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

DECREE

Detailing and guiding the implementation of a number of articles of the Labor Code regarding working conditions and industrial relations

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Pursuant to the Law on Organization of the Government dated June 19, 2015; the Law Amending and Supplementing a Number of Articles of the Law on Organization of the Government and the Law on Organization of Local Administration dated November 22, 2019;

Pursuant to the Labor Code dated November 20, 2019;

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

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

At the proposal of the Minister of Labor, Invalids and Social Affairs;

The Government hereby promulgates the Decree detailing and guiding the implementation of a number of articles of the Labor Code regarding working conditions and industrial relations.

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Chapter I
GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details and guides the implementation of a number of articles and clauses of the Labor Code regarding working conditions and industrial relations as follows:

1. Labor management as prescribed in Clause 3, Article 12.

2.Labor contract as prescribed in 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. Labor lease as prescribed in Clause 2, Article 54.

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4.Organization of dialogues and implementation of regulations on grassroots-level democracy in the workplace as prescribed in Clause 4, Article 63.

5. Wages as prescribed in Clause 3, Article 92; Clause 3, Article 96; Clause 4, Article 98.

6.Working time and rest time as prescribed in Clause 5, Article 107; Clause 7, Article 113 and Article 116.

7.Labor discipline and material responsibility as prescribed in Clause 5, Article 118; Clause 6, Article 122; Clause 2, Article 130; Article 131.

8.Female employees and assurance of gender equality as prescribed in Clause 6, Article 135.

9.Domestic employees as prescribed in Clause 2, Article 161.

10. Settlement of labor disputes as prescribed in Clause 2, Article 184; Clause 6, Article 185; Clause 2, Article 209; Clause 2, Article 210.

Article 2. Subjects of application

1. Employees, apprentices and on-the-job trainees as prescribed in Clause 1, Article 2 of the Labor Code.

2. Employers as prescribed in Clause 2, Article 2 of the Labor Code.

3.Other agencies, organizations and individuals involved in the implementation of provisions in this Decree.

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Chapter II

LABOR MANAGEMENT

Article 3. Labor management books

The making, updating, management and use of labor management books specified in Clause 1, Article 12 of the Labor Code is prescribed as follows:

1.Within 30 working days after commencing operation, an employer must make labor management books at the head quarter, branches and representative offices.

2.A labor management book may be made in paper or electronic form but must contains basic information about employees, including full name, date of birth, gender, citizenship, place of residence, number of identification card, citizen identification card or passport; technical qualifications, levels of occupational skills, working position; type of labor contract; time to start working; participation in social insurance; wages; wage raise, wage rank

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promotion, the number of annual leave days and overtime working hours; apprenticeship, training, fostering and improving occupational knowledge and skills; labor discipline and material responsibility; occupational accidents and diseases; time of termination of a labor contract and reason .

3. An employer shall be responsible for record and update information specified in Clause 2 of this Article from the date on which the employees start working; manage, use and produce labor management books to the labor management agency and relevant agencies upon requests as prescribed by law.

Article 4. Reporting on the employment of labor

The declaration of employment of labor and periodically report on labor-related changes specified in Clause 2, Article 12 of the Labor Code is prescribed as follows:

1. Employers shall declare the labor use in accordance with the Government's No. 122/2020/ND-CP dated October 15, 2020, prescribing inter-agency coordination in settlement of procedures for registration of establishment of enterprises, branches and representative offices, declaration of labor use, grant of identification numbers of units participating in social insurance, and registration for use of invoices of enterprises.

2. Biannually (before June 05) and annually (before December 05), employers shall report on labor-related changes to the Provincial-level Department of Labor, War Invalids and Social Affairs via the National Public Service Portal according to the Form No. 01/PLI provided Appendix I attached to this Decree and notify the district-level social insurance agency where the head office, branch or representative office is located. In case where the employer cannot report on labor-related changes via the National Public Service Portal, he/she shall send a paper report made according to the Form No. 01/PLI provided in Appendix I attached to this Decree to the Provincial-level Department of Labor, War Invalids and Social Affairs and notify the district-level social insurance agency where the head office, branch or representative office is located.

The Provincial-level Department of Labor, War Invalids and Social Affairs shall be responsible for summarizing the labor-related changes in case where the employer send paper reports to fully update information according to the Form No. 02/PLI provided in Appendix I attached to this Decree.

3. Biannually (before June 05) and annually (before December 05), the Provincial-level Department of Labor, War Invalids and Social Affairs shall be responsible for reporting the Ministry of Labor, War Invalids and Social Affairs on the labor use on the locality via the National Public Service Portal according to the Form No. 02/PLI provided Appendix I attached to this Decree.

In case where the Provincial-level Department of Labor, War Invalids and Social Affairs cannot report on labor use via the National Public Service Portal,

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it shall send a paper report to the Ministry of Labor, War Invalids and Social Affairs according to the Form No. 02/PLI provided in Appendix I attached to this Decree.

Chapter III

LABOR CONTRACT

Section 1

CONTENTS OF LABOR CONTRACTS FOR PERSONS HIRED TO WORK AS DIRECTORS OF STATE CAPITAL-INVESTED ENTERPRISES

Article 5. Contents of labor contracts for persons hired to work as directors of enterprises in which the State holds 100% of charter capital or enterprises in which the State holds more than 50% of charter capital or total voting shares

A labor contract for person hired to work as a director of an enterprise in which the State holds 100% of charter capital or enterprise in which the State holds more than 50% of charter capital or total voting shares specified in Clause 4, Article 21 of the Labor Code contains the following principal contents:

1. Name and address at the enterprise's head office according to the enterprise registration certificate; full name, date of birth, serial number of citizen identification card or identification card or passport, telephone number and contact address of the chairperson of the Member's Council or company president or chairperson of Boards of Directors.

2. Full name, date of birth, gender, citizenship; degree training; place of residence in Vietnam, place of residence in foreign country (for foreign employees); serial number of the citizen identification card, identification card or passport; telephone number, contact address; number of work permit issued by a competent state agency or a written certification that the employee is not subject to work permit; other documents at the request of the employer (for foreign employees) (if any) of the employee hired to work as a director.

3. Jobs allowed doing, banned jobs and the obligations associated with the performance of the job of the person hired to work as a director.

4. Working location of the person hired to work as a director.

5. Term of the labor contract shall be agreed by both parties but not exceeding 36 months. For foreign person hired to work as a director, the term of the labor contract must not exceed the term of the work permit granted by the

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competent state agency.

6. Contents, duration of, and responsibility for protection of the enterprise's business secrets or technological secrets of the person hired to work as a director and handling of violations.

7. Rights and obligations of employers, including:

a) Providing information to the person hired to work as a director to perform his/her duties;

b) Inspecting, supervising and evaluating the performance of the job of the person hired to work as a director;

c) Rights and obligations in accordance with law provisions;

d) Promulgating working regulations for the director;

dd) Fulfilling obligations towards the person hired to work as a director in terms of salary and bonus payment; payment of social insurance, health insurance and unemployment insurance; facilities for work, travel, meals and accommodation; training and retraining;

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

8.Rights and obligations of the person hired to work as a director include:

a) To perform jobs under a labor contract;

b) To report and propose solutions to settle troubles and difficulties in the performance of jobs under a labor contract;

c) To report on the management and use of capital, assets, labor and other sources;

d) To be entitled to policies in term of wage, bonus; working time and rest time; means and equipment for working, travel and living; social insurance, health insurance and unemployment insurance; training and retraining; other regimes as agreed by both parties;

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

9.Conditions, process and procedures for amending and supplementing a labor contract or unilaterally terminating a labor contract.

10.Rights and obligations of the employer and the person hired to work as a director upon termination of a labor contract.

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

12. Other contents as agreed by both parties.

Article 6. Contents of labor contracts for persons hired to work as directors of enterprises in which the State holds at least 50% of charter

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capital or total voting shares

Contents of a labor contract for person hired to work as a director of an enterprise in which the State holds at least 50% of charter capital or total voting shares shall comply with Clause 1, Article 21 of the Labor Code.

Section 2
TERMINATION OF LABOR CONTRACTS

Article 7. The period of prior notification upon unilateral termination of labor contracts, for a number of special sectors, occupations and jobs

Special sectors, occupations and jobs and the period of prior notification upon unilateral termination of labor contracts specified at Point d, Clause 1, Article 35 and Point d, Clause 2, Article 36 of the Labor Code:

1. Specific sectors, occupations and jobs include:

a) Air crew members; aircraft maintenance technicians, aviation instruments repair specialists; dispatchers;

b) Enterprise managers as prescribed by the Law on Enterprises, the Law on Management and Use of State Capital Invested in Production and Business at Enterprises;

c) Crew members working on Vietnamese ships operating abroad; crew members are hired by Vietnamese enterprises to work on board foreign seagoing ships;

d) Other cases as prescribed by law.

2.In case where an employee working in sectors, occupations and jobs specified in Clause 1 of this Article unilaterally terminates his/her labor contracts or an employer unilaterally terminates labor contracts with an employee working in such sectors, occupations and jobs, the period of prior notification shall be:

a) At least 120 days, for indefinite-term labor contracts or labor contracts with a term of 12 months or more;

b) At least a quarter of the term of the labor contract, for labor contracts with a term of less than 12 months.

Article 8. Severance allowance and job-loss allowance

1. An employer shall be responsible for paying a severance allowance under Article 46 of the Labor Code to the employee who has worked regularly for full 12 months or longer in case a labor contract terminates in accordance with Clauses 1, 2, 3, 4, 6, 7, 9 and 10, Article 34 of the Labor Code, except for the following cases:

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a) The employee is eligible for pension enjoyment as prescribed in Article 169 of the Labor Code and the law on social insurance;

b) The employee has given up work at his/her own discretion without a plausible reason for 05 or more consecutive days as prescribed at Point e, Clause 1, Article 36 of the Labor Code. Cases regarded as having a plausible reason are specified in Clause 4, Article 125 of the Labor Code.

2. An employer shall be responsible for paying a job-loss allowance under Article 47 of the Labor Code to the employee who has worked regularly for full 12 months or longer and loses his/her job under Clause 11, Article 34 of the Labor Code.

In case where an employee has worked regularly for an employer for full 12 months or longer and loses his/her job, but the working period used for calculating job-loss allowance specified in Clause 3 of this Article is less than 24 months, the employer shall be responsible for paying a job-loss allowance with an amount equal to at least 02 months' wage to the employee.

3. The working period used for calculating severance allowance or job-loss allowance is the total period during which the employee has actually worked for the employer minus the period during which the employee is covered by unemployment insurance in accordance with the law on unemployment insurance and the period for which the employee has received a severance allowance or job loss allowance from the employer, in which:

a) The total period during which the employee has actually worked for the employer includes: the period during which the employee has actually worked for the employer; period during which the employee is sent to refresher courses by the employer; and period of paid leaves for sickness and maternity in accordance with the law on social insurance; period of paid leave during which the employee receives medical treatment or workability rehabilitation after having a labor accident or suffering an occupational disease under the law on occupational safety and health; paid leave period for performing citizens' obligations as prescribed by law; period during which the employee has to cease work not due to his/her fault; weekly leave period under Article 111, paid leave periods under Articles 112, 113, 114 and clause 1, Article 115; period for performing tasks of grassroots-level employees' representative organizations under Clauses 2 and 3, Article 176; and period of suspension from work under Article 128 of the Labor Code.

b) The period during which the employee is covered by unemployment insurance includes: the period during which the employee is covered by unemployment insurance in accordance with law provisions and period during which the employee is regarded as not being subject to unemployment insurance as prescribed by law but the employer has simultaneously paid to the employee his/her wage and an amount equal to the unemployment insurance premium in

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accordance with the laws on labor and unemployment insurance.

c) The working period used for calculating severance allowance or job-loss allowance is calculated in years (full 12 months); if having odd months, a period of maximum 06 months shall be counted as half year; and a period of more than 06 months shall be counted as one working year.

4. Determination of the period during which the employee has actually worked for the employer specified at Point a, Clause 3 of this Article in a number of special cases:

a) Wholly stated-owned enterprises or enterprises which are equitized from state enterprises, when terminating labor contracts with employees who have worked in state agencies, organizations, units or enterprises before being transferred to work for them prior to January 01, 1995, but have not yet received any severance allowance or job-loss allowance or lump-sum allowance upon demobilization or demobilization allowance or allowance upon changing job, the employer shall calculate both the period during which the employee has actually worked for him/her, and the period during which the employee has actually worked for such state sector.

The period during which the employee has actually worked for state agencies, organizations, units or enterprises prior to January 01, 1995 includes: The period during which the employee has actually worked for state agencies; public non-business units; political organizations; socio-political organizations; units affiliated to army that enjoy salary from state budget; period during which the employee has worked for state enterprises.

b) In case where the employee works for the employer under many continuous labor contracts as prescribed in Clause 2, Article 20 of the Labor Code and has not yet received any severance allowance or job-loss allowance upon termination of each labor contract, the period during which he/she has actually worked for the employer is the total period during which the employee has actually worked under labor contracts
for the employer minus the actual working period under the labor contract declared to be wholly null and void due to the fact that whole contents of the contract are illegal or the job agreed upon in the contract is prohibited by law, the labor contract that the employee is disciplined by the form of dismissal and the labor contract is unilaterally and illegally terminated by the employee (if any).

c) In case where the employee continues work for the enterprise or cooperative under labor utilization plans specified in Clause 1, Article 44 of the Labor Code after division, splitting-up, consolidation or merger; or sale, lease or transformation of enterprise; or transfer of asset ownership or use rights, the employer shall be responsible for determining the period during which the employee has actually worked for the employer to calculated severance allowance or job-loss allowance as follows:

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c1) In case the labor contract is terminated under Clauses 1, 2, 3, 4, 6, 7, 9 and 10, Article 34 of the Labor Code, the period during which the employee has actually worked for the employer to be calculated for payment of severance allowance is the total period during which the employee has actually worked for the employer under labor contracts before and after division, splitting-up, consolidation or merger; or sale, lease or transformation of enterprise; or transfer of asset ownership or use rights.

c2) In case the labor contract is terminated under Clause 11, Article 34 of the Labor Code, the period during which the employee has actually worked for the employer to be calculated for payment of job-loss allowance is the total period during which the employee has actually worked for the employer under labor contracts after division, splitting-up, consolidation or merger; or sale, lease or transformation of enterprise; or transfer of asset ownership or use rights. The period during which the employee has actually worked for the employer to be calculated for payment of severance allowance is the period during which the employee has actually worked for the employer under labor contracts before division, splitting-up, consolidation or merger; or sale, lease or transformation of enterprise; or transfer of asset ownership or use rights.

c3) The employer shall be responsible for paying severance allowance for the period during which the employee has worked in the state sector where such employee has been last recruited prior to January 01, 1995 in the enterprise before division, splitting-up, consolidation or merger; or sale, lease or transformation of enterprise; or transfer of asset ownership or use rights in accordance with Point a of this Clause.

5. The wage used for calculating severance allowance or job-loss allowance is prescribed as follows:

a) The wage used for calculating severance allowance or job-loss allowance is the average wage under the labor contract during 06 months preceding the time the employee leaves work or loses his/her job.

b) In case where the employee works for the employer under many continuous labor contracts as prescribed in Clause 2, Article 20 of the Labor Code, the wage used for calculating severance allowance or job-loss allowance is the average wage under the labor contract during 06 months preceding the time of terminating the last labor contract. In case where the last labor contract is declared to be null and void due to containing content of wage lower than the region-based minimum wage announced by the Government of the wage stated in the collective labor agreement, the wage used for calculating severance allowance shall be agreed by both parties but must not lower than the region-based minimum wage or the wage stated in the collective labor agreement.

6. Expenses for payment of severance allowance or job-loss allowance are accounted as production and business expenses or operation expenses of

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employers.

Section 3
HANDLING OF NULL AND VOID LABOR CONTRACTS

Article 9. Handling of partially null and void contracts

The handling of partially null and void labor contracts specified in Clause 1, Article 51 of the Labor Code is prescribed as follows:

1. When a labor contract is declared to be partially null and void, the employer and employee shall amend and supplement the part of the contract which is declared to be null and void to conform with the collective labor agreement and the law.

2. Rights, obligations and interests of both parties from the time of starting the performance of the labor contract which is declared to be partially null and void until the time that labor contract is amended and supplemented shall be handled under the applicable collective labor agreement; in case the collective labor agreement is unavailable, law regulations shall be applied.

In case the labor contract declared to be null and void contains contents of wage level lower than the wage level as prescribed by labor law or applicable collective labor agreement, both parties must reach an agreement on the wage level to conform with regulations, and the employer shall be responsible for determining the difference between the re-agreed wage and the wage stated in the contract declared to be null and void to pay to the employee corresponding to the period during which the employee has actually worked under the contract declared to be null and void.

3. In case where both parties fail to amend and supplement contents declared to be null and void:

a) The labor contract shall be terminated;

b) Rights, obligations and interests of both parties from the time of starting the performance of the labor contract which is declared to be partially null and void until the time that labor contract is terminated shall comply with Clause 2 of this Article;

c) Severance allowance regime shall be handled under Article 8 of this Decree;

d) The working period under the labor contract declared to be null and void of the employee shall be regarded as the period during which the employee works for the employer to be used as the ground for implementing regimes as prescribed by labor law.

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4. Other matters related to the handling of partially null and void contracts under the competence of the court shall comply with the Civil Procedure Code.

Article 10. Handling of wholly null and void contracts due to the contract signer is incompetent or breaches the principles of entry into labor contracts

1. When a labor contract is declared to be wholly null and void, the employer and employee shall re-sign the labor contract in accordance with law provisions.

2. Rights, obligations and interests of the employee from the time of starting the performance of the labor contract which is declared to be null and void until the time that labor contract is re-signed shall be performed as follows:

a) If rights, obligations and interests of each party in a labor contract is not less than those as prescribed by law and the applicable collective labor agreement, the employee's rights, obligations and interests shall comply with the contents of a labor contract that is declared to be null and void;

b) If contents related to rights, obligations and interests of each party specified in the labor contract are illegal without affecting the other contents of the labor contract, the employee's rights, obligations and interests shall comply with Clause 2, Article 9 of this Decree;

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c) The period during which the employee works under the labor contract declared to be null and void shall be regarded as the
period during which the employee works for the employer to be used as the ground for implementing regimes as prescribed by labor law.

3. In case where the labor contract declared to be null and void is not re-signed:

a) The labor contract shall be terminated;

b) Rights, obligations and interests of the employee from the time of starting the performance of the labor contract which is declared to be null and void until the time that labor contract is terminated shall comply with Clause 2 of this Article;

c) Severance allowance regime shall be handled under Article 8 of this Decree.

4. Other matters related to the handling of wholly null and void contracts due to the contract signer is incompetent or breaches the principles of entry into labor contracts under the competence of the court shall comply with the Civil Procedure Code.

Article 11. Handling of wholly null and void contracts due to the whole contents of the contract are illegal or the job agreed upon in the contract is

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prohibited by law

1. When a labor contract is declared to be wholly null and void, the employer and employee shall enter into a new labor contract in accordance with law provisions.

2. Rights, obligations and interests of the employee from the time of starting the performance of the labor contract which is declared to be null and void until the time of entering into a new labor contract shall comply with Clause 2, Article 10 of this Decree.

