THE PRESIDENT	**THE SOCIALIST REPUBLIC OF VIETNAM** **Independence - Freedom - Happiness**
No. 08/2019/L-CTN	*Hanoi, December 03, 2019*

ORDER

On the promulgation of law

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Articles 88 and 91 of the Constitution of the Socialist Republic of Vietnam;

Pursuant to Article 80 of the Law on Promulgation of Legal Documents,

PROMULGATES:

The Labor Code,

which was passed on November 20, 2019, by the XIVth National Assembly of the Socialist Republic of Vietnam at its 8th session.

President of the Socialist Republic of Vietnam
NGUYEN PHU TRONG

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THE NATIONAL ASSEMBLY	THE SOCIALIST REPUBLIC OF VIETNAM
No. 45/2019/QH14	**Independence - Freedom - Happiness**
	Hanoi, November 20, 2019

LABOR CODE [1]

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly promulgates the Labor Code.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

The Labor Code prescribes labor standards; rights, obligations and responsibilities of employees, employers, grassroots-level employees' representative organizations, and employers' representative organizations in industrial relations and other relations directly associated with industrial relations; and state management of labor.

Article 2. Subjects of application

1. Employees, trainees, apprentices, and persons working without industrial relations.

2. Employers.

3. Foreign workers in Vietnam.

4. Other agencies, organizations and individuals directly involved in industrial relations.

Article 3. Interpretation of terms

In this Code, the terms below are construed as follows:

[1] *Công Báo Nos 993-994 (25/12/2019)*

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1. *Employee* means a person who works for an employer as agreed upon between the two parties, is paid wage, and is managed, directed and supervised by the employer.

The minimum working age prescribed for an employee is full 15 years, except the cases prescribed in Section 1, Chapter XI of this Code.

2. *Employer* means an enterprise, an agency, an organization, a cooperative, a household or an individual that hires or employs employees as agreed upon between the two parties; for an individual employer, he/she must have full civil act capacity.

3. *Grassroots-level employees' representative organization* means an organization established voluntarily by employees at an employing unit for the purpose of protecting their lawful and legitimate rights and interests in industrial relations through collective bargaining or in other forms prescribed by the labor law. Grassroots-level employees' representative organizations include grassroots-level trade union organizations and employees' organizations at enterprises.

4. *Employers' representative organization* means a lawfully established organization that represents and protects the lawful rights and interests of employers in industrial relations.

5. *Industrial relation* means a social relation arising from the hiring of employees or employment and wage payment between employees and employers, representative organizations of involved parties, and competent state agencies. Industrial relations include individual industrial relations and collective industrial relations.

6. *Person working without industrial relations* means a person who works without a labor contract.

7. *Forced labor* means the use of force or threat to use force or other tricks to force an employee to work against his/her will.

8. *Labor discrimination* means an act of practicing discrimination, exclusion or preference based on race, skin color, national origin or social origin, nationality, gender, age, pregnancy status, marital status, religion, belief, political view, physical disability, family responsibility, or HIV infection status, or for the reason of establishing, joining, or operating in a trade union organization or an employees' organization at an enterprise, which affects equality in employment or career opportunities.

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Acts of discrimination, exclusion or preference stemming from special requirements of a job and acts of maintaining and protecting jobs for vulnerable employees shall not be regarded as acts of discrimination.

9. *Sexual harassment at the workplace* means an act of sexual nature committed by any person toward another person at the workplace without the latter's desire or consent. Workplace may be any place where an employee actually works as agreed upon with or assigned by the employer.

Article 4. State policies on labor

1. To guarantee the lawful and legitimate rights and interests of employees and persons working without industrial relations; to encourage agreements that provide employees with conditions more favorable than those prescribed by the labor law.

2. To guarantee the lawful rights and interests of employers, ensure lawful, democratic, fair and civilized management of labor, and promote their social responsibility.

3. To create favorable conditions for job creation, self-employment, and job training and learning activities in order to acquire employment, and for labor-intensive production and business activities; to apply a number of provisions of this Code to persons working without industrial relations.

4. To adopt policies on the development and distribution of human resources; to increase labor productivity; to provide training and further training to raise occupational qualifications and skills for employees; to support job maintenance and change for employees; to provide preferential treatment for highly professional and technically qualified employees who meet the requirements of industrial revolution and national industrialization and modernization.

5. To adopt policies to develop the labor market and diversify forms of linkage between labor supply and demand.

6. To encourage employees and employers to hold dialogues and collective bargains and establish progressive, harmonious and stable industrial relations.

7. To ensure gender equality; to prescribe labor regimes and social policies aiming to protect female as well as employees with disabilities and elderly and minor employees.

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Article 5. Rights and obligations of employees

1. The employee has the following rights:

a/ To work; to freely choose a job, a workplace or an occupation, receive vocational training and improve occupational qualifications; to suffer no discrimination, forced labor or sexual harassment at the workplace;

b/ To receive a wage commensurate with his/her occupational qualifications and skills as agreed upon with the employer; to receive labor protection and to work in conditions where their occupational safety and health are assured; to take leaves according to the prescribed regime and paid annual leaves, and enjoy collective welfare benefits;

c/ To form, join and operate in employees' representative organizations, occupational associations and other organizations in accordance with law; to request and participate in dialogues with the employer, implement democracy regulations, hold collective bargains with the employer, and be consulted at the workplace to protect his/her lawful and legitimate rights and interests; to participate in management work according to the employer's regulations;

d/ To refuse to work if emerges a clear risk directly threatening his/her life or health during job performance;

dd/ To unilaterally terminate his/her labor contract;

e/ To go on strike;

g/ To exercise other rights in accordance with law.

2. The employee has the following obligations:

a/ To perform his/her labor contract, the collective labor agreement and other lawful agreements;

b/ To observe labor discipline and internal working regulations; to abide by the employer's management, administration and supervision;

c/ To implement the laws on labor, employment, vocational education, social insurance, health insurance, unemployment insurance, and occupational safety and health.

Article 6. Rights and obligations of employers

1. The employer has the following rights:

a/ To recruit, assign tasks to, manage, administer and supervise employees; to perform commendation work and handle breaches of labor discipline;

b/ To form, join and operate in employers' representative organizations, occupational associations and other organizations in accordance with law;

c/ To request the employees' representative organization to hold bargains for the purpose of signing a collective labor agreement; to participate in the resolution of labor disputes and strikes; to hold dialogues and exchange opinions with the employees' representative organization on issues concerning industrial relations and improvement of material and spiritual lives for employees;

d/ To temporarily close the workplace;

dd/ To exercise other rights in accordance with law

2. The employer has the following obligations:

a/ To perform labor contracts, the collective labor agreement and other lawful agreements; to respect the honor and dignity of employees;

b/ To establish a mechanism for and hold dialogues and exchanges of opinions with employees and the employees' representative organization; to implement the regulations on grassroots-level democracy at the workplace;

c/ To provide training, retraining and further training for raising occupational qualifications and skills in order to maintain or change occupations or jobs for employees;

d/ To implement the laws on labor, employment, vocational education, social insurance, health insurance, unemployment insurance, and occupational safety and health; to work out and implement solutions for preventing and combating sexual harassment at the workplace;

dd/ To participate in developing national occupational skills standards, and evaluating or recognizing occupational skills for employees.

Article 7. Establishment of industrial relations

1. Industrial relations shall be established through dialogue**,** bargaining or agreement on the principles of voluntariness, goodwill, equality, cooperation and respect for each other's lawful rights and interests.

2. Employers, employers' representative organizations as well as employees and employees' representative organizations shall establish progressive, harmonious and stable industrial relations with the assistance from competent state agencies.

3. Trade union organizations shall join competent state agencies in facilitating the establishment of progressive, harmonious and stable industrial relations; supervise the implementation of the labor law; and protect lawful and legitimate rights and interests of employees.

4. The Vietnam Chamber of Commerce and Industry, Vietnam Cooperative Alliance and other lawfully established employers' representative organizations shall represent and protect the lawful rights and interests of employers and participate in establishing progressive, harmonious and stable industrial relations.

Article 8. Prohibited acts in the field of labor

1. Practicing labor discrimination.

2. Maltreating employees or practicing forced labor.

3. Committing sexual harassment in the workplace.

4. Making use of apprenticeship or on-the-job training for seeking personal gains, exploiting labor, or enticing, inducing or compelling apprentices or on-the-job trainees to carry out illegal activities.

5. Using untrained employees or employees who possess no national occupational skills certificates for occupations or jobs which require trained employees or require such certificates.

6. Enticing, inducing, promising, making false advertisements, or using other tricks to deceive employees or recruit employees for the purpose of trafficking in humans, or exploiting or forcing labor, or making use of employment services or the sending of guest workers to commit illegal acts.

7. Illegally using minor employees.

Chapter II

EMPLOYMENT, LABOR RECRUITMENT AND MANAGEMENT

Article 9. Employment and employment creation

1. Employment is any income-generating work that is not banned by law.

2. The State, employers and the society have the responsibility to create employment and guarantee that all people with working ability have access to employment opportunities.

Article 10. The right of employees to work

1. To freely choose a job and work for any employer in any place that is not banned by law.

2. To contact the employer directly or through an employment service institution in order to find a job that meets his/her aspiration and suits his/her ability, occupational qualifications and health.

Article 11. Labor recruitment

1. The employer has the right to recruit labor directly or through employment service institutions and labor leasing enterprises to meet its/his/her needs.

2. Employees are not required to pay fees for labor recruitment.

Article 12. Responsibilities of employers in labor management

1. To make, update, manage and use labor management books in paper or electronic form and produce them at the request of competent state agencies.

2. To report on the employment of labor within 30 days after commencing operation, and periodically report on labor-related changes during operation to specialized agencies in charge of labor affairs under provincial-level People's Committees and notify them to social insurance agencies.

3. The Government shall detail this Article.

Chapter III

LABOR CONTRACTS

Section 1

ENTRY INTO LABOR CONTRACTS

Article 13. Labor contracts

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1. Labor contract is an agreement between the employee and the employer on a paid job, wage, working conditions, and rights and obligations of each party in industrial relations.

In case the two parties give another name to their agreement which has contents stating a paid job, wage and either party's management, administration and supervision, such agreement shall be regarded as a labor contract.

2. Before employing a person, the employer shall enter into a labor contract with such person.

Article 14. Forms of labor contracts

1. A labor contract shall be entered into in writing and made in 2 copies, one to be kept by the employee and the other by the employer, except the case specified in Clause 2 of this Article.

A labor contract entered into by electronic means in the form of a data message under the law on e-transactions is as valid as a written labor contract.

2. The two parties may enter into a verbal labor contract, for contracts of a term of under 1 month, except the cases specified in Clause 2, Article 18, at Point a, Clause 1, Article 145, and in Clause 1, Article 162, of this Code.

Article 15. Principles of entry into a labor contract

1. Voluntariness, fairness, goodwill, cooperation and honesty.

2. Freedom to enter a labor contract which must not be contrary to law, the collective labor agreement and social morality.

Article 16. Obligation to provide information upon entry into labor contracts

1. The employer shall provide the employee with truthful information about the job, workplace, working conditions, working time, rest time, occupational safety and health, wage, forms of wage payment, social insurance, health insurance, and unemployment insurance, regulations on protection of business secrets and technological secrets, and other issues directly related to the entry into a labor contract as requested by the employee.

2. The employee shall provide the employer with truthful information about his/her full name, date of birth, gender, place of residence, education level,

occupational qualifications and skills, health status and other issues directly related to the entry into a labor contract as requested by the employer.

Article 17. Prohibited acts of employers when entering into and performing labor contracts

1. Keeping the originals of personal identification papers, diplomas and certificates of employees.

2. Requesting employees to make a deposit in cash or other assets as security for the performance of labor contracts.

3. Compelling employees to perform labor contracts for payment of debts to the employers.

Article 18. Competence to enter into labor contracts

1. The employee may personally enter into a labor contract, except the case specified in Clause 2 of this Article.

2. For seasonal jobs or certain jobs lasting for less than 12 months, a group of employees aged full 18 years or older may authorize one of them to enter into a labor contract; in this case, such labor contract shall be established in writing and is as valid as a labor contract signed with every employee.

The labor contract signed by the authorized person shall be accompanied by a list of employees and their full names, dates of birth, gender, places of residence and signatures.

3. A person entering into a labor contract on the employer's side may be:

a/ An at-law representative of the enterprise or an authorized person as prescribed by law;

b/ The head of an agency or organization having the legal person status as prescribed by law or an authorized person as prescribed by law;

c/ A representative of a household, cooperative group or another organization without the legal person status or an authorized person as prescribed by law; or,

d/ The individual directly using the employees.

4. A person entering into a labor contract on the employee's side may be:

a/ An employee aged full 18 years or older;

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b/ An employee aged between full 15 years and under full 18 years, with a written consent of his/her at-law representative;

c/ A person aged under full 15 years and his/her at-law representative; or,

d/ An employee in a group of employees who is lawfully authorized by other employees in the group to enter into a labor contract.

5. A person who is authorized to enter into a labor contract may not further authorize another person to do so.

Article 19. Entry into more than one labor contract

1. The employee may enter into different labor contracts with more than one employer, provided that he/she fully performs the contents of the entered contracts.

2. For the employee who concurrently enters into different labor contracts with more than one employer, his/her participation in social insurance, health insurance and unemployment insurance must comply with the laws on social insurance, health insurance, unemployment insurance, and occupational safety and health.

Article 20. Types of labor contract

1. A labor contract must take one of the following types:

a/ Indefinite-term labor contract, which is a contract in which the two parties do not determine its term and time of termination;

b/ Definite-term labor contract, which is a contract in which the two parties determine its term and time of termination within 36 months from the date the contract takes effect.

2. When a labor contract referred to at Point b, Clause 1 of this Article expires and the employee continues working:

a/ Within 30 days from the date of expiration of the contract, the two parties shall sign a new labor contract; pending the signing of a new labor contract, the rights, obligations and interests of the two parties must comply with the old contract;

b/ Past the above 30-day time limit, if the two parties do not sign a new labor contract, the contract entered into under Point b, Clause 1 of this Article will become an indefinite-term labor contract;

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c/ In case the two parties sign a new labor contract with a definite term, they may not sign another definite-term labor contract; if the employee continues working after the expiration of this contract, the two parties shall sign an indefinite-term labor contract, except labor contracts entered into by persons hired to work as directors of state capital-invested enterprises and the cases specified in Clause 1, Article 149, Clause 2, Article 151, and Clause 4, Article 177, of this Code.

Article 21. Contents of a labor contract

1. A labor contract must have the following principal contents:

a/ Name and address of the employer, and full name and title of the person entering into the contract on the employer's side;

b/ Full name, date of birth, gender, place of residence, serial number of the citizen identity card, people's identity card or passport of the person entering into the contract on the employee's side;

c/ Job(s) and workplace;

d/ Term of the contract;

dd/ Job- or title-based wage, form of wage payment, time of wage payment, wage-based allowances and other additional payments;

e/ Regimes on wage-grade promotion and wage raise;

g/ Working time and rest time;

h/ Labor safety equipment for the employee;

i/ Social insurance, health insurance and unemployment insurance;

k/ Training, further training, and improvement of occupational qualifications and skills.

