1 Article 80 of this Decree;

c) Provide guidance on establishment of rooms for breast milk pumping and storage mentioned in Clause 5 Article 80 of this Decree.

5. The People's Committees of provinces shall:

a) Disseminate and inspect the implementation of policies on female employees, gender equality and preventing and combating sexual harassment in the workplace prescribed in this Chapter;

b) Identify worker-populated areas and organize the implementation of Article 81 of this Decree.

6. Vietnamese Fatherland Front and its member organizations shall, within the scope of their duties and entitlements, supervise the implementation of this Chapter.

Chapter X

DOMESTIC WORKERS

Article 88. Domestic workers

A domestic worker is also an employee defined in Clause 1 Article 3 of the Labor Code who does the works specified in Clause 1 Article 161 of the Labor Code under a written employment contract.

Article 89. Regulations on domestic workers

1. Regulations on employment contracts mentioned in Article 14 and Clause 1 Article 162; responsibility to provide information when concluding employment contracts mentioned in Article 16; contents of the employment contract mentioned in Clause 1 Article 21; unilateral termination of employment contracts mentioned in Clause 2 Article 35, Clause 3 Article 36 and Clause 2 Article 162; obligations upon illegal unilateral termination of employment contracts mentioned in Article 40 and Article 41; severance allowance mentioned in Article 46 of the Labor Code shall be implemented as follows:

a) A written employment contract shall be prepared by the employer when a domestic worker is hired in accordance with Clause 1 Article 14 and Clause 1 Article 162 of the Labor Code;

b) Before the employment contract is concluded, the domestic worker (employee) and the employer shall provide information in accordance with Article 16 of the Labor Code, information about the employee's duties, living conditions at the employer's family and other information necessary for assurance of the employee's health safety as requested by the employee;

c) Contents of the employment contract shall comply with Clause 1 Article 21 of the Labor Code. According to Form No. 01/PLV in Appendix V hereof, the employer and the employee shall negotiate their rights, obligations and interests that are suitable for their condition and conformable with Clause 1 Article 21 of the Labor Code;

d) During the implementation of the employment contract, both parties has the right to unilateral terminate the employment contract without explanation but a prior notice must be made at least 15 days before the termination date, except in the following cases in which a prior notice is not required:

d1) The employee unilaterally terminates the employment contract because the works, working location or working conditions are not as agreed, except in the cases specified in Article 29 of the Labor Code; the employee is not paid fully and/or punctually, except in the cases specified in Clause 4 Article 97 of the Labor Code; the employee is maltreated, physically or orally assaulted by the employer; he/she is a victim of coercive labor or sexual harassment; the employee is pregnant and has to terminate the employment contract as prescribed in Clause 1 Article 138 of the Labor Code; the employee reaches the retirement age prescribed in Article 169 of the Labor Code unless otherwise agreed upon by both parties; the employer provided false information according to Clause 1 Article 16 of the Labor Code in a manner that affects the execution of the employment contract;

d2) The employer unilaterally terminates the employment contract because: the employee is not present at the workplace after the deadline specified in Article 31 of the Labor Code; the employee leaves his/her job for at least 05 consecutive days without justified reasons;

dd) It will be illegal if the employment contract is unilaterally terminated against regulations of Point d of this Clause, in which case regulations of Article 40 and Article 41 of the Labor Code

will apply to the employee and the employer respectively. In case the employer fails to comply with the provisions on notice period specified in Point d of this Clause, the employer shall pay the employee a compensation that is worth his/her salary for the remaining notice period from the termination date;

e) When the employment contract is terminated in the cases specified in Clauses 1, 2, 3, 4, 6 and 7 Article 34 of the Labor Code and Point d of this Clause, the employer shall pay severance allowance to the employee in accordance with Article 46 of the Labor Code; each party shall fully pay the amounts relevant to the other party's interests.

2. The employee and employer shall negotiate the salary and bonuses in accordance with Chapter VI (except Article 93). The base salary and allowances (if any) shall be specified in the employment contract in accordance with Clause 1 and Clause 2 Article 90 of the Labor Code. The base salary is inclusive of the employee's cost of accommodation at the employer's household as the case may be and must not be lower than the region-based minimum wage announced by the Government. The employer and the employee shall negotiate the monthly accommodation cost (if any) which must not exceed 50% of the salary written in the employment contract.

3. The employee's working hours and rest periods shall comply with Chapter VII of the Labor Code and Chapter VII of this Decree. To be specific:

a) On normal working days, in addition to the working hours specified in the employment contract, the employer must enable the employee to have at least 8 hours of rest, including 6 consecutive hours, every 24 hours.

b) The employee is entitled to weekly breaks as prescribed in Article 111 of the Labor Code. In case the employer cannot arrange weekly breaks, the employee must have at least 04 days off per month.

4. The employer is entitled to pay the employee, together with the salary, an amount equal to the mandatory social insurance and health insurance premium payable by employers as prescribed by relevant laws. The employee will decide whether to participate in social insurance and health insurance.

In case the employee enters into more than one employment contract to work as a domestic worker, the social insurance and health insurance premiums payable by the employers shall vary according to each contract.

5. Occupational hygiene and safety for domestic workers:

a) The employer have the responsibility to provide instructions for the domestic worker (employee) on how to use the devices and equipment and fire safety that are relevant to his/her works; provide personal protective equipment for the employee to use while working;

b) In case the employee has an occupational accident or disease, the employer shall fulfill their responsibility to the employee as prescribed in Article 38 and Article 39 of the Law on Occupational Hygiene and Safety;

c) The employee shall follow the employer's instructions on how to use the devices and equipment and fire safety; comply with regulations on hygiene and environmental safety of the household and community.