3. In case where both parties fail to enter into a new labor contract:

a) The labor contract shall be terminated;

b) Rights, obligations and interests of the employee from the time of starting the performance of the labor contract which is declared to be null and void until the time that labor contract is terminated shall comply with Clause 2 of this Article;

c) The employer shall pay the employee an amount of money as agreed upon by both party but for each working year, the employee shall be entitled to an amount equal to at least 01 month's monthly region-based minimum wage applicable to the workplace stipulated by the Government at the time of the decision to declare the labor contract null and void. The working period used for calculating allowance that is the actual working period under the contract declared to be null and void shall be determined under Point a, Clause 3, Article 8 of this Decree;

d) Severance allowance regime for labor contracts signed before the labor contract that is declared to be null and void shall be handled under Article 8 of this Decree (if any).

4. Other matters related to the handling of wholly null and void contracts due to the whole contents of the contract are illegal or the job agreed upon in the contract is prohibited by law under the competence of the court shall comply with the Civil Procedure Code.

Chapter IV

LABOR LEASE

Section 1

GENEREAL PROVISIONS ON LABOR LEASE

Article 12. Labor leasing enterprises

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Labor leasing enterprise means an enterprise established under the Law on Enterprises and licensed for labor lease that recruit and enter into a labor contract with an employee, then such an employee is assigned to work for and is managed by another employer while maintaining industrial relations with the former employer (hereinafter referred to as the labor leasing enterprise).

Article 13. Labor hiring parties

Labor hiring party means an enterprise, agency, organization, cooperative, household or individual having full civil act capacity that employs the leased employees for jobs in the list of jobs allowed for labor lease for a definite term.

Article 14. Leased employees

Leased employee means an employee that has the full civil act capacity, is recruited by, and signs a labor contract with, a leasing enterprise, and then works for and is subject to the management of a labor hiring party.

Section 2

PAYMENT OF DEPOSITS BY LABOR LEASING ENTERPRISES

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Article 15. Deposit and use of deposits

1. A labor leasing enterprise shall pay a deposit with an amount as prescribed in Clause 2, Article 21 of this Decree at the Vietnamese commercial bank or a foreign bank branch lawfully established and operates in Vietnam (hereinafter referred to as the deposit-receiving bank).

2. Deposits shall be used for payment of wages, social insurance premiums, health insurance premiums, unemployment premiums, occupational accident and disease insurance premiums and other regimes to leased employees as agreed in labor contracts, collective labor agreements, leasing enterprises' internal regulations or regulations or compensations to leased employees in case leasing enterprises violate labor contracts signed with leased employees or cause damage to leased employees because the enterprises fail to guarantee the lawful rights and interests of leased employees.

Article 16. Payment of deposits

1. Leasing enterprises shall pay deposits under regulations of deposit-receiving banks and relevant laws. Leasing enterprises shall be entitled to interests from deposits as agreed with deposit-receiving banks under law regulations.

2. After a leasing enterprise completes the procedures for paying a deposit, a deposit-receiving bank shall issue a deposit certificate to the leasing enterprise according to Form No. 01/PLIII provided in Appendix III attached to this Decree.

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In case of changing one of the information details in its deposit certificate, including name of the enterprise; address of the head office or number of the deposit account, a leasing enterprise shall send a written request, together with documents proving the change, to the deposit-receiving bank for the latter to change the deposit certificate.

Article 17. Management of deposits

1. Deposit-receiving banks shall freeze and manage deposit amounts of leasing enterprises and manage deposits under the regulations on deposits.

2. Deposit-receiving banks shall allow leasing enterprises to withdraw deposits or deduct deposits and request leasing enterprises to make additional payment of deposits under Articles 18, 19 and 20 of this Decree.

3. Deposit-receiving banks may not allow leasing enterprises to withdraw deposits when no written approval of the Chairperson of the People's Committee of province or centrally-run city (hereinafter referred to as the Chairperson of the provincial-level People's Committee) is obtained.

Article 18. Withdrawal of deposits

1. A Chairperson of the provincial-level People's Committee where the leasing enterprise's head office is located may decide to allow a leasing enterprise to withdraw its deposit if the leasing enterprise falls into one of the following cases:

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a) The leasing enterprise encounters difficulties and does not have enough financial resources to pay wages, social insurance premiums, health insurance premiums, unemployment premiums, occupational accident and disease insurance premiums an other regimes as agreed in the labor contracts, collective labor agreements, leasing enterprise's internal regulations and rules for leased employees within 30 days from the due date as prescribed by law;

b) The leasing enterprise encounters difficulties and is unable to pay compensations to leased employees in case it breaches labor contracts signed with leased employees or causes damage to leased employees as it fails to guarantee lawful rights and interests of leased employees within 60 days from the due date as prescribed by law;

c) The enterprise is not granted a license;

d) The leasing enterprise's license is revoked or not extended or re-granted;

dd) The leasing enterprise has already paid deposits at another Vietnamese commercial bank or another foreign bank branch in Vietnam.

2.A dossier requesting the Chairperson of the provincial-level People's Committee for to grant the withdrawal of deposits sent to the provincial-level Department of Labor, War Invalids and Social Affairs must comprise:

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a) A written request for withdrawal of the deposit of the leasing enterprise;

b) A plan on use of the money amount withdrawn from the deposit account, covering: reason for, and purpose of withdrawal of the deposit; number of employees, payable amount, time and mode of payment, in case of withdrawal of the deposit under Points a and b, Clause 1 of this Article;

c) A report on, and documents proving, the fulfillment of obligations toward leased employees, in case of withdrawal of the deposit under Point d, Clause 1 of this Article;

d) A deposit certificate, in case of withdrawal of the deposit under Point dd, Clause 1 of this Article.

3.A dossier of withdrawal of deposit to be sent to the deposit-receiving bank must comprise:

a) A written request for withdrawal of the deposit of the leasing enterprise under Point a, Clause 2 of this Article;

b) A written approval of the withdrawal of the deposit of the Chairperson of the provincial-level People's Committee, made according to Form No. 02/PLIII provided in Appendix III attached to this Decree;

c) The document of withdrawal of the deposit under regulations of the deposit-receiving bank (if any).

4.The order and procedures for withdrawal of deposits are as follows:

a) The leasing enterprise shall submit 01 set of dossier as prescribed in Clause 2 of this Article to the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where it is headquartered;

b) The provincial-level Department of Labor, War Invalids and Social Affairs shall receive and check the dossier, then issue a receipt inscribed with the date of dossier receipt. Within 05 working days after receiving a complete dossier of request for withdrawal of deposit from the leasing enterprise, the provincial-level Department of Labor, War Invalids and Social Affairs shall check and verify the dossier of request of the leasing enterprise and whether the enterprise has fulfilled its obligations toward leased employees, in cases specified at Point d, Clause 1 of this Article and propose the provincial-level People's Committee chairperson to allow the leasing enterprise to withdraw the deposit;

c) Within 05 working days after receiving the proposal dossier of the provincial-level Department of Labor, War Invalids and Social Affairs, the Chairperson of the provincial-level People's Committee shall issue a written approval of the withdrawal of the deposit and plan on use of the deposit (if any) and send it to the leasing enterprise and the deposit-receiving bank. In case of refusal, the Chairperson of the provincial-level People's Committee shall send a written reply to the leasing enterprise, which clearly states the reason for refusal;

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d) After receiving the written approval of the withdrawal of the deposit from the Chairperson of provincial-level People's Committee, the leasing enterprise shall submit a dossier prescribed at Clause 3 of this Article to the deposit-receiving bank;

dd) The deposit-receiving bank shall receive and examine the leasing enterprise's deposit withdrawal dossier. If the dossier is lawful, it shall allow the leasing enterprise to withdraw the deposit within 01 working day, from the date on which the deposit withdrawal dossier is received.

In case of withdrawal of deposits specified at Points a and b, Clause 1 of this Article, the payment and compensation to leased employees shall be made by the deposit-receiving bank according to the plan approved by the Chairperson of the provincial-level People's Committee, after subtracting banking service charges.

Article 19. Deduction of the deposit in case a leasing enterprise fails to fulfill obligations toward leased employees

1. Past 60 day from the due date, if the enterprise fails to settle regimes and interests for leased employees as prescribed in Clause 2, Article 15 of this Decree, the provincial-level Department of Labor, War Invalids and Social Affairs shall send a written request to the leasing enterprise to settle regimes and interests for leased employees after discussing with social insurance agencies and relevant organizations and agencies. After 10 days from the date on which the provincial-level Department of Labor, War Invalids and Social Affairs issue a written request, if the leasing enterprise fails to make a payment, fails to issue a written request for withdrawal of deposits to settle regimes for employees, the provincial-level Department of Labor, War Invalids and Social Affairs shall submit the Chairperson of the provincial-level People's Committee to deduct the leasing enterprise's deposits in order to settle regimes and interests for leased employees according to the following order and procedures:

a) The provincial-level Department of Labor, War Invalids and Social Affairs shall request the leasing enterprise to report on the quantity and the list of leased employees, an amount not yet paid or compensated for regimes and interests of each leased employee. Within 05 working days after receiving the provincial-level Department of Labor, War Invalids and Social Affairs' request, the leasing enterprise shall complete the reporting. Within 03 working days after receiving the leasing enterprise's report, the provincial-level Department of Labor, War Invalids and Social Affairs shall summarize it and propose the Chairperson of the provincial-level People's Committee to decide on the deduction of the leasing enterprise's deposit to settle regimes for employees;

b) Within 05 working days after receiving a provincial-level Department of Labor, War Invalids and Social Affairs' request, the Chairperson of the provincial-level People's Committee shall decide on the deduction of a leasing

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enterprise's deposit. A decision on deduction of the deposit shall be made according to Form No. 03/PLIII provided in Appendix III attached to this Decree;

c) Within 07 working days after receiving a provincial-level People's Committee Chairperson's decision, a deposit-receiving bank shall deduct the deposit of the leasing enterprise and directly make payments for leased employees according to the list attached to the provincial-level People's Committee Chairperson's decision, after subtracting banking service charges. A leasing enterprise's deposit shall be paid in the order of priority: wage; social insurance premiums, health insurance premiums, unemployment insurance premiums; occupational accident and disease insurance premiums and other benefits for leased employees as agreed in labor contracts, collective labor agreements, the rules and internal regulations of the leasing enterprise.

2. The provincial-level Department of Labor, War Invalids and Social Affairs shall be responsible for supervising the making of payments and compensations for leased employees under Clause 1 of this Article and report results to the provincial-level People's Committee.

Article 20. Additional payment of deposits

1. Within 30 days after money is withdrawn to make payments in the cases specified at Points a and b, Clause 1, Article 18 and Article 19 of this Decree, a leasing enterprise shall pay additional money to its deposit account up to the level prescribed in Clause 2, Article 21 of this Decree.

2. Within 30 days after the expiration specified in Clause 1 of this Article, if a leasing enterprise fails to pay additional money to its deposit account, the deposit-receiving bank shall notify in writing such to the provincial-level Department of Labor, War Invalids and Social Affairs and People's Committee where the leasing enterprise's head office is located. Within 15 days, from the date on which the deposit-receiving bank's notice is received, the provincial-level Department of Labor, War Invalids and Social Affairs shall submit it to the Chairperson of the provincial-level People's Committee to revoke the enterprise's license under Clause 4, Article 28 of this Decree.

Section 3

CONDITIONS, COMPETENCE, ORDER AND PROCEDURES FOR GRANT, EXTENSION, RE-GRANT AND REVOCATION OF LICENSES AND THE LIST OF JOBS FOR WHICH LABOR MAY BE LEASED

Article 21. Conditions for grant of a license

1.The at-law representative of a leasing enterprise must meet the following

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conditions:

a) Being a manager of the enterprise in accordance with the Law on Enterprises;

b) Having no criminal convictions;

c) Having worked directly as a professional or manager in the field of labor lease or labor supply for at least full 03 years (36 months) within 05 consecutive years preceding the year of application for a license.

2.The enterprise has paid a deposit of VND 2,000,000,000 (two billion dong).

Article 22. Competence for grant, extension, re-grant and revocation of licenses

The Chairperson of the provincial-level People's Committee is competence to grant, extend, re-grant and revoke licenses for enterprises headquartered in the locality.

Article 23. Labor lease licenses

1.A license shall be printed on cardboard paper of A4 size (21cm x 29.7cm); the front page is imprinted with the national emblem and inscribed with the contents of the license on white background with sky-blue patterns in a black border frame; the back page features the country name, national emblem and the phrase "LABOR LEASE LICENSE" on sky-blue background.

2.The contents of a labor lease license must comply with Form No. 04/PLIII provided in Appendix III attached to this Decree.

3.The validity duration of licenses is prescribed as follows:

a) A license is valid for up to 60 months;

b) A license may be extended many times, an extended license is valid for up to 60 month;

c) The validity duration of a re-granted license equals the remaining validity duration of the previously granted one.

Article 24. Dossier of application for a license

1.An enterprise's application for a license, made according to Form No. 05/PLIII provided in Appendix III attached to this Decree.

2. A curriculum vitae of the enterprise's at-law representative, made according to Form No. 07/PLIII provided in Appendix III attached to this Decree.

3. The criminal record certificate No. 1 as prescribed by the law on criminal records of the enterprise's at-law representative. In case the enterprise's at-law representative is a foreigner who is not eligible for grant of the criminal record certificate No. 1; such criminal record certificate shall be replaced by a criminal

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record certificate in the country of nationality.

The documents specified in this Clause must be issued within 06 months before the date of dossier submission. Documents in foreign languages must be translated into Vietnamese, certified and consularly legalized in accordance with law provisions.

4. A document proving the period of time of directly working as a professional or manager in labor lease or labor supply of the enterprise's at-law representative as prescribed at Point c, Clause 1, Article 21 of this Decree, which is one of the following documents:

a) A certified copy of the original labor contract or employment contract or decision on recruitment, appointment or assignment of the enterprise's at-law representative;

b) A certified copy of the original appointment decision (for those who are appointed) or document recognizing results of election (for those who are elected) of the enterprise's at-law representative or a copy of the enterprise registration certificate (for those who are the at-law representatives of labor leasing enterprises or labor supply enterprises).

Documents specified at Points a and b of this Clause that are foreign documents must be translated into Vietnamese, certified and consularly legalized in accordance with law provisions.

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5. A deposit certificate shall be made according to Form No. 01/PLIII provided in Appendix III attached to this Decree.

Article 25. Order and procedures for grant of licenses

1. The enterprise shall send one set of dossier as prescribed in Article 24 of this Decree to the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where it is headquartered to apply for a license.

2. After examining all the papers specified in Article 24 of this Decree, the provincial-level Department of Labor, War Invalids and Social Affairs shall issue a receipt specifying the date of receipt of the dossier of application for a license.

3.Within 20 working days after receiving a dossier as prescribed, the provincial-level Department of Labor, War Invalids and Social Affairs shall appraise it and propose the provincial-level People's Committee Chairperson to grant a license to the enterprise.

In case the dossier is not complete and valid as prescribed, within 10 working days after receiving it, the provincial-level Department of Labor, War Invalids and Social Affairs shall issue a written document requesting the enterprise to complete the dossier.

4. Within 07 working days after receiving the proposal dossier of the

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provincial-level Department of Labor, War Invalids and Social Affairs, the provincial-level People's Committee Chairperson shall consider granting a license to the enterprise. If refusing to grant a license, he/she shall issue a written reply clearly stating the reason to the enterprise.

5. A license shall not be granted in the following cases:

a) The applying enterprise fails to meet the conditions prescribed in Article 21 of this Decree;

b) The applying enterprise has used a counterfeit license to conduct labor lease;

c) The applying enterprise's at-law representative used to be the at-law representative of an enterprise whose license has been revoked due to reasons specified at Points d, dd and e, Clause 1, Article 28 of this Decree in 05 consecutive years preceding the time of applying for a labor lease license;

d) The applying enterprise's at-law representative used to be the at-law representative of an enterprise which has used a counterfeit license.

Article 26. Extension of licenses

1. To have its license extended, an enterprise must meet the following requirements:

a) Meeting the conditions prescribed in Article 21 of this Decree;

b) Not falling into the case of license revocation as prescribed in Article 28 of this Decree;

c) Fully complying with the reporting regime as prescribed in this Decree;

d) Sending a dossier of request for extension of the license to the provincial-level Department of Labor, War Invalids and Social Affairs at least 60 working days before the license expires.

2. A dossier of request for extension of a license must comprise:

a) An enterprise's application for extension of a license, made according to Form No. 05/PLIII provided in Appendix III attached to this Decree;

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

c) The documents specified in Clauses 2, 3 and 4, Article 24 of this Decree, if the enterprise requests extension of the license and change of the at-law representative at the same time.

3. Order and procedures for extension of licenses

a) The enterprise shall send one set of dossier as prescribed in Article 2 of this Decree to the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where it is headquartered to apply for extension of the license. After examining all the papers specified in Article 2 of this Decree, the

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provincial-level Department of Labor, War Invalids and Social Affairs shall issue a receipt specifying the date of receipt of the dossier of request for extension of a license;

b) Within 15 working days after receiving a dossier as prescribed, the provincial-level Department of Labor, War Invalids and Social Affairs shall appraise it and propose the provincial-level People's Committee Chairperson to extend a license to the enterprise. In case the dossier is not complete and valid as prescribed, within 07 working days after receiving it, the provincial-level Department of Labor, War Invalids and Social Affairs shall issue a written document requesting the enterprise to complete the dossier.

Within 07 working days after receiving the proposal dossier of the provincial-level Department of Labor, War Invalids and Social Affairs, the provincial-level People's Committee Chairperson shall consider extending a license to the enterprise. If refusing to extend a license, he/she shall issue a written reply clearly stating the reason to the enterprise.

4.In case a leasing enterprise fails to meet the requirements specified in Clause 1 of this Article or falls into one of the cases specified in Clause 5, Article 25 of this Decree, the provincial-level People's Committee Chairperson shall issue a written reply clearly stating the reason for refusal to extend its license.

Article 27. Re-grant of licenses

1. A leasing enterprise may request the provincial-level People's Committee Chairperson to re-grant a license in the following cases:

a) There is a change in one of the contents of the granted license, including: name of the enterprise; address of the head office (the new address of the head office is still in the province where the license was granted); at-law representative;

b) The license is lost;

c) The license is damaged and no longer contains sufficient information;

d) Change of the address of the head office to a province other than where the license was granted.

2. A dossier of request for re-grant of a license must comprise:

a) A written request for re-grant of the license, made according to Form No. 05/PLIII provided in Appendix III attached to this Decree;

b) A copy of the enterprise registration certificate, in case where there is a change in the enterprise's name, head office's address (but still in the province where the license is granted), or the license is damaged and no longer contains sufficient information;

c) The documents specified in Clauses 2, 3 and 4, Article 24 of this Decree,

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in case the enterprise changes its at-law representative;

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

dd) The granted license, for the cases specified at Points a and c, Clause 1 of this Article.

3. The order and procedures for re-grant of a license in the cases prescribed at Points a, b and c, Clause 1 of this Article are as follows:

a) The enterprise shall send one set of dossier as prescribed in Article 2 of this Decree to the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where it is headquartered to apply for re-grant of the license. After examining all the papers specified in Article 2 of this Decree, the provincial-level Department of Labor, War Invalids and Social Affairs shall issue a receipt specifying the date of receipt of the dossier of request for extension of a license;

b) Within 15 working days after receiving a dossier as prescribed, the provincial-level Department of Labor, War Invalids and Social Affairs shall appraise it and propose the provincial-level People's Committee Chairperson to re-grant a license to the enterprise. In case the dossier is not complete and valid as prescribed, within 07 working days after receiving it, the provincial-level Department of Labor, War Invalids and Social Affairs shall issue a written document requesting the enterprise to complete the dossier;

c) Within 07 working days after receiving the proposal dossier of the provincial-level Department of Labor, War Invalids and Social Affairs, the provincial-level People's Committee Chairperson shall consider re-granting a license to the enterprise. If refusing to re-grant a license, he/she shall issue a written reply clearly stating the reason to the enterprise.