2. When the employee performs a job directly related to business secrets or technological secrets as prescribed by law, the employer may reach a written agreement with the employee on the content and duration of protection of business secrets or technological secrets, interests, and compensation in case of violation.

3. For employees working in agriculture, forestry, fishery or salt production sectors, based on the type of job, the two parties may omit some

principal contents of a labor contract and agree to add contents on settlement measures in case the contract performance is affected by a natural disaster, fire or bad weather conditions.

4. The Government shall prescribe the contents of labor contracts for persons hired to work as directors of state capital-invested enterprises.

5. The Minister of Labor, Invalids and Social Affairs shall detail Clauses 1, 2 and 3 of this Article.

Article 22. Annexes to a labor contract

1. An annex to a labor contract is part of this contract and is as valid as the contract.

2. An annex to a labor contract may detail or modify several contents of the contract but may not alter the term of the contract.

In case an annex to a labor contract details some contents of the contract that lead to a different understanding of such contract, the contents of the contract shall prevail.

In case an annex to a labor contract modifies some contents of the contract, it must specify the modified contents and time of their effect.

Article 23. Effect of labor contracts

A labor contract takes effect on the date it is entered into by the two parties, unless otherwise agreed upon by the two parties or prescribed by law.

Article 24. Probation

1. The employer and employee may reach agreement on the content on probation right in the labor contract or reach agreement on probation by entering into a probation contract.

2. The principal contents of a probation contract include the probation period and the contents specified at Points a, b, c, dd, g and h, Clause 1, Article 21 of this Code.

3. Probation shall not be applied to employees who enter into labor contracts with a term of under 1 month.

Article 25. Probation period

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The probation period shall be agreed upon by the two parties based on the nature and complexity of the job(s) but probation shall be applied only once for each job, and is prescribed as follows:

1. Not exceeding 180 days, for enterprise managers defined in the Law on Enterprises and Law on Management and Use of State Capital Invested in Production and Business at Enterprises;

2. Not exceeding 60 days, for holders of job titles requiring professional and technical qualifications of collegial or higher degree;

3. Not exceeding 30 days, for holders of job titles requiring professional and technical qualifications of intermediate degree, or for technical workers and operation employees; or,

4. Not exceeding 6 working days, for other jobs.

Article 26. Wages during probation periods

The wage for the employee for a job during the probation period shall be agreed upon by the two parties but must not be lower than 85% of the wage rate of such job.

Article 27. Expiration of probation period

1. At the end of the probation period, the employer shall notify the probation result to the employee.

If the probationary job is satisfactory, the employer shall continue performing the signed contract in which the two parties have reached agreement on probation, or sign a labor contract in case they previously signed a probation contract.

If the probationary job is unsatisfactory, the two parties shall terminate the signed labor contract or probation contract.

2. During the probation period, each party may cancel the signed probation contract or labor contract without prior notice and compensation.

Section 2

PERFORMANCE OF LABOR CONTRACTS

Article 28. Performance of jobs under labor contracts

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The jobs under a labor contract shall be performed by the employee who has entered into the contract. The workplace shall be as indicated in the labor contract, unless otherwise agreed upon by the two parties.

Article 29. Assignment of employees to perform jobs other than those stated in labor contracts

1. When meeting with sudden difficulties such as natural disaster, fire or dangerous epidemic, or taking measures to prevent and respond to an occupational accident or disease or an electricity or water-related incident, or to meet production and business needs, the employer may temporarily assign the employee to perform a job other than that stated in the labor contract provided that the assignment period does not exceed 60 accumulated working days within 1 year; a longer assignment period shall be agreed in writing by the employee.

The employer shall specify in the internal working regulations cases in which, to meet production and business needs, it/he/she may temporarily assign the employee to perform a job other than that stated in the labor contract.

2. At least 3 working days before temporarily assigning the employee to perform a job other than that stated the labor contract as prescribed in Clause 1 of this Article, the employer shall inform such assignment to the employee, clearly stating the duration of temporary work, and assign a job which must be suitable to the employee's health and gender.

3. The employee who is assigned to perform a job other than that stated in the labor contract will receive a wage for the new job. If the wage for the new job is lower than the wage paid under the labor contract, the employee shall be paid the wage under the labor contract for 30 working days. The wage for the new job must be at least equal to 85% of the wage paid under the labor contract but must not be lower than the minimum wage.

4. For the employee who refuses to temporarily perform a job other than that stated in the labor contract for over 60 accumulated wage in case of work suspension within 1 year and has to stop working, the employer shall give him/her a wage in case of work suspension in accordance with Article 99 of this Code.

Article 30. Suspension of labor contracts

1. Cases of suspension of a labor contract:

a/ The employee has to perform military service or perform the obligation to join militia and self-defense forces;

b/ The employee is held in custody or temporary detention in accordance with the criminal procedure law;

c/ The employee has to serve a decision on application of the measure of consignment to a reformatory, compulsory drug detoxification center or compulsory education institution;

d/ The female employee is pregnant as prescribed in Article 138 of this Code;

dd/ The employee is appointed as manager of a single-member limited liability company with 100% charter capital held by the State;

e/ The employee is authorized to exercise the rights and perform the responsibilities of a representative of the state owner of state capital amounts in the enterprise;

g/ The employee is authorized to exercise the rights and perform the responsibilities of the enterprise with regard to the enterprise's capital amount invested in another enterprise;

h/ Other cases as agreed upon by the two parties.

2. During the suspension period of a labor contract, the employee is not entitled to the wage as well as rights and interests stated in the contract, unless otherwise agreed upon by the two parties or prescribed by law.

Article 31. Reinstatement of employees upon expiration of the suspension period of labor contracts

Within 15 days after the expiration of the suspension period of a labor contract, the employee shall show up at the workplace and the employer shall reinstate the employee in the job stated in the contract if such contract has not yet expired, unless otherwise agreed upon by the two parties or prescribed by law.

Article 32. Part-time work

1. Part-time employee is an employee who has a working period shorter than the normal daily, weekly or monthly working time as prescribed in the labor law, collective labor agreement or internal working regulations.

2. The employee shall reach agreement with the employer on part-time work when entering into a labor contract.

3. Part-time employees are entitled to wage and the same rights and obligations as full-time employees; equal opportunities, non-discrimination and assured occupational safety and health.

Article 33. Modification of labor contracts

1. During the performance of a labor contract, any party that wishes to modify the contract's contents shall notify at least 3 working days in advance to the other party of the contents to be modified.

2. In case the two parties can reach agreement on the modification of a labor contract, such modification shall be made through signing an annex to such contract or entering into a new labor contract.

3. In case the two parties cannot reach agreement on the modification of a labor contract, they shall continue performing the signed contract.

Section 3

TERMINATION OF LABOR CONTRACTS

Article 34. Cases of termination of a labor contract

1. The contract expires, except the case specified in Clause 4, Article 177 of this Code.

2. The job(s) stated in the contract has(have) been completed.

3. The two parties agree to terminate the contract.

4. The employee is sentenced to imprisonment and is not entitled to suspended sentence, or is not entitled to release as prescribed in Clause 5, Article 328 of the Criminal Procedure Code, is sentenced to death, or is prohibited from performing the job stated in the labor contract under a court's legally effective judgment or ruling.

5. The employee who is a foreign worker in Vietnam is expelled under a court's legally effective judgment or ruling or competent state agency's decision.

6. The employee dies or is declared by the court to have lost civil act capacity, or be missing or dead.

7. The employer being an individual dies or is declared by the court to have lost civil act capacity, or be missing or dead. The employer other than an individual terminates operation or receives a notice from the specialized agency

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in charge of business registration under the provincial-level People's Committee that it has no at-law representative or no person authorized to exercise the rights and perform the obligations of the at-law representative.

8. The employee is dismissed as a form of discipline.

9. The employee unilaterally terminates the contract under Article 35 of this Code.

10. The employer unilaterally terminates the contract under Article 36 of this Code.

11. The employer lays off the employee under Articles 42 and 43 of this Code.

12. The work permit of the employee being a foreign worker in Vietnam expires under Article 156 of this Code.

13. The probation agreed in the contract is unsatisfactory or either party cancels the probation agreement.

Article 35. The right of employees to unilaterally terminate labor contracts

1. The employee may unilaterally terminate his/her labor contract provided he/she shall notify such termination to the employer:

a/ At least 45 days in advance, if he/she works under an indefinite-term labor contract;

b/ At least 30 days in advance, if he/she works under a labor contract with a term of between 12 months and 36 months;

c/ At least 3 working days, if he/she works under a labor contract with a term of under 12 months; or,

d/ For special occupations and jobs, the period of prior notification must comply with the Government's regulations.

2. The employee may unilaterally terminate his/her labor contract without a prior notice in the following cases:

a/ 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 this Code;

b/ His/her wage is not paid in full or on time, except the case specified in Clause 4, Article 97 of this Code;

c/ 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;

d/ He/she is sexually harassed at the workplace;

dd/ The female employee is pregnant and has to stop working as prescribed in Clause 1, Article 138 of this Code;

e/ He/she reaches the retirement age as prescribed in Article 169 of this Code, unless otherwise agreed upon by the two parties;

g/ The employer provides untruthful information as prescribed in Clause 1, Article 16 of this Code, affecting the performance of the contract.

Article 36. The right of employers to unilaterally terminate labor contracts

1. The employer may unilaterally terminate a labor contract in the following cases:

a/ The employee often fails to accomplish his/her job stated in the contract, based on the criteria for evaluating the job performance set out in the employer's regulations. The employer shall issue regulations on evaluation of job performance after consulting the grassroots-level employees' representative organization, if available;

b/ The employee is sick or suffers an accident and remains unable to work after having received treatment for 12 consecutive months, in case he/she works under an indefinite-term labor contract, or for 6 consecutive months, in case he/she works under a labor contract with a term of between 12 months and 36 months, or for more than half of the term of the contract, in case he/she works under a labor contract with a term of under 12 months.

Once the employee's health has recovered, the employer shall consider continuing to enter into a labor contract with the employee;

c/ As a result of a natural disaster, fire, dangerous epidemic, enemy sabotage, or relocation of the production or business place or downsizing of production and business activities as required by a competent state agency, the employer, although having taken every possible remedial measure, has to cut jobs;

d/ The employee is still absent from the workplace after the time limit specified in Article 31 of this Code;

dd/ The employee reaches the retirement age as prescribed in Article 169 of this Code, unless otherwise agreed upon;

e/ The employee has given up work at his/her own discretion without a plausible reason for 5 or more consecutive days;

g/ The employee provides untruthful information as prescribed in Clause 2, Article 16 of this Code when entering into the contract, affecting recruitment work.

2. If wishing to unilaterally terminate a labor contract in the cases specified at Points a, b, c, dd and g, Clause 1 of this Article, the employer shall notify such termination to the employee:

a/ At least 45 days in advance, for indefinite-term labor contracts;

b/ At least 30 days in advance, for labor contracts with a term of between 12 months and 36 months;

c/ At least 3 working days in advance, for labor contracts with a term of under 12 months and in the case specified at Point b, Clause 1 of this Article; or,

d/ For a number of special occupations and jobs, the period of prior notification must comply with the Government's regulations.

3. When wishing to unilaterally terminate a labor contract in the cases specified at Points d and e, Clause 1 of this Article, the employer is not required to notify such in advance to the employee.

Article 37. Cases in which employers may not exercise the right to unilaterally terminate labor contracts

1. The employee is sick or suffers an occupational accident or disease and is receiving medical treatment or undergoing a period of convalescence as prescribed by a competent health establishment, except the case specified at Point b, Clause 1, Article 36 of this Code.

2. The employee is on annual leave, personal leave or another type of leave as permitted by the employer.

3. The female employee is pregnant; the employee is on maternity leave or raising a child under 12 months old.

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Article 38. Cancellation of unilateral termination of labor contracts

Each party has the right to cancel the unilateral termination of a labor contract at any time before the expiration of the period of prior notification of such termination, provided the cancellation is notified in writing to and agreed by the other party.

Article 39. Illegal unilateral termination of labor contracts

The unilateral termination of a labor contract will be illegal if it does not comply with Articles 35, 36 and 37 of this Code.

Article 40. Obligations of the employee when unilaterally terminating a labor contract illegally

1. Not to be entitled to the severance allowance.

2. To pay the employer a compensation equal to half of his/her monthly wage in accordance with the labor contract plus an amount equivalent to his/her wage stated in the contract for the days he/she terminates the contract without giving a prior notice.

3. To reimburse training costs to the employer in accordance with Article 62 of this Code.

Article 41. Obligations of the employer when unilaterally terminating a labor contract illegally

1. To reinstate the employee in accordance with the signed labor contract; to pay the wage and social insurance, health insurance and unemployment insurance premiums for the days the employee does not work, plus an amount at least equal to 2 months' wage stated in the labor contract.

After being reinstated, the employee shall reimburse the employer the severance allowance or job loss allowance, if any.

In case the position or job agreed upon in the labor contract is no longer vacant and the employee still wishes to work, the two parties shall agree to modify the contract.

If violating the provision on the period of prior notification in Clause 2, Article 36 of this Code, 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.

2. In case the employee does not wish to return to work, in addition to the amount prescribed in Clause 1 of this Article, the employer shall pay a severance allowance in accordance with Article 46 of this Code in order to terminate the labor contract.

3. In case the employer does not wish to reinstate the employee and the employee so agrees, in addition to the amount prescribed in Clause 1 of this Article and the severance allowance mentioned in Article 46 of this Code, the two parties shall reach agreement on an additional compensation amount for the employee which must be at least equal to 2 months' wage of the employee in accordance with the labor contract in order to terminate the contract.

Article 42. Obligations of employers in case of changes in structure or technology or for economic reasons

1. The following cases shall be considered changes in structure or technology:

a/ Change in the organizational structure or labor reorganization;

b/ Change of the production and business process, technology, machinery or equipment as suitable to production and business lines of the employer;

c/ Change in products or product structure.

2. The following cases shall be regarded as economic reasons:

a/ Economic crisis or recession;

b/ Implementation of the State's policies and laws when restructuring the economy or implementing international commitments.

3. If the change in structure or technology affects the employment of many employees, the employer shall formulate and implement a labor utilization plan in accordance with Article 44 of this Code. In case new jobs are created, priority shall be given to retraining these employees for continued employment.

4. In case more than one employee face the risk of unemployment or being dismissed for economic reasons, the employer shall formulate and implement a labor utilization plan in accordance with Article 44 of this Code.

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5. In case the employer is unable to employ and has to dismiss employees, he/she/it shall pay job loss allowances to the employees in accordance with Article 47 of this Code.

6. The employer may dismiss employees under this Article only after consulting the grassroots-level employees' representative organization, if available, of which such employees are members, and shall notify such dismissal 30 days in advance to the provincial-level People's Committee and the employees.