6. Labor discipline and material responsibility of domestic workers:

a) The employer and the employee shall specify in the violations, disciplinary actions and material responsibility according to Clause 2 Article 118 and Article 129 of the Labor Code in the employment contract or another form of agreement;

b) Disciplinary actions taken against the employee include reprimand and dismissal as prescribed in Clause 1 and Clause 4 Article 124 of the Labor Code;

c) The employee will be dismissed by the employer if: the employee commits any of the acts specified in Clauses 1, 2 and 4 Article 125 of the Labor Code; the employee maltreats, physically or orally assaults or insults the employer or any of the employer's household members;

d) In case an employee's violation is discovered, the employer shall handle the situation in accordance with Point b of this Clause. If the employee's age is from 15 to under 18 years, the employer must inform the employee's legal representative of the disciplinary actions;

dd) The taking of disciplinary actions taken against the employee shall comply with the principles and procedures specified in Point a and Point c Clause 1, Clause 2, Clause 3, Clause 4 and Clause 5 Article 122 of the Labor Code.

Article 90. Obligations of the employer and employee

1. Fulfill all responsibilities prescribed in Articles 163, 164 and 165 of the Labor Code.

2. The employer shall send the People's Committee of the commune a notice of the conclusion and termination of the employment contract (Form No. 02/PLV and 03/PLV in Appendix V hereof) within 10 days from the conclusion or termination date.

Article 91. Responsibility for management of domestic workers

1. The People's Committees of provinces shall request Provincial Departments of Labor, War Invalids and Social Affairs to provide guidance for district-level Departments of Labor, War Invalids and Social Affairs on dissemination of labor laws among domestic workers; carry out management, inspection and supervision of implementation of regulations of law on domestic workers.

2. The People's Committees of districts shall request district-level Provincial Departments of Labor, War Invalids and Social Affairs to instruct commune officials to disseminate labor laws among domestic workers; carry out management, inspection and supervision of implementation of regulations of law on domestic workers.

3. The People's Committees of communes shall:

a) Organize dissemination of labor laws among domestic workers as instructed by provincial and district-level Departments of Labor, War Invalids and Social Affairs;

b) Assign persons in charge of management, inspection and supervision of implementation of regulations of law on domestic workers in their communes;

c) Receive notices of conclusion and termination of employment contracts with domestic workers as prescribed in Clause 2 Article 90 of this Decree; prepare reports on employment of local domestic workers whenever requested by competent authorities.

Chapter XI

SETTLEMENT OF LABOR DISPUTES

Section 1. Labor mediators

Article 92. Labor mediator standards

A labor mediator shall:

1. Be a Vietnamese citizen; have full legal capacity as prescribed by the Labor Code, good health and moral qualities.

2. Have at least a bachelor's degree and 03 years' experience in a field relevant to labor relation.

3. Not be facing criminal prosecution; not have any unspent conviction.

Article 93. Procedures for designation of labor mediators

1. Preparation of the plan for selection and designation of labor mediators

a) In the first quarter every year, each district-level Department of Labor, War Invalids and Social Affairs shall review the demand for conciliators in its district and submit a plan to the Provincial Department of Labor, War Invalids and Social Affairs before March 31;

b) Each Provincial Department of Labor, War Invalids and Social Affairs shall consolidate the plans sent by the district-level Departments of Labor, War Invalids and Social Affairs into a province-level plan and submit it to the President of the People's Committee of the province for approval.

2. Procedures for selection and designation of labor mediators

a) On the basis of the plan approved by the President of the People's Committee of the province, the Department of Labor, War Invalids and Social Affairs shall issue a public notification of selection of labor mediators through its website and the media and send it to district-level Departments of Labor, War Invalids and Social Affairs for cooperation;

b) By the deadline specified in the notification, applicants, candidates nominated by state agencies, political organizations, socio-political organizations and other organizations shall submit the applications to the provincial or district-level Department of Labor, War Invalids and Social Affairs.

An application shall consist of: the application form; the applicant's résumé certified by a competent authority; a health certificate issued by a competent health authority as prescribed by the Ministry of Health; copies of relevant qualifications that are extracted, authenticated or enclosed with the original copies; letter of introduction (if any);

c) Within 05 working days from the deadline specified in the notification, the district-level Department of Labor, War Invalids and Social Affairs shall compile and send a list of qualified candidates to the Provincial Department of Labor, War Invalids and Social Affairs;

b) Within 10 working days from the receipt of the list, the Provincial Department of Labor, War Invalids and Social Affairs shall examine the applications, including those it directly receives, compile a list of selected labor mediators and their positions and submit it to the President of the People's Committee of the province for designation;

dd) Within 05 working days from the receipt of the list from the Provincial Department of Labor, War Invalids and Social Affairs, the President of the People's Committee shall consider designating the labor mediators. A labor mediator has a term of office of up to 05 years.