4. The order and procedures for re-grant of a license in the cases prescribed at Point d, Clause 1 of this Article are as follows:

a) A dossier of request for re-grant of a license must comprise: A written request for re-grant of the license, made according to Form No. 05/PLIII provided in Appendix III attached to this Decree; A copy of the enterprise registration certificate granted by the business registration agency of the locality where the new head office of the enterprise is located in accordance with law provisions; A license granted by the Chairperson of the provincial-level People's Committee where the enterprise's head office was formerly located;

b) The enterprise shall send one set of dossier as prescribed at Point a of this Clause to the provincial-level Department of Labor, War Invalids and Social Affairs of the new head office of the enterprise is located to apply for a license. Upon receiving the complete dossier with papers specified at Point a of this Clause, the provincial-level Department of Labor, War Invalids and Social

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Affairs shall issue a receipt clearly stating the date of dossier receipt;

c) Within 10 working days, the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's new head office is located shall issue a written request to the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's license was granted to provide a copy of the dossier of application for a license and confirm the non-revocation conditions of the leasing enterprise;

d) Within 07 working days after receiving documents from the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's new head office is located, the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the leasing enterprise's license was granted shall send its opinions on the operation of the leasing enterprise in the locality, enclose with a copy of the dossier of application for a license of the leasing enterprise, to the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's new head office is located.

In case the leasing enterprise has its license revoked under Clause 1, Article 28 of this Decree, the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the leasing enterprise's license was granted shall report the provincial-level People's Committee Chairperson to revoke the license and notify the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's new head office is located;

dd) Within 06 working days after receiving documents from the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the leasing enterprise's license was granted, the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's new head office is located shall propose the provincial-level People's Committee Chairperson to re-grant a license for the enterprise.

In case the leasing enterprise's license was revoked under Point a, Clause 1, Article 28 of this Decree by the Chairperson of the provincial-level People's Committee where the enterprise's head office was formerly located, the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's new head office is located shall issue a written document requesting the enterprise to complete the dossier and submit it to the provincial-level People's Committee Chairperson to re-grant a license for the enterprise.

In case the leasing enterprise's license was revoked under Points c, d, dd and e, Clause 1, Article 28 of this Decree by the Chairperson of the provincial-level People's Committee where the enterprise's head office was formerly located, the provincial-level Department of Labor, War Invalids and Social Affairs shall propose the provincial-level People's Committee Chairperson not to

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re-grant a license for the leasing enterprise;

e) Within 04 working days after receiving the proposal dossier of the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise's new head office is located, the provincial-level People's Committee Chairperson shall consider granting a license to the enterprise. If refusing to grant a license, he/she shall issue a written reply clearly stating the reason to the enterprise.

Article 28. Revocation of licenses

1. A leasing enterprise shall have its license revoked in the following cases:

a) It terminates labor lease activities at its own will;

b) It dissolves or is declared bankrupt under a court ruling;

c) It fails to meet one of the conditions prescribed in Article 21 of this Decree;

d) It lets another enterprise, organization or individual use the license;

dd) It conducts labor lease to perform the jobs not on the list of jobs for which labor may be leased as provided in Appendix III attached to this Decree;

e) It has committed acts of forging the documents in the dossier of application for, or request for extension or re-grant of, a license, erasing or tampering with the license or using a counterfeit license.

2. A dossier of request for revocation of a license in the cases specified at Points a and b, Clause 1 of this Article must comprise:

a) A written request for revocation of the license, made according to Form No. 06/PLIII provided in Appendix III attached to this Decree;

b) The granted license or a written commitment to take responsibility before the law made by the leasing enterprise, in case the license is lost;

c) A report on labor lease activities of the enterprise, made according to Form No. 09/PLIII provided in Appendix III attached to this Decree;

d) A copy of the labor leasing contract which remains valid up to the time of request for revocation of a license.

3. The order and procedures for revocation of a license in the cases prescribed at Points a and b, Clause 1 of this Article are as follows:

a) The enterprise shall send one set of dossier as prescribed in Clause 2 of this Article to the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where it is headquartered;

b) The provincial-level Department of Labor, War Invalids and Social Affairs shall receive and check the dossier, then issue a receipt inscribed with the date of dossier receipt. Within 10 working days after receiving a complete dossier

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of request for revocation of a license from the enterprise, the provincial-level Department of Labor, War Invalids and Social Affairs shall examine and review the enterprise's labor leasing contracts which remain valid to request the leasing enterprise to settle regimes for employees under Article 29 of this Decree and propose the provincial-level People's Committee Chairperson to revoke the license;

c) Within 07 working days after receiving the proposal dossier of the provincial-level Department of Labor, War Invalids and Social Affairs, the provincial-level People's Committee Chairperson shall decide to revoke the license. The decision on revocation of the license shall be made according to Form No. 08/PLIII provided in Appendix III attached to this Decree.

4. The order and procedures for revocation of a license in the cases specified at Points c, d, dd and e, Clause 1 of this Article are as follows:

a) Upon detecting that a leasing enterprise falls into one of the cases specified at Points c, d, dd and e, Clause 1 of this Article, the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise is headquartered shall examine and collect related evidences and propose the provincial-level People's Committee Chairperson to revoke the license;

b) Within 07 working days after receiving the proposal dossier of the provincial-level Department of Labor, War Invalids and Social Affairs, the provincial-level People's Committee Chairperson shall decide to revoke the license of the enterprise;

c) Within 03 working days after receiving the decision on revocation of the license, the leasing enterprise shall be responsible for returning its license to the provincial-level People's Committee.

5. The leasing enterprise may not be granted a new license within 05 years from the date it has its license revoked, for violations of regulations prescribed at Point c, d, dd and e, Clause 1 of this Article.

Article 29. Responsibilities of leasing enterprises whose licenses are revoked or not extended or re-granted

Within 15 working days after receiving a notice of refusal to extend or re-grant its license or a notice of revocation of its license from the provincial-level People's Committee Chairperson, a leasing enterprise shall liquidate all labor leasing contracts which are being performed, settle lawful rights and interests of leased employees and labor hiring parties in accordance with the labor law and, at the same time, publicize the termination of labor leasing activities on at least one electronic newspaper licensed for operation as prescribed by law for 07 consecutive days.

Article 30. List of jobs for which labor may be leased

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The list of jobs for which labor may be leased is provided in Appendix II attached to this Decree.

Section 4

RESPONSIBILITY TO ORGANIZE THE IMPLEMENTATION OF LABOR LEASE

Article 31. Responsibilities of labor leasing enterprises

1. To publicize their original licenses at their head offices and certified copies of original licenses at their branches and representative offices (if any). In case of moving to another province to operate, the leasing enterprise shall send a certified copy of the license to the provincial-level Department of Labor, War Invalids and Social Affairs of that province for monitoring and management.

2. Biannually and annually, to reports on labor lease activities of the enterprise, made according to Form No. 09/PLIII provided in Appendix III attached to this Decree, and send such reports to the provincial-level People's Committee and Department of Labor, War Invalids and Social Affairs of the locality where the enterprise is headquartered; at the same time, to report the provincial-level Department of Labor, War Invalids and Social Affairs of the locality where the enterprise conducts the labor lease operation on labor lease activities in that area, in case the leasing enterprise moves to another province to operate. Biannual reports must be sent before June 20 and annual reports must be sent before December 20.

3. To promptly report incidents related to labor lease activities to local competent state agencies or at the request of state management agencies in charge of labor.

4. To fulfill responsibilities of leasing enterprises in accordance with Article 56 of the Labor Code and this Chapter.

Article 32. Responsibilities of deposit-receiving banks

1. To fully comply with regulations on opening of deposit accounts, payment of deposits and use of deposit accounts by leasing enterprises and other regulations related to these accounts.

2. To make quarterly reports on the payment of deposits by leasing enterprises according to Form No. 11/PLIII provided in Appendix III attached to this Decree and send such reports to the State Bank branches of provinces and centrally-run cities, Chairpersons of the provincial-level People's Committees and provincial-level Departments of Labor, War Invalids and Social Affairs of localities where enterprises are headquartered before 15th of the first month of

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the subsequent quarter.

3. To discharge all responsibilities of deposit-receiving banks as prescribed in this Chapter.

Article 33. Responsibilities of provincial-level Labor, War Invalids and Social Affairs Departments

1. To disseminate the regulations on labor and labor lease to employers, employees and related agencies and organizations in their localities.

2. To guide, examine, inspect and supervise the implementation of the regulations on labor lease in their localities.

3. To monitor, summarize and make biannual and annual reports on the payment of deposits, grant of labor lease licenses in their localities according to Form No. 10/PLIII provided in Appendix III attached to this Decree and send such reports to the provincial-level People's Committee Chairperson and the Ministry of Labor, War Invalids and Social Affairs. Biannual reports must be sent before July 20 and annual reports, January 20 of the subsequent year.

4. To discharge all responsibilities of the provincial-level Department of Labor, War Invalids and Social Affairs as prescribed in this Chapter.

Article 34. Responsibilities of chairpersons of provincial-level People's Committees

1. To send notices of grant, extension, re-grant or revocation of licenses to the Ministry of Labor, War Invalids and Social Affairs within 05 working days after the date of grant, extension, re-grant or revocation of licenses for monitoring and management. At the same time, to send such notices to the Chairpersons of People's Committees of the province where the enterprise was previously licensed in case the labor leasing enterprise change its head office address to a different province other than the one where its license was granted.

2. To publish on the provincial-level People's Committees' websites information on enterprises that are granted licenses or have their licenses extended, re-granted or revoked.

3. To discharge all responsibilities of provincial-level People's Committee Chairpersons as prescribed in this Chapter.

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

1.To disseminate, guide, examine, supervise and inspect the implementation of the law regulations on labor lease.

2.To summarize and publish on its website information on enterprises that are granted licenses or have their licenses extended, re-granted or revoked.

3.To discharge all responsibilities of the Ministry of Labor, War Invalids

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and Social Affairs as prescribed in this Chapter.

Article 36. Responsibilities of the State Bank of Vietnam

To examine, supervise and inspect deposit-receiving banks regarding the payment and management of deposits by labor leasing enterprises in accordance with law provisions.

Chapter V
DIALOGUES IN THE WORKPLACE

Section 1
ORGANIZATION OF DIALOGUES IN THE WORKPLACE

Article 37. Responsibilities for organization of dialogues in the workplace

1.An employer shall be responsible for coordinate with the grassroots-level employees' representative organization (if any) to organize dialogues in the workplace in accordance with Clause 2, Article 63 of the Labor Code.

In the workplace where employees do not participate as members of the grassroots-level employees' representative organization, the employer shall be responsible for coordinating with the grassroots-level employees' representative organization (if any) in guiding, supporting and creating conditions for these employees to select members to represent them (hereinafter referred to as the employees' dialogue representative group) to participate in dialogues with the employer in accordance with Clause 2, Article 63 of the Labor Code. The number of members of the employees' dialogue representative group shall be determined under Clause 2, Article 38 of this Decree.

2.An employer shall be responsible for specifying the following principal contents in the regulation on grassroots-level democracy in the workplace in order to organize dialogues in the workplace in accordance with Clause 2, Article 63 of the Labor Code:

a) Principles of dialogues in the workplace;

b) Number and participants of the dialogue of each party as specified in Article 38 of this Decree;

c) Number of times and time to hold annual dialogues;

d) Method of organizing periodical dialogues, dialogues upon request of either party or both parties or in case of incidents;

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dd) Responsibilities of both parties participating a dialogue under Clause 2, Article 63 of the Labor Code;

e) Application of regulations in Article 176 of the Labor Code to the representative members participating in the dialogue on the employees' side who are not members of the leadership boards of the grassroots-level employees' representative organization;

g) Other contents (if any).

3. Apart from responsibilities specified in Clauses 1 and 2 of this Article, an employer shall:

a) Assign the employer's representative to participate in the dialogue in the workplace as prescribed;

b) Arrange place, time and other necessary physical conditions to hold dialogues in the workplace;

c) Report on the implementation of dialogues and regulations on grassroots-level democracy in the workplace with the state management agency in charge of labor upon request.

4. The grassroots-level employees' representative organization and employees' dialogue representative group shall:

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a) Assign members to participate in the dialogue as prescribed;

b) Contribute opinions with employers about the content of the regulation on grassroots-level democracy in the workplace;

c) Collect opinions from employees, summarize them and prepare contents to propose dialogue;

d) Participate in dialogues with employers in accordance with Clause 2, Article 63 of the Labor Code, this Decree and the regulation on grassroots-level democracy in the workplace.

5. Employers and employees and employees' representative organizations are encouraged to conduct dialogues outside the cases specified in Clause 2, Article 63 of the Labor Code in accordance with the conditions for organizing production and business and labor organization at the workplace and specific provisions in regulations on grassroots-level democracy in the workplace.

Article 38. Participants of the dialogue

Number and participants of the dialogue specified in Clause 2, Article 63 of the Labor Code as follows:

1. The employer's representative

Based on production and business conditions, labor organization, the employer shall decide on the number and composition of their representatives to

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participate in the dialogue, ensuring at least 03 people, including at-law representatives of the employer and stipulate in the regulation on grassroots-level democracy in the workplace.

2. The employee's representative

Based on production and business conditions, labor organization, structure, number of employees and gender equality factors, the grassroots-level employees' representative organization and employees' dialogue representative group shall determine the number and participants of the dialogue but must ensure the number as follows:

a1) At least 03 people, if the employer employs less than 50 employees;

a2) At least 04 people to 08 people, if the employer employs from 50 employees to less than 150 employees;

a3) At least 09 people to 13 people, if the employer employs from 150 employees to less than 300 employees;

a4) At least 14 people to 18 people, if the employer employs from 300 employees to less than 500 employees;

a5) At least 19 people to 23 people, if the employer employs from 500 employees to less than 1,000 employees;

a6) At least 24 people, if the employer employs 1,000 employees or more.

b) Based on the number of employee's dialogue representatives specified at Point a of this Clause, the grassroots-level employee's representative organization and the employee's dialogue representative group shall determine the number of representatives participating in the dialogue according to the proportion of members of the organization and its group to the employer's total number of employees.

3. The determination of the list of members participating in the dialogue between the employer's representatives and the employee's representatives specified in Clauses 1 and 2 of this Article shall be made periodically at least once every two years and publicly announced at the workplace. In the period between two terms, members participating in the dialogue shall be determined. If there is a representative cannot continue to participate, the employer or each employee's representative organization or employee's dialogue representative group shall consider and decide to add replacement members of the organization or its group and publicly announce them at the workplace.

4. When holding a dialogue specified in Clause 2, Article 63 of the Labor Code, in addition to participants of the dialogue as prescribed in Clause 3 of this Article, both parties shall agree to invite all employees or some related employees to join the dialogue, ensuring the participation of female employees' representatives when discussing issues related to the rights and interests of female

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employees according to Clause 2, Article 136 of the Code Labor.

Article 39. Organization of periodical dialogues in the workplace

1. An employer shall be responsible for coordinating with the grassroots-level employees' representative organization, employee's dialogue representative group in organizing periodical dialogues under Point a, Clause 2, Article 63 of the Labor Code and the regulation on grassroots-level democracy in the workplace.

2. Participants of the periodical dialogue are representatives of both parties in accordance with Clause 3, Article 38 of this Decree. Time, place and method of holding periodic dialogue shall be arranged by both parties in accordance with the practical conditions and under the regulation on grassroots-level democracy in the workplace.

3. At least 05 working days before the start of a periodical dialogue, both parties shall be responsible for sending the content of a dialogue to the participants.

4. Periodical dialogue shall only be held when the employer's representative has the participation of an at-law representative or an authorized person and the employee's representative has the participation of more than 70% of the total representative members as specified in Clause 3, Article 38 of this Decree. The dialogue must be recorded in minutes and signed by the at-law representative of the employer or the authorized person and signatures of representatives of each employee's representative organization (if any) and of the representative of the employee's dialogue representative group (if any).

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5. Within 03 working days from the end of the dialogue, the employer shall be responsible for publicly announcing the main contents of the dialogue at the workplace; the employee's representative organization (if any), the employee's representative group for dialogue (if any) shall disseminate the main contents of the dialogue to the its members.

Article 40. Organization of dialogues upon request of either party or both parties

1. The organization of dialogues upon request of either party or both parties shall be conducted if the content of the request for dialogue by the requesting party satisfies the following conditions:

a) For the employer's representative, the content of the request for dialogue must be agreed by the at-law representative of the employer;

b) For the employee's representative, the content of the request for dialogue must be agreed by at least 30% of the representatives of the employees who participate in the dialogue as prescribed in Clause 3, Article 38 of this Decree.

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2. Within 05 working days after receiving the content of the request for dialogue as prescribed in Clause 1 of this Article, the party receiving a request for dialogue must reply in writing, agreeing on the time and place to hold the dialogue. The employer and the employee's representative for dialogue shall be responsible for coordinating and holding the dialogue.

3. The dialogue must be recorded in minutes and signed by representatives of both parties in accordance with Clause 4, Article 39 of this Decree.

4. Within 03 working days from the end of the dialogue, the employer shall be responsible for publicly announcing the main contents of the dialogue at the workplace; the employee's representative organization (if any), the employees' representative group for dialogue (if any) shall disseminate the main contents of the dialogue to their members.

Article 41. Organization of dialogues in case of incidents

1. For the cases that the employer must consult and exchange opinions with the grassroots-level employees' representative organization on the regulation on assessment of the work completion as prescribed at Point a, Clause 1, Article 36; dismissal of employees as prescribed in Article 42; the labor utilization plan in accordance with Article 44; wage scales, wage tables and labor norms as prescribed in Article 93; the bonus regulations under Article 104 and the internal working rules under Article 118 of the Labor Code as follows:

a) The employer shall be responsible for send a written document, enclose with contents to be referred and discussed to the employee's representatives participating the dialogue;

b) Employee's representatives participating the dialogue shall be responsible for organizing to collect opinions from employees that they represent, and summarize opinions of each grassroots-level employees' representative organization or employees' representative group for dialogue into writing and send them to the employer. In case the content of the dialogue is related to the rights and interests of female employees, it is necessary to obtain their opinions;

c) Based on the opinions of grassroots-level employees' representative organizations, employees' representative groups for dialogue, the employer shall organizes the dialogue to discuss, exchange opinions, consult and share information about the contents given by the employer;

d) The number, participants, time and place to hold a dialogue shall be determined by the two parties according to the regulation on grassroots-level democracy in the workplace;

dd) The dialogue must be recorded in minutes and signed by representatives of both parties in accordance with Clause 4, Article 39 of this Decree;

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e) Within 03 working days from the end of the dialogue, the employer shall be responsible for publicly announcing the main contents of the dialogue at the workplace; the employee's representative organization (if any), the employees' representative group for dialogue (if any) shall disseminate the main contents of the dialogue to the its members.

2. In case of suspension from work of an employee as prescribed in Clause 1, Article 128 of the Labor Code, the employer and the employee's representative group, where the employee suspended from work is a member, can exchange in writing or through direct communication between the dialogue representatives of the employer and the employee's representative organization.