Article 43. Obligations of employers in case of division, splitting-up, consolidation or merger; or sale, lease or transformation of enterprises; or transfer of asset ownership or use rights of enterprises or cooperatives

1. In case of division, splitting-up, consolidation or merger; or sale, lease or transformation of enterprises; or transfer of asset ownership or use rights of enterprises or cooperatives, which affects the employment of many employees, the employer shall formulate a labor utilization plan in accordance with Article 44 of this Code.

2. The current employer and succeeding employer shall implement the approved labor utilization plan.

3. The dismissed employees are entitled to job loss allowances in accordance with Article 47 of this Code.

Article 44. Labor utilization plans

1. A labor utilization plan must have the following principal contents:

a/ Number and list of employees to be further employed, employees to be retrained for continued employment, and employees to work on a part-time basis;

b/ Number and list of employees to retire;

c/ Number and list of employees required to terminate their labor contracts;

d/ Rights and obligations of the employer, employees and the stakeholders in implementing the plan;

dd/ Measures and financial sources for implementing the plan.

2. When formulating a labor utilization plan, the employer shall consult the grassroots-level employees' representative organization, if available. Such

plan shall be publicly announced to employees within 15 days after it is approved.

Article 45. Notification of termination of labor contracts

1. The employer shall notify in writing the employee of the termination of a labor contract in accordance with this Code, except the cases specified in Clauses 4 thru 8, Article 34 of this Code.

2. In case the employer other than an individual terminates operation, the time of termination of a labor contract is the time of issuance of the notice of operation termination.

In case the employer other than an individual receives a notice from the specialized agency in charge of business registration under the provincial-level People's Committee stating that it has no at-law representative or no person authorized to exercise the rights and perform the obligations of the at-law representative as prescribed in Clause 7, Article 34 of this Code, the time of termination of a labor contract is the date of issuance of such notice.

Article 46. Severance allowance

1. In case a labor contract terminates in accordance with Clause 1, 2, 3, 4, 6, 7, 9 or 10, Article 34 of this Code, the employer shall pay a severance allowance to the employee who has worked regularly for full 12 months or longer at the rate of half of a month's wage for each working year, except the case in which the employee is eligible to enjoy pension in accordance with the law on social insurance, and the case specified at Point e, Clause 1, Article 36 of this Code.

2. The working period used for calculating severance 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.

3. The wage used for calculating severance allowance is the average wage under the labor contract during 6 months preceding the time the employee leaves work.

4. The Government shall detail this Article.

Article 47. Job-loss allowance

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1. The employer shall pay a job-loss allowance to the employee who has worked for the employer for full 12 months or more and loses his/her job under Clause 11, Article 34 of this Code at the rate of 1 month's wage for each working year, which must be at least equal to 2 months' wage.

2. The working period used for calculating 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.

3. The wage used for calculating job-loss allowance is the average wage under the labor contract during 6 months preceding the time the employee loses his/her job.

4. The Government shall detail this Article.

Article 48. Responsibilities of involved parties upon termination of labor contracts

1. Within 14 working days from the date of termination of a labor contract, the two parties shall fully pay the money amounts related to their interests, except the following cases in which this time limit may be extended but must not exceed 30 days:

a/ The employer other than an individual terminates operation;

b/ The employer changes the structure or technology or for economic reasons;

c/ Division, splitting-up, consolidation or merger; or sale, lease or transformation of an enterprise; or transfer of asset ownership or use rights of an enterprise or a cooperative;

d/ Due to a natural disaster, fire, enemy sabotage or dangerous epidemic.

2. Priority shall be given to payment of the employees' wage, social insurance, health insurance and unemployment insurance benefits, severance allowance, and other entitlements under the collective labor agreement and labor contracts in case an enterprise or a cooperative terminates operation, is dissolved or goes bankrupt.

3. The employer shall:

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a/ Complete the procedures for certification of the period of payment of social insurance and unemployment insurance premiums and return to the employees the certification together with the originals of other papers of the employees which it/he/she keeps;

b/ Provide copies of documents concerning the working process of the employees if so requested by the latter, and pay expenses for photocopying and sending documents.

Section 4

NULL AND VOID LABOR CONTRACTS

Article 49. Null and void labor contracts

1. A labor contract shall be wholly null and void in the following cases:

a/ The whole contents of the contract are illegal;

b/ The contract signer is incompetent or breaches the principles of entry into labor contracts prescribed in Clause 1, Article 15 of this Code;

c/ The job agreed upon in the contract is prohibited by law.

2. A labor contract shall be partially null and void when the contents of such part are illegal but do not affect the remaining contents of the contract.

Article 50. Competence to declare labor contracts to be null and void

People's courts have the competence to declare labor contracts to be null and void.

Article 51. Handling of null and void labor contracts

1. A labor contract which is declared to be partially null and void shall be handled as follows:

a/ The rights, obligations and benefits of the two parties shall be settled according to the currently applied collective labor agreement or, in case the collective labor agreement is not available, according to law;

b/ The two parties shall modify the part of the contract which is declared to be null and void to conform with the collective labor agreement or the labor law.

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2. When a labor contract is declared to be wholly null and void, the rights, obligations and benefits of the employee shall be settled in accordance with law; if the contract is signed *ultra vires*, the two parties shall re-sign it.

3. The Government shall detail this Article.

Section 5

LABOR LEASE

Article 52. Labor lease

1. Labor lease means a case in which the employee enters into a labor contract with the employer being a labor leasing enterprise, then he/she is assigned to work for and is managed by another employer while maintaining industrial relations with the former employer.

2. Labor lease is a conditional business line and may only be provided by enterprises licensed for labor lease and applied to certain jobs.

Article 53. Principles of labor lease

1. The maximum period of labor lease for an employee is 12 months.

2. The hiring party may employ leased employees in the following cases:

a/ To temporarily deal with sudden increases in labor demand in a certain period;

b/ To replace employees who are on maternity leave, suffer an occupational accident or disease, or have to perform civil obligations;

c/ To meet the demand for employees with high professional and technical qualifications.

3. The hiring party may not employ leased employees in the following cases:

a/ To replace employees who are in the period of exercising the right to go on strike, or to settle labor disputes;

b/ There is no specific agreement on the liability to compensate for occupational accidents or diseases between the leased employees and the hiring party;

c/ To replace employees who are dismissed as a result of change in structure or technology, for economic reasons, or due to division, splitting-up, consolidation or merger.

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4. The hiring party may not transfer the leased employees to another employer; and may not employ employees leased by an enterprise not licensed for labor lease.

Article 54. Labor leasing enterprises

1. A labor leasing enterprise shall pay a deposit and obtain a license for labor lease.

2. The Government shall stipulate the payment of deposits, conditions, order and procedures for grant, re-grant, extension and revocation of licenses for labor lease, and the list of jobs allowed for labor lease.

Article 55. Labor leasing contracts

1. The labor leasing enterprise and hiring party shall sign a written labor leasing contract, which shall be made in 2 copies, each to be kept by one party.

2. A labor leasing contract must contain the following principal contents:

a/ Workplace, working position for the leased employee, detailed description of the job, and specific requirements for the leased employee;

b/ Duration of the lease; starting time of work;

c/ Working time, rest time, and occupational safety and health conditions at the workplace;

d/ Liability to compensate for occupational accidents or diseases;

dd/ Obligations of each party toward the leased employee.

3. A labor leasing contract must not contain any agreements on the rights and benefits of the employee that are less favorable than those agreed upon in the labor contract signed between the labor leasing enterprise and the employee.

Article 56. Rights and obligations of labor leasing enterprises

In addition to the rights and obligations prescribed in Article 6 of this Code, a labor leasing enterprise has the following rights and obligations:

1. To ensure supply of employees who have professional qualifications meeting the requirements of the hiring party and the labor contracts signed with the employees;

2. To inform the employees of the contents of the labor leasing contracts;

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3. To notify the hiring party of the resumes and requirements of the employees;

4. To pay wages to the leased employees not lower than the wages paid by the hiring party to its employees with the same professional qualifications, doing the same job, or doing jobs generating same equal values;

5. To make a dossier stating the number of leased employees and the hiring party, and periodically send reports to the specialized agency in charge of labor affairs under the provincial-level People's Committee;

6. To discipline employees who are returned by the hiring party for their breaches of labor discipline.

Article 57. Rights and obligations of the hiring party

1. To inform the leased employees of its internal working regulations and other regulations and guide the latter in complying with such regulations.

2. To refrain from practicing discrimination between the leased employees and its own employees regarding working conditions.

3. To reach agreement with the leased employees on night work or overtime work in accordance with this Code.

4. To reach agreement with the leased employees and labor leasing enterprise in order to officially recruit the leased employees in case the labor contracts signed between the leased employees and labor leasing enterprise have not yet expired.

5. To return to the labor leasing enterprise the leased employees who fail to meet the requirements as agreed upon or breach labor discipline.

6. To provide evidence of the leased employees' breaches of labor discipline for the labor leasing enterprise to consider disciplining such employees.

Article 58. Rights and obligations of leased employees

In addition to the rights and obligations prescribed in Article 5 of this Code, a leased employee has the following rights and obligations:

1. To perform the job under the labor contract signed with the labor leasing enterprise;

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2. To observe labor discipline and internal working regulations; to submit to the lawful management, administration and supervision by the hiring party;

3. To be paid with a wage not lower than the wage of the hiring party's employees who have the same professional qualifications, perform the same job or perform jobs generating same values;

4. To lodge complaints with the labor leasing enterprise when the hiring party violates agreements in the labor leasing contract;

5. To negotiate the termination of the labor contract with the labor leasing enterprise in order to sign a labor contract with the hiring party.

Chapter IV

VOCATIONAL EDUCATION AND OCCUPATIONAL SKILLS DEVELOPMENT

Article 59. Vocational training and vocational skills development

1. Employees may freely choose to receive vocational training, participate in the assessment and recognition of national occupational skills, and develop their occupational capabilities to meet their job demands and abilities.

2. The State shall adopt policies to encourage capable employers to provide vocational training and develop occupational skills for their employees and other employees in the society through:

a/ Establishing vocational education institutions or organizing vocational training courses in the workplaces in order to train, retrain, further train and improve vocational qualifications and skills for employees; coordinating with vocational education institutions in providing vocational training at basic, intermediate and collegial degrees and other vocational training programs under regulations;

b/ Organizing occupational skills competitions for employees; joining occupational skills councils; forecasting demands for and formulating standards of occupational skills; assessing and recognizing occupational skills; and developing the occupational capabilities of employees.

Article 60. Responsibilities of employers for vocational training and further training and improvement of vocational qualifications and skills

1. Employers shall prepare annual training plans and earmark funds for vocational training and further training and improvement of vocational qualifications and skills and development of occupational skills for their employees; and provide training for employees before assigning them to perform other jobs.

2. Annually, employers shall report on the results of vocational training and further training and improvement of occupational qualifications and skills to the specialized agency in charge of labor affairs under the provincial-level People's Committee.

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Article 61. Apprenticeship and on-the-job training to work for employers

1. Apprenticeship to work for an employer means that an employer recruits an employee and provides him/her with occupational training at the workplace. The apprenticeship period must comply with training programs for each level as prescribed in the Law on Vocational Education.

2. On-the-job training to work for an employer means that an employer recruits an employee and provides him/her with job practice instructions and on-the-job training based on his/her working position at the workplace. The period of on-the-job training must not exceed 3 months.

3. Employers that recruit apprentices or on-the-job trainees are not required to register vocational education activities; may not collect tuition fees; and shall sign training contracts in accordance with the Law on Vocational Education.

4. Apprentices or on-the-job trainees must be full 14 years or older and meet health requirements of their relevant occupations or jobs. Apprentices or on-the-job trainees of occupations or jobs on the Minister of Labor, Invalids and Social Affairs-issued list of hard, hazardous and dangerous occupations and jobs or extremely hard, hazardous and dangerous occupations and jobs must be full 18 years or older, except those in the fields of arts, and physical training and sports.

5. During the period of apprenticeship or on-the-job training, if apprentices or on-the-job trainees directly carry out or participate in labor activities, they shall be paid by the employer a wage at a level agreed upon by the two parties.

6. Upon the expiration of the apprenticeship or on-the-job training period, the two parties shall sign a labor contract when fully meeting the conditions prescribed in this Code.

Article 62. Vocational training contracts between employers and employees and vocational training costs

1. The two parties shall sign a vocational training contract in case the employee will be trained to improve his/her vocational qualifications and skills or retrained at home or overseas with the employer's funds, including funds donated by the employer's partners.

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A vocational training contract shall be made in 2 copies, each to be kept by one party.

2. A vocational training contract must have the following principal contents:

a/ Occupation to be trained;

b/ Training place and period, and trainee's wage during the training period;

c/ Period during which the employee commits to working for the employer after the training;

d/ Training costs and responsibility to reimburse training costs;

dd/ Responsibilities of the employer;

e/ Responsibilities of the employee.

3. Training costs include expenses accompanied by valid documents, including payments for trainers, expenses for training materials, venues, machinery and equipment, and practice materials, other expenses as support for trainees, and wages and social insurance, health insurance and unemployment insurance premiums paid for trainees during the training period. In case an employee is sent to an overseas training course, training costs also include travel and cost-of-living expenses during the training period.

Chapter V

DIALOGUES IN THE WORKPLACE, COLLECTIVE BARGAINING, COLLECTIVE LABOR AGREEMENTS

Section 1

DIALOGUES IN THE WORKPLACE

Article 63. Organization of dialogues in the workplace

1. Dialogue in the workplace is the sharing of information, consultation, discussion and exchange of opinions between the employer and employees or employees' representative organization regarding issues related to the rights, benefits and interests of the parties at the workplace with a view to increasing

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mutual understanding and cooperation and joint efforts to seek solutions beneficial to all the parties.

2. The employer shall hold a dialogue at the workplace:

a/ At least once a year;

b/ Upon request of either party or both parties;

c/ In the case specified at Point a, Clause 1, Article 36, or in Article 42, 44, 93, 104 or 118, or Clause 1, Article 128, of this Code.

3. Employers and employees or employees' representative organizations are encouraged to hold dialogues in cases other than those specified in Clause 2 of this Article.

4. The Government shall prescribe the organization of dialogues and implementation of regulations on grassroots-level democracy in the workplace.

Article 64. Contents of dialogues in the workplace

1. Compulsory contents prescribed at Point c, Clause 2, Article 63 of this Code.

2. In addition to the contents referred to in Clause 1 of this Article, the parties may choose one or more than one of the following contents for holding a dialogue:

a/ Production and business situation of the employer;

b/ Performance of labor contracts, collective labor agreement, internal working regulations, and other commitments and agreements at the workplace;

c/ Working conditions;

d/ Requirements of employees and employees' representative organization toward the employer;

dd/ Requirements of the employer toward employees and employees' representative organization;

e/ Other contents which concern either party or both parties.

Section 2

COLLECTIVE BARGAINING

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Article 65. Collective bargaining

Collective bargaining is the negotiation and agreement between one party being one or more than one employees' representative organization and the other party being one or more than one employer or employers' representative organization aiming to establish working conditions, prescribe relationships between the parties, and build progressive, harmonious and stable industrial relations.

Article 66. Principles of collective bargaining

Collective bargaining shall be carried out on the principles of voluntariness, cooperation, goodwill, equality, publicity and transparency.