3. Re-designation of labor mediators

a) At least 03 months before the end of the term of office, the labor mediators that wish to continue holding the position of a labor mediator shall submit their applications for re-designation to the Provincial Department of Labor, War Invalids and Social Affairs;

b) On the basis of the annual plan for selection and designation of labor mediators approved by the President of the People's Committee of the province and the labor mediators' performance, within 10 working days from the receipt of the applications, the Provincial Department of Labor, War Invalids and Social Affairs shall submit a document to the President of the People's Committee of the province;

c) Within 05 working days from the receipt of the document from the Provincial Department of Labor, War Invalids and Social Affairs, the President of the People's Committee shall consider re-designating these labor mediators if they are still qualified.

4. Provincial and district-level Departments of Labor, War Invalids and Social Affairs shall publish the list of labor mediators, including their names, operating areas, phone numbers and mailing addresses on their website and the media so they can be contacted by employers and employees.

Article 94. Discharging labor mediators

1. A labor mediator will be discharged in any the following cases:

a) He/she submits a resignation letter;

b) He/she no longer fully satisfies the standards prescribed in Article 92 of this Decree;

c) He/she commits violations of law in a manner that infringes upon interests of either party or the State during performance of a labor mediator's duties;

d) It is officially concluded that he/she fails to fulfill his/her duties for 02 years according to the labor mediator management regulations;

dd) He/she refuses to perform mediation tasks at least 02 times when assigned to settle labor disputes or disputes over vocational training contracts without justifiable explanation according to the labor mediator management regulations.

2. Procedures for discharging a labor mediator

a) In the cases specified in Point a Clause 1 of this Article, within 05 working days from the receipt of the resignation letter, the Provincial Department of Labor, War Invalids and Social Affairs shall send a written request for approval to the President of the People's Committee of the province;

b) In the cases specified in Points b, c, d and dd Clause 1 of this Article, on the basis of reports sent by district level Departments of Labor, War Invalids and Social Affairs and survey results, the Provincial Department of Labor, War Invalids and Social Affairs shall send a written request for approval to the President of the People's Committee of the province;

c) Within 10 working days from the receipt of the request, the President of the People's Committee shall consider approving the discharge.

Article 95. Authority and procedures for assignment of labor mediators

1. Labor mediators shall be assigned to perform mediation tasks by provincial or district-level Departments of Labor, War Invalids and Social Affairs according to the regulations on management of labor mediators.

2. Procedures for assigning labor mediators

a) A written request for settlement of labor dispute, vocational training contract dispute and assistance in development of labor relations shall be submitted to the provincial or district-level Department of Labor, War Invalids and Social Affairs or to a labor mediator.

In case the request is directly received by a labor mediator, within 12 hours from the receipt of the application, the labor mediator shall transfer it to his/her supervisory provincial or district-level Department of Labor, War Invalids and Social Affairs (receiving authority) for classification.

b) Within 05 working days from the receipt of the request, the receiving authority shall classify it and assign the mediation tasks as per regulations.

In case the request is transferred from a labor mediator as prescribed in Point a of this Clause: Within 12 hours from the receipt of the request, the receiving authority shall issue a document on assignment of mediation tasks as per regulations.

3. Depending on the complexity of the cases, the provincial or district-level Departments of Labor, War Invalids and Social Affairs may assign the mediation tasks to one or several labor mediators.

Article 96. Benefits and operating conditions of labor mediators

1. Labor mediators are entitled to:

a) A remuneration of 5% of the average of applicable monthly minimum wages of all regions prescribed by the Government if he/she is working under a employment contract (from January 01, 2021, the region-based minimum wages prescribed in the Government's Decree No. 90/2019/ND-CP dated November 15, 2019 shall apply) for each day of performing the labor mediator's duties as assigned by a competent authority.

The People's Committees of provinces may propose benefits that are higher than those specified in this Point to People's Councils of the same provinces within the budget of their provinces;

b) Be enabled by their employers to perform labor mediators' duties as per regulations;

c) Be paid as officials and public employees for the performance of labor mediators' duties as per regulations;

b) Advanced training organized by competent authorities;

dd) Commendations for good performance of labor mediators' duties according to the Law on Emulation and Commendation;

e) Other benefits prescribed by law.

2. The assigning authority mentioned in Article 95 of this Decree shall prepare location, equipment, document, office supplies and other conditions for the labor mediators to perform their duties.

3. Costs incurred during the implementation of in Clause 1 and Clause 2 of this Article will be covered by state budget.

Article 97. Management of labor mediators

1. The Ministry of Labor, War Invalid and Social Affairs shall:

a) Promulgate or propose promulgation of legislative documents on labor mediators;

b) Provide information and guidance; carry out inspection and supervision of implementation of labor mediation laws;

c) Formulate and run advanced training programs for labor mediators.

2. Presidents of the People's Committees of provinces shall:

a) Designate, re-designate, discharge and manage labor mediators in their provinces.

In provinces with a high number of labor disputes, full-time labor mediators who work under the management of Provincial Departments of Labor, War Invalids and Social Affairs may be designated. Full-time labor mediators shall participate in settlement of labor disputes, disputes over vocational training contracts; assist in development of labor relations; assist the Provincial Department of Labor, War Invalids and Social Affairs in management of labor mediation in their provinces. The standards for selection and designation of full-time labor mediators and duties thereof shall comply with regulations on management of labor mediators;

b) Promulgate regulations on management of labor mediators; assign labor mediator management tasks to provincial and district-level Departments of Labor, War Invalids and Social Affairs;

c) Preside over the formulation and implementation of policies on benefits and commendations for labor mediators as per regulations.