Section 2

EXERCISING REGULATIONS ON GRASSROOTS-LEVEL DEMOCRACY IN THE WORKPLACE

Article 42. Principles of exercising regulations on grassroots-level democracy in the workplace

1. Ensuring goodwill, cooperation, honesty, equality, publicity and transparency.

2. Respecting lawful rights and interests of employers, employees and relevant organizations and individuals.

3. Not contravening law and social ethics.

Article 43. Forms and information to be disclosed by employers

1. An employer must disclose to employees the following information:

a) Production and business situation of the employer;

b) internal working rules, wage scales, wage tables, labor norms, rules, regulations and other regulating documents of the employer regarding obligations, rights, interests and responsibilities of employees;

c) Collective labor agreements joined by the employer;

d) Setting-up and use of commendation funds, welfare funds and funds (if any) with contributions from employees;

dd) Payment of trade union dues and social insurance, health insurance and unemployment insurance premiums.

e) Implementation of regulations on emulation, commendation, disciplining, and settlement of complaints and denunciations related to rights, obligations and interests of employees;

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g) Other information as prescribed by law.

2. For the information specified in Clause 1 of this Article that is prescribed the form of disclosure by the law, the employer shall disclose it according to that regulation. In case the law does not specify the form of disclosure, the employer shall, based on production and business characteristics, labor organization and information to be disclosed, choose the following forms and state in the regulation on grassroots-level democracy in the workplace as prescribed in Article 48 of this Decree:

a) Publicly posting at the workplace;

b) Notifying at meetings, dialogues between the employer and grassroots-level employees' representative organization, employee's representative group for dialogue;

c) Notifying in writing to the grassroots-level employees' representative organization to notify the employees;

d) Announcing on internal information systems;

dd) Other forms not prohibited by law.

Article 44. Forms and issues on which employees are entitled to give opinions

1. Employees are entitled to give opinions on the following issues:

a) Formulation, amendment and supplementation of internal rules, regulations and other regulating documents of the employer regarding obligations and rights and interests of employees;

b) Formulation, amendment and supplementation of wage scales, wage tables and labor norms; and proposal of contents put for collective negotiation;

c) Proposal and implementation of solutions for saving costs, increasing labor productivity, improving working conditions, protecting the environment and preventing and fighting fire and explosion;

d) Other issues relating to employees' rights, interests and obligations as prescribed by law.

2. For the information specified in Clause 1 of this Article that is prescribed the form of giving opinions by employees, that regulation shall be complied with. In case the law does not specify the form, the employee shall, based on production and business characteristics, labor organization, issues on which employees are entitled to give opinions and regulations on grassroots-level democracy in the workplace, choose the following forms:

a) Commenting directly or through the grassroots-level employees' representative organization, employees' representative group for dialogue at employees' conferences and dialogues in the workplace;

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b) Sending direct comments and recommendations;

c) Other forms not prohibited by law.

Article 45. Forms and issues on which employees are entitled to decide

1. Employees are entitled to decide on the following issues:

a) Conclusion, amendment, supplementation and termination of labor contracts in accordance with law;

b) Joining or not joining grassroots-level employees' representative organizations;

c) Participating or not participating in strikes in accordance with law;

d) Voting on collective negotiations achieved to sign in a collective labor agreement in accordance with law;

dd) Other issues as prescribed by law or as agreed by both parties.

2.Forms of deciding shall comply with law regulations.

Article 46. Forms and issues on which employees are entitled to examine and supervise

1. Employees are entitled to examine and supervise on the following issues:

a) Performance of labor contracts and collective labor agreements;

b) Implementation of internal working rules, regulations and other regulating documents of the employer regarding obligations, rights and interests of employees;

c) Use of commendation funds, welfare funds and funds with contributions from employees;

d) Payment of trade union dues and social insurance, health insurance and unemployment insurance premiums by employers;

dd) Implementation of regulations on emulation, commendation, disciplining, and settlement of complaints and denunciations related to rights, obligations and interests of employees.

2.Forms of examining and supervising shall comply with law regulations.

Article 47. Employees' conferences

1.Employers shall cooperate with the grassroots-level employees' representative organizations (if any) and employees' representative groups for dialogue (if any) to hold employees' conferences on an annual basis. Employees' conferences shall be held as a plenary conference or delegates' conference.

2.Employees' conferences shall comply with Article 64 of the Labor Code and other contents agreed by both parties.

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3.Participants in, contents, time and place of, forms and process of holding, responsibility to implement and forms of notifying results of, employees' conferences must comply with regulations on grassroots-level democracy in the workplace as prescribed in Article 48 of this Decree.

Article 48. Responsibility to promulgate regulations on grassroots-level democracy in the workplace

1.Employers shall be responsible for promulgating regulations on grassroots-level democracy in the workplace to perform prescribed contents relating dialogues in the workplace and implement grassroots-level democracy in the workplace as prescribed in this Decree.

2.When promulgating, amending and supplementing regulations on grassroots-level democracy in the workplace, employers must consult the grassroots-level employees' representative organization (if any) and employees' representative group for dialogue (if any) to complete and promulgate such regulations. With regard comments from the grassroots-level employees' representative organization and employees' representative group for dialogue that are not accepted by employers, the reason must be clearly stated.

3.Regulations on grassroots-level democracy in the workplace must be publicly announced to the employees.

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Chapter VI
WAGES

Section 1
THE NATIONAL WAGE COUNCIL

Article 49. Functions of the National Wage Council

The National Wage Council is established under the Prime Minister's decision in accordance with Clause 2, Article 92 of the Labor Code to advise the Government on the following contents:

1.The minimum wage determined by region (including the monthly minimum wage and the hourly minimum wage).

2.Wage policy applies to employees in accordance with the Labor Code.

Article 50. Tasks of the National Wage Council

1.Researching, surveying, collecting information, analyzing and evaluating the wages, minimum living conditions of employees, production and business of enterprises, relation between labor supply and demand, employment,

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unemployment in the economy and other relevant factors serving as a basis for determination of the minimum wage level.

2.Making reports on the minimum wage levels of employees in association with factors to determine the minimum wage levels as prescribed in Clause 3, Article 91 of the Labor Code.

3.Reviewing the minimum living conditions of employees and their families, division of localities in which region-based minimum wage levels apply for determining the plan to adjust the minimum wage levels according to each period.

4.On an annual basis, organizing the negotiation to propose the Government a plan on amending the minimum wage determined by region (including the monthly minimum wage and the hourly minimum wage).

5.Advising and proposing to the Government a number of wage policies applicable to employees in enterprises, organizations, agencies and cooperatives in accordance with the Labor Code.

Article 51. Organizational structure of the National Wage Council

1.The National Wage Council is composed of 17 members, including: 05 representatives of the Ministry of Labor, War Invalids and Social Affairs; 05 representatives of the Vietnam General Confederation of Labor; 05 representatives of number of central-level organizations representing employers; and 02 members who independent experts (hereinafter referred to as independent members). In which:

a) The chairperson of the National Wage Council is a Deputy Minister of Labor, War Invalids and Social Affairs;

b) Three vice chairpersons of the National Wage Council include a vice chairperson of the Vietnam General Confederation of Labor, a vice chairperson of the Vietnam Chamber of Commerce and Industry and a vice chairperson of the Vietnam Cooperative Alliance;

c) Members of the National Wage Council include four representatives of the Ministry of Labor, War Invalids and Social Affairs; four representatives of the Vietnam General Confederation of Labor; three representatives of the central-level organizations representing employers (including one representative of the Vietnam Association of Small- and Medium-Sized Enterprises; and two representatives of two central-level trade associations employing large numbers of employees); two independent members who are experts and scientists in the fields of labor, salary, socio-economy (excluding experts and scientists working in agencies, units, research institutes, universities under the Ministry of Labor, War Invalids and Social Affairs, the Vietnam General Confederation of Labor, and central-level organizations representing employers).

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2. The Prime Minister shall appoint and dismiss the chairperson and vice chairpersons of the National Wage Council as prescribed at Points a and b, Clause 1 of this Article, and authorize the Minister of Labor, War Invalids and Social Affairs to appoint and dismiss other members of the National Wage Council as prescribed at Point c, Clause 1 of this Article. The chairperson, vice chairpersons and members of the National Wage Council work on a part-time basis for a term of office of five years.

3. The National Wage Council has a technical division and a standing body that assist the Council and chairperson in formulating technical plan relating to the Council's tasks and perform the Council's administrative work. Members of the technical division and standing body are staff of agencies participating in the Council, relevant agencies and organizations that work on a part-time basis.

Article 52. Operations of the National Wage Council

1. The National Wage Council works collectively through meetings under the direction of the Council chairperson; public discuss; and make decisions by majority vote.

2. The National Wage Council has its own seal which is managed at the Ministry of Labor, War Invalids and Social Affairs in accordance with law provisions.

3. The National Wage Council's operating funds are incorporated in annual budget estimates of the Ministry of Labor, War Invalids and Social Affairs and other lawful sources in accordance with law provisions. The management, use and final settlement of state budget shall comply with the law on state budget and its guiding documents.

Article 53. Responsibilities for establishment and operations of the National Wage Council

1. Chairpersons of the Vietnam General Confederation of Labor, Vietnam Chamber of Commerce and Industry, Vietnam Cooperative Alliance and Vietnam Association of Small and Medium Enterprises shall appoint their representatives to participate the National Wage Council and send the list of such representatives to the Ministry of Labor, War Invalids and Social Affairs for summarization.

2. Chairperson of the Vietnam Chamber of Commerce and Industry shall assume the prime responsibility for, and coordinate in discussing with the chairperson of the Vietnam Cooperative Alliance in order to select and propose two central-level trade associations employing large numbers of employees to appoint their representatives to be members of the National Wage Council according to each period.

3. Chairperson of the National Wage Council shall be responsible for discussing with vice chairpersons of the Council to propose independent members of the Council to report the Minister of Labor, War Invalids and Social

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Affairs for consideration and appointment; promulgating working regulations of the Council, technical division and standing body of the Council.

4. The Minister of Labor, War Invalids and Social Affairs shall submit the Prime Minister to decide on establishing the National Wage Council; propose the Prime Minister to appoint or dismiss the chairperson and vice chairpersons of the National Wage Council; decide on appointing or dismissing other members of the National Wage Council.

5. The Minister of Planning and Investment shall provide results of the survey on people's living standards, labor, employment and enterprise investigation and other relevant statistical data at the request of the National Wage Council.

Section 2

FORMS OF PAYMENT OF WAGE, WAGES FOR OVERTIME WORK AND NIGHT WORK

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Article 54. Forms of wage payment

Forms of wage payment specified in Article 96 of the Labor Code are prescribed as follows:

1. Based on the job characteristics, production and business conditions, the employer and employee shall reach an agreement on the form of wage payment based on time, product or piecework in the labor contract. To be specific:

a) Time-based wage shall be paid to the employee enjoying wage payment according to time, on the basis of the working time according to month, week, day, hour as agreed in the labor contract. To be specific:

a1) Monthly wage is paid for one working month;

a2) Weekly wage is paid for one working week. In case there is an agreement on wage payment by month in the labor contract, the weekly wage is determined by the monthly wage multiplied by 12 months and divided by 52 weeks;

a3) Daily wage is paid for one working day. In case there is an agreement on wage payment by month in the labor contract, the daily wage is determined by the monthly wage divided by the number of working days in the month under regulations of law as selected by the enterprise. In case there is an agreement on wage payment by week in the labor contract, the daily wage is determined by weekly wage divided by the number of working days in a week as agreed in the labor contract;

a4) Hourly wage is paid for one working hour. In case there is an agreement

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on wage payment by month or week or day, the hourly wage is determined by the daily wage divided by the number of normal working hours in a day under Article 105 of the Labor Code.

b) Product-based wage shall be paid to the employee enjoying wage payment according to products, on the basis of the quantitative and qualitative completion of a product according to labor norms and assigned product unit cost.

c) Piecework-based wage shall be paid to the employee enjoying wage payment according to piecework, on the basis of the volume and quality of a work and the time for completion thereof.

2. An employee's wages paid according to the payment form specified in Clause 1 of this Article may be paid in cash or via employee's personal bank account. The employer must pay all charges for account opening and bank transfer when choosing to pay wages via employees' personal bank accounts.

Article 55. Wages for overtime work

Wages for overtime work specified in Clause 1, Article 98 of the Labor Code are prescribed as follows:

1. An employee enjoying a time-based wage shall be paid for overtime work performed beyond the normal working hours prescribed by the employer under Article 104 of the Labor Code. Such wage is calculated according to the following formula:

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Wages for overtime work	=	Actual hourly wage for the current job on a normal working day	x	At least equal to 150% or 200% or 300%	x	The number of overtime working hours

In which:

a) Actual hourly wage for the current job on a normal working day equals the actual wage for the current job of the month or week or day in which the employee preforms overtime work (excluding overtime pay, wages for night work and wages for public and New Year holidays and paid leave days under the Labor Code; bonuses as prescribed in Article 104 of the Labor Code, initiative bonuses; mid-shift meal allowances, allowances for gasoline, telephone, travel, accommodation, and childcare; allowances for employees whose relatives die or get married, for employees' birthdays or for employees facing difficulties caused by labor accidents or occupational diseases, and other supports and allowances not relating to the performance of their jobs or titles in the labor contracts) divided by the actual number of working hours in the month or week or day in which the employee preforms overtime work (not exceeding the number of normal working

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days in a month and the number of normal working hours in one day or one week in accordance with the law that the enterprise chooses and does not include overtime working hours;

b) The overtime payment is at least equal to 150% of the actual hourly wage paid for the current job on normal working day, applicable to overtime working hours on weekdays; at least equal to 200% of the actual hourly wage paid for the current job on a normal working day, applicable to overtime working hours on weekends; at least equal to 300% of the actual hourly wage paid for the current job on a normal working day, applicable to overtime working hours on public and New Year holidays and paid leave days, excluding the wage for public and New Year holidays and paid leave days for employees who receive daily wage.

2. An employee enjoying a product-based wage shall be paid for overtime work performed beyond the normal working hours to make a product quantity or work volume in addition to the product quantity or work volume completed according to labor norms as agreed with the employer. Such wage is calculated according to the following formula:

Wages for overtime work	=	Product wage unit on a normal working day	x	At least equal to 150% or 200% or 300%	x	Quantity of additional products

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In which:

The overtime payment is at least equal to 150% of the product wage unit on a normal working day, applicable to additional products done on normal working days; at least equal to 200% of the product wage unit on a normal working day, applicable to additional products done on weekends; at least equal to 300% of the product wage unit on a normal working day, applicable to additional products done on public and New Year holidays and paid leave days.

3. An employee who performs overtime work on a public and New Year holiday falling on a weekend shall be paid wage for overtime work on public and New Year holidays. An employee who performs overtime work on a compensatory day off for a public and New Year holiday falling on a weekend shall be paid wage for overtime work on weekends.

Article 56. Wage for night work

Wage for night work specified in Clause 2, Article 98 of the Labor Code is calculated according to the following formula:

1. With regard an employee enjoying a time-based wage, the wage for night

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work is calculated according to the following formula:

Wage for night work	=	Actual hourly wage paid for the current job on a normal working day	+	Actual hourly wage paid for the current job on a normal working day	x	At least equal to 30%	x	The number of night working hours

In which: Actual hourly wage for the current job on a normal working day is determined in accordance with Point a, Clause 1, Article 55 of this Decree.

2. With regard an employee enjoying a product-based wage, the wage for night work is calculated according to the following formula:

Wage for night work	=	Product wage unit on a normal working day	+	Product wage unit on a normal working day	x	At least equal to 30%	x	Quantity of products completed at night

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Article 57. Wage for overtime night work

An employee who performs overtime work at night under Clause 3, Article 97 of the Labor Code shall be paid an additional amount, which is calculated according to the following formula:

1. With regard an employee enjoying a time-based wage, the wage for overtime night work is calculated according to the following formula:

Wage for overtime night work	=	Actual hourly wage paid for the current job on a normal working day	x	At least equal to 150% or 200% or 300%	+	Actual hourly wage paid for the current job on a normal working day	x	At least equal to 30%	x	+ 20%	Hourly wage during the day on a normal working day or weekend or public or New Year holiday or paid leave	x	The number of overtime night working hours

In which:

a) Actual hourly wage for the current job on a normal working day is

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determined in accordance with Point a, Clause 1, Article 55 of this Decree;

b) Hourly wage during the day on a normal working day or weekend or public and New Year holiday or paid leave day is determined as follows:

b1) Hourly wage during the day on a normal working day is at least equal to 100% of the actual hourly wage for the current job on a normal working day if the employee does not work overtime during the day on that day (before performing overtime night work); at least equal to 150% of the actual hourly wage for the current job on a normal working day if the employee works overtime during the day on that day (before performing overtime night work);

b2) Hourly wage during the day of a weekend is at least equal to 200% of the actual hourly wage for the current job on a normal working day;

b3) Hourly wage during the day of a public and New Year holiday or paid leave day is at least equal to 300% of the actual hourly wage for the current job on a normal working day.

2. With regard an employee enjoying a product-based wage, the wage for overtime night work is calculated according to the following formula:

$$\text{Wage for overtime night work} = \left| \text{Product wage unit on a normal working day} \times \text{At least equal to 150\% or 200\% or 300\%} + \text{Product wage unit on a normal working day} \times \text{At least equal to 30\%} \times 20\% \right| \times \left| \text{Product wage unit during the day on a normal working day or weekend or public or New Year holiday or paid leave} \right| \times \text{Quantity of additional products completed at night}$$

In which, the product wage unit during the day on a normal working day or weekend or public and New Year holiday or paid leave day is determined as follows:

a) Product wage unit during the day on a normal working day is at least equal to 100% of the product wage unit on a normal working day if the employee does not work overtime during the day on that day (before performing overtime night work); at least equal to 150% of the product wage unit on a normal working day if the employee works overtime during the day on that day (before performing overtime night work);

b) Product wage unit during the day on a weekend is at least equal to 200%

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of the product wage unit on a normal working day;

b) Product wage unit during the day on a public and New Year holiday or paid leave day is at least equal to 300% of the product wage unit on a normal working day.

Chapter VII
WORKING TIME AND REST TIME

Article 58. Time to be counted in paid working time

1. Rest breaks during working hours as defined in Clause 2, Article 64 of this Decree.

2. Breaks as required by the nature of jobs.

3. Rest time which is necessary during the working process for physiological needs of humans and included in labor norms.

4. Rest time for a female employee who is pregnant or raises a child under 12 months old or in her menstruation period in accordance with Clauses 2 and 4, Article 137 of the Labor Code.

5. Time of work stoppage not due to employees' fault.

6. Time for meeting, learning and training as required or agreed by employers.

7. Time for the apprentice or on-the-job trainee to directly carry out or participate in labor activities in accordance with Clause 5, Article 61 of the Labor Code.

8. The time that the employee who is a member of leadership boards of grassroots-level employees' representative organizations use to perform his/her tasks as prescribed in Clauses 2 and 3, Article 176 of the Labor Code.

9. Time for health checks, examination of occupational diseases; providing medical examination for determination of level of working ability loss due to labor accidents and occupational diseases, if such time is arranged or requested by the employer.

10. Time for registration, examination and health check for military service, if that time is entitled to full salary in accordance with the law on military service.

Article 59. Employee's agreement on performing overtime work

1. Except for the cases specified in Article 108 of the Labor Code, when organizing overtime work, the employer must obtain the consent from the employee who performs overtime work on the following contents:

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a) Overtime period;

b) Place for performing overtime work;

c) Overtime job.

2. In case the employee's consent is signed in a separate document, the reference is to Form No. 01/PLIV provided in Appendix IV attached to this Decree.

Article 60. Restriction on the number of overtime working hours

1. The total overtime working hours shall not exceed 50% of the normal working hours per day, in case of performing overtime work on normal working days, except for the cases specified in Clauses 2 and 3 of this Article.

2. In case of application of normal working time on a weekly basis, the total of normal working hours and overtime working hours must not exceed 12 hours per day.

3. In case of performing part-time work as prescribed in Article 32 of the Labor Code, the total of normal working hours and overtime working hours must not exceed 12 hours per day.