Article 67. Contents of collective bargaining

The parties to collective bargaining shall choose one or more than one of the following contents for the bargaining:

1. Wages, allowances, wage rise, bonuses, meals, and other entitlements;

2. Working intensity, working time, rest time, overtime work, and mid-shift breaks;

3. Assurance of employment for employees;

4. Assurance of occupational safety and health; implementation of internal working regulations;

5. Conditions and facilities for the operation of the employees' representative organization; relationship between the employer and employees' representative organization;

6. Mechanisms and methods for prevention and solution of labor disputes;

7. Assurance of gender equality, protection of pregnant employees, and annual leaves; prevention and combat of violence and sexual harassment at the workplace;

8. Other contents that concern either party or both parties.

Article 68. The right of grassroots-level employees' representative organizations in enterprises to request collective bargaining

1. The grassroots-level employees' representative organization has the right to request collective bargaining when the minimum ratio of its members to

the total employees in an enterprise reaches the ratio prescribed by the Government.

2. In case an enterprise has more than one grassroots-level employees' representative organization that meet the requirement prescribed in Clause 1 of this Article, the organization having the largest number of employees has the right to request collective bargaining. Other grassroots-level employees' representative organizations may participate in collective bargaining when so agreed by the employees' representative organization that has the right to request collective bargaining.

3. In case an enterprise has more than one grassroots-level employees' representative organization but none of them meets the requirement prescribed in Clause 1 of this Article, these organizations may voluntarily collaborate with one another to request collective bargaining, provided that the total number of their members must reach the minimum ratio referred to in Clause 1 of this Article.

4. The Government shall prescribe the settlement of disputes between the parties involved in the right to request collective bargaining.

Article 69. Representatives participating in collective bargaining at enterprises

1. The number of persons of each party who will participate in collective bargaining shall be agreed upon by the parties.

2. Representatives of a party who will participate in collective bargaining shall be decided by that party.

In case there are two or more employees' representative organizations that will participate in collective bargaining as prescribed in Clause 2, Article 68 of this Code, the organization having the right to request collective bargaining shall decide on the number of representatives of each organization to participate in the bargaining.

In case there are two or more employees' representative organizations that will participate in collective bargaining as prescribed in Clause 3, Article 68 of this Code, the number of representatives of each organization shall be agreed upon by such organizations. If no agreement can be reached, each organization shall determine the number of its representatives to participate in collective bargaining, based on the ratio of its members to the total members of such organizations.

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3. Each party to collective bargaining may invite a representative of its superior representative organization to participate in collective bargaining and the other party may not refuse it. The number of each party's representatives to participate in collective bargaining must not exceed that specified in Clause 1 of this Article, unless such excess is agreed by the other party.

Article 70. Process of collective bargaining at enterprises

1. When receiving a request for collective bargaining from the grassroots-level employees' representative organization that has the right to request collective bargaining under Article 68 of this Code or a request from the employer, the recipient may not refuse the bargaining.

Within 7 working days after receiving the request and contents for collective bargaining, the parties shall reach agreement on the place and starting time of the bargaining.

The employer shall arrange time, a place and necessary conditions for holding meetings for collective bargaining.

The starting time of the bargaining must not be later than 30 days from the date of receipt of the request.

2. The period of collective bargaining must not exceed 90 days from the starting date of the bargaining, unless otherwise agreed upon by the parties.

The period during which employees' representatives participate in meetings for collective bargaining shall be regarded as a paid working period. In case the employee is a member of the employee's representative organization and participates in meetings for collective bargaining, the period of his/her participation in such meetings shall not be included in the period prescribed in Clause 2, Article 176 of this Code.

3. In the process of collective bargaining, within 10 days after receiving a request from the employees' representative, if any, the employer's representative shall provide information about the enterprise's production and business situation and other issues directly related to the bargaining contents in order to facilitate collective bargaining, except information about the employer's business secrets and technological secrets.

4. The grassroots-level employees' representative organization may hold discussions with employees and collect their opinions on contents, methods and results of collective bargaining.

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The grassroots-level employees' representative organization shall decide on the time, place and method of holding discussions with and collecting opinions of employees which, however, must not affect the enterprise's normal production and business activities.

The employer may not cause difficulties or obstacles to or intervene into the process of the employees' representative organization holding discussions with and collecting opinions of employees.

5. A collective bargaining shall be recorded in a minutes which must specify the contents already agreed and not yet agreed upon by the two parties. Such minutes must bear the signatures of representatives of the bargaining parties and minutes maker. The grassroots-level employees' representative organization shall publicly announce such minutes to all employees.

Article 71. Unsuccessful collective bargaining

1. Collective bargaining shall be considered unsuccessful in one of the following cases:

a/ Either party refuses or fails to enter into the bargaining within the time limit specified in Clause 1, Article 70 of this Code;

b/ The parties cannot reach agreement after the time limit specified in Clause 2, Article 70 of this Code expires;

c/ The parties agree and announce that the bargaining fails before the time limit specified in Clause 2, Article 70 of this Code expires.

2. When the bargaining fails, the parties shall carry out procedures for settling labor disputes in accordance with this Code. Pending the dispute settlement, the employees' representative organization may not organize a strike.

Article 72. Sectoral-level collective bargaining, collective bargaining involving more than one enterprise

1. The principles and contents of sectoral-level collective bargaining or collective bargaining involving more than one enterprise must comply with Articles 66 and 67 of this Code.

2. The process of conducting sectoral-level collective bargaining or collective bargaining involving more than one enterprise shall be agreed upon and decided by the parties, including the agreement to hold collective bargaining through the collective bargaining council defined in Article 73 of this Code.

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3. In case of sectoral-level collective bargaining, representatives to participate in the bargaining shall be decided by the sectoral-level trade union organization and sectoral-level employers' representative organization.

In case of collective bargaining involving more than one enterprise, representatives to participate in the bargaining shall be decided by the bargaining parties on the basis of voluntariness and agreement.

Article 73. Collective bargaining involving more than one enterprise through collective bargaining councils

1. On the basis of consensus, the parties to collective bargaining involving more than one enterprise may request the provincial-level People's Committee of the locality where the enterprises participating in the bargaining are headquartered or of the locality chosen by the parties in case such enterprises are headquartered in different provinces and centrally run cities to form a collective bargaining council for conducting collective bargaining.

2. After receiving the request mentioned above, the provincial-level People's Committee shall decide to form a collective bargaining council for organizing collective bargaining. Such council shall be composed of:

a/ The chairperson who shall be decided by the parties and coordinate the council's activities and support collective bargaining of the parties;

b/ Representatives of the bargaining parties, which shall be appointed by the parties. The number of representatives of each bargaining party to join the council shall be agreed upon by the parties;

c/ A representative of the provincial-level People's Committee.

3. A collective bargaining council shall carry out bargaining at the request of the bargaining parties and automatically terminate its operation after a collective labor agreement involving more than one enterprise is signed or as agreed upon by the parties.

4. The Minister of Labor, Invalids and Social Affairs shall define the functions, tasks and operation of collective bargaining councils.

Article 74. Responsibilities of provincial-level People's Committees in collective bargaining

1. To organize training and further training in collective bargaining skills for parties to collective bargaining.

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2. To develop and provide information and data about socio-economic activities, labor market and industrial relations for promoting collective bargaining.

3. To proactively provide support or provide support upon request of both parties to collective bargaining for the parties to reach agreement during collective bargaining; in the absence of such request, provincial-level People's Committees may provide support only when so agreed by the parties.

4. To form collective bargaining councils at the request of parties to collective bargaining involving more than one enterprise as prescribed in Article 73 of this Code.

Section 3

COLLECTIVE LABOR AGREEMENTS

Article 75. Collective labor agreements

1. Collective labor agreement is an agreement reached through collective bargaining, established in writing and signed by the parties.

Collective labor agreements include enterprise-level collective labor agreement, sectoral-level collective labor agreement, collective labor agreement involving more than one enterprise, and other collective labor agreements.

2. Contents of a collective labor agreement must not be contrary to law, and are encouraged to be more beneficial to employees than what is prescribed by law.

Article 76. Collection of opinions on and signing of collective labor agreements

1. Before an enterprise-level collective labor agreement is signed, its draft which has been negotiated by the parties shall be sent to all employees of an enterprise for opinion. It may be signed only when more than 50% of employees of the enterprise cast votes for.

2. For a sectoral-level collective labor agreement, opinions shall be collected from all members of the leadership boards of employees' representative organizations at the enterprises participating in the bargaining. Such agreement may be signed only when more than 50% of the consulted persons cast votes for.

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For a collective labor agreement involving more than one enterprise, opinions shall be collected from all employees in the enterprises participating in the bargaining or all members of the leadership boards of the employees' representative organizations at these enterprises. Only enterprises that have more than 50% of the consulted persons casting votes for may sign such agreement.

3. The time, place and method of collecting opinions on a draft collective labor agreement shall be decided by the employees' representative organization which, however, must not affect normal production and business activities of the enterprise participating in the bargaining. The employer may neither cause difficulties or obstacles to nor intervene into the process of opinion collection.

4. A collective labor agreement shall be signed by lawful representatives of the bargaining parties.

In case bargaining for a collective labor agreement involving more than one enterprise is carried out though a collective bargaining council, such agreement shall be signed by the council chairperson and lawful representatives of the bargaining parties.

5. A collective labor agreement shall be sent to every signatory and specialized agency in charge of labor affairs under the provincial-level People's Committee in accordance with Article 77 of this Code.

For a sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise, 1 copy thereof shall be sent to every employer and employees' representative organization at the enterprises being signatories to the agreement.

6. Once a collective labor agreement is signed, the employer shall inform it to its/his/her employees.

7. The Government shall detail this Article.

Article 77. Sending of collective labor agreements

Within 10 days from the date a collective labor agreement is signed, the employer being a signatory to the agreement shall send 1 copy of this agreement to the specialized agency in charge of labor affairs under the provincial-level People's Committee of the locality where the employer's head office is based.

Article 78. Effect and validity period of collective labor agreements

1. The effective date of a collective labor agreement shall be agreed upon by the parties and stated in the agreement. In case the parties reach no agreement on the effective date of a collective labor agreement, such agreement takes effect on the date of its signing.

After coming into force, a collective labor agreement shall be implemented by the parties in a respectful manner.

2. An enterprise-level collective labor agreement takes effect for the employer and all employees of an enterprise. A sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise takes effect for all employers and employees of the enterprises being signatories to the agreement.

3. A collective labor agreement has a validity period of between 1 year and 3 years as agreed upon by the parties and stated therein. The parties may reach agreement on different validity periods for different contents of a collective labor agreement.

Article 79. Implementation of collective labor agreements at enterprises

1. The employer and employees, including those who start working after the effective date of the collective labor agreement, are obliged to fully implement the collective labor agreement currently in force.

2. In case the rights, obligations and interests of the parties to the labor contract which is entered into before the effective date of the collective labor agreement are less beneficial than those stated in the agreement, the latter shall be applied. The employer-issued regulations which are not conformable with the collective labor agreement shall be modified; pending the modification, the corresponding contents of the collective labor agreement shall be applied.

3. In case a party believes that the other party fails to fully implement or breaches the collective labor agreement, it may request the latter to properly implement the agreement and the parties shall together consider and settle their dispute; if the dispute cannot be settled, either party may request settlement of collective labor disputes in accordance with law.

Article 80. Implementation of enterprise-level collective labor agreements in case of separation, splitting-up, consolidation or merger; or sale, lease or transformation of enterprises; or transfer of ownership or use rights of assets of enterprises

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1. In case of separation, splitting-up, consolidation or merger; or sale, lease or transformation of an enterprise; or transfer of ownership or use rights of assets of an enterprise, the succeeding employer and employees' representative organization may enter into bargaining in accordance with Article 68 of this Code based on the labor utilization plan in order to consider further implementing or modifying the former collective labor agreement or negotiate to sign a new collective labor agreement.

2. In case an enterprise-level collective labor agreement ceases to be effective because the employer terminates operation, the interests of employees shall be settled in accordance with law.

Article 81. Relations between enterprise-level collective labor agreements, sectoral-level collective labor agreements and collective labor agreements involving more than one enterprise

1. In case an enterprise-level collective labor agreement, collective labor agreement involving more than one enterprise and sectoral-level collective labor agreement contain different provisions on the rights, obligations and interests of employees, the most beneficial ones shall be applied.

2. For an enterprise regulated by a sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise while there is no enterprise-level collective labor agreement, it may develop an enterprise-level collective labor agreement with provisions more beneficial to employees than those of the sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise.

3. An enterprise not yet participating in a sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise is encouraged to implement the provisions of such agreement which are more beneficial to employees.

Article 82. Modification of collective labor agreements

1. A collective labor agreement may be modified as agreed upon by the parties on a voluntary basis through collective bargaining.

The modification of a collective labor agreement shall be carried out in the same way as the bargaining for signing a collective labor agreement.

2. In case the collective labor agreement becomes unconformable as relevant laws are amended, the parties shall modify the agreement to make it

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compliant with such laws. Pending the modification, employees' interests shall be settled in accordance with law.

Article 83. Expiring collective labor agreements

At least 90 days before a collective labor agreement expires, the parties may start bargaining for the extension of the agreement or signing of a new one. If agreeing to extend the agreement, the parties shall collect opinions in accordance with Article 76 of this Code.

When a collective labor agreement expires while the parties still proceed with the bargaining, such agreement will continue to be valid for 90 days after the expiry date, unless otherwise agreed upon by the parties.

Article 84. Expansion of the scope of application of sectoral-level collective labor agreements or collective labor agreements involving more than one enterprise

1. When a sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise applies to more than 75% of employees or more than 75% of enterprises engaged in the same sector within an industrial park, an economic zone, an export processing zone or a hi-tech park, the employer or employees' representative organization shall request a competent state agency to decide to expand the scope of application of part or the whole of such agreement to the enterprises engaged in the same sector within such park or zone.

2. The Government shall detail Clause 1 of this Article; and prescribe the order, procedures and competence to decide on the expansion of the scope of application of collective labor agreements prescribed in Clause 1 of this Article.

Article 85. Accession to and withdrawal from sectoral-level collective labor agreements or collective labor agreements involving more than one enterprise

1. An enterprise may accede to a sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise when such is consented to by all employers and employees' representative organizations at the enterprises being signatories to the agreement, except the case specified in Clause 1, Article 84 of this Code.

2. An enterprise being a signatory to a sectoral-level collective labor agreement or collective labor agreement involving more than one enterprise may

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withdraw from the agreement when such is consented to by all employers and employees' representative organizations at the enterprises being signatories to the agreement, except cases of meeting extreme difficulties in production and business activities.

3. The Government shall detail this Article.

Article 86. Null and void collective labor agreements

1. A collective labor agreement shall be considered partially null and void if one or more of its contents is/are contrary to law.

2. A collective labor agreement shall be considered wholly null and void in one of the following cases:

a/ The whole contents of the agreement are contrary to law;

b/ The agreement signer is incompetent;

c/ The parties fail to follow the process of bargaining for signing the agreement.