3. Provincial Departments of Labor, War Invalids and Social Affairs shall:

a) Formulate and propose regulations on management of labor mediators to Presidents of the People's Committees of provinces;

b) Advise and assist Presidents of the People's Committees of provinces in management of labor mediators in their provinces;

d) Prepare and implement the plan for selection and designation of labor mediators

d) Assign mediation tasks to labor mediators under their management; ensure working conditions of labor mediators; evaluate their performance; provide benefits and commendations for labor mediators as per regulations; manage documents about labor mediators, disputes and relevant documents;

dd) Take charge and cooperate with specialized units of the Ministry of Labor, War Invalid and Social Affairs in providing advanced training for labor mediators in their provinces;

e) Carry out inspection and supervision of labor mediation as prescribed by law;

g) Submit annual labor mediation reports to the President of the People's Committee of the province and the Ministry of Labor, War Invalid and Social Affairs.

4. District-level Departments of Labor, War Invalids and Social Affairs shall:

a) Manage labor mediators in their districts;

b) Prepare and implement annual plans for selection and designation of labor mediators in their districts;

c) Assign mediation tasks to labor mediators under their management; ensure working conditions of labor mediators; evaluate their performance; provide benefits and commendations for labor mediators as per regulations; retain documents about the disputes and relevant documents;

d) Have labor mediators to advanced training programs organized by the Ministry of Labor, War Invalid and Social Affairs and the Provincial Department of Labor, War Invalids and Social Affairs;

dd) Submit annual reports on labor mediation in their provinces to the Provincial Department of Labor, War Invalid and Social Affairs.

Section 2. LABOR ARBITRATION COUNCILS

Article 98. Labor arbitrator standards

A labor arbitrator shall:

1. Be a Vietnamese citizen; have full legal capacity as prescribed by the Labor Code, good health, moral qualities, good reputation and sense of justice.

2. Have at least a bachelor's degree, understanding of law and at least 05 years of work in a field relevant to labor relations.

3. Not be facing criminal prosecution or serving a sentence; not have any unspent conviction.

4. Be nominated as a labor arbitrator by the Provincial Department of Labor, War Invalids and Social Affairs or Provincial Confederation of Labor as prescribed in Clause 2 Article 185 of the Labor Code.

5. Not be a judge, prosecutor, investigator, executor or official of a court, the People's Procuracy, investigation authority or judgment execution authority.

Article 99. Designation of labor arbitrators

1. On the basis of the quantity of labor arbitrators in a labor arbitration council prescribed in Clause 2 Article 185 of the Labor Code, the standards and requirements specified in Article 98 of this Decree, the Provincial Confederation of Labor and employer representative organizations in the province (nominating authorities) shall send labor arbitrator nomination documents to the Provincial Department of Labor, War Invalids and Social Affairs.

2. Within 10 working days from the receipt of the documents from the nominating authorities, the Provincial Department of Labor, War Invalids and Social Affairs shall submit a consolidated report to the People's Committee of the province for designation.

The nomination of labor arbitrators shall comply with Point a Clause 2 Article 185 of the Labor Code.

3. Nomination documents include:

a) The nomination paper;

b) The candidate's application form;

c) The candidate's résumé certified by a competent authority;

d) The candidate's health certificate issued by a competent health authority as prescribed by the Ministry of Health;

dd) Copies of relevant qualifications that are extracted, authenticated or enclosed with the original copies.

4. Within 10 working days from the receipt of the report from the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall issue a decision on designation of labor arbitrators.

Labor arbitrators have the same term of office as that of the labor arbitration council. In case of addition of a new labor arbitrator or replacement of a discharged labor arbitrator as prescribed in Article 100 of this Decree during the term of office of the labor arbitration council, the expiration date of the new labor arbitrator's term of office of will be the same as that of the labor arbitration council.

At the end of the term of office, the labor arbitrators that still satisfy the standards and requirements specified in Article 98 of this Decree and are nominated by the authorities mentioned in Points a, b, c Clause 2 Article 185 of the Labor Code will be considered for re-designation following the procedures specified in this Article.

Article 100. Discharging labor arbitrators

1. A labor arbitrator will be discharged in any the following cases:

a) He/she submits a resignation letter;

b) He/she no longer fully satisfies the standards prescribed in Article 98 of this Decree;

c) The nominating authority submits a written request for discharge or replacement of the labor arbitrator;

d) He/she commits violations of law in a manner that infringes upon interests of either party or the State during performance of a labor arbitrator's duties;

dd) It is officially concluded that he/she fails to fulfill his/her duties for 02 years according regulations of the labor arbitration council.

2. Procedures for discharging a labor arbitrator

a) In the cases specified in Point a Clause 1 of this Article, within 02 working days from the receipt of the resignation letter, the chairperson of the labor arbitration council shall submit a report to the Provincial Department of Labor, War Invalids and Social Affairs. Within 03 working days from the receipt of such report, the Department of Labor, War Invalids and Social Affairs shall request the President of the People's Committee of the province to consider discharging the labor arbitrator;

b) In the cases specified in Points b, c, d and dd Clause 1 of this Article, on the basis of reports sent by chairpersons of labor arbitration councils, Provincial Departments of Labor, War Invalids and Social Affairs shall discuss with nominating authorities and request the President of the People's Committee of the province to consider discharging the labor arbitrators;

c) Within 10 working days from the receipt of the request, the President of the People's Committee shall issue the decision on discharging labor arbitrators.