4. The total overtime working hours must not exceed 12 hours per day in case of overtime work on public and New Year holidays, and weekends.

5. When calculating the total overtime working hours in a month or year for determination the observance of regulations specified at Points b and c, Clause 2, Article 107 of the Labor Code, the time specified in Clause 1, Article 58 of this Decree shall be deduced.

Article 61. Cases are organized to work overtime from over 200 hours to 300 hours a year

In addition to the cases specified at Points a, b, c and d, Clause 3, Article 107 of the Labor Code, the following cases may be organized to work overtime work from over 200 hours to 300 hours a year:

1. Cases of urgent and irreversible work arising from objective factors directly related to public service activities in state agencies and units, except for the cases specified in Article 108 of the Labor Code.

2. Provision of public services; medical examination and treatment service; education and professional education services.

3. Direct production and business jobs in the enterprises carried out with normal working hours not exceeding 44 hours per week.

Article 62. Notification on the organization of working overtime from over 200 hours to 300 hours a year

1. An employer shall notify the provincial-level Department of Labor, War

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invalids and Social Affairs of the following places when organizing overtime work from over 200 hours to 300 hours a year:

a) Place where the employer organizes overtime work from over 200 hours to 300 hours a year;

b) Place where the head office is located; in case the head office is located in a province or centrally-run city other than the place where the employer organizes overtime work from over 200 hours to 300 hours a year.

2.Such notification must be carried out after 15 days at the latest from the date on which the overtime work (with the duration from over 200 hours to 300 hours per year) is performed.

3.The notification shall comply with Form No. 02/PLIV provided in Appendix IV attached to this Decree.

Article 63. Work shifts and shift-working organization

1.A work shift is the working period of an employee from the beginning of receiving a task to the end and handing over the task to another person, including working time and the period of break in the middle of working time.

2.Shift-working organization is the arrangement of at least 02 people or 02 groups of people taking turns to work on the same working position, calculated for a period of 01 day (24 consecutive hours).

3.The case of working in continuous shifts to include the break period in the middle of working time as specified in Clause 1, Article 109 of the Labor Code is the case where the working shift is organized under Clause 2 of this Article when that work shift fully meets the following conditions:

a) The employee works in a shift for 06 hours or more;

b) The transitional period between two work shifts is not more than 45 minutes.

Article 64. Rest breaks during working hours

1.A rest break during working hours of at least 45 consecutive minutes as prescribed in Clause 1, Article 109 of the Labor Code is applicable to the employee who works for 06 hours or more in a day; including at least 03 hours of working at the night working as prescribed in Article 106 of the Labor Code.

2.Rest breaks during working hours shall be included in the working hours for the case of working continuously as prescribed in Clause 3, Article 63 of this Decree, at least 30 minutes, or at least 45 minutes in case of working at night.

3.The employer shall decide on the rest breaks during working hours, provided that such rest break period does not fall into the time of starting or ending a work shift.

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4. Apart from the case of working in continuous shifts as prescribed in Clause 3, Article 63 of this Decree, both parties are encouraged to reach an agreement on including the rest break during working hours into the working time.

Article 65. Time regarded as working time of employees for calculation of annual leave days

1. Time of apprenticeship and on-the-job training as prescribed in Article 61 of the Labor Code, if after the period of apprenticeship and on-the-job training, the employee works for the employer.

2. Time of internship if the employee continues working for the employer after ending the internship.

3. Time of paid leaves as provided in Clause 1, Article 115 of the Labor Code.

4. Time of unpaid leaves agreed by the employer, provided that the aggregated time of unpaid leaves does not exceed 01 month per year.

5. Time of labor accident or occupational disease leaves, provided that the aggregated time of these leaves does not exceed 06 months.

6. Time of illness leaves, provided that the aggregated time of these leaves does not exceed 02 months per year.

7. Time of maternity leaves as provided in the law on social insurance.

8. Time of performing tasks of grassroots-level employees' representative organizations that is regarded as the working time in accordance with law provisions.

9. Time of work stoppage or layoff not due to employees' fault.

10. Time of suspension from work but then it is concluded that there is no violation or labor discipline.

Article 66. Method of calculation of annual leave days for some special cases

1. The number of annual leave days of an employee who has not worked for a full year as prescribed in Clause 2, Article 113 of the Labor Code is calculated as follows: Dividing the number of annual leave days plus the number of extra leave days according to seniority (if any) by 12 months, then multiplying by the number of actual working months in the year.

2. In case where the employee has not work for a full month, if the total number of working days and paid leave days of the employee (public and New Year holidays, paid leaves for personal reasons under Articles 112, 113, 114 and 115 of the Labor Code) accounts for 50% or more of the normal working days in a month as agreed, then that month shall be regarded as one working month for

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calculation of annual leave days.

3. Total time during which the employee works for state agencies, organizations, units and enterprises shall be regarded as the working time for calculation of extra annual leave days as specified in Article 114 of the Labor Code if the employee continues working for state agencies, organizations, units and enterprises.

Article 67. Travel expenses, wages for the travel time, annual leaves and other paid leave days

1. Travel expenses, wages for the travel time other than annual leaves specified in Clause 6, Article 113 of the Labor Code shall be agreed upon by the two parties.

2. Wage used as a basis for wage payment to employees on public and New Year holidays, annual leaves and paid leaves for personal reasons under Article 112, Clauses 1 and 2, Article 113, Article 114 and Clause 1, Article 115 of the Labor Code is that stated in the labor contract at the time the employee takes public and New Year holidays, annual leaves and paid leaves for personal reasons.

3. Wage used as a basis for wage payment to employees who have not taken or fully taken their annual leave under Clause 3, Article 113 of the Labor Code is that stated in the labor contract of the month preceding the month when employees quit or lose their jobs.

Article 68. Some jobs with special nature in term of working time and rest time

1. Apart from special jobs specified in Article 116 of the Labor Code, other jobs with special nature in term of working time and rest time include:

a) Jobs related to disaster, fire and disease prevention and control;

b) Jobs in the field of physical training and sports;

c) Production of drugs, bio-products and vaccines;

d) Operation, maintenance and repair of gas distribution pipeline systems and gas constructions.

2. The Minister of Labor, War Invalids and Social Affairs shall specify the working time and rest time for employees doing seasonal production work and processing of goods under orders.

3. Managing ministries and branches shall specify working time and rest time for special jobs prescribed in Article 116 of the Labor Code and Clause 1 of this Article after reaching an agreement with the Minister of Labor, War Invalids and Social Affairs.

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Chapter VIII

LABOR DISCIPLINE AND MATERIAL RESPONSIBILITY

Article 69. Internal working rules

Internal working rules in Article 118 of the Labor Code are specified as follows:

1.The employer shall issue its/his/her internal working rules; such rules must be in written form if 10 or more employees are employed. In case of employing less than 10 employees, it is not required to issue internal working rules in writing but there must be an agreement on labor discipline and material responsibility in the labor contract.

2.The contents of internal working rules must not be contrary to the labor law and other relevant laws. Internal working rules must have the following principal contents:

a) Working time and rest time: Normal working time of a day and a week, work shifts; starting time and ending time of a work shift; overtime work (if any), overtime work in special cases; breaks in addition to mid-shift rest time; rest time between shifts; weekly days off, annual leave, leaves for personal reasons, and unpaid leaves;

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b) Order at the workplace: Working areas, movements during working time; behavioral culture, uniform; obedience of employers' assignment and mobilization;

c) Occupational safety and sanitation at the workplace: Responsibility to obedience of regulations, internal rules, procedures and measures for ensuring occupational safety and sanitation, fire and exploration prevention and fighting; use and maintenance of personal protection equipment and equipment to ensure occupational safety and sanitation at the workplace; and cleaning, sterilization and disinfection at the workplace;

d) Prevention and combat of sexual harassment at the workplace; order and procedures for handling acts of sexual harassment at the workplace: The employer shall provide rules on prevention and combat of sexual harassment in accordance with Article 85 of this Decree;

dd) Protection of assets, business secrets, technological secrets and intellectual property of the employer: Specifying lists of to-be-protected assets, documents, technology and business secrets and intellectual property; acts of infringing assets and confidentiality;

e) Cases in which employees may be temporarily assigned to perform jobs which are not stated in the labor contracts: Specifying cases due to the demand

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of production and business in which employees may be temporarily assigned to perform jobs other than those stated in the labor contracts in accordance with Article 29 of the Labor Code;

g) Employees' acts of breaching labor discipline, and forms of handling breaches of labor discipline: Specifying acts of breaching labor discipline, and forms of handling breaches of labor discipline corresponding to the acts of breaching labor discipline;

h) Material responsibility: Stipulating cases of compensating for damage to tools and equipment or acts of causing property damage; loss of tools, equipment, assets or excessive consumption of supplies; level of compensation corresponding to the level of damage; persons competent to handle compensation for damage;

i) Persons competent to handle breaches of labor discipline: Persons competence to enter into labor contracts at the employer party as prescribed in Clause 3, Article 18 of the Labor Code or persons specified in the internal working rules.

3. Before issuing, modifying internal working rules, the employer shall consult the grassroots-level employees' representative organization, if available. The consultation from the grassroots-level employees' representative organization shall comply with Clause 1, Article 41 of this Decree.

4. After being promulgated, internal working rules shall be sent to each grassroots-level employees' representative organization (if any) and notified to employees with their principal contents displayed at places where necessary at the workplace.

Article 70. Order and procedures for handling breaches of labor discipline

The order and procedures for handling breaches of labor discipline prescribed in Clause 6, Article 122 of the Labor Code are specified as follows:

1. Upon detecting that an employee committed acts of breaching labor discipline at the time of breaching, the employer shall make a written record and notify to the grassroots-level employees' representative organization and the at-law representative of an under-18 employee. In case where the employer detects the act of breaching labor discipline after the time of breaching, it shall collect evidences proving the employee's faults.

2. Within the statute of limitations for handling breaches of labor discipline specified in Clauses 1 and 2, Article 123 of the Labor Code, the employer shall hold a meeting for handling breaches of labor discipline as follows:

a) An employer shall notify contents, time and place of the meeting for handling breaches of labor discipline, full name of the one who is handled for

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breaches of labor discipline; acts of breaching to be handled to the required participants as prescribed at Points b and c, Clause 1, Article 122 of the Labor Code at least 05 working days before the meeting; ensuring that such participants receive notices before the meeting;

b) Upon receiving the employer's notices, the required participants specified at Points b and c, Clause 1, Article 122 of the Labor Code shall send their confirmation on participating the meeting to the employer. If one of the required participants fails to join the meeting at the notified time or place, the employer and employee shall reach an agreement on changing the time or place of the meeting. If both parties fail to reach an agreement, the employer shall decide the time and place;

c) The employer shall hold a meeting for handling breaches of labor discipline on the time and place as notified under Points a and b of this Clause. If one of the required participants specified at Points b and c, Clause 1, Article 122 of the Labor Code does not confirm to join the meeting or he/she is absent, the employer shall continue holding the meeting for handling breaches of labor discipline.

3. The meeting for labor discipline shall be recorded in minutes which is approved by all participants before its end. Such minutes shall be signed by all participants specified at Points b and c, Clause 1, Article 122 of the Labor Code. In case one of the participants refuses to sign the minutes, his/her full name and the reason (if any) must be clearly stated by the maker.

4. Within the statute of limitations for handling breaches of labor discipline specified in Clauses 1 and 2, Article 123 of the Labor Code, the person competent to handle breaches of labor discipline shall issue a decision on handling breaches of labor discipline and send it to required participants as prescribed at Points b and c, Clause 1, Article 122 of the Labor Code.

Article 71. Order and procedures for handling of compensation for damage

The order and procedures for handling compensation for damage prescribed in Clause 2, Article 130 of the Labor Code are specified as follows:

1. Upon detecting that an employee loses tools, equipment or assets of the employer or other assets assigned to him/her by the employer, takes other acts causing damage to the employer's assets or uses supplies in excess of the prescribed norms, the employer shall request the employee to report in writing on the case.

2. Within the statute of limitations for handling of compensation for damage specified in Article 72 of the Labor Code, the employer shall hold a meeting for handling of compensation for damage as follows:

At least 05 working days before the meeting, the employer shall notify to

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the required participants, including: those who are prescribed at Points b and c, Clause 1, Article 122 of the Labor Code; appraisers (if any), ensuring that such participants receive notices before the meeting. Such notice must clearly state time and place of the meeting for handling of compensation for damage, full name of the one who is handled for compensation for damage; acts of breaching;

b) Upon receiving the employer's notices, the required participants specified at Point a of this Clause shall send their confirmation on participating the meeting to the employer. If one of the participants fails to join the meeting at the notified time or place, the employer and employee shall reach an agreement on changing the time or place of the meeting. If both parties fail to reach an agreement, the employer shall decide the time and place;

c) The employer shall hold a meeting for handling of compensation for damage on the time and place as notified under Points a and b of this Clause. If one of the required participants specified at Point a of this Clause does not confirm to join the meeting or he/she is absent, the employer shall continue holding the meeting for handling of compensation for damage in accordance with law provisions.

3. The meeting for handling of compensation for damage shall be recorded in minutes which is approved by all participants before its end. Such minutes shall be signed by all participants specified at Point a, Clause 2 of this Article. In case one of the participants refuses to sign the minutes, his/her full name and the reason (if any) must be clearly stated by the maker.

4. A decision on handling of compensation for damage must be issued within the statute of limitations for handling of compensation for damage. Such a decision must clearly state the damage level, cause; the compensation level; time limit and methods of compensation and be sent to the required participants as prescribed at Point a, Clause 2 of this Article.

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

Article 72. Statute of limitations for handling of compensation for damage

The statute of limitations for handling compensation for damage prescribed in Clause 2, Article 130 of the Labor Code is specified as follows:

1. The statute of limitations for handling of compensation for damage is 06 months, since the employee loses tools, equipment or assets of the employer or other assets assigned to him/her by the employer, takes other acts causing damage to the employer's assets or uses supplies in excess of the prescribed norms.

2. The employee who is in the period as prescribed in Clause 4, Article 122 of the Labor Code shall not be subject to handling of compensation for damage.

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3. Upon the expiration of the time limit specified in Clause 4, Article 122 of the Labor Code, if the statute of limitations expires or the statute of limitations remains but not full 60 days, the statute of limitations for handling of compensation for damage may be extended but not exceeding 60 days from the expiration.

Article 73. Complaints about labor discipline and material responsibility

An employee who is handled for breaches of labor discipline, suspended from work, or required to pay compensation in accordance with the regime of material responsibility but not satisfied with the handling decision may file a complaint with the employer or a competent agency in accordance with the Government's regulations on handling of labor-related complaints, or request settlement of a personal labor dispute according to the procedures prescribed in Section 2, Chapter XIV of the Labor Code.

In case the employer decides on labor disciplining in the form of dismissal in contravention of law, in addition to obligations and responsibilities as prescribed by the Government's regulations on handling of labor-related complaints or settlement of a personal labor dispute according to the procedures prescribed in Section 2, Chapter XIV of the Labor Code, the employer shall comply with Article 41 of the Labor Code.

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Chapter IX

FEMALE EMPLOYEES AND ASSURANCE OF GENDER EQUALITY

Section 1

GENEREAL PROVISIONS ON FEMALE EMPLOYEES AND ASSURANCE OF GENDER EQUALITY

Article 74. Employers employing intensive female employees

Employer employing intensive female employees means an employer falling in one of the following cases:

1.Employing from 10 female employees to under 100 female employees who account for 50% or more of the total workforce.

2.Employing from 100 female employees to under 1,000 female employees who account for 30% or more of the total workforce.

3.Employing 1,000 female employees or more.

Article 75. Labor-intensive areas

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A labor-intensive area means:

1. An industrial park, industrial complex, export processing zone or economic zone or a hi-tech park (hereinafter referred to as industrial park) where 5,000 female employees or more work for enterprises and pay social insurance premium in the area of the industrial park.

2. A commune, ward or township where 3,000 female employees or more register for permanent residence or temporary residence.

Article 76. Rooms for breast milk collection and storage

Room for breast milk collection and storage means a private area other than a toilet or bathroom, with water, electricity and appropriate hygienic conditions that is equipped with refrigerators, chairs, tables, fans or air conditioners, located in a convenient location, protected from the intrusion and visibility of colleagues and the public so that female employees can breastfeed or express milk.

Article 77. Nurseries and pre-primary classes

Nurseries and pre-primary classes are early childhood education institutions specified in Article 26 of the Education Law, including:

1. Nurseries and childcare groups for children of between 03 months and 03 years old.

2. Pre-primary schools and classes for children of between 03 years and 06 years old.

3. Early childhood schools and classes, which are education institutions providing both nursery and pre-primary education for children of between 03 months and 06 years old.

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Section 2

ASSURANCE OF GENDER EQUALITY AND SEPARATE PROVISIONS FOR FEMALE EMPLOYEES

Article 78. Employees' right to employment equality, and implementation of measures to ensure gender equality

1. The right to equality of employees:

a) Employers shall be responsible for ensuring equality of female employees and male employees, implementing measures to ensure gender equality in recruitment, employment, training, wage, commendation, promotion, remuneration, and regimes on social insurance, health insurance, unemployment insurance, working conditions, occupational safety, working time, rest time, sickness, maternity and material and spiritual welfare;

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b) The State shall ensure equality of female and male employees, implement measures to ensure gender equality in the fields specified at Point a, Clause 1 of this Article in industrial relations.

2. Employers shall be responsible for consulting female employees or their representatives when deciding the issues related to their rights, obligations and interests. The consultation from female employees' representatives shall comply with Clause 1, Article 41 of this Decree.

3. The State encourages employers to:

a) Prioritize the recruitment and employment of females who fully meet the conditions and criteria for the jobs suitable to both males and females; prioritize the entry into new labor contracts with female employees when their labor contracts expires;

b) Implement regimes and policies for female employees which are better than those prescribed by law.

Article 79. Increase in welfare and improvement of working conditions

1. Employers shall ensure sufficient bathrooms and hygienic toilets at workplaces under the Ministry of Health's regulations.

2. Employers are encouraged to coordinate with grassroots-level employees' representative organizations in:

a) Working out plans and taking measures for female and male employees to have regular employment, practice flexible working time, part-time work or home-based work, training to improve skills; female employees shall be trained with standby jobs suitable to their physical and physiological characteristics and their motherhood;

b) Building cultural, sport and medical establishments, houses and other physical foundations in service of employees in labor-intensive areas.

Article 80. Healthcare for female employees

1. During a periodic health checkup, female employees may get obstetric examination according to the list of obstetric examination promulgated by the Ministry of Health.

2. Employers are encouraged to create more conditions for pregnant employees to take leaves for pregnancy check-up than prescribed in Article 32 of the Law on Social Insurance.

3. In her menstrual cycle, a female employee is entitled to:

a) A 30-minute break per day, which is included into the working time and full payment of wage for the time off as stated in the labor contract. The female employee shall reach agreement with the employer on the number of day off during the menstrual cycle to suit practical working conditions and meet the need

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of the female employee, but not exceeding 03 working days a month. The employee shall notify the specific time off of each month to the employer;

b) If the female employee propose a time off which is more flexible than prescribed at Point a of this Clause, both parties shall reach an agreement on the time off suitable to practical working conditions and the female employee's need;

c) If the female employee does not take leaves in her menstrual cycle and has the employer's consent for her to work, in addition to the wage paid under Point a of this Clause, the employee shall be entitled to an additional wage according to the work she has done during the leave and this working period shall not be included in her overtime.