Article 87. Competence to declare collective labor agreements to be null and void

People's courts have the competence to declare collective labor agreements to be null and void.

Article 88. Handling of null and void collective labor agreements

When a collective labor agreement is declared to be null and void, the rights, obligations and interests of the parties stated in the whole or part of the agreement's contents declared to be null and void shall be settled in accordance with law and lawful agreements in labor contracts.

Article 89. Expenses for bargaining and signing of collective labor agreements

All expenses for bargaining, signing, modification, sending and announcement of collective labor agreements shall be paid by employers.

Chapter VI

WAGES

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Article 90. Wages

1. Wage is a money amount which is paid by the employer to the employee as agreed upon for the latter to do a certain job, including job- or title-based wage amount, wage-based allowance, and other additional amounts.

2. The job- or title-based wage amount must not be lower than the minimum wage level.

3. The employer shall pay equal wages without gender-based discrimination to employees doing jobs generating same values.

Article 91. Minimum wage levels

1. Minimum wage level is the lowest wage paid to the employee who performs the simplest job in normal working conditions in order to ensure the minimum living conditions of the employee and his/her family as suitable to socio-economic development conditions.

2. Minimum wage levels shall be determined by region and set on a monthly and hourly basis.

3. Minimum wage levels shall be adjusted based on the minimum living conditions of employees and their families; their relation with market wage levels; consumer price index and economic growth rate; labor supply-demand relation; employment and unemployment; labor productivity; and payment ability of enterprises.

4. The Government shall detail this Article; and decide and publicize minimum wage levels based on recommendations of the National Wage Council.

Article 92. The National Wage Council

1. The National Wage Council is a body which advises the Government on minimum wage levels and wage policies toward employees.

2. The Prime Minister shall establish the National Wage Council with its members being representatives of the Ministry of Labor, Invalids and Social Affairs, Vietnam General Confederation of Labor and some employers' representative organizations at the central level, and independent experts.

3. The Government shall define the functions, tasks, organizational structure and operation of the National Wage Council.

Article 93. Formulation of wage scales, wage tables and labor norms

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1. The employer shall formulate a wage scale, wage table and labor norms as a basis for labor recruitment and employment and for reaching agreement on job- or title-based wage levels to be written in labor contracts and paying wages to employees.

2. Labor norms must be average to ensure their achievement by the majority of employees without having to work beyond their normal working time. Labor norms shall be applied on a trial basis before being officially issued.

3. When formulating a wage scale, wage table and labor norms, the employer shall consult the grassroots-level employees' representative organization, if available.

Wage scales, wage tables and labor norms shall be publicized in the workplace before being applied.

Article 94. Principles of wage payment

1. The employer shall pay wages directly, fully and timely to employees. In case the employee cannot receive wage directly, a person lawfully authorized by the employee may receive wage.

2. The employer may not restrict or intervene into the employees' right to self-decide on use of their wages; and may not compel employees to spend their wages on purchasing goods or using services of the employer or another unit designated by the employer.

Article 95. Wage payment

1. The employer shall pay wages to employees based on agreed wage levels, labor productivity and work quality.

2. Wages written in labor contracts and wages paid to employees shall be calculated in Vietnam dong or in a foreign currency for foreign workers in Vietnam.

3. Upon each time of wage payment, the employer shall notify employees of a list of wage recipients, which must clearly state every employee's wage, overtime pay, night work pay, and deducted amount (if any) and reason for the deduction.

Article 96. Forms of wage payment

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1. The employer and employee shall reach agreement on the form of wage payment based on time, product or piecework.

2. Wages may be paid in cash or via employees' personal bank accounts.

In case wages are paid via employees' personal bank accounts, employers shall pay all charges for account opening and bank transfer.

3. The Government shall detail this Article.

Article 97. Wage payment periods

1. Employees enjoying hourly, daily or weekly wages shall be paid after the working hour, day or week or paid in a lump sum as agreed upon by the two parties, provided that lump-sum payments are made at least once every 15 days.

2. Employees enjoying monthly wages shall be paid once a month or once every half-month. The time of wage payment shall be agreed upon by the two parties and must be of cyclic nature.

3. Employees enjoying wages based on product or piecework shall be paid as agreed upon by the two parties; if the work is to be performed for more than one month, the employee shall every month be given an advance wage amount based on the work volume done in the month.

4. In a *force majeure* case in which the employer cannot pay wages on time despite having taken every remedial measure, he/she may postpone wage payment for no more than 30 days; if the postponement period is 15 days or longer, the employer shall pay employees a compensation amount at least equal to the late-payment interest at the rate for 1-month deposits announced at the time of wage payment by the bank where the employer opens accounts for wage payment.

Article 98. Wages for overtime work and night work

1. The employee who performs overtime work shall be paid based on the wage unit or wage actually paid for his/her current job, specifically as follows:

a/ At least equal to 150%, on normal workdays;

b/ At least equal to 200%, on weekends;

c/ At least equal to 300%, on public holidays and paid leave days, excluding the wage for public holidays and paid leave days for employees who receive daily wages.

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2. The employee who performs night work shall be paid with an additional amount at least equal to 30% of the wage calculated based on the wage unit or wage actually paid for a job performed during normal workdays.

3. The employee who performs overtime work at night shall, in addition to the payments specified in Clauses 1 and 2 of this Article, be paid with an additional amount equal to 20% of the wage calculated based on the wage unit or wage for a job performed during daytime of normal workdays or of weekends or public holidays.

4. The Government shall detail this Article.

Article 99. Wages in case of work suspension

In case the employee has to suspend working, he/she shall be paid as follows:

1. Full wage as stated in the labor contract, if the suspension is due to the fault of the employer;

2. No wage, if the suspension is due to his/her fault; other employees in the same unit who also have to suspend working shall be paid wages at levels agreed upon by the two parties which, however, must not be lower than the minimum wage level;

3. If, due to power or water-related incidents caused not due to the fault of the employer, or due to natural disaster, fire, dangerous epidemic, enemy sabotage, or relocation of the operation place upon request of a competent state agency, or for economic reasons, the two parties shall reach agreement on wages paid in case of work suspension as follows:

a/ Not lower than the minimum wage level, if the suspension period is 14 working days at most;

b/ Not lower than the minimum wage level for the first 14 days, if the suspension period is longer than 14 working days.

Article 100. Payment of wages via foremen

1. In case foremen or similar intermediaries are used, the employer who is the principal owner shall make a list and addresses of these persons together with a list of employees working with them, and shall ensure that these persons comply with the regulations on wage payment and occupational safety and health.

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2. In case a foreman or similar intermediary fails to pay or fully pay wages and to guarantee other interests of employees, the employer who is the principal owner shall pay wages to, and guarantee the interests of, these employees.

In this case, the employer who is the principal owner may request compensation from the foreman or similar intermediary, or request a competent state agency to resolve disputes in accordance with law.

Article 101. Advance payment of wages

1. The employee may receive an advance payment of wage according to the conditions agreed upon by the two parties which is interest-free.

2. The employer shall give an advance payment of wage to the employee corresponding to the number of days the latter has to suspend work for performance of citizens' obligations for 1 week or more, which must not exceed 1 month's wage as stated in the labor contract. The employee shall refund this advance amount.

The employee who is enlisted in the army under the Law on Military Services is not entitled to advance payment of wage.

3. While on annual leave, the employee is entitled to advance payment of an amount at least equal to his/her wage amount during the leave period.

Article 102. Deduction of wages

1. The employer may only make deductions from the wage of the employee to pay compensation for damage caused by the latter to the former's tools, equipment or assets as prescribed in Article 129 of this Code.

2. Employees have the right to know the reasons for deduction of their wages.

3. Monthly deductions must not exceed 30% of the actually paid monthly wage of the employee after compulsory social insurance, health insurance and unemployment insurance premiums and personal income tax are paid.

Article 103. Wage raise, wage rank promotion, allowances and subsidies

Regimes on wage raise, wage rank promotion, allowances and subsidies and incentive regimes for employees shall be agreed upon in labor contracts and collective labor agreements or regulations of employers.

Article 104. Bonuses

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1. Bonus is a sum of money or asset or other forms paid or given by the employer to the employee on the basis of production and business results and the employee's work performance.

2. The employer shall decide on and publicize bonus regulations at the workplace after consulting the grassroots-level employees' representative organization, if available.

Chapter VII

WORKING TIME, REST TIME

Section 1

WORKING TIME

Article 105. Normal working time

1. Normal working time must not exceed 8 hours per day and 48 hours per week.

2. The employer may determine the working time on a daily or weekly basis but shall notify such to employees; in case of application of working time on a weekly basis, the normal working time must not exceed 10 hours per day and 48 hours per week.

The State shall encourage employers to apply 40 working hours per week.

3. Employers shall ensure restrictions on the length of time during which employees work in contact with hazardous or dangerous elements according to relevant national technical regulations and laws.

Article 106. Night working hours

Night working hours shall be counted from 22:00 hours of a day to 06:00 hours of the next day.

Article 107. Overtime work

1. Overtime period is a working period in addition to normal working time prescribed by law, collective labor agreements or internal working regulations.

2. The employer may request the employee to work overtime when fully satisfying the following requirements:

a/ Obtaining the employee's consent;

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b/ Ensuring that overtime working hours of the employee does not exceed 50% of the normal working hours per day; 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 and 40 hours per month;

c/ Ensuring that overtime working hours of the employee do not exceed 200 hours per year, except the cases specified in Clause 3 of this Article.

3. The employer may request the employee to work overtime for no more than 300 hours per year in the following cases:

a/ Production and export processing of textiles, garments and footwear products; production of electrical and electronic products, processing of agricultural and forest products, salt making, and fisheries;

b/ Electricity production and supply, telecommunications, and oil refining; water supply and drainage;

c/ Jobs requiring laborers with high professional and technical qualifications when the labor market cannot fully and timely supply;

d/ Settlement of urgent issues which cannot be delayed due to the seasonal nature of materials or products or settlement of issues arising due to unforeseeable objective factors or consequences of bad weather, natural disaster, fire, enemy sabotage, electricity or material shortage, or technical incidents of production lines;

dd/ Other cases as prescribed by the Government.

4. When organizing overtime work under Clause 3 of this Article, the employer shall send a written notice to the specialized agency in charge of labor affairs under the provincial-level People's Committee.

5. The Government shall detail this Article.

Article 108. Working overtime in special cases

The employer may request the employee to work overtime in any day without restriction on the number of overtime working hours prescribed in Article 107 of this Code and the employee may not refuse such request in the following cases:

1. Implementing a call-up or mobilization order to perform national defense or security tasks as prescribed by law;

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2. Performing tasks to protect human lives and assets of agencies, organizations or individuals in the prevention, and remediation of consequences, of natural disasters, fires, dangerous epidemics or catastrophes, unless the overtime work threatens to affect the life and health of employees as prescribed in the law on occupational safety and health.

Section 2

REST TIME

Article 109. Rest breaks during working hours

1. An employee regulated by the working time prescribed in Article 105 of this Code who works for 6 or more hours in a day is entitled to a break of at least 30 consecutive minutes in the middle of working time, or a break of at least 45 consecutive minutes if they work at night.

For an employee regulated by shift-based working time who works for 6 or more consecutive hours, the period of break in the middle of working time shall be included in working hours.

2. In addition to the breaks prescribed in Clause 1 of this Article, the employer shall arrange other short breaks and include them in internal working regulations.

Article 110. Breaks between shifts

Employees who work in shifts are entitled to a break of at least 12 hours before starting another shift.

Article 111. Weekly breaks

1. Every week, an employee is entitled to a break of at least 24 consecutive hours. In special cases in which it is impossible for an employee to have a weekly break due to the cycle of work, the employer shall ensure that such employee has at least 4 days off on average in a month.

2. An employer may decide to schedule weekly breaks either on Sunday or another fixed weekday and shall include them in internal working regulations.

3. If a weekly day-off falls on a public holiday prescribed in Clause 1, Article 112 of this Code, employees are entitled to take another day-off on the next working day.

Article 112. Public holiday leaves

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1. Employees are entitled to fully paid leaves on public holidays, including:

a/ Calendar new year holiday: 1 day (January 1 of a calendar year);

b/ Lunar new year festival: 5 days;

c/ Victory Day: 1 day (April 30 of a calendar year);

d/ International Labor Day: 1 day (May 1 of a calendar year);

dd/ National Day: 2 days (September 2 of a calendar year and 1 preceding or following day);

e/ *Hung* Kings' death anniversary: 1 day (the 10th of the third month of a lunar year).

2. In addition to the leaves prescribed in Clause 1 of this Article, foreign workers in Vietnam are entitled to 1 day-off on their traditional new-year holiday and 1 day-off on their national day.

3. Annually, based on practical conditions, the Prime Minister shall decide on leave days prescribed at Points b and dd, Clause 1 of this Article

Article 113. Annual leaves

1. The employee who has been working for the employer for full 12 months is entitled to a fully paid annual leave as stated in his/her labor contract, which is prescribed as follows:

a/ Twelve working days, for employees working in normal conditions;

b/ Fourteen working days, for juvenile employees, employees being persons with disabilities, or persons doing heavy, hazardous or dangerous jobs;

c/ Sixteen working days, for persons doing extremely heavy, hazardous or dangerous jobs.

2. For the employee who has worked for the employer for less than 12 months, the number of annual leave days shall be calculated in proportion to the number of months he/she has worked.

3. In case the employee has not yet taken an annual leave or not yet fully taken the number of annual leave days, he/she is entitled to receive a wage amount for the untaken leave days.

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4. The employer shall arrange a detailed timetable for annual leaves of their employees after consulting them and shall notify it in advance to them. The employee may reach agreement with his/her employer on taking of annual leaves in installments or aggregate leaves of every 3 years at most.

5. If taking an annual leave while it is not the time for wage payment, the employee is entitled to advance payment of wage under Clause 3, Article 101 of this Code.

6. When taking an annual leave, if the employee travels by road, railway or waterway and the return trip takes more than 2 days, the travel days from the third day onward will be added to the annual leave and this will be applied for only one annual leave in a year.

7. The Government shall detail this Article.

Article 114. Annual leave increased based on working seniority

For every full 5 years during which the employee has worked for the employer, 1 day shall be added to the number of annual leave days of the employee prescribed in Clause 1, Article 113 of this Code.

Article 115. Personal leaves, unpaid leaves

1. The employee is entitled to fully paid personal leaves as prescribed below and shall notify the leave to his/her employer:

a/ His/her marriage: 3 days;

b/ Marriage of his/her offspring or adopted child: 1 day;

c/ Death of his/her blood parent or adoptive parent; blood parent-in-law or adoptive parent-in-law; his/her spouse; or his/her offspring or adopted child: 3 days.

2. The employee is entitled to unpaid 1 day off and shall notify his/her employer of the death of his/her paternal or maternal grandparent or sibling, or of the marriage of his/her parent or sibling.

3. In addition to the leaves prescribed in Clauses 1 and 2 of this Article, the employee may reach agreement with his/her employer on taking of unpaid leaves.