Article 101. Establishment of labor arbitration councils

1. The President of the People's Committee of the province shall issue the decision on establishment of the labor arbitration council with a term of office of 05 years. The labor arbitration council shall consist of labor arbitrators who are designated in accordance with Article 99 of this Decree. To be specific:

a) The chairperson of the labor arbitration council shall be a high-ranking officer of the Provincial Department of Labor, War Invalids and Social Affairs and will work on a part-time basis;

b) Secretaries of the labor arbitration council shall be officials of the Provincial Department of Labor, War Invalids and Social Affairs and will work on a full-time basis;

c) Other members of the council are labor arbitrators who work on a part-time basis;

d) Each labor arbitration council has its own seal.

2. Responsibilities of a labor arbitration council:

a) Settle labor disputes in accordance with Articles 189, 193 and 197 of the Labor Code;

b) Settle collective labor disputes at the workplaces where strikes are prohibited as prescribed in Section 3 of this Chapter;

c) Settle other labor disputes prescribed by law;

d) Assist in development of labor relations in its province in accordance with its regulations;

dd) Submit annual performance reports to the President of the People's Committee of the province, the Department of Labor, War Invalids and Social Affairs, Confederation of Labor and employer representative organizations of the same province.

3. Responsibilities of the chairperson of a labor arbitration council:

a) Promulgate the regulations of the labor arbitration council after consulting with the Department of Labor, War Invalids and Social Affairs, Confederation of Labor and employer representative organizations of the same province;

b) Assign specific tasks to labor arbitrators and manage activities of the council;

c) Issue decisions on establishment of arbitral tribunals; participate in the performance of duties of arbitral tribunals prescribed in Article 102 of this Decree;

d) Chair annual meetings of the council to evaluate each labor arbitrator according to regulations of the council; submit reports to the President of the People's Committee of the province.

4. Responsibilities of secretaries of a labor arbitration council:

a) Perform administrative and logistics tasks serving operation of the council;

b) Assist the council in preparing its operating plans, holding labor dispute settlement meetings of arbitral tribunals;

c) Receive requests for settlement of labor disputes; provide consultation for the chairperson regarding establishment of arbitral tribunals;

d) Participate in and perform duties of arbitral tribunals prescribed in Article 102 of this Decree;

dd) Classify and retain labor dispute documents as per regulations;

e) Perform other tasks assigned by the chairperson and those specified in regulations of the council.

5. Responsibilities of labor arbitrators:

a) Participate in and perform duties of arbitral tribunals prescribed in Article 102 of this Decree;

b) Perform other tasks specified in regulations of the council and assigned by the chairperson.

Article 102. Establishment and operation of arbitral tribunals

1. Within 07 working days from the receipt of the request for labor dispute settlement as prescribed in Points a, b, c Clause 2 Article 101 of this Decree, the labor arbitration council shall establish a arbitral tribunal.

2. The composition of a arbitral tribunal is specified in Points a, b, c Clause 4 Article 185 of the Labor Code. In case either party or both parties fail to select labor arbitrators as prescribed in Point a Clause 4 Article 185 of the Labor Code, the chairperson of the labor arbitration council shall select the labor arbitrators on their behalf.

In case the two selected labor arbitrators choose different persons for the position of chief of the arbitral tribunal as prescribed in Point b Clause 4 Article 185 of the Labor Code, the chairperson of the labor arbitration council will appoint the chief of the arbitral tribunal.

3. If there is evidence that a labor arbitrator is not impartial and objective and may affect rights and interests of a disputing party, the disputing party is entitled to request the chairperson of the labor arbitration council to replace the labor arbitrator.

4. Within 30 days from the establishment date, the arbitral tribunal shall:

a) Study the case files and collect evidence within the scope of their competence as prescribed in Article 183 of the Labor Code;

b) Hold the meeting to settle the dispute;

c) Issue the labor dispute settlement decision in accordance with Clause 5 Article 185 of the Labor Code and send it to the disputing parties.

Such a decision shall contain the issuance date of the decision; names and addresses of the disputing parties; the dispute; the basis for settlement of the dispute; the solutions given by the arbitral tribunal; signatures of the chief of the arbitral tribunal and seal of the labor arbitration council.

In case such a decision is not issued, the arbitral tribunal shall send a written notice to the disputing parties. In case of violations of law are committed during settlement of a right-based collective labor dispute prescribed in Point b and Point c Clause 2 Article 179 of the Labor Code, the arbitral tribunal shall transfer documents to a competent authority for handling.

5. Procedures for holding a labor dispute settlement meeting mentioned in Point b Clause 4 of this Article:

a) At least 05 days before the meeting is held, the arbitral tribunal shall send summons specifying the meeting time and location to the disputing parties;

b) When receiving the summons, the disputing parties shall inform the arbitral tribunal of their participation in the meeting. In case a party has justifiable reasons not to participate in the meeting at the time or location specified in the summons, it may request the arbitral tribunal to change the meeting time. The arbitral tribunal will make the final decision on change of meeting time and inform it to the parties;

c) The meeting shall be attended by representatives of the disputing parties or their authorized persons. In case a party is not present, even if such party's request for change of meeting time is rejected, the arbitral tribunal still carries on the meeting;

d) During the meeting, the arbitral tribunal shall specify the issues raised by the parties and listen to the parties' presentation. Minutes of the meeting shall bear signatures of every labor arbitrator and the disputing parties.