4. During the time of nursing her child of under 12 months, a female employee is entitled to:

a) A 60-minute break per day during working hours for breastfeeding, milk collection and storage, and rest. During this time, a female employee is entitled to full payment of wage for the time off as stated in the labor contract;

b) If the female employee propose a break which is more flexible than prescribed at Point a of this Clause, the employee shall reach an agreement with the employer to arrange a break suitable to practical working conditions and the female employee's need;

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c) If the female employee does not take breaks and has the employer's consent for her to work, in addition to the wage paid under Point a of this Clause, the employee shall be entitled to an additional wage according to the work she has done during the break.

5. The employer is encouraged to build rooms for breast milk collection and storage to suit practical working conditions, the need of female employees and capacity of the employer. If the employer employs 1,000 female employees or more, it is required to have a room for breast milk collection and storage at the workplace.

6. The employer is encouraged to enable female employees nursing children of 12 months or more to collect and store breast milk at the workplace. The time off for breast milk collection and storage shall be agreed by female employees and the employer.

Article 81. Organization of nurseries and pre-primary classes in labor-intensive areas

1. The provincial-level People’s Committee shall:

a) Allocate construction land for building nurseries and pre-primary classes in labor-intensive areas in the local land use plan;

b) Build nurseries and pre-primary classes to meet the needs of employees;

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c) Invest in infrastructure, construct part or the whole of the project or use the existing housing and infrastructure for organizations and individuals to rent to establish nurseries and pre-primary classes to meet the needs of employees;

d) To direct the serious implementation of regimes and policies on socialization of education, create favorable conditions in term of land, loans and administrative procedures for enterprises, organizations and individuals investing in construction of nurseries and pre-primary classes to meet the needs of employees;

dd) Perform the responsibility of state management of education in accordance with law.

2. Private and people-founded nurseries and pre-primary classes in labor-intensive areas shall be entitled to policies applicable to private and people-founded early childhood education institutions in areas where exist industrial parks as prescribed in Article 5 of the Government's Decree No. 105/2020/ND-CP dated September 08, 2020 on promulgating policies on early childhood education development.

3. Children who are sons or daughters of employees working in labor-intensive areas shall be entitled to policies applicable to children who are sons or daughters of workers or employees industrial parks as prescribed in Article 8 of the Government's Decree No. 105/2020/ND-CP dated September 08, 2020 on promulgating policies on early childhood education development.

4. Early childhood teachers working for private and people-founded nurseries and pre-primary classes in labor-intensive areas shall be entitled to policies applicable to early childhood teachers working for private and people-founded early childhood education institutions in areas where exist industrial parks as prescribed in Article 10 of the Government's Decree No. 105/2020/ND-CP dated September 08, 2020 on promulgating policies on early childhood education development.

5. Employers are encouraged to organize and build nurseries and pre-primary classes, or cover part of expenses for building nurseries and pre-primary classes.

Article 82. Employers' assistance and support for covering part of childcare expenses at nurseries and pre-primary classes for employees

Based on specific conditions, the employer shall work out a plan to provide assistance and support in cash or in kind cover part of childcare expenses at nurseries and pre-primary classes incurred by employees who have children of preschool age. The employer shall decide on the support level and time after exchanging and discussing with the employee's representative through dialogues in the workplace as prescribed in Articles 63 and 64 of the Labor Code and Chapter V of this Decree.

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Article 83. Support policies for employers

1. Employers that invest in the building of nurseries and pre-primary classes, health establishments, cultural works or other welfare works fully meeting the conditions on scale and standards in accordance with regulations on incentive policies on socialization may enjoy incentive policies under regulations on incentive policies for the socialization of educational, vocational, healthcare, cultural, sports and environmental activities.

If investing in the building of houses for employees, employers may enjoy incentive policies under the Housing Law.

If investing or organizing nurseries and pre-primary classes, employers may be entitled to exemption or deduction from the rental of facilities.

2. Employers may enjoy the State's support as follows:

a) Employers that employ intensive female employees shall be entitled to tax reduction in accordance with law provisions on tax;

b) Having additional expenses for female employees, gender equality assurance and prevention and combating sexual harassment in the workplace as prescribed in this Decree included in deductible expenses upon determination of enterprise income tax-liable income under the Ministry of Finance's regulations.

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Section 3

PREVENTION AND FIGHTING OF SEXUAL HARASSMENT AT THE WORKPLACE

Article 84. Sexual harassment at the workplace

1.Sexual harassment at the workplace prescribed in Clause 9, Article 3 of the Labor Code shall be a proposal, request, suggestion, intimidation, coercion of exchanging sexual relations for any benefit related to works; or acts with a sexual nature that are not intended to be exchanged, but cause the working environment to become uncomfortable and unsettling, lead to physical, mental damage, harm work efficiency and life of the sufferer.

2. Sexual harassment at the workplace includes:

a) Physical behavior including sexual actions, gestures, contact, or physical impact on the body or sexual suggestions;

b) Verbal sexual harassment, including using direct speeches, via the telephone or electronic means with sexual content or sexual implications;

c) Non-verbal sexual harassment, including using body languages; displaying and describing visual material about sexual or related to sexual activity

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directly or via electronic means.

3. Workplace as prescribed in Clause 9, Article 3 of the Labor Code means any place where an employee actually works according to an agreement or an assignment of his/her employer, including work-related places or spaces such as social activities, seminars, training, formal working trips, meals, telephone conversations, communication activities via means of transportation arranged by the employer from the residence place to the workplace and vice versa, the residence place provided by the employer and another location specified by the employer.

Article 85. Regulations of employers on prevention and fighting of sexual harassment at the workplace

1. Regulations of employers on prevention and fighting of sexual harassment shall be defined in internal working rules or in appendix to internal working rules, including the following basic contents:

a) Strict prohibition of sexual harassment at the workplace;

b) Specific and detailed regulations on the acts of sexual harassment at the workplace in conformity with nature and characteristics of work and workplace;

c) Responsibilities, term, order, procedures for internally handling the acts of sexual harassment at the workplace, including responsibilities, term, order, procedures for complaints and denunciations, handling of complaints and denunciations and relevant regulations;

d) Forms of disciplining employees committing sexual harassment or making untruthful denunciations according to the nature and severity of their violations;

dd) Compensation and remedial measures.

2. Regulations of employers on complaint and denunciation of sexual harassment and handling of the acts of sexual harassment shall comply the following principles:

a) Ensuring timeliness, promptness;

b) Protecting secret, honor, reputation, dignity and safety of persons being sexually harassed, persons making complaints or denunciations and persons being complained or denounced.

Article 86. Responsibilities and obligations on prevention and fighting of sexual harassment at the workplace

1. The employers have the following obligations:

a) To comply with, and supervise the compliance of, law on prevention and fighting of sexual harassment at the workplace;

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b) To propagate and disseminate law and regulations on prevention and fighting of sexual harassment at the workplace to employees;

c) To promptly prevent, handle an act of sexual harassment at the workplace and take measures to protect secret, honor, reputation, dignity and safety of the person being sexually harassed, person making a complaint or denunciation and person being complained or denounced, when the complaint or denunciation of such act arises.

2. The employees have the following obligations:

a) To strictly comply with regulations on prevention and fighting of sexual harassment at the workplace;

b) To participate in establishing a working environment without sexual harassment;

c) To prevent, denounce the acts of sexual harassment at the workplace.

3. The grassroots-level employees' representative organizations have the following obligations:

a) To participate in establishing, implementing and monitoring the implementation of, regulations on prevention and fighting of sexual harassment at the workplace;

b) To provide information, advice and to represent an employee who is sexually harassed, an employee whose acts of sexual harassment are complained or denounced;

c) To propagate, disseminate and organize training in, regulations on prevention and fighting of sexual harassment at the workplace.

4. The employers and grassroots-level employees' representative organizations are encouraged in choosing the contents of prevention and fighting of sexual harassment at the workplace for collective bargaining.

Section 4

RESPONSIBILITY FOR ORGANIZING THE IMPLEMENTATION OF POLICIES TOWARDS FEMALE EMPLOYEES AND GENDER EQUALITY

Article 87. Organizing the implementation of policies towards female employees and guaranteeing gender equality

1. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with relevant agencies in, propagating and disseminating policies towards female employees, guaranteeing gender

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equality, preventing and fighting sexual harassment at the workplace.

2. The Ministry of Finance shall assume the prime responsibility for, and coordinate with relevant agencies in, implementing Clause 2, Article 83 of this Decree.

3. The Ministry of Education and Training shall assume the prime responsibility for, and coordinate with related agencies in, guiding the implementation of Article 81 of this Decree.

4. The Ministry of Health shall:

a) Guide standards on bathrooms and toilets prescribed in Clause 1, Article 79 of this Decree;

b) Promulgate a list of obstetric examination for female employees prescribed in Clause 1, Article 80 of this Decree;

c) Guide the implementation of regulations on rooms for breast milk collection and storage prescribed in Clause 5, Article 80 of this Decree.

5. Provincial-level People's Committees shall:

a) Propagate, disseminate, examine, inspect the implementation of policies towards female employees, guaranteeing gender equality, prevention and fighting of sexual harassment at the workplace as prescribed in this Chapter;

b) Review and determine areas with large numbers of employees and organize the implementation of Article 81 of this Decree.

6. Require the Vietnam Fatherland Front and its member organizations, within the scope of their duties and powers, to supervise the implementation of this Chapter.

Chapter X

SPECIFIC REGULATIONS FOR DOMESTIC EMPLOYEES

Article 88. Domestic employees

Domestic employees are employees defined in Clause 1, Article 3 of the Labor Code that enter into written labor contracts for works prescribed in Clause 1, Article 161 of the Labor Code.

Article 89. Specific regulations for domestic employees

1. Regulations on the forms of labor contracts prescribed in Article 14 and Clause 1, Article 162; obligations of providing information upon entering into labor contracts in Article 16; contents of labor contracts in Clause 1, Article 21; unilateral termination of labor contract in Clause 2, Article 35, Clause 3, Article

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36 and Clause 2, Article 162; obligations upon illegal unilateral termination of labor contracts in Articles 40 and 41; severance allowance in Article 46 of the Labor Code shall be implemented as follows:

a) When receiving an employee for working, the employer must enter into labor contract with the employee. The form of labor contract must be in writing in accordance with Clause 1, Article 14 and Clause 1, Article 162 of the Labor Code;

b) Before signing labor contracts, the employees and employers must provide information according to Article 16 of the Labor Code; at the same time, the employers must clearly provide information about the employees' works, living conditions in employers' families and other necessary information related to guarantee of safety and health in the implementation of works as required by the employees;

c) The contents of labor contracts shall comply with Clause 1, Article 21 of the Labor Code. Based on Form No. 01/PLV in Appendix V to this Decree, the employers and employees shall reach specific agreement on rights, obligations and benefits of each party in labor contracts for implementation that are in conformity with actual conditions but satisfy main contents prescribed in Clause 1, Article 21 of the Labor Code;

d) During the implementation of labor contract, each party may unilaterally terminate labor contract without reason but must notify such termination at least 15 days in advance to the other party, except the following cases:

d1) The employee unilaterally terminates the labor contract due to one of the following reasons: He/she is not assigned the job or workplace or is not assured of the working conditions as agreed upon, except the cases specified in Article 29 of the Labor Code; his/her wage is not paid in full or on time, except the case specified Clause 4, Article 97 of the Labor Code; he/she is ill-treated or beaten or verbally or physically humiliated by the employer, which affects his/her health, dignity or honor; or is subject to forced labor; is sexually harassed at the workplace; the female employee is pregnant and has to stop working as prescribed in Clause 1, Article 138 of the Labor Code; he/she reaches the retirement age as prescribed in Article 169 of the Labor Code, unless otherwise agreed upon by the two parties; the employer provides untruthful information as prescribed in Clause 1, Article 16 of the Labor Code, affecting the performance of the contract;

d2) The employer unilaterally terminates the labor contract due to one of the following reasons: The employee is still absent from the workplace after the time limit specified in Article 31 of the Labor Code; the employee has given up work at his/her own discretion without a plausible reason for 05 or more consecutive working days;

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dd) The unilateral termination of a labor contract will be illegal if it does not comply with Point d of this Clause. When unilaterally terminating a labor contract illegally, the employees must comply with Article 40 and the employers must comply with Article 41 of the Labor Code. If violating the provision on the period of prior notification at Point d of this Clause, the employer shall pay the employee an amount equivalent to the latter's wage stated in the labor contract for the days the employee does not work without being notified in advance of the contract termination;

e) Upon termination of a labor contract as prescribed in Clauses 1, 2, 3, 4, 6 and 7, Article 34 of the Labor Code and Point d of this Clause, the employer must pay the employee a severance allowance in accordance with Article 46 of the Labor Code; the two parties shall fully pay money amounts related to their interests.

2. The employee and the employer shall reach agreement on wage, bonus, payment of wage and bonus in accordance with Chapter VI (except for Article 93) of the Labor Code, in which the employee's wage defined in labor contract according to Clauses 1 and 2, Article 90 of the Labor Code includes job-based wage, wage-based allowances and other additional payments (if any). Job-based wage (including also meals and lodging expenses in case the employee lives together with the employer's family, if any) must not be lower than the region-based minimum wage level announced by the Government. The employer and employee shall agree on monthly meals and lodging expenses (if any) which must not exceed 50% of the job-based wage specified in the labor contract.

3. Working time and rest time shall comply with Chapter VII of the Labor Code and Chapter VII of this Decree, in which rest time in a normal workday or a weekend shall be implemented as follows:

a) In a normal workday, in addition to working time defined in labor contracts according to regulations, the employer must create conditions and ensure that the employee is entitled to a break of at least 08 hours, in which to ensure 06 consecutive hours within 24 consecutive hours;

b) The employee is entitled to weekly breaks according to Article 111 of the Labor Code. In cases in which it is impossible for the employer to schedule such weekly breaks, the employer must ensure that such employee has at least 04 days off on average in a month.

4. Employers shall, by the time of paying wages to employees, pay an amount equaling the compulsory social insurance and health insurance premiums to be paid by employers in accordance with the laws on social insurance and health insurance for the employees to proactively participate in social insurance and health insurance.

For the employee who concurrently enters into different labor contracts on

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domestic employee, the employers' responsibilities of paying social insurance, health insurance shall comply with each labor contract.

5. Occupational safety and health applied to domestic employees shall be implemented as follows:

a) The employers shall guide the use of machines, equipment and utensils and fire and explosion prevention and fighting measures related to the employee's works in house; provide them with personal protective equipment;

b) When the employees suffer an occupational accident or disease, the employers must implement obligations toward the employees in accordance with Articles 38, 39 of the Law on Occupational Safety and Health;

c) Employees must properly observe use instructions of machines, equipment and utensils, and fire and explosion prevention and fighting instructions; and comply with environmental hygiene requirements set by the households and residential quarters where they reside.

6. Labor discipline and material responsibility applied to an employee shall be implemented as follows:

a) The employer and the employee shall specifically determine the acts and forms of handling breaches of labor discipline and material responsibility in accordance with Clause 2, Article 118 and Article 129 of the Labor Code and state them in the labor contract or express them by other form of agreement;

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b) Forms of handling breaches of labor discipline applied to an employee include reprimand and dismissal according to Clauses 1 and 4, Article 124 of the Labor Code;

c) The employer may apply dismissal as a form of discipline to the employee in the following cases: The employee commits one of the acts prescribed in Clauses 1, 2 and 4, Article 125 of the Labor Code or the employee ill-treats or beats or verbally or physically humiliates the employer or a member of the family, which affects his/her health, dignity or honor;

d) If detecting a violation of labor discipline of the employee, the employer shall consider and discipline the employee, using the forms as prescribed at Point b of this Clause. For an employee aged from full 15 years to under full 18 years, the employer shall notify the handling of a breach of labor discipline to his/her at-law representative;

dd) The handling of a breach of labor discipline must ensure principles, order and procedures as prescribed at Point a, Point c, Clause 1, Clauses 2, 3, 4, and 5, Article 122 of The Labor Code.

Article 90. Obligations of employers and employees

1. To implement the obligations as prescribed in Articles 163, 164 and 165

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of the Labor Code.

2. The employer must notify People's Committees of communes, wards and towns (hereinafter referred to as commune-level People's Committees) of the use of employees, termination of employee use according to corresponding forms No. 02/PLV and No. 03/PLV in Appendix V to this Decree within 10 days from the signing date of the labor contracts or the date of labor contract termination.

Article 91. Responsibility for management of domestic employees

1. Provincial-level People's Committees shall direct to the provincial-level Departments of Labor, War invalids and Social Affairs: To guide the district-level Divisions of Labor, War invalids and Social Affairs to propagate and disseminate law on domestic employees; manage, inspect, examine, monitor the implementation of regulations on domestic employees in localities.

2. People's Committees of rural districts, urban districts, towns, provincial cities and cities of centrally run cities (hereinafter referred to as district-level People's Committees) shall direct the district-level Divisions of Labor, War invalids and Social Affairs: To guide the commune-level civil servants to propagate and disseminate law on domestic employees; manage, inspect, examine, monitor the implementation of regulations on domestic employees in localities.

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3. Commune-level People's Committees:

a) To organize the propaganda and dissemination of law on domestic employees according to guidance of the provincial-level Departments and district-level Divisions of Labor, War invalids and Social Affairs;

b) To assign the focal for monitoring, managing, examining, supervising the implementation of law on domestic employees in the localities under their management;

c) To receive the notification of use of domestic employees, termination of domestic employee use according to Clause 2, Article 90 of this Decree; to synthesize and report the use of domestic employees in localities under their management upon request of a competent state management agency.

Chapter XI

SETTLEMENT OF LABOR DISPUTES

Section 1

LABOR CONCILIATORS

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Article 92. Criteria of labor conciliators

1. Being Vietnamese citizens, having full civil act capacity according to the Civil Code, having good health and moral qualities.

2. Possessing a university or higher qualification and having at least 03 years' experience of working in fields related to industrial relations.

3. Not being subject to penal liability examination or having his/her criminal records not yet expunged.

Article 93. Order and procedures for appointing labor conciliators

1. Making plans of recruitment, appointment of labor conciliators

a) In the first quarter of each year, the district-level Divisions of Labor, War invalids and Social Affairs shall review the demand of recruitment, appointment of labor conciliators under their management to make a plan and report to the provincial-level Departments of Labor, War invalids and Social Affairs before March 31 every year;

b) The provincial-level Departments of Labor, War invalids and Social Affairs shall synthesize plans of district-level Divisions of Labor, War invalids and Social Affairs and of such Departments to establish common plans of provinces, central affiliated cities and submit them to Chairpersons of their provincial-level People's Committees for approval.

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2. Order and procedures for appointing labor conciliators

a) Based on the plans of recruitment, appointment of labor conciliators approved by the Chairpersons of provincial-level People's Committees, the provincial-level Departments of Labor, War invalids and Social Affairs shall notify in writing the recruitment of labor conciliators in localities via Portals of agencies, units and mass media, and to district-level Divisions of Labor, War invalids and Social Affairs for coordinating the implementation;

b) Within the time limit stated in the notice of labor conciliator recruitment of a provincial-level Department of Labor, War invalids and Social Affairs, an individual shall directly register or a state agency or unit, a political organization, socio-political organization or other organization shall introduce him/her for labor conciliator recruitment, with provincial-level Department or district-level Division of Labor, War invalids and Social Affairs.