Section 3

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WORKING TIME AND REST TIME FOR PERSONS DOING SPECIAL JOBS

Article 116. Working time and rest time for persons doing special jobs

For special jobs in the sectors of road, railway, waterway and airway transportation; offshore petroleum exploration and exploitation; offshore work; arts; use of radiation and nuclear techniques; application of high-frequency wave techniques; informatics and information technology; research and application of advanced sciences and technologies; industrial designs; divers' jobs; work in pit mines; seasonal production work and processing of goods under orders; and work that requires 24/24 hours on duty; and other special jobs prescribed by the Government, line ministries and sectors shall specifically stipulate working time and rest time after consulting the Ministry of Labor, Invalids and Social Affairs and ensure compliance with Article 109 of this Code.

Chapter VIII

LABOR DISCIPLINE, MATERIAL RESPONSIBILITY

Section 1

LABOR DISCIPLINE

Article 117. Labor discipline

Labor discipline means regulations on compliance with the law-prescribed rules on time, technology and production and business administration in internal working regulations issued by employers.

Article 118. Internal working regulations

1. The employer shall issue its/his/her internal working regulations; such regulations must be in written form if 10 or more employees are employed.

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

a/ Working time and rest time;

b/ Order at the workplace;

c/ Occupational safety and health;

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d/ Prevention and combat of sexual harassment at the workplace; order and procedures for handling acts of sexual harassment at the workplace;

dd/ Protection of assets, business secrets, technological secrets and intellectual property of the employer;

e/ Cases in which employees may be temporarily assigned to perform jobs which are not stated in labor contracts;

g/ Employees' acts of breaching labor discipline, and forms of handling breaches of labor discipline;

h/ Material responsibility;

i/ Persons competent to handle breaches of labor discipline.

3. Before issuing or modifying internal working regulations, the employer shall consult the grassroots-level employees' representative organization, if available.

4. Internal working regulations shall be notified to employees with their principal contents displayed at places where necessary at the workplace.

5. The Government shall detail this Article.

Article 119. Registration of internal working regulations

1. The employer employing 10 or more employees shall register its/his/her internal working regulations at the specialized agency in charge of labor affairs under the provincial-level People's Committee of the locality where the employer makes business registration.

2. Within 10 days after issuing internal working regulations, the employer shall submit a dossier for registration of the internal working regulations.

3. Within 7 working days from the date of receipt of a dossier for registration of internal working regulations, if such regulations have contents contrary to law, the specialized agency in charge of labor affairs under the provincial-level People's Committee shall notify such and instruct the employer to modify the regulations and re-register them.

4. The employer having branches, units, and production and business establishments in different localities shall send the registered internal working regulations to the specialized agencies in charge of labor affairs under

provincial-level People's Committees of the localities where such branches, units and establishments are based.

5. Depending on specific conditions, specialized agencies in charge of labor affairs under provincial-level People's Committees may authorize specialized agencies in charge of labor affairs under district-level People's Committees to register internal working regulations as prescribed in this Article.

Article 120. Dossier for registration of internal working regulations

A dossier for registration of internal working regulations must comprise:

1. A request for registration of internal working regulations;

2. The internal working regulations;

3. A paper showing opinions of the grassroots-level employees' representative organization, if available;

4. The employer's documents which contain regulations on labor discipline and material responsibility (if any);

Article 121. Effect of internal working regulations

Internal working regulations take effect 15 days after the competent state agency defined in Article 119 of this Code receives a complete dossier for registration of internal working regulations.

In case the employer employing less than 10 employees issues its/his/her internal working regulations in written form, the effect of the internal working regulations shall be decided by the employer and stated in such regulations.

Article 122. Principles, order and procedures for handling breaches of labor discipline

1. The handling of a breach of labor discipline is prescribed as follows:

a/ The employer can prove the fault of the employee;

b/ The grassroots-level employees' representative organization of which the concerned employee is a member must participate in handling the breach;

c/ The employee must be present and may defend himself/herself or ask a lawyer or the employees' representative organization to defend him/her; if the employee is under full 15 years old, he/she shall be accompanied by his/her at-law representative;

d/ The handling of the breach shall be recorded in a minutes.

2. It is prohibited to impose more than one form of labor discipline on a single act of breaching labor discipline.

3. For the employee who simultaneously commits more than one act of breaching labor discipline, the highest form of discipline corresponding to the most serious act of breach shall be applied.

4. No labor discipline will be imposed on the employee who is:

a/ Taking sickness or convalescence leave, or a leave with the employer's consent;

b/ Kept in custody or temporary detention;

c/ Awaiting results of investigation and verification and conclusion of a competent agency for his/her act of breach specified in Clause 1 or 2, Article 125 of this Code;

d/ Pregnant, or on maternity leave or raising a child under 12 months old.

5. No labor discipline will be imposed on the employee who breaches labor discipline while suffering a mental disease or another disease which deprives him/her of the ability to perceive or control his/her acts.

6. The Government shall prescribe the order and procedures for handling breaches of labor discipline.

Article 123. Statute of limitations for handling breaches of labor discipline

1. The statute of limitations for handling a breach of labor discipline is 6 months from the date the breach is committed; or 12 months, for a breach of labor discipline directly related to finance or assets or disclosure of technological secrets or business secrets of the employer.

2. Upon the expiration of the time limit specified in Clause 4, Article 122 of this Code, if the statute of limitations has expired or its remaining period is less than 60 days, it may be extended for no more than 60 days from the expiration date mentioned above.

3. The employer shall issue a decision on handling breaches of labor discipline within the time limits specified in Clauses 1 and 2 of this Article.

Article 124. Forms of handling breaches of labor discipline

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1. Reprimand.

2. Prolongation of the wage rise period for no more than 6 months.

3. Removal from office.

4. Dismissal.

Article 125. Application of dismissal as a form of discipline

The employer may apply dismissal as a form of discipline to the employee in the following cases:

1. The employee commits an act of theft, embezzlement, gambling, intentional infliction of injury, or use of drugs at the workplace;

2. The employee commits an act of disclosure of business secrets or technological secrets or infringement of intellectual property rights of the employer, or an act which causes serious damage or threatens to cause particularly serious damage to the employer's assets or interests or practices sexual harassment at the workplace as prescribed in internal working regulations;

3. The employee who is subject to the disciplinary measure of prolongation of the wage rise period or removal from office commits recidivism when the disciplinary record has not yet been written off. Recidivism means that an employee repeats the breach for which he/she has been disciplined while his/her disciplinary record has not yet been written off under Article 126 of this Code;

4. The employee has been absent from work without permission for accumulated 5 days within a period of 30 days or accumulated 20 days within a period of 365 days counting from the first date of absence without a plausible reason.

Cases regarded as having a plausible reason include natural disaster, fire, illness of the employee or his/her relative as certified by a competent health establishment, and other cases prescribed in internal working regulations.

Article 126. Writing off of disciplinary records, reduction of the duration of execution of labor discipline

1. After 3 months for an employee subject to reprimand, 6 months for an employee subject to the disciplinary measure of prolongation of the wage rise period, or 3 years for an employee subject to the disciplinary measure of removal

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from office, from the date his/her breach is handled, the employee will have his/her disciplinary record automatically written off if he/she commits no recidivism.

2. The employee who is subject to the disciplinary measure of prolongation of the wage rise period and has served half of the duration of execution of labor discipline and shown progresses may be considered by the employer for reduction of such duration.

Article 127. Prohibited acts when handling breaches of labor discipline

1. Infringing upon the health, honor, life, reputation or dignity of employees.

2. Applying a fine or wage cut as a form of handling breaches of labor discipline.

3. Disciplining the employee who has committed a breach which is not stated in internal working regulations or not agreed upon in the signed labor contract or not prescribed in the labor law.

Article 128. Suspension from work

1. The employer may suspend the employee from work if the latter's breach involves complicated circumstances and it deems that the employee's continued working will cause difficulties to verification work. The employer may suspend the concerned employee from work only after consulting the grassroots-level employees' representative organization of which the employee is a member.

2. The period of suspension from work must not exceed 15 days, or not exceed 90 days in special cases. During the suspension period, the employee is entitled to advance payment of 50% of his/her wage received before the suspension.

Upon the expiration of the suspension period, the employer must reinstate the employee.

3. In case the employee is subject to labor discipline, he/she is not required to refund the advanced wage amount.

4. In case the employee is not subject to labor discipline, he/she is entitled to full payment of his/her wage for the period of suspension from work.

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Section 2

MATERIAL RESPONSIBILITY

Article 129. Compensation for damage

1. The employee who causes damage to tools and equipment or commits other acts causing damage to the employer's assets shall pay compensation in accordance with law or the employer's internal working regulations.

In case the employee causes, due to negligence, a damage valued at no more than 10 months' region-based minimum wage announced by the Government and applied at the employee's workplace, the employee shall pay a compensation amount not exceeding 3 months' wage, which shall be deducted monthly from his/her wage in accordance with Clause 3, Article 102 of this Code.

2. The employee who loses tools, equipment or assets of the employer or other assets assigned to him/her by the employer, or uses supplies in excess of the prescribed norms shall wholly or partly pay compensation for the damage at the market price or as prescribed in internal working regulations; or pay compensation according to the responsibility contract, if any. The employee is not required to pay compensation in case the damage is caused by a natural disaster, fire, enemy sabotage, dangerous epidemic, catastrophe or another objective event which is unforeseeable and irremediable though every necessary and possible measure has been taken.

Article 130. Handling of compensation for damage

1. Levels of compensation for damage shall be considered and decided based on the actual damage caused, as well as the fault, actual family circumstances, personal records and property of the employee concerned.

2. The Government shall prescribe the order, procedures and statute of limitations for handling compensation for damage.

Article 131. Complaints about labor discipline, material responsibility

The employee who is subject to one of the forms of handling breaches, including labor discipline, suspension from work, or payment of compensation in accordance with the regime of material responsibility, and feels unsatisfied with such form of handling breaches, may file a complaint with the employer or a competent agency prescribed by law, or request settlement of a labor dispute according to the law-prescribed procedures.

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The Government shall detail this Article.

Chapter IX

OCCUPATIONAL SAFETY AND HEALTH

Article 132. Compliance with the law on occupational safety and health

Employers, employees, and agencies, organizations and individuals involved in labor, production and business activities shall comply with the law on occupational safety and health.

Article 133. Occupational safety and health programs

1. The Government shall decide on the national program on occupational safety and health.

2. Provincial-level People's Committees shall submit local occupational safety and health programs to the same-level People Councils for decision, and include them in their socio-economic development plans.

Article 134. Assurance of occupational safety and health in the workplace

1. Employers shall fully implement solutions for ensuring occupational safety and health in the workplace.

2. Employees shall observe regulations, internal rules, processes and requirements on occupational safety and health; observe law and acquire knowledge and skills on measures to ensure occupational safety and health in the workplace.

Chapter X

SEPARATE PROVISIONS FOR FEMALE EMPLOYEES AND ASSURANCE OF GENDER EQUALITY

Article 135. State policies

1. To guarantee the right to equality of female employees and male employees, and implement measures to ensure gender equality and prevent and combat sexual harassment in the workplace.

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2. To encourage employers to create conditions for female employees and male employees to have regular employment, and implement the regime of flexible schedule, part-time work or home-based work.

3. To apply measures to create employment, improve working conditions, raise occupational qualifications, provide healthcare services, and increase material and spiritual welfare for female employees in order to help them effectively bring into play their occupational capacity and harmonize their working activities with family lives.

4. To adopt policies on tax reduction for employers that employ intensive female employees in accordance with the tax laws.

5. The State shall develop plans and measures to organize nurseries and pre-primary classes in labor-intensive areas. To develop various forms of training which help female employees have standby jobs suitable to their physical and physiological characteristics and their motherhood.

6. The Government shall detail this Article.

Article 136. Responsibilities of employers

1. To realize gender equality and solutions for promoting gender equality in recruitment, job placement, training, working time, rest time, wages and other regimes.

2. To consult female employees or their representatives before deciding on issues related to the rights and interests of women.

3. To ensure sufficient bathrooms and appropriate toilets in the workplace.

4. To assist in building nurseries and pre-primary classes, or cover part of childcare expenses for employees.

Article 137. Maternity protection

1. The employer may not mobilize the employee to work at night, work overtime or go on a long working trip in the following cases:

a/ The employee is at 7 months or more pregnancy, or at 6 months or more of pregnancy if he/she works in a highland, deep-lying, remote, border or island area;

b/ The employee is raising a child under 12 months old, unless such work is agreed by the employee.

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2. A female employee who performs a heavy, hazardous or dangerous occupation or job or an extremely heavy, hazardous or dangerous occupation or job or occupation or job harmful to her reproduction and parenting functions during pregnancy, and notifies her pregnancy to the employer, will be assigned to do an easier job or a safer job or entitled to 1-hour reduction of her daily working time without having her wage and rights and interests reduced till the end of the period during which she raises a child under 12 months old.

3. The employer may neither dismiss the employee nor unilaterally terminate the labor contract with the employee for the reason of marriage, pregnancy, maternity leave, or raising of a child under 12 months old, unless the employer being an individual dies, or is declared by a court to have lost his/her civil act capacity, or to be missing or dead, or the employer other than an individual terminates operation or is notified by the specialized agency in charge of business registration under the provincial-level People's Committee that it has no at-law representative or no authorized person to exercise the rights and perform the obligations of the at-law representative.

In case the labor contract expires while the female employee is pregnant or raises a child under 12 months old, she may enter into a new labor contract.

4. A female employee in her menstruation period or in the period of raising a child under 12 months old is entitled to a 30-minute break and a 60-minute break, respectively, per day during working time with full pay as stated in the labor contract.

Article 138. The right of pregnant employees to unilaterally terminate or suspend labor contracts

1. In case a pregnant employee is certified by a competent health establishment that her continued work will adversely affect her pregnancy, she may unilaterally terminate or suspend the labor contract.

In case of unilaterally terminating or suspending the labor contract, she shall give a notice thereof to the employer, together with the competent health establishment's certificate stating that her continued work will adversely affect her pregnancy.

2. In case of suspending a labor contract, the suspension period shall be agreed upon between the employee and the employer but must at least be equal to the leave period prescribed by the competent health establishment. If no prescription is given, the two parties shall reach agreement on the suspension period.

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Article 139. Maternity leave

1. A female employee is entitled to prenatal and postnatal leaves of 6 months; prenatal leave must not exceed 2 months.

In case a female employee gives birth to twins or more babies, from the second child onward, she is entitled to 1 more month of leave.

2. During maternity leave, a female employee is entitled to the maternity regime in accordance with the law on social insurance.

3. Upon the expiration of the maternity leave period prescribed in Clause 1 of this Article, a female employee may take additional leave without pay if she so wishes after reaching agreement with the employer.

4. Before the expiration of the maternity leave period prescribed in Clause 1 of this Article, a female employee may return to work after having taken at least 4 months of leave but shall notify it in advance to the employer and get the latter's consent, and produce a certificate of a competent health establishment stating that early resumption of work will not adversely affect her health. In this case, the female employee continues to enjoy maternity allowance as prescribed by the law on social insurance, in addition to the wage paid by the employer for her working days.