Article 103. Benefits and operating conditions of labor arbitrators and labor arbitration councils

1. Labor arbitrators are entitled:

a) An allowance of 5% of the average of applicable monthly minimum wage of all regions prescribed by the Government if he/she is working under a employment contract (from January 01, 2021, the region-based minimum wages prescribed in the Government's Decree No. 90/2019/ND-CP dated November 15, 2019 shall apply) for each day of studying case files, collecting evidence and attending meetings to settle labor disputes as assigned.

The People's Committees of provinces may propose benefits that are higher than those specified in this Point to People's Councils of the same provinces within the budget of their provinces;

b) Be enabled by their employers to participate in labor arbitration councils and arbitral tribunals;

c) Be paid as officials and public employees for participation in arbitral tribunals;

b) Advanced training organized by competent authorities;

dd) Commendations for good performance of labor arbitrators' duties according to the Law on Emulation and Commendation;

e) Other benefits prescribed by law.

2. Secretaries of the labor arbitration council will receive a responsibility allowance of 0,5 time the statutory pay rate specified in the Government's Decree No. 204/2004/ND-CP. When the Government promulgates new salary policies under resolution No. 27-NQ/TW, the new policies shall apply.

3. Operating conditions of labor arbitrators, arbitral tribunals and labor arbitration councils:

a) Provincial Departments of Labor, War Invalids and Social Affairs shall prepare working location, equipment, document, office supplies and other conditions serving operation of labor arbitrators, arbitral tribunals and labor arbitration councils;

b) Labor arbitration councils shall work within the premises of Provincial Departments of Labor, War Invalids and Social Affairs;

c) Funding for operation of labor arbitration councils shall be covered by state budget and included in annual budget for regular expenditures of the Ministry of Labor, War Invalid and Social Affairs. The management, use and reporting of state funding shall comply with regulations of law on state budget and their guiding documents.

Article 104. State management of labor arbitrators and labor arbitration councils

1. The Ministry of Labor, War Invalid and Social Affairs shall:

a) Promulgate or propose promulgation of legislative documents on labor arbitrators and labor arbitration councils;

b) Provide information and guidance; carry out inspection and supervision of implementation of regulations on labor arbitrators and labor arbitration councils;

c) Formulate and run advanced training programs for labor arbitrators.

2. Presidents of the People's Committees of provinces shall:

a) Designate and discharge labor arbitrators; establish labor arbitration councils;

b) Provide guidance; carry out implementation of policies on benefits and commendations for labor arbitrators and labor arbitration councils in accordance with this Decree.

3. Provincial Departments of Labor, War Invalids and Social Affairs shall:

a) Verify documents and propose designation and discharge labor arbitrators; establishment of labor arbitration councils;

b) Comments on operating regulations of labor arbitration councils before promulgation;

c) Ensure working conditions of labor arbitrators, arbitral tribunals and labor arbitration councils; provide benefits for labor arbitrators and personnel of labor arbitration councils; manage and retain documents about labor arbitrators, labor arbitration councils, dispute cases and relevant documents;

d) Take charge and cooperate with specialized units of the Ministry of Labor, War Invalid and Social Affairs in providing advanced training for labor arbitrators in their provinces;

dd) Carry out inspection and supervision of labor arbitration as prescribed by law;

e) Submit annual reports on performance of labor arbitrators and labor arbitration councils to the President of the People's Committee of the province and the Ministry of Labor, War Invalid and Social Affairs.

Section 3. LIST OF WORKPLACES WHERE STRIKES ARE PROHIBITED AND SETTLEMENT OF LABOR DISPUTES THEREIN

Article 105. List of workplaces where strikes are prohibited

The list of workplaces where strikes are prohibited, including enterprises and enterprise departments where strikes may threaten defense and security, public order, human health, is provided in Appendix VI hereof.

Article 106. Settlement of right-based collective labor disputes and individual labor disputes at workplaces where strikes are prohibited

1. Individual labor disputes shall be settled in accordance with Articles 187, 188, 189 and 190 of the Labor Code.

2. Right-based collective labor disputes shall be settled in accordance with Articles 191, 192, 193 and 194 of the Labor Code.

Article 107. Settlement of interest-based collective labor disputes at workplaces where strikes are prohibited

1. Interest-based collective labor disputes shall be settled through mediation by labor mediators before requesting settlement by the labor arbitration council or the President of the People's Committee of the province.

2. Settlement of interest-based collective labor disputes by labor mediators

Settlement of interest-based collective labor disputes by labor mediators shall comply with Clause 1 and Clause 2 Article 196 of the Labor Code;

b) In case mediation is unsuccessful or the time limit specified in Clause 2 Article 188 of the Labor Code expires before mediation is carried out or either party fails to implement the agreements in the record of successful mediation, the disputing parties may request settlement of the dispute by the labor arbitration council or the President of the People's Committee of the province.

3. Settlement of interest-based collective labor disputes by labor arbitration council

a) Settlement of interest-based collective labor disputes by a labor arbitration council shall comply with Clause 1, Clause 2 and Clause 3 Article 197 of the Labor Code;

b) In case a arbitral tribunal is not established by the deadline specified in Clause 2 Article 197 of the Labor Code or the arbitral tribunal fails to issue a dispute settlement decision by the deadline specified in Clause 3 Article 197 of the Labor Code or either party fails to implement the decision of the arbitral tribunal, either party is entitled to request settlement of the dispute by the President of the People's Committee of the province.

While the labor arbitration council is settling the dispute, the parties must not request settlement by the President of the People's Committee of the province.