A dossier of recruitment must comprise: Dossier of labor conciliator recruitment; a resume certified by a competent authority, a health certificate issued by a competent health agency according to regulations of the Ministry of Health; duplicates granted from master books, certified copies of originals or photocopies enclosed with the originals for comparison of diplomas and related certificates; a written introduction for recruitment, made by an agency or relevant organization (if any);

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c) Within 05 working days from the deadline for submission of dossiers that is stated in the notice on labor conciliator recruitment, a district-level Division of Labor, War invalids and Social Affairs shall review persons who fully satisfy the criteria, synthesize and report to its provincial-level Department of Labor, War invalids and Social Affairs for approval;

d) Within 10 working days from the date of receiving the report of a district-level Division of Labor, War invalids and Social Affairs, its provincial-level Department of Labor, War invalids and Social Affairs shall approve the recruitment dossiers (including dossiers directly received by such Department), choose and make a list of recruitment position of labor conciliators under the management of the provincial-level Department and district-level Division of Labor, War invalids and Social Affairs, submit it to a chairperson of provincial-level People's Committee for consideration and appointment;

dd) Within 05 working days after receiving a provincial-level Department of Labor, Invalids and Social Affairs' request, a provincial-level People's Committee chairperson shall consider and decide on the appointment of labor conciliators. A labor conciliator's term in office does not exceed 05 years.

3. Re-appointment of labor conciliators

a) At least 03 months before the end of time limit of appointment, if a labor conciliator wishes to continue working as a labor conciliator, he/she shall send a written request of re-appointment to a provincial-level Department of Labor, War invalids and Social Affairs;

b) Based on the annual plan of recruitment and appointment of labor conciliators approved by the chairperson of a provincial-level People's Committee; results of standard review, assessment of labor conciliators' conciliation according to management decentralization, a provincial-level Department of Labor, War invalids and Social Affairs shall submit in writing to the provincial-level People's Committee within 10 working days after receiving a labor conciliator's written request for re-appointment;

c) Within 05 working days after receiving a provincial-level Department of Labor, Invalids and Social Affairs' request, a provincial-level People's Committee chairperson shall consider and decide on re-appointment for cases fully satisfying the criteria and conditions.

4. A provincial-level Department and district-level Division of Labor, War invalids and Social Affairs shall disclose, update and post lists with full names, assigned operation areas, telephone numbers and addresses of labor conciliators that are appointed and re-appointed on the Portals of the agency, unit and notify on the mass media at the locality in order that employers and employees know and contact.

Article 94. Relief from duty of labor conciliators

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1. A labor conciliator is relieved from duty in one of the following cases:

a) Making a written request for relief from duty of labor conciliator;

b) Not satisfying the criteria as prescribed in Article 92 of this Decree;

c) Having committed violations of law to harm the interests of disputing parties or the State during the implementation of labor conciliator's tasks according to the law;

d) Being assessed as failing to fulfill tasks according to regulations on management of labor conciliators for 02 years;

dd) Refusing to conduct conciliation for two times or more when being assigned to participate in handling labor disputes or disputes over vocational training contracts without plausible reasons according to regulations on management of labor conciliators.

2. Order and procedures for relief from duty of a labor conciliator

a) For the case as prescribed at Point a, Clause 1 of this Article, within 05 working days after receiving a labor conciliator's written request for relief from duty of labor conciliator, a provincial-level Department of Labor, War invalids and Social Affairs shall send a written request to the chairperson of its provincial-level People's Committee for consideration and relief from duty of such labor conciliator;

b) For cases as prescribed at Points b, c, d, and đ Clause 1 of this Article, a provincial-level Department of Labor, War invalids and Social Affairs shall, based on the report of a district-level Division of Labor, War invalids and Social Affairs and review results, submit to the chairperson of its provincial-level People's Committee for consideration and relief from duty of such labor conciliator;

c) Within 10 working days after receiving a provincial-level Department of Labor, Invalids and Social Affairs' request, its provincial-level People's Committee chairperson shall consider and decide on relief from duty of a labor conciliator.

Article 95. Competence, order and procedures for appointment of a labor conciliator

1. The appointment of labor conciliator to conduct conciliation shall be implemented by a provincial-level Department of Labor, Invalids and Social Affairs or district-level Division of Labor, War invalids and Social Affairs according to the decentralization in regulations on management of labor conciliators.

2. Order and procedures for appointment of a labor conciliator

a) A written request to handle a labor dispute or disputes over vocational

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training contract or to support the development of industrial relations shall be sent to a provincial-level Department or district-level Division of Labor, War invalids and Social Affairs or labor conciliator.

Within 12 hours after receiving a written request to handle a labor dispute from a disputer, a labor conciliator shall transfer it to a provincial-level Department or district-level Division of Labor, War invalids and Social Affairs that manages such labor conciliator for classification and handling;

b) Within 05 working days after receiving such request, a provincial-level Department or district-level Division of Labor, War invalids and Social Affairs shall, according to management decentralization, classify and issue a written appointment of labor conciliator.

Within 12 hours after receiving a written request from a labor conciliator as prescribed at Point a of this Clause, according to management decentralization, a provincial-level Department or district-level Division of Labor, War invalids and Social Affairs shall issue a written appointment of labor conciliator under regulations;

3. Depending on the complexity of a case, a district-level Division of Labor, War invalids and Social Affairs or provincial-level Department of Labor, War invalids and Social Affairs may appoint one or a number of labor conciliators for handling.

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Article 96. Regimes and working conditions for labor conciliators

1. A labor conciliator shall be entitled to enjoy the following regimes:

a) A labor conciliator shall be entitled to enjoy an allowance for each of his/her actual working days according to appointments of a competent agency that is equal to 05% of the average of monthly region-based minimum wage levels applicable to employees working under labor contracts according to regulations of the Government in each period (From January 01, 2021, region-based minimum wage levels shall be defined in the Government's Decree No. 90/2019/ND-CP dated November 15, 2019).

A provincial-level People's Committee may consider and submit to the People's Council at the same level for decision of an allowance higher than the one as defined at this Point, but in conformity with the local budget capacity;

b) To be facilitated by agencies, units and organizations where they are working to arrange appropriate time to participate in tasks of labor conciliators according to regulations;

c) To enjoy the regime of working trip expenses applicable to state cadres, civil servants and public employees during the implementation of labor conciliators' tasks according to regulations;

d) To participate in trainings organized by the competent authority to raise

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professional qualifications and skills;

dd) To enjoy commendation in accordance with the Law on Emulation and Commendation for achievements in the implementation of labor conciliators' tasks.

e) Other regimes according to the law.

2.The agencies appointing labor conciliators as prescribed in Article 95 of this Decree shall arrange working location, means, documents, stationery and other necessary conditions for labor conciliators' works.

3. Funds for regimes and working conditions as defined in Clauses 1 and 2 of this Article are allocated from the state budgets. The estimation, management and settlement of funds shall comply with the state budget law.

Article 97. Management of labor conciliators

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

a) Build and submit to competent agency for issuing, or issue under its competence, legal documents on labor conciliators;

b) Propagate, guide, inspect, examine and supervise the implementation of regulations on labor conciliation;

c) Build contents, programs and organize training courses to raise professional capacity and skills of labor conciliators.

2. Chairpersons of provincial-level People's Committees shall:

a) Appoint, re-appoint, relieve from duty labor conciliators and manage labor conciliators' activities in provincial-level localities.

For provinces and central affiliated cities having many enterprises, employees, labor disputes, they may consider and appoint a number of full-time labor conciliators under provincial-level Departments of Labor, War invalids and Social Affairs. Full-time labor conciliators shall settle labor disputes, disputes over vocational training contracts or support the development of industrial relations and help provincial-level Departments of Labor, War invalids and Social Affairs to manage the labor conciliation work in localities. Criteria for recruitment, appointment and duties of full-time labor conciliators shall comply with regulations on management of labor conciliators;

b) Promulgate regulations on management of labor conciliators, decentralize the management of the labor conciliators under provincial-level Departments and district-level Divisions of Labor, War invalids and Social Affairs;

c) Direct the development and implementation of regimes, policies, emulation and commendation for labor conciliators under regulations.

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

a) Formulate and submit regulations on management of labor conciliators to chairpersons of provincial-level People's Committees;

b) Advise and assist chairpersons of provincial-level People's Committees in managing the labor conciliators in localities;

c) Make and implement annual plans of recruitment, appointment of labor conciliators;

d) Appoint labor conciliators for settling disputes and supporting the development of industrial relations according to the management decentralization; ensure labor conciliators' working conditions; assess their activities and task accomplishment; implement regimes of allowance, emulation and commendation for them according to regulations; manage their dossiers, dossiers of dispute handling and other relevant documents;

dd) Assume the prime responsibility for, and coordinate with specialized unit of the Ministry of Labor, War Invalids and Social Affairs in, organizing training courses of professional qualifications and skills for labor conciliators in localities;

e) Inspect, examine, supervise labor conciliation according to the law;

g) Annually, synthesize labor conciliation and report on it to chairpersons of provincial-level People's Committees and the Ministry of Labor, War Invalids and Social Affairs.

4. District-level Divisions of Labor, War invalids and Social Affairs shall:

a) Implement management of labor conciliators in the district-level localities according to the decentralization;

b) Make and implement annual plans of recruitment, appointment of labor conciliators according to the decentralization;

c) Appoint labor conciliators for settling disputes and supporting the development of industrial relations according to the management decentralization; ensure labor conciliators' working conditions; assess their activities and task accomplishment; implement regimes of allowance, emulation and commendation for them; manage and archive dossiers of dispute handling and other relevant documents;

d) Appoint labor conciliators to participate in training courses of professional qualifications and skills that are organized by the Ministry of Labor, War Invalids and Social Affairs or provincial-level Departments of Labor, War Invalids and Social Affairs;

dd) Annually, synthesize labor conciliation in localities and report on it to

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provincial-level Departments of Labor, War Invalids and Social Affairs.

Section 2
LABOR ARBITRATION COUNCILS

Article 98. Criteria and conditions for labor arbitrators

1. Being Vietnamese citizens, having full civil act capacity according to the Civil Code, having good health and moral qualities, being reputable, impartial.

2. Possessing a university or higher qualification, having knowledge of laws and having at least 05 years' experience of working in fields related to industrial relations.

3. Not being subject to penal liability examination, serving criminal judgments, or having completely served criminal judgments but having his/her criminal records not yet expunged.

4. Being appointed for labor arbitrators by provincial-level Departments of Labor, War invalids and Social Affairs, provincial-level Federations of Labor or employers' representative organizations in provincial localities in accordance with Clause 2, Article 185 of the Labor Code.

5.Not being incumbent judges, procurators, investigators, enforcement officers or civil servants of people's courts, people's procuracies, investigative agencies or judgment enforcement agencies.

Article 99. Appointment of labor conciliators

1. Based on the number of labor arbitrators of a labor arbitration council as prescribed in Clause 2, Article 185 of the Labor Code, criteria and conditions for labor arbitrators as defined in Article 98 of this Decree, a provincial-level Federation of Labor, employers' representative organization in a provincial locality shall make a dossier of appointing labor arbitrators and send it to a provincial-level Department of Labor, War invalids and Social Affairs.

2. Within 10 working days after receiving a dossier of appointing labor arbitrators of a provincial-level Federation of Labor, employers' representative organization in a provincial locality, a provincial-level Department of Labor, War invalids and Social Affairs shall synthesize, approve, nominate persons for labor arbitrators for a general synthesis and submit it to provincial-level People's Committees for appointment of labor arbitrators.

The appointment of labor arbitrators of a provincial-level Department of Labor, War invalids and Social Affairs must comply with Point a, Clause 2, Article 185 of the Labor Code to appoint the chairperson and secretary of a labor

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arbitration council.

3. A dossier of nomination must comprise:

a) A written request of a nominating agency;

b) A written request of participation of a nominee;

c) A resume certified by a competent authority;

d) A health certificate issued by a competent health agency according to regulations of the Ministry of Health;

dd) Duplicates granted from master books, certified copies of originals or photocopies enclosed with the originals for comparison of diplomas and related certificates.

4. Within 10 working days after receiving a provincial-level Department of Labor, Invalids and Social Affairs' request, a provincial-level People's Committee chairperson shall issue decision on the appointment of labor arbitrators to participate in a labor arbitration council.

A labor arbitrator's term in office shall be the term of office of a labor arbitration council. In cases of an addition of a labor arbitrator or replacement for a labor arbitrator that is relieved from duty according to Article 100 of this Decree in the term of office of a labor arbitration council, the new labor arbitrator's term in office shall be the rest of such term.

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At the end of the term in office, labor arbitrators that fully satisfy criteria and conditions as defined in Article 98 of this Decree and continue to be nominated by agencies as prescribed at Points a, b and c, Clause 2, Article 185 of the Labor Code shall be considered for re-appointment of labor arbitrators according to order and procedures as defined in this Article.

Article 100. Relief from duty of labor arbitrators

1. A labor arbitrator is relieved from duty in one of the following cases:

a) Making a written request for relief from duty of labor arbitrator;

b) Not satisfying the criteria and conditions as prescribed in Article 98 of this Decree;

c) The nominating agency has a written request for relief from duty, replacement of labor arbitrator;

d) Having committed violations of law to harm the interests of disputing parties or the State during the implementation of labor arbitrator's tasks according to the law;

dd) Being assessed as failing to fulfill tasks according to a labor arbitration council's operating regulations for 02 years.

2. Order and procedures for relief from duty of a labor arbitrator

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a) For cases prescribed at Point a, Clause 1 of this Article, within 02 working days after receiving a labor conciliator's written request for relief from duty of labor conciliator, the chairperson of a labor arbitration council shall report in writing to a provincial-level Department of Labor, Invalids and Social Affairs. Within 03 working days after receiving a report of chairperson of a labor arbitration council, provincial-level Department of Labor, Invalids and Social Affairs shall discuss with the nominating agency and propose to its provincial-level People's Committee chairperson for considering and deciding on relief from duty of such labor arbitrator.

b) For cases prescribed at Points b, c, d and dd, Clause 1 of this Article, a provincial-level Department of Labor, Invalids and Social Affairs shall, based on report of chairperson of a labor arbitration council, review, discuss with the nominating agency and propose to its provincial-level People's Committee chairperson for considering and deciding on relief from duty of labor arbitrator;

c) Within 10 working days after receiving a provincial-level Department of Labor, Invalids and Social Affairs' request, a provincial-level People's Committee chairperson shall consider and decide on relief from duty of such labor arbitrator.

Article 101. Establishment of labor arbitration councils

1. The chairperson of a provincial-level People's Committee shall decide to establish a labor arbitration council with a five-year term of office, including labor arbitrators to be appointed according to Article 99 of this Decree, in which:

a) Chairperson of the council shall be leader of a provincial-level Department of Labor, War invalids and Social Affairs that is appointed as a labor arbitrator and work on a part-time basis;

b) Secretary of the council shall be a civil servant of a provincial-level Department of Labor, War invalids and Social Affairs that is appointed as a labor arbitrator, act as the permanent member of the council and work on a full-time basis;

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

d) A labor arbitration council may have its own seal.

2. A labor arbitration council is responsible for:

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

b) Settling interest-based collective labor disputes in workplaces where a strike is prohibited as specified in Section 3 of this Chapter;

c) Settling other labor disputes according to law regulations;

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d) Supporting the development of industrial relations in the provincial-level locality in accordance with labor arbitration council's operating regulations;

dd) Annually reporting to chairperson of a provincial-level People's Committee on, and notifying a provincial-level Department of Labor, War Invalids and Social Affairs, provincial-level Federation of Labor and a employees' representative organization in the provincial-level locality of, results of the labor arbitration council's operation.

3. Chairperson of a labor arbitration council is responsible for:

a) Issuing operating regulations of the labor arbitration council after consulting a provincial-level Department of Labor, War Invalids and Social Affairs, provincial-level Federation of Labor and a employees' representative organization in the provincial-level locality;

b) Assigning specific tasks to labor arbitrators and administering activities of the labor arbitration council;

c) Deciding on the establishment of a labor arbitration board; participating in, and implementing tasks of, the labor arbitration board according to Article 102 of this Decree;

d) Annually chairing the meeting of the labor arbitration council to assess results of task accomplishment of labor arbitrators under its operating regulations, synthesize and report to chairperson of a provincial-level People's Committee.

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4. Secretary of a labor arbitration council is responsible for:

a) Acting as the permanent member, implementing administrative, organizational and logistic works to ensure the operation of the labor arbitration council;

b) Assisting the labor arbitration council in formulating the plan of working, organizing meetings of settling labor disputes of a labor arbitration board;

c) Receiving request for settlement of labor disputes, advising the Chairman of the Labor Arbitration Council to select and establish a labor arbitration board;

d) Participating in, and implementing tasks of, the labor arbitration board according to Article 102 of this Decree;

dd) Classifying and archiving dossiers of handling of labor disputes according to regulations;

e) Implementing other works according to assignment of the labor arbitration council's chairperson and its operating regulations.

5. A labor arbitrator is responsible for:

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a) Participating in, and implementing tasks of, the labor arbitration board according to Article 102 of this Decree;

b) Implementing other tasks according to the labor arbitration council's operating regulations and assignment of its chairperson.

Article 102. Establishment and operation of labor arbitration boards

1. Within 07 working days after receiving a written request for handling of labor disputes as prescribed at Points a, b and c, Clause 2, Article 101 of this Decree, a labor arbitration council shall establish a labor arbitration board.

2. Members of the labor arbitration board shall be determined in accordance with Points a, b and c, Clause 4, Article 185 of the Labor Code. If one party or both of the parties do not select labor arbitrator according to Point a, Clause 4, Article 185 of the Labor Code, chairperson of the labor arbitration council shall decide to select for the party (parties) not giving a selection.

If the two labor arbitrators selected by the parties may not unanimously select another labor arbitrator to act as the head of the labor arbitration board according to Point b, Clause 4, Article 185 of the Labor Code, chairperson of the labor arbitration council shall decide to select such labor arbitrator.

3. During the establishment of the labor arbitration board or in the course of dispute settlement, if having grounds to believe that a labor arbitrator may be neither impartial nor objective, which may affect the rights and interests of the disputing parties, they may request change of such labor arbitrator from the chairperson of the labor arbitration council.

4. Within 30 days after being established, the labor arbitration board is responsible for:

a) Studying files of cases, collecting evidence under its competence according to Article 183 of the Labor Code to make a plan of dispute settlement;

b) Organizing the meeting of labor dispute settlement;

c) Issuing a decision on labor dispute settlement in accordance with principles defined in Clause 5, Article 185 of the Labor Code and sending it to the disputing parties.

The labor arbitration board's decision must contain the following main contents: Time (date, month, year) of issuing the decision; names, addresses of the disputing parties; contents of dispute settlement request; grounds for dispute settlement; specific contents of awards of dispute settlement of the labor arbitration board; signatures of head of the labor arbitration board and seal of the labor arbitration council.

If failing to issue a decision on dispute settlement, the labor conciliation board shall notify in writing to the disputing parties. For right-based collective

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labor disputes as prescribed at Points b and c, Clause 2, Article 179 of the Labor Code which is determined to involve an act of violation, the labor arbitration board shall make a written record and transfer the file and documents to a competent agency for consideration and settlement in accordance with law.

5. Process of holding the meeting of labor dispute settlement according to Point b, Clause 4 of this Article shall be implemented as follows:

a) At least 05 days before holding the meeting, the labor arbitration board shall send a written summons to the disputing parties, in which time and location of the meeting must be clearly stated;

b) When receiving the written summons, the disputing parties must send the labor arbitration board reply of participation in the meeting. In case one of the parties cannot participate in the meeting according to time and location of summons with a plausible reason, such party may request the suitable time for the meeting from the labor arbitration board. The labor arbitration board shall have the final competence to decide on change of the meeting time and notify it to the parties;

c) Representatives of the disputing parties or authorized persons as prescribed must be present in the meeting of labor dispute settlement. If one of the parties is absent, including cases in which request for change of meeting time is not approved, the labor arbitration board shall still conduct the meeting;

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d) In the meeting, the labor arbitration board must clearly state contents required by the parties, listen to the details of the case and record it in minutes with signatures of labor arbitrators and the disputing parties participating in the meeting.