5. Male employees whose wives give birth, employees who adopt an under-6-month child, female employees as surrogate mothers, and intended mothers are entitled to maternity leave in accordance with the law on social insurance.

Article 140. Guarantee of employment for employees after maternity leave

The employee may perform the old job when returning to work after having fully taken the leave as prescribed in Clauses 1, 3 and 5, Article 139 of this Code with the same wages and rights and interests as before the maternity leave. In case the old job is no longer available, the employer shall assign another job for the employee with a wage not lower than that paid before the maternity leave.

Article 141. Allowances in the leave period during which the employee cares a sick child, is pregnant or applies contraceptive measures

During the leave period for caring a sick child under 7 years old, receiving prenatal check-ups, or for the reason of miscarriage, abortion, still birth, or for

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applying contraceptive or sterilization measures, the employee is entitled to allowances in accordance with the law on social insurance.

Article 142. Occupations and jobs that are harmful to reproduction and parenting functions

1. The Minister of Labor, Invalids and Social Affairs shall promulgate the list of occupations and jobs that are harmful to reproduction and parenting functions.

2. Employers shall provide sufficient information on the danger, risks and requirements of jobs for employees to make a choice and guarantee the prescribed conditions on occupational safety and health for employees when employing them in the jobs on the list prescribed in Clause 1 of this Article.

Chapter XI

SEPARATE PROVISIONS FOR MINOR WORKERS AND OTHER WORKERS

Section 1

MINOR WORKERS

Article 143. Minor workers

1. Minor worker is an worker under full 18 years old.

2. Employees aged from full 15 years to under full 18 years may not perform the jobs or work in the places specified in Article 147 of this Code.

3. Employees aged from full 13 years to under full 15 years may only perform the easy jobs on the list promulgated by the Minister of Labor, Invalids and Social Affairs.

4. Employees aged under full 13 years may only perform the jobs prescribed in Clause 3, Article 145 of this Code.

Article 144. Principles of employment of minor workers

1. Minor workers may only perform the jobs suitable to their health conditions so as to ensure their physical, intellectual and personality development.

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2. When employing minor workers, the employer shall provide the employees with care of their work, health and study in their working process.

3. When employing minor workers, the employer must get the consent of their parents or guardians; make a separate book indicating the full name, date of birth, job being performed, and results of periodical health checks of each employee, and produce it at the request of a competent state agency.

4. The employer shall create opportunities for minor workers to receive general education, vocational education, training, further training and improvement of occupational knowledge and skills.

Article 145. Employment of persons aged under full 15 years

1. When employing a person aged under full 15 years, the employer shall:

a/ Enter into a labor contract in writing with this person and his/her at-law representative;

b/ Arrange working time which does not affect the school hours of this person;

c/ Obtain a health certificate issued by a competent health establishment stating that the health of this person is suitable to his/her job, and organize health checks at least once every 6 months;

d/ Ensure working conditions and occupational safety and health suitable to the age of this person.

2. Employers may only recruit and employ persons aged from full 13 years to under full 15 years in the easy jobs as prescribed in Clause 3, Article 143 of this Code.

3. Employers may not recruit and employ persons aged under full 13 years, except the jobs in the fields of arts and physical training and sports, provided that such jobs are not harmful to physical, intellectual and personality development of these persons, and shall get the consent of specialized agencies in charge of labor under provincial-level People's Committees.

4. The Minister of Labor, Invalids and Social Affairs shall detail this Article.

Article 146. Working time of minors

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1. The working time of persons aged under full 15 years must not exceed 4 hours per day and 20 hours per week; no overtime or night work is allowed for these persons.

2. The working time of persons aged from full 15 years to under full 18 years must not exceed 8 hours per day and 40 hours per week. These persons may work overtime or at night for the occupations and jobs on the list issued by the Minister of Labor, Invalids and Social Affairs.

Article 147. Prohibited jobs and workplaces for employees aged from full 15 years to under full 18 years

1. The employment of employees aged from full 15 years to under full 18 years is prohibited in the following jobs:

a/ Carrying and lifting heavy objects which are beyond a minor's physical strength;

b/ Manufacturing and trading in alcohol, wine, beer, cigarettes, mental stimulants or other addictive substances;

c/ Manufacturing, using or transporting chemicals, gas or explosives;

d/ Maintaining equipment and machinery;

dd/ Dismantling construction works;

e/ Melting, blowing, casting, rolling, molding and welding metals;

g/ Sea diving, offshore fishing;

h/ Other jobs which are harmful to physical, intellectual or personality development of minors.

2. The employment of employees aged from full 15 years to under full 18 years is prohibited in the following workplaces:

a/ Underwater, underground, in caves and in tunnels;

b/ Construction sites;

c/ Livestock slaughterhouses;

d/ Casinos, bars, dance halls, karaoke parlors, hotels, hostels, saunas, and massage establishments; lottery business locations, and video game service provision establishments;

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dd/ Other workplaces which are harmful to physical, intellectual or personality development of minors.

3. The Minister of Labor, Invalids and Social Affairs shall issue the lists prescribed at Point h, Clause 1, and Point dd, Clause 2, of this Article.

Section 2

ELDERLY WORKERS

Article 148. Elderly workers

1. Elderly worker is a person who continues working after the age defined in Clause 2, Article 169 of this Code.

2. Elderly workers may reach agreement with employers to reduce the daily working time or apply the regime of part-time work.

3. The State shall encourage the employment of elderly workers as suitable to their health conditions to guarantee their right to work and efficiently use human resources.

Article 149. Employment of elderly workers

1. When the employer employs an elderly worker, the two parties may reach agreement on the entry into definite-term labor contracts for many times.

2. The elderly worker on pension under the Law on Social Insurance who works under a new labor contract is entitled to wage and other benefits prescribed by law and the labor contract, in addition to the benefits under the retirement regime.

3. The employer may not employ elderly workers in heavy, hazardous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs that are harmful to their health, unless it/he/she can guarantee safe working conditions.

4. The employer shall be responsible for taking care of the health of elderly workers at the workplace.

Section 3

VIETNAMESE GUEST WORKERS, EMPLOYEES OF FOREIGN ORGANIZATIONS AND INDIVIDUALS IN VIETNAM, FOREIGN WORKERS IN VIETNAM

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Article 150. Vietnamese guest workers, employees of foreign organizations and individuals in Vietnam

1. The State shall encourage enterprises, agencies, organizations and individuals to seek and expand the labor market in order to send Vietnamese workers abroad.

Vietnamese guest workers shall comply with the laws of Vietnam and host countries, unless otherwise provided by treaties to which the Socialist Republic of Vietnam is a contracting party.

2. Vietnamese citizens working for foreign organizations in Vietnam, working in industrial parks, economic zones, export processing zones or hi-tech zones, or working for foreign citizens in Vietnam shall comply with Vietnam's law and are protected by law.

3. The Government shall prescribe in detail the recruitment and management of Vietnamese employees working for foreign organizations and individuals in Vietnam.

Article 151. Conditions on foreign workers in Vietnam

1. A foreign national wishing to work in Vietnam must fully meet the following conditions:

a/ Being full 18 years or older, and having full civil act capacity;

b/ Possessing professional and technical qualifications, skills and working experience; being physically fit under regulations of the Minister of Health;

c/ Not being in the period of serving his/her penalty or having his/her criminal records not yet expunged or being subject to penal liability examination according to foreign law or Vietnam's law;

d/ Possessing a work permit granted by a competent Vietnamese state agency, except the cases specified in Article 154 of this Code.

2. The term of the labor contract of a foreign worker in Vietnam must not exceed the term of his/her work permit. When the employer employs a foreign to work in Vietnam, the two parties may reach agreement on the entry into definite-term labor contracts for many times.

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3. Foreign workers in Vietnam shall comply with the labor law of Vietnam and are protected by Vietnam's law, unless otherwise provided by treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 152. Conditions for recruitment and employment of foreigners in Vietnam

1. Enterprises, agencies, organizations, individuals and contractors may only recruit foreigners to hold such positions as managers, executive officers, experts and technical workers which Vietnamese employees cannot hold to meet production and business requirements.

2. Enterprises, agencies, organizations and individuals shall, before recruiting foreigners to work in Vietnam, explain their labor demands and obtain a written approval from a competent state agency.

3. Contractors shall, before recruiting and employing foreigners to work in Vietnam, declare in detail working positions, professional and technical qualifications, working experience, and working time for foreigners to be employed for execution of bidding packages, and obtain a written approval from competent state agency.

Article 153. Responsibilities of employers and foreign workers

1. A foreign worker shall produce his/her work permit upon request of a competent state agency.

2. A foreigner working in Vietnam without a work permit shall be forced to exit or deported from Vietnam in accordance with the law on foreigners' entry into, exit from, transit through and residence in Vietnam.

3. The employer employing foreigners without a work permit shall be handled in accordance with law.

Article 154. Foreign workers in Vietnam who are exempt from work permit

1. Owners or capital contributors of limited liability companies receiving capital contributions as prescribed by the Government.

2. Chairpersons or members of the Boards of Directors of joint-stock companies receiving capital contributions as prescribed by the Government.

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3. Chiefs of representative offices, directors of projects, or persons taking main charge of the operation of international organizations or foreign non-governmental organizations in Vietnam.

4. Foreigners who enter and stay in Vietnam for under 3 months to offer services.

5. Persons who enter Vietnam for a duration of under 3 months to handle complicated technical or technological incidents or circumstances which adversely impact or are likely to exert adverse impacts on production and business activities and cannot be handled by Vietnamese and foreign experts currently in Vietnam.

6. Foreign lawyers who have been granted a permit to practice law in Vietnam in accordance with the Law on Lawyers.

7. Cases prescribed in treaties to which the Socialist Republic of Vietnam is a contracting party.

8. Foreigners who marry Vietnamese persons and are currently living in Vietnam's territory.

9. Other cases as prescribed by the Government.

Article 155. Validity duration of work permits

The validity duration of a work permit must be at most 2 years and may be extended once for a maximum duration of 2 years.

Article 156. Cases in which a work permit ceases to be valid

1. The work permit expires.

2. The labor contract is terminated.

3. The contents of the labor contract are inconsistent with the contents of the granted work permit.

4. The permit holder performs work at variance with the contents of the granted work permit.

5. The contract in a field which requires the work permit expires or is terminated.

6. The foreign party has made a written notice of termination of the sending of foreign workers to Vietnam to work.

7. The Vietnamese enterprise, organization or partner or the foreign organization in Vietnam that employs foreign workers terminates operation.

8. The work permit is revoked.

Article 157. Grant, re-grant, extension, and revocation of work permits and work permit exemption certificates

The Government shall prescribe the conditions, order and procedures for grant, re-grant, extension, and revocation of work permits and work permit exemption certificates for foreign workers in Vietnam.

Section 4

WORKERS WITH DISABILITIES

Article 158. State policies for workers with disabilities

The State shall protect the rights to work and to self-employment of workers with disabilities and adopt appropriate incentive policies for employers to create jobs for and employ employees with disabilities in accordance with the Law on Persons with Disabilities.

Article 159. Employment of workers with disabilities

1. Employers must ensure working conditions, working tools and occupational safety and health and organize regular health checkups suitably to employees with disabilities.

2. Employers must consult employees with disabilities before deciding on matters related to the latter's rights and interests.

Article 160. Prohibited acts in employment of workers with disabilities

1. Employing workers being persons with mild disabilities who have lost 51% or more of their working capacity and persons with serious or extremely serious disabilities to work overtime or at night, unless those persons so agree.

2. Employing workers being persons with disabilities to perform heavy, hazardous or dangerous jobs on the list issued by the Minister of Labor, Invalids and Social Affairs without the consent of these persons after having provided them with sufficient information about such jobs.

Section 5

DOMESTIC WORKERS

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Article 161. Domestic workers

1. Domestic worker is an employee who carries out housework for one or more than one household on a regular basis.

Housework includes household chores, housekeeping, provision of care for children, sick persons or elderly persons, driving, gardening, and other chores which are not related to commercial activities.

2. The Government shall prescribe domestic workers.

Article 162. Labor contracts for domestic workers

1. Employers shall enter into written labor contracts with domestic workers.

2. The duration of a labor contract for a domestic worker shall be agreed upon by the two parties. Either party may unilaterally terminate the labor contract at any time but must make a notice at least 15 days in advance.

3. The two parties shall agree on and specify in the labor contract the form and term of wage payment, daily working hours and accommodation.

Article 163. Obligations of an employer employing a domestic worker

1. To fully implement the agreements concluded in the labor contract.

2. To pay the domestic worker his/her social insurance and health insurance premiums prescribed by law for the latter to participate in social insurance and health insurance by himself/herself.

3. To respect the honor and dignity of the domestic worker.

4. To arrange clean and hygienic accommodation for the domestic worker, if there is such an agreement.

5. To create opportunities for the domestic worker to receive education and vocational education.

6. To pay travel expenses for the domestic worker to return to his/her place of residence at the end of his/her service, except cases in which the domestic worker terminates the labor contract ahead of time.

Article 164. Obligations of a domestic worker

1. To fully implement the agreements concluded in the labor contract.

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2. To pay compensation as agreed upon or provided by law if causing damage to or loss of property of the employer.

3. To promptly notify the employer of any possibilities and risks of accidents, threatening the safety, health, life and property of the employer's family and his/her own.

4. To denounce to competent agencies if the employer commits acts of mistreatment or sexual harassment, extracts forced labor or commits other violations.

Article 165. Prohibited acts for employers

1. Mistreating, sexually harassing, extracting forced labor or using violence against domestic workers.

2. Assigning work to domestic workers not in accordance with labor contracts.

3. Keeping personal identity papers of domestic workers.

Section 6

OTHER WORKERS

Article 166. Employees working in the fields of arts, physical training and sports, maritime, and aviation

Employees working in the fields of arts, physical training and sports, maritime, and aviation are entitled to a number of appropriate regimes regarding training, further training and improvement of vocational qualifications and skills; labor contracts; wage and bonus; working time and rest time; and occupational safety and health according to regulations of the Government.

Article 167. Employees performing home-based work

Employees may negotiate with employers in order to perform home-based work.

Chapter XII

SOCIAL INSURANCE, HEALTH INSURANCE AND UNEMPLOYMENT INSURANCE

Article 168. Participation in social insurance, health insurance and unemployment insurance

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1. Employers and employees shall participate in compulsory social insurance, health insurance and unemployment insurance; employees are entitled to insurance benefits in accordance with the laws on social insurance, health insurance, and unemployment insurance.

Employers and employees are encouraged to participate in other forms of insurance for employees.

2. Employers shall not be required to pay wages to employees for the period the employees are on leave and enjoy social insurance benefits, unless otherwise agreed upon by the two parties.

3. For an employee who is not subject to compulsory social insurance, health insurance and unemployment insurance, when paying wages to the employee, the employer shall additionally pay him/her an amount equivalent to the amount of compulsory social insurance, health insurance and unemployment insurance premiums payable by the employer for the employee in accordance with the laws on social insurance, health insurance, and unemployment insurance.

Article 169. Retirement age

1. An employee satisfying the conditions on the period of social insurance premium payment prescribed by the law on social insurance will be entitled to pension when reaching the retirement age.