4. Settlement of interest-based collective labor disputes by the President of the People's Committee of the province

a) Within 02 working days from the receipt of the request for settlement of an interest-based collective labor dispute, the President of the People's Committee shall request the Provincial Department of Labor, War Invalids and Social Affairs to cooperate with relevant authorities in settling the dispute;

b) Within 10 working days, the Provincial Department of Labor, War Invalids and Social Affairs shall cooperate with Confederation of Labor of the province and relevant authorities in studying the case, instructing the disputing parties to negotiate. In case an agreement is reached by the disputing parties, the Provincial Department of Labor, War Invalids and Social Affairs shall issue a record bearing signatures of representatives of the disputing parties and send a report to the President of the People's Committee of the province. In case such an agreement is not reached by the disputing parties by the end of the 10-day time limit, within the next 05 working days, the Provincial Department of Labor, War Invalids and Social Affairs shall cooperate with Confederation of Labor of the province and relevant authorities in submitting a proposal to the President of the People's Committee of the province;

c) Within 05 working days from the receipt of the proposal from the Provincial Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province

shall chair a meeting with the disputing parties, representatives of the Confederation of Labor of the province and relevant organizations and issue a dispute settlement decision.

The dispute settlement decision issued by the President of the People's Committee of the province shall be final and binding upon the disputing parties.

Article 108. Settlement of disputes over collective bargaining rights at workplaces where strikes are prohibited

Disputes over collective bargaining rights at workplaces where strikes are prohibited shall be settled in accordance with regulations of the Government on settlement of disputes over collective bargaining rights as prescribed in Clause 4 Article 68 of the Labor Code.

Section 4. DELAY AND SUSPENSION OF STRIKES AND PROTECTION OF EMPLOYEES' INTERESTS

Article 109. Cases in which strikes are delayed or suspended

1. The Presidents of the People's Committee of the province has the power to issue a decision on delaying the time of strike written in the strike decision issued by the internal employee representative organization.

2. The President of the People's Committee of the province has the power to issue a decision on suspension of a strike until it no longer threatens the economy, public interest, defense and security, public order and human health.

3. Cases in which a strike is delayed:

a) Strikes at providers of electricity supply, water supply, public transportation and other services serving organization of public meetings and public holidays prescribed in Clause 1 Article 112 of the Labor Code;

b) Strikes in areas with ongoing works for prevention and recovery from natural disaster, epidemic or state of emergency.

4. Cases in which a strike is suspended:

a) The strike occurs in areas with an ongoing natural disaster, epidemic or state of emergency as prescribed by law;

b) The strike continues for the third day at a provider of electricity supply, water supply or public hygiene thus affects the environment, public health and life in the province;

c) The strike involves riots or disruption that threaten life, health, property of investors, cause serious damage to the economy, public interest, defense and security, public order and human health.

Article 110. Procedures for delaying a strike

1. Within 24 hours from the receipt of the strike decision from the internal employee representative organization that has the authority to hold and lead the strike, the Director of the Provincial Department of Labor, War Invalids and Social Affairs shall request the President of the People's Committee of the province to issue a decision to delay the strike if it is any of the cases specified in Clause 3 Article 109 of this Decree.

The written request for strike delay sent to the President of the People's Committee of the province shall specify the name of the employer where the strike is expected to take place, name of the employee representative organization that organizes the strike; planned strike location and time; demands of the employee representative organization; reasons for delay; delay duration and measures for implementation of the strike delay decision issued by the President of the People's Committee of the province.

2. Within 24 hours from the receipt of the request from the Director of the Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall consider issuing a decision to delay the strike and, within 12 hours after such decision is issued, notify Presidents of the People's Committees of districts, President of Provincial Confederation of Labor, chairperson of the labor arbitration council, the internal employee representative organization that organizes the strike and the employer where the strike is expected to take place. The strike delay decision takes effect from the day on which it is signed.

3. The employee representative organization, employer, employees, relevant organizations and individuals shall delay the strike in accordance with the aforementioned decision.

Article 111. Procedures for suspending a strike

1. In any of the cases specified in Clause 4 Article 109 of this Decree, the district-level Department of Labor, War Invalids and Social Affairs shall promptly send a report to the President of the People's Committee of the district to requesting suspension of the strike.

Within 12 hours from the receipt of the report from the Director of the district-level Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the district shall consider issuing a decision to suspend the strike and send it to the Director of the Provincial Department of Labor, War Invalids and Social Affairs. The written request for strike suspension to be sent to the President of the People's Committee of the province shall specify the name of the employer where the strike occurs, name of the employee representative organization that organizes the strike; location and starting time of the strike; scale of the strike; quantity of employees participating in the strike; demands of the employee representative organization; reasons for suspension; recommendations and measures for implementation of the strike suspension decision issued by the President of the People's Committee of the province.

2. Within 12 hours from the receipt of the report from the Director of the district-level Department of Labor, War Invalids and Social Affairs, the Director of the Provincial Department

of Labor, War Invalids and Social Affairs shall offer its opinions to the President of the People's Committee of the province for consideration of strike suspension.

3. Within 12 hours from the receipt of opinions from the Director of the Provincial Department of Labor, War Invalids and Social Affairs, the President of the People's Committee of the province shall consider issuing a strike suspension decision and, within 12 hours after such decision is issued, notify Presidents of the People's Committees of districts, President of Provincial Confederation of Labor, chairperson of the labor arbitration council, the internal employee representative organization that organizes the strike and the employer where the strike occurs. The strike suspension decision takes effect from the day on which it is signed.