Article 103. Regimes and working conditions of labor arbitrators and labor arbitration councils

1. A labor arbitrator shall be entitled to enjoy the following regimes:

a) A labor conciliator shall be entitled to enjoy an allowance for each of his/her actual working days of studying files of cases, collecting evidence and holding meetings of labor dispute settlement as assigned that is equal to 05% of the average of monthly region-based minimum wage levels applicable to employees working under labor contracts according to regulations of the Government in each period (From January 01, 2021, region-based minimum wage levels shall be defined in the Government’s Decree No. 90/2019/ND-CP dated November 15, 2019).

A provincial-level People’s Committee may consider and submit to the People's Council at the same level for decision of an allowance higher than the one as defined at this Point, but in conformity with the local budget capacity;

b) To be facilitated by agencies, units and organizations where they are

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working to arrange appropriate time to participate in the labor arbitration council, labor arbitration boards for dispute settlement;

c) To enjoy the regime of working trip expenses applicable to state cadres, civil servants and public employees during the participation in labor arbitration boards for dispute settlement;

d) To participate in trainings organized by the competent authority to raise professional qualifications and skills;

dd) To enjoy commendation in accordance with the Law on Emulation and Commendation for achievements in the implementation of labor arbitrators' tasks.

e) Other regimes according to the law.

2. Secretary of a labor arbitration council shall be entitled to enjoy responsibility-based allowances equaling to 0.5 of the statutory pay rates specified in the Government's Decree No. 204/2004/ND-CP dated December 14, 2004 wage regimes for cadres, civil servants, public employees and armed forces. When the Government promulgates new wage regimes according to the Resolution No. 27-NQ/TW dated May 21, 2018 of the XIIth Central Committee at its 7th conference on reforming wage policy for cadres, civil servants, public employees, armed forces and employee in enterprises, to implement the regime of responsibility-based allowances according to the new regulation.

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3. Working conditions of labor arbitrators, labor arbitration boards and labor arbitration councils:

a) Provincial-level Departments of Labor, War invalids and Social Affairs shall take responsibilities for arranging workplaces, working means, documents, stationery and other necessary conditions for the operation of labor arbitrators, labor arbitration boards and labor arbitration councils;

b) Workplaces of labor arbitration councils shall be located in headquarters of provincial-level Departments of Labor, War invalids and Social Affairs;

c) Funds for activities of labor arbitration councils are allocated from the state budget and annually arranged in current expenditure estimates of provincial-level Departments of Labor, War invalids and Social Affairs. The estimation, management and settlement of funds for activities of labor arbitration councils shall comply with the state budget law.

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

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

a) Build and submit to competent agency for issuing, or issue under its competence, legal documents on labor arbitrators and labor arbitration councils;

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b) Propagate, guide, inspect, examine and supervise the implementation of regulations on labor arbitrators and labor arbitration councils as prescribed;

c) Build programs, contents and organize training courses to raise professional capacity and skills of labor arbitrators.

2. Chairpersons of provincial-level People's Committees shall:

a) Appoint, relieve from duty labor arbitrators, establish labor arbitration councils;

b) Direct the formulation and implementation of regimes, policies, emulation and commendation for labor arbitrators, labor arbitration councils according to this Decree.

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

a) Approve dossiers and propose appointment, relief from duty of labor arbitrators, establishment of labor arbitration councils;

b) Participate in advising in order that the chairpersons of the labor arbitration councils issue the labor arbitration councils' operating regulations;

c) Ensure working conditions of labor arbitrators, labor arbitration boards and labor arbitration councils; implement regimes of allowance, emulation and commendation for labor arbitrators and labor arbitration councils; manage and archive dossiers of labor arbitrators and labor arbitration councils, dossiers of labor dispute settlement of labor arbitration boards and other relevant documents as specified;

d) Assume the prime responsibility for, and coordinate with specialized unit of the Ministry of Labor, War Invalids and Social Affairs in, organizing training courses of professional qualifications and skills for labor arbitrators in localities;

d) Inspect, examine, supervise labor arbitration according to the law;

e) Annually, synthesize operation of labor arbitrators, labor arbitration councils and report on it to chairpersons of provincial-level People's Committees and the Ministry of Labor, War Invalids and Social Affair.

Section 3

LIST OF WORKPLACES WHERE A STRIKE IS PROHIBITED AND SETTLEMENT OF LABOR DISPUTES IN THESE WORKPLACES

Article 105. List of workplaces where a strike is prohibited

To promulgate the List of workplaces where a strike is prohibited,

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including enterprises and departments of enterprises where a strike may pose a threat to national defense, security, public order or human health in Appendix VI to this Decree.

Article 106. Settlement of individual labor disputes, right-based collective labor disputes in workplaces where a strike is prohibited

1. Individual labor disputes shall be settled according to Articles 187, 188, 189 and 190 of the Labor Code.

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

Article 107. Settlement of interest-based collective labor disputes in workplaces where a strike is prohibited

1. Interest-based collective labor disputes must be settled through the conciliation procedures conducted by labor conciliators before being brought to labor arbitration councils or chairpersons of provincial-level People's Committees.

2. Interest-based collective labor dispute settlement of labor conciliators

a) Interest-based collective labor dispute settlement of labor conciliators shall comply with Clauses 1 and 2, Article 196 of the Labor Code;

b) In case of unsuccessful conciliation or where the conciliation duration prescribed in Clause 2, Article 188 of the Labor Code expires but a labor conciliator fails to conduct the conciliation or either party fails to implement the agreement in the written record of successful conciliation, the disputing parties may request a labor arbitration council or chairperson of a provincial-level People's Committee to settle their dispute.

3. Settlement of interest-based collective labor disputes of labor arbitration councils

a) Interest-based collective labor dispute settlement of labor arbitration councils shall comply with Clauses 1, 2 and 3, Article 197 of the Labor Code;

b) In case the time limit prescribed in Clause 2, Article 197 of the Labor Code expires but no labor arbitration board is established or the time limit prescribed in Clause 3, Article 197 of the Labor Code expires but the labor arbitration board makes no decision on dispute settlement, or either party fails to implement the dispute settlement decision of the labor arbitration board, either party may request chairperson of a provincial-level People's Committee to settle their dispute.

When a labor arbitration council is settling the interest-based collective labor disputes, the disputing parties may not concurrently request dispute settlement by chairperson of a provincial-level People's Committee.

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4. Interest-based collective labor dispute settlement of chairpersons of provincial-level People's Committees

a) Within 02 working days after receiving a request for settlement of an interest-based collective labor dispute, chairperson of a provincial-level People's Committee shall assign the provincial-level Department of Labor, War invalids and Social Affairs to coordinate with relevant agencies in proposing dispute settlement;

b) Within 10 working days after being assigned to settlement a labor dispute by the chairperson of provincial-level People's Committee, the provincial-level Department of Labor, War invalids and Social Affairs shall coordinate with the provincial-level Federation of Labor and relevant agencies in researching cases, guiding the disputing parties to implement bargaining for dispute settlement. If the disputing parties reach agreement, the provincial-level Department of Labor, War invalids and Social Affairs shall make a minutes with signatures of their representatives and send a report on results of labor dispute settlement agreement to the chairperson of provincial-level People's Committee. If the disputing parties cannot reach agreement after 10 working days, within 05 following working days, the provincial-level Department of Labor, War invalids and Social Affairs shall coordinate with the provincial-level Federation of Labor and relevant agencies in proposing plan of labor dispute settlement and reporting it to the chairperson of provincial-level People's Committee for consideration and decision;

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c) Within 05 working days after receiving the plan of labor dispute settlement proposed by the provincial-level Department of Labor, War invalids and Social Affairs, the chairperson of provincial-level People's Committee shall chair a meeting with the participation of the disputing parties, representative of the provincial-level Federation of Labor and relevant agencies and organizations to collect their opinions of the plan of dispute settlement and issue the decision on labor dispute settlement.

The decision on labor dispute settlement of the chairperson of provincial-level People's Committee is the final one and must be implemented by the disputing parties.

Article 108. Settlement of disputes involved in the right to request collective bargaining in workplaces where a strike is prohibited

Disputes between the parties related to the right to request collective bargaining in workplaces where a strike is prohibited shall comply with the Government's regulations on settlement of disputes between the parties involved in the right to request collective bargaining as specified in Clause 4, Article 68 of the Labor Code.

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Section 4

POSTPONEMENT AND CANCELLATION OF STRIKES AND SETTLEMENT OF INTERESTS OF EMPLOYEES

Article 109. Cases of postponement and cancellation of strikes

1. Postponement of a strike means that the chairperson of a provincial-level People's Committee issues a decision on delay in the starting time of a strike fixed in its strike decision of a grassroots-level employees' representative organization that has the right to organize and lead strikes.

2. Cancellation of a strike means that the chairperson of a provincial-level People's Committee issues a decision on suspension of an ongoing strike until there is no more risk of causing serious damage to the national economy and public interests, posing threats to national defense, security, public order or human health.

3. Cases of postponement of strikes:

a) Strikes which are expected to be organized at units providing electricity, water, public transport and other services directly related to the organization of meetings to celebrate public holidays according to Clause 1, Article 112 of the Labor Code;

b) Strikes which are expected to be organized in localities where natural disaster, fire or dangerous epidemic prevention and mitigation activities are taking place or a state of emergency is imposed in accordance with law.

4. Cases of cancellation of strikes:

a) Strikes happening in a locality where a natural disaster, fire or dangerous epidemic occurs or a state of emergency is imposed in accordance with law;

b) Strikes happening for three days in a row at units providing electricity, water or public sanitation services, which affect the environment, living conditions and health of people in provincial cities;

c) Strikes involving acts of violence and disturbance, affecting the assets and life of investors, causing serious damage to the national economy and public interests, posing a threat to national defense, security, public order or human health.

Article 110. Order and procedures for postponement of strikes

1. Within 24 hours after receiving the strike decision of a grassroots-level employees' representative organization that has the right to organize and lead strikes, the director of provincial-level Department of Labor, War invalids and Social Affairs shall consider it. If detecting that the strike falls into cases as prescribed in Clause 3, Article 109 of this Decree, he/she shall send a written

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report to the chairperson of provincial-level People's Committee for deciding postponement of the strike.

A written proposal for postponement of a strike sent to the chairperson of the provincial-level People's Committee includes: name of the employer of enterprise where the strike is expected to be organized; name of the employees' representative organization that organizes and leads the strike; the expected place of the strike; the expected starting time of the strike; demands of the employees' representative organization; reasons for postponement of the strike; proposal for postponement of the strike; postponement period and measures for implementation of the strike postponement decision of the chairperson of the provincial-level People's Committee.

2. Within 24 hours after receiving the report of the director of provincial-level Department of Labor, War invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall consider and issue a decision on strike postponement. Within 12 hours after issuing such decision, the chairperson of provincial-level People's Committee shall notify it to the chairperson of the district-level People's Committee, the president of the provincial-level Federation of Labor and the chairperson of the labor arbitration council, grassroots-level employees' representative organization that has the right to organize and lead strikes, the employer of enterprise where the strike is expected to be organized. The decision on strike postponement of the chairperson of provincial-level People's Committee shall takes effect from the signing date.

3. Based on the decision of the chairperson of provincial-level People's Committee, grassroots-level employees' representative organization that has the right to organize and lead strikes, employees, employers and relevant organizations and individuals must immediately postpone the strike according to regulations.

Article 111. Order and procedures for canceling strikes

1. When considering that an ongoing strike falls in one of cases specified in Clauses 4, Article 109 of this Decree, a district-level Division of Labor, War Invalids and Social Affairs shall report on cancellation of the strike to the chairperson of the district-level People's Committee.

Within 12 hours after receiving the report of the district-level Division of Labor, War Invalids and Social Affairs, the chairperson of district-level People's Committee shall consider and propose the chairperson of provincial-level People's Committee of decision on strike cancellation, and send it to the director of provincial-level Department of Labor, War Invalids and Social Affairs. A written proposal for cancellation of a strike sent to the chairperson of the provincial-level People's Committee includes: name of the employer of enterprise where the strike is taking place; name of the employees' representative organization that organizes and leads the strike; the place of the strike; the starting

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time of the strike; the scope of the strike; number of the employees that are participating in the strike; requirement of the employees' representative organization; reasons for cancellation of the strike; proposal for cancellation of the strike and measures for implementation of the strike cancellation decision of the chairperson of the provincial-level People's Committee.

2. Within 12 hours after receiving the report of the chairperson of district-level People's Committee, the director of provincial-level Department of Labor, War invalids and Social Affairs shall give its opinion in order that the chairperson of the provincial-level People's Committee considers and issues a decision on strike cancellation.

3. Within 12 hours after receiving the opinion of the director of provincial-level Department of Labor, War invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall consider and issue a decision on strike cancellation. Within 12 hours after issuing such decision, the chairperson of provincial-level People's Committee shall notify it to the chairperson of the district-level People's Committee, the president of the provincial-level Federation of Labor, the chairperson of the labor arbitration council, grassroots-level employees' representative organization that has the right to organize and lead strikes, the employer of enterprise where the strike is taking place. The decision on strike cancellation of the chairperson of provincial-level People's Committee shall takes effect from the signing date.

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4. Within 12 hours after the issuing of decision on strike cancellation by the chairperson of provincial-level People's Committee, grassroots-level employees' representative organization that has the right to organize and lead strikes, employees, employers and relevant organizations and individuals must immediately cancel the strike according to regulations.

5. Within 24 hours after receiving the decision on strike cancellation of the chairperson of the provincial-level People's Committee, the chairperson of the district-level People's Committee shall report on results of strike cancellation to the chairperson of the provincial-level People's Committee.

Article 112. Settlement of interests of employees upon strike postponement or cancellation

1. During the implementation of decision on strike postponement or cancellation, at the request of the chairperson of a provincial-level People's Committee, the provincial-level Department and district-level Division of Labor, War invalids and Social Affairs shall coordinate with provincial-level and district-level Federations of Labor, a grassroots-level employees' representative organization that has the right to organize and lead strikes, the employer of enterprise where the strike is postponed or canceled and relevant agencies in supporting the parties in bargaining, conciliation for settling the interests of employees and other relevant disagreements.

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2. In case the time limit of strike postponement or cancellation under the decision of the chairperson of the provincial-level People's Committee expires but the two parties do not settle interests of the employees and other relevant disagreements through bargaining, a grassroots-level employees' representative organization that has the right to organize and lead strikes may continue the strike but must notify it in writing to the district-level People's Committee, the provincial-level Department of Labor, War invalids and Social Affairs at least 05 working days before continuing the strike.

Article 113. Rights and responsibilities of employees upon strike cancellation

1. After the chairperson of the provincial-level People's Committee issues the decision on strike cancellation, the employees must return for working and are paid the wage.

2. After the chairperson of the provincial-level People's Committee issues the decision on strike cancellation, if the employees don't return for working, they are not paid the wage, except other agreement of the two parties. Depending on the severity of their violations, the employees shall be disciplined according to internal working rules, and law regulations.

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Chapter XI
IMPLEMENTATION PROVISIONS

Article 114. Effect

1. This Decree takes effect on February 01, 2021.

2. From the effective date of this Decree, the following regulations shall be null and void:

a) The Government's Decree No. 03/2014/ND-CP of January 16, 2014 on detailing a number of articles of the Labor Code;

b) The Government's Decree No. 44/2013/ND-CP of May 09, 2013 detailing a number of articles of the Labor Code regarding labor contracts; the 05/2015/ND-CP of January 12, 2015 detailing and guiding a number of provisions of the Labor Code; the Government's Decree No. 148/2018/ND-CP of October 24, 2018 on amending and supplementing a number of articles of the Government's Decree No. 05/2015/ND-CP of January 12, 2015 detailing and guiding a number of provisions of the Labor Code;

c) The Government's Decree No. 29/2019/ND-CP of March 20, 2019 detailing Clause 3, Article 54 of the Labor Code regarding licensing of labor lease, payment of deposits and the list of jobs for which labor may be leased;

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d) The Government's Decree No. 149/2018/ND-CP of November 07, 2018 detailing Clause 3, Article 63 of the Labor Code regarding the implementation of regulations on grassroots democracy at workplace;

dd) The Government's Decree No. 49/2013/ND-CP of May 14, 2013, detailing a number of articles of the Labor Code regarding wage; Decree No. 121/2018/ND-CP of September 13, 2018 amending and supplementing a number of articles of the Government's Decree No. 49/2013/ND-CP of May 14, 2013, detailing a number of articles of the Labor Code regarding wage;

e) The Government's Decree No. 45/2013/ND-CP of May 10, 2013, detailing a number of articles of the Labor Code on working time, rest time and occupational safety and hygiene;

g) The Government's Decree No. 85/2015/ND-CP of October 01, 2015 detailing a number of articles of the Labor Code regarding policies applicable to female employees;

h) The Government's Decree No. 27/2014/ND-CP of April 07, 2014 on detailing a number of articles of the Labor Code on domestic employees;

i) The Government's Decree No. 46/2013/ND-CP of May 10, 2013 on detailing a number of articles of the Labor Code on labor disputes;

k) The Government's Decree No. 41/2013/ND-CP of May 08, 2013 on detailing Article 220 of the Labor Code on the list of employing units in which strike is prohibited and settlement of demands of employees' collectives at these units.

3. Labor leasing enterprises that are granted licenses for labor lease before the effective date of this Decree shall continue their labor lease until the expiration date of licenses. Cases of extension, re-grant and revocation of licenses shall comply with Articles 26, 27 and 28 of this Decree.

4. An employer that employs under 10 employees shall not organize employees' conferences and issue the regulations on grassroots-level democracy at the workplace as prescribed in Articles 47 and 48 of this Decree. The employers being state administrative agencies, public non-business units that hire and employ employees under labor contracts according to the Government's Decree No. 68/2000/ND-CP dated November 17, 2000 on the application of the contractual regime to a number of jobs in the state administrative agencies and public non-business units, the Government's Decree No. 161/2018/ND-CP dated November 29, 2018 on amending and supplementing a number of regulations on recruitment of civil servants, public employees, civil servant rank promotion, public employee promotion and application of the contractual regime to a number of jobs in the state administrative agencies and public non-business units being subjects of application of the Government's Decree No. 04/2015/ND-CP dated January 09, 2015 on the implementation of democracy in the operation of state

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administrative agencies and public non-business units shall not organize dialogues and implement the regulations on grassroots-level democracy at the workplace as specified in Chapter V of this Decree.

5. Working time and rest time applied to cadres, civil servants, public employees, people of the People's Army and the People's Public Security Forces are defined in other legal documents. If there are no legal documents for these regimes, to apply Chapter VII of this Decree.

6. Labor conciliators that are appointed before the effective date of this Decree and are being in the term of office shall continue working at such position until the expiration of appointment, except cases of relief from office as prescribed at Points a, c, d and dd, Clause 1, Article 94 of this Decree.

7. In case documents invoked in this Decree are amended, supplemented or replaced, the new documents shall be applied.

Article 115. Implementation responsibility

Ministers, Heads of ministerial-level agencies, Heads of government-attached agencies and Chairpersons of People's Committees of provinces and central affiliated cities and related agencies, enterprises, organizations and individuals shall take responsibilities for the implementation of this Decree./.

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FOR THE GOVERNMENT
THE PRIME MINISTER

Nguyen Xuan Phuc

** All Appendices are not translated herein.*

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