4. Within 12 hours after the strike suspension decision is issued by the President of the People's Committee of the province, the employee representative organization, employer, employees, relevant organizations and individuals shall suspend the strike.

5. Within 24 hours from the receipt of the strike suspension decision from the President of the People's Committee of the province, Presidents of the People's Committees of districts shall submit reports on strike suspension to the President of the People's Committee of the province.

Article 112. Protection of employees' interests upon delay or suspension of strikes

1. During period of time over which the strike delayed or suspended as the request of the President of the People's Committee of the province, the Provincial and district-level Departments of Labor, War Invalids and Social Affairs shall cooperate with provincial and district-level Confederations of Labor, the internal employee representative organization that organizes the strike, the employer and relevant authorities in assisting the parties to negotiate to protect employees' interests and resolve relevant disagreements.

2. If the parties fail to successfully negotiate by the end of the delay or suspension period, the internal employee representative organization is entitled to carry on the strike as long as a written notice is sent to the employer, the People's Committee of the district and the district-level the Department of Labor, War Invalids and Social Affairs before resumption date of the strike.

Article 113. Rights and responsibilities of employees during strike suspension

1. After the President of the People's Committee of the province issues the strike suspension decision, the employees must resume their works and will be paid.

2. The employees who fail to resume their works will not be paid, unless otherwise agreed by both parties, and will face disciplinary actions according to the regulations of law and of the employer.

Chapter XI

IMPLEMENTATION CLAUSES

Article 114. Effect

1. This Decree comes into force from February 01, 2021.

2. The following Decrees cease to have effect from the aforementioned effective date of this Decree:

a) The Government's Decree No. 03/2014/ND-CP dated January 16, 2014 elaborating some Articles of the Labor Code on employments;

b) The Government's Decree No. 44/2013/ND-CP dated may 09, 2013 elaborating some Articles of the Labor Code on employment contracts; Decree No. 05/2015/ND-CP dated January 12, 2015 elaborating some contents of the Labor Code; Decree No. 148/2018/ND-CP dated October 24, 2018 amending some Articles of the Government's Decree No. 05/2015/ND-CP;

c) The Government's Decree No. 29/2019/ND-CP dated March 20, 2019 elaborating Clause 3 Article 54 of the Labor Code on licensing outsource services, deposit payment, and list of permissible outsourced jobs;

d) The Government's Decree No. 149/2018/ND-CP dated November 07, 2018 elaborating Clause 3 Article 63 of the Labor Code on application of workplace democracy;

d) The Government's Decree No. 49/2013/ND-CP dated May 14, 2013 elaborating some Articles of the Labor Code on salaries; Decree No. 121/2018/ND-CP dated September 13, 2019 amending some Articles of Decree No. 49/2013/ND-CP;

e) The Government's Decree No. 45/2013/ND-CP dated May 10, 2013 elaborating some Articles of the Labor Code on hours of work, hours of rest, occupational safety and occupational hygiene;

g) The Government's Decree No. 85/2015/ND-CP dated October 01, 2015 elaborating some Articles of the Labor Code on policies for female employees;

h) The Government's Decree No. 27/2014/ND-CP dated April 07, 2014 elaborating some Articles of the Labor Code on domestic servants;

i) The Government's Decree No. 46/2013/ND-CP dated May 10, 2013 elaborating some Articles of the Labor Code on labor disputes;

k) The Government's Decree No. 41/2013/ND-CP dated May 08, 2013 elaborating Article 220 of the Labor Code promulgating the list of employers whose employees may not go on strike and handling of collective requests of these employees.

3. Outsourcers whose licenses for provision of outsource services are granted before the effective date of this Decree may keep providing outsourcing services until their licenses expire. Renewal, reissuance and revocation of licenses shall comply with Article 26, Article 27 and Article 28 of this Decree.

4. An employer that has fewer than 10 employees is not required to organize the employee conference and promulgate workplace democracy regulations according to Article 47 and Article 48 of this Decree. Employers that are state administrative agencies or public service providers that hire/employ workers under employment contracts according to the Government's Decree No. 68/2000/ND-CP dated November 17, 200 on execution of contracts for some types of work in state administrative agencies and public service providers, Decree No. 161/2018/ND-CP dated November 29, 2019 amending some regulations on recruitment and promotion of officials and public employees and execution of contracts for certain jobs that are regulated by Decree No. 04/2015/ND-CP dated January 09, 2015 on democracy in operation of state administrative agencies and public service providers are not required to hold dialogues and implement workplace democracy regulations as prescribed in Chapter V of this Decree.

5. Hours of work and hours of rest of officials and public employees, personnel of military and police forces shall be regulated by other legislative documents. Otherwise, regulations of Chapter VII of this Decree shall apply.

6. Labor conciliators that are designated before the effective date of this Decree may continue working as labor conciliators until expiration of their designation period, unless they are discharged from duty according to Points a, c, d, dd Clause 1 Article 94 of this Decree.

7. In case the legislative documents referred to in this Decree are amended or replaced, the newer documents shall apply.

Article 115. Responsibility for implementation

Ministers, heads of ministerial-level agencies and Governmental agencies, Presidents of the People's Committees of provinces, relevant organizations, enterprises and individuals are responsible for the implementation of this Decree./.

ON BEHALF OF THE GOVERNMENT
PRIME MINISTER

Nguyen Xuan Phuc