2. The retirement age of employees working under normal working conditions shall be adjusted according to a roadmap until reaching full 62 years for male workers by 2028, or full 60 years for female workers by 2035.

From 2021, the retirement age of employees working under normal working conditions shall be full 60 years and 3 months, for male workers, or full 55 years and 4 months, for female workers; and then annually increase by 3 months for male workers or 4 months for female workers.

3. Employees suffering reduction of working capacity; practicing or performing extremely heavy, hazardous or dangerous occupations or jobs or heavy, hazardous or dangerous occupations or jobs; working in areas with extremely difficult socio-economic conditions may retire at a lower age but must not be over 5 years lower than the age specified in Clause 2 of this Article at the time of retirement, unless otherwise prescribed by law.

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4. Employees possessing high professional and technical qualifications and employees falling into some special cases may retire at a higher age but must not be over 5 years higher than the age specified in Clause 2 of this Article at the time of retirement, unless otherwise prescribed by law.

5. The Government shall detail this Article.

Chapter XIII

GRASSROOTS-LEVEL EMPLOYEES' REPRESENTATIVE ORGANIZATIONS

Article 170. Rights to establish, join, and participate in activities of grassroots-level employees' representative organizations

1. Employees have the rights to establish, join and participate in activities of trade union organizations in accordance with the Law on Trade Unions.

2. Employees in enterprises have the rights to establish, join and participate in activities of enterprise-based employees' organizations under Articles 172, 173 and 174 of this Code.

3. Employees' representative organizations prescribed in Clauses 1 and 2 of this Article are equal in terms of rights and obligations in representing and protecting lawful and legitimate rights and interests of employees in industrial relations.

Article 171. Grassroots-level trade union organizations in the system of the Vietnam Trade Union organizations

1. Grassroots-level trade union organizations in the system of the Vietnam Trade Union organizations shall be established at agencies, organizations, units and enterprises.

2. The establishment, dissolution, organization and operation of grassroots-level trade union organizations must comply with the Law on Trade Unions.

Article 172. Establishment of and joining in enterprise-based employees' organizations

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1. Enterprise-based employees' organizations shall be established and may lawfully operate after being granted a registration certificate by a competent state agency.

The organization and operation of enterprise-based employees' organizations must adhere to the principles of compliance with the Constitution, laws and their charters; voluntariness, self-management, democracy and transparency.

2. Enterprise-based employees' organizations shall have their registration certificates revoked if violating their principles and purposes prescribed at Point b, Clause 1, Article 174 of this Code, or when terminating operation in case of division, splitting-up, consolidation, merger or dissolution, or enterprise dissolution or bankruptcy.

3. Enterprise-based employees' organizations that join the Vietnam Trade Union shall comply with the Law on Trade Unions.

4. The Government shall prescribe the dossier, order and procedures for registration; competence and procedures for grant and revocation of registration certificates; state management of financial and property-related issues of enterprise-based employees' organizations; division, splitting-up, consolidation, merger or dissolution, and the right to affiliation of enterprise-based employees' organizations.

Article 173. Leadership boards and members of enterprise-based employees' organizations

1. At the time of registration, enterprise-based employees' organizations must attain the minimum number of members being employees working at enterprises as prescribed by the Government.

2. The leadership board of an enterprise-based employees' organization shall be elected by members of the organization. Members of the leadership board are Vietnamese employees currently working at the enterprise who are not being examined for penal liability or serving penalties or not yet eligible for expunction of criminal records for the offenses against national security, the offenses of infringing upon human freedoms or citizens' freedoms or democratic rights, or the offenses of ownership infringement in accordance with the Penal Code.

Article 174. Charters of enterprise-based employees' organizations

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1. The charter of an enterprise-based employees' organization must have the following major contents:

a/ Name and address of the organization; logo (if any);

b/ The principles, purposes, and scope of operation which are to protect lawful and legitimate rights and interests of the organization's members in industrial relations at the enterprise; together with the employer, to solve problems related to the rights, obligations and interests of employees and employers; and to build up progressive, harmonious and stable industrial relations.

c/ Conditions and procedures for joining and withdrawing from the organization.

An enterprise-based employees' organization may not concurrently have members who are ordinary employees and members who are employees directly involved in the making of decisions on working conditions, labor recruitment and discipline, termination of labor contracts, or transfer of employees to other jobs;

d/ Organizational structure, term of office, and representative(s) of the organization;

dd/ Principles of organization and operation;

e/ Procedures for approval of the organization's decisions.

Contents which must be decided by members of enterprise-based employees' organizations by the majority rule include approval, modification and supplementation of the organizations' charters; election and relief from office of the heads and members of the leadership boards of the organizations; division, splitting-up, consolidation, merger, renaming, dissolution or affiliation of the organizations; and participation in the Vietnam Trade Union;

g/ Membership dues, sources of property and finances, and management and use of property and finances of the organization.

Revenues and expenditures of enterprise-based employees' organizations must be monitored, recorded, and annually publicized to members of the organizations;

h/ Petitions and settlement of petitions of members within the organization.

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2. The Government shall detail this Article.

Article 175. Prohibited acts for employers concerning the establishment, joining and operation of grassroots-level employees' representative organizations

1. Committing discrimination against employees and members of the leadership boards of grassroots-level employees' representative organizations for the reason of establishing, joining or operation of employees' representative organizations, including:

a/ Requesting employees to join or not to join or to withdraw from grassroots-level employees' representative organizations in order to be recruited, to enter into labor contracts or to have their labor contracts extended;

b/ Dismissing, disciplining, unilaterally terminating labor contracts, refusing to enter into or extend labor contracts, or transferring employees to other jobs;

c/ Committing discrimination in terms of wage, working time and other rights and obligations in industrial relations;

d/ Obstructing or causing employment-related difficulties in order to weaken the operation of grassroots-level employees' representative organizations.

2. Intervening in or manipulating the process of establishment, election, and formulation of working plans and organization of activities of grassroots-level employees' representative organizations, including also providing financial support or taking other economic measures to neutralize or weaken the performance of the representative function of grassroots-level employees' representative organizations or committing discrimination among grassroots-level employees' representative organizations.

Article 176. Rights of members of leadership boards of grassroots-level employees' representative organizations

1. Members of the leadership boards of grassroots-level employees' representative organizations have the following rights:

a/ To approach employees at the workplace while performing tasks of grassroots-level employees' representative organizations. The exercise of this right must not affect normal operations of employers;

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b/ To approach employers to perform representing tasks of grassroots-level employees' representative organizations;

c/ To perform missions of grassroots-level representative organizations during the working time under Clauses 2 and 3 of this Article while being paid by employers;

d/ To be eligible for other guarantees in industrial relations and in performance of the representative function in accordance with law.

2. The Government shall prescribe the minimum time devoted by employers for all members of the leadership boards of grassroots-level employee's representative organizations to perform the organizations' tasks based on the number of members of the organizations.

3. Grassroots-level employees' representative organizations and employers shall negotiate on the increase of the minimum time prescribed in Clause 2 of this Article and methods for use of working time of members of the leadership boards of grassroots-level employees' organizations in conformity with practical conditions.

Article 177. Obligations of employers toward grassroots-level employees' representative organizations

1. To refrain from obstructing or causing difficulties when employees carry out lawful activities to establish, join and participate in activities of grassroots-level employees' representative organizations.

2. To recognize and respect rights of lawfully established grassroots-level employees' representative organizations.

3. To reach written agreement with the leadership board of a grassroots-level employees' representative organization when unilaterally terminating labor contracts, transferring an employee to another job or dismissing an employee who is a member of the leadership board of the grassroots-level employees' representative organization. In case of failure to reach an agreement, the two parties shall report the case to the specialized agency in charge of labor affairs under the provincial-level People's Committee. The employer may only make decision after 30 days from the date of sending a notice to the specialized agency in charge of labor affairs under the provincial-level People's Committee. If disagreeing with the employer's decision, the concerned employee and the leadership board of the grassroots-level employees' representative organization

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may request labor dispute settlement according to the order and procedures prescribed by law.

4. To extend the labor contract signed with an employee who is a member of the leadership board of a grassroots-level employees' representative organization until the end of his/her term of office in case such contract expires while the employee is holding office.

5. To perform other obligations in accordance with law.

Article 178. Rights and obligations of grassroots-level employees' representative organizations in industrial relations

1. To conduct collective bargaining with employers in accordance with this Code.

2. To hold dialogue at the workplace in accordance with this Code.

3. To collect opinions on formulation and supervision of the implementation of wage scales and wage tables, labor norms, wage payment regulations and bonus regulations, internal working regulations, and other issues related to the rights and interests of employees being their members.

4. To represent employees in the course of settlement of complaints and individual labor disputes when authorized by employees.

5. To organize and lead strikes in accordance with this Code.

6. To receive technical assistance of agencies and organizations having registered for lawful operation in Vietnam in order to learn about the labor law, order and procedures for establishment of employees' representative organizations, and performance of representative activities in industrial relations after being granted registration certificates.

7. To be provided by employers with working spaces, information and necessary conditions for their operations.

8. To exercise other rights and perform other obligations in accordance with law.

Chapter XIV

SETTLEMENT OF LABOR DISPUTES

Section 1

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GENERAL PROVISIONS ON SETTLEMENT OF LABOR DISPUTES

Article 179. Labor disputes

1. Labor dispute means a dispute over rights, obligations or interests arising between the parties in the course of establishment, implementation or termination of industrial relations; a dispute among employees' representative organizations; or a dispute arising from relations directly related to industrial relations. Types of labor dispute include:

a/ Individual labor dispute between an employee and his/her employer; between an employee and the enterprise or organization sending him/her abroad as a guest worker; or between a leased employee and his/her hiring employer;

b/ Collective labor dispute about rights or interests between one or more than one employees' representative organization and an employer or one or more than one employers' organization.

2. Right-based collective labor dispute means a dispute between one or more than one employees' representative organization and an employer or one or more than one employers' organization which arises when:

a/ There is a difference in the interpretation and implementation of provisions of a collective labor agreement, internal labor regulations or other lawful regulations and agreements;

b/ There is a difference in the interpretation and implementation of the labor law;

c/ An employer commits acts of discrimination against employees and members of the leadership boards of employees' representative organizations for the reason of establishing, joining and operating in employees' representative organizations; intervenes in or manipulates employees' representative organizations; or violates the obligation to negotiate in good faith.

3. Interest-based collective labor disputes include:

a/ Labor disputes arising in the course of collective bargaining;

b/ Labor disputes arising when one party refuses or fails to conduct bargaining within the time limit prescribed by law.

Article 180. Principles of labor dispute settlement

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1. To respect the right of the parties to self-determination via negotiation throughout the process of labor dispute settlement.

2. To attach importance on settlement of labor disputes via conciliation and arbitration on the basis of respect for the rights and interests of both disputing parties, respect for the common interests of the society and non-contravention of law.

3. To guarantee publicity, transparency, objectivity, timeliness, promptness and lawfulness.

4. To ensure participation of representatives of disputing parties in the course of labor dispute settlement.

5. The settlement of a labor dispute shall be conducted by an agency or organization or a person competent to settle labor disputes at the request of a disputing party or at the proposal of a competent agency, organization or person with the consent of disputing parties.

Article 181. Responsibilities of agencies and organizations in labor dispute settlement

1. State management agencies in charge of labor affairs shall coordinate with employees' representative organizations and employers' representative organizations in guiding, supporting and assisting the parties in labor dispute settlement.

2. The Ministry of Labor, Invalids and Social Affairs shall organize training courses to raise professional capacity of labor conciliators and arbitrators in labor dispute settlement.

3. When so requested, specialized agencies in charge of labor affairs under People's Committees shall act as a focal point in receiving requests for labor dispute settlement and be responsible for classifying labor disputes, and guiding, supporting and assisting parties in the process of labor dispute settlement.

Within 5 working days, the agency receiving a request for labor dispute settlement shall forward the request to a labor conciliator, for cases which must go through labor conciliation procedures, or an arbitration council if so requested, or guide the concerned party(ies) to send the request to a court for settlement,

Article 182. Rights and obligations of two parties in labor dispute settlement

1. In labor dispute settlement, the parties have the following rights:

a/ To participate directly or through a representative in the dispute settlement process;

b/ To withdraw or change the content of the request;

c/ To request change of the person in charge of settling the labor dispute if having grounds to believe that such person may be neither impartial nor objective.

2. In labor dispute settlement, the parties have the following obligations:

a/ To fully and timely provide all documents and evidence to prove their request;

b/ To abide by reached agreements, decisions of labor arbitrator boards and legally effective judgments and rulings of courts.

Article 183. Rights of agencies, organizations and persons competent to settle labor disputes

Agencies, organizations and persons competent to settle labor disputes may, within the ambit of their tasks and powers, request the disputing parties and related agencies, organizations and persons to provide documents and evidence, solicit assessment and invite witnesses and other related persons.

Article 184. Labor conciliators

1. Labor conciliators are persons appointed by chairpersons of provincial-level People's Committees to conciliate labor disputes and disputes over vocational training contracts, and to support the development of industrial relations.

2. The Government shall prescribe criteria, order and procedures for appointment of, regimes applicable to, and operational conditions and management of, labor conciliators; and competence, order and procedures for assignment of labor conciliators.

Article 185. Labor arbitration councils

1. Chairpersons of provincial-level People's Committees shall decide to establish labor arbitration councils and appoint chairpersons, secretaries and labor arbitrators of labor arbitration councils. The term of office of a labor arbitration council is 5 years.

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2. The number of labor arbitrators of a labor arbitration council shall be decided by the chairperson of the provincial-level People's Committee, which must be at least 15, composed of members of equal proportions nominated by each party, specifically as follows:

a/ At least 5 members nominated by the specialized agency in charge of labor affairs under the provincial-level People's Committee, including a leader and a civil servant of the specialized agency in charge of labor affairs under the provincial-level People's Committee who will act as the chairperson and secretary of the council, respectively;

b/ At least 5 members nominated by the provincial-level Trade Union organization;

c/ At least 5 members unanimously nominated by employers' representative organizations in the locality.

3. The criteria and working regime of labor arbitrators are prescribed as follows:

a/ A labor arbitrator must have knowledge of laws and experience in industrial relations, be prestigious and impartial;

b/ When nominating labor arbitrators under Clause 2 of this Article, the specialized agency in charge of labor affairs under the provincial-level People's Committee, provincial-level Trade Union organization, and employers' representative organizations may nominate their staff members or other persons who fully satisfy the criteria prescribed for labor arbitrators;

c/ The secretary of the labor arbitration council shall act as the permanent member of the council. Labor arbitrators shall work on a full-time or part-time basis.

4. When there is a request for labor dispute settlement as prescribed in Article 189, 193 or 197 of this Code, the labor arbitration council shall decide to establish a labor arbitration board to settle the dispute as follows:

a/ The representative of each disputing party shall select 1 arbitrator from the list of labor arbitrators;

b/ The labor arbitrators selected by the parties under Point a of this Clause shall unanimously select another labor arbitrator to act as the head of the labor arbitration board;

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c/ In case the disputing parties select the same labor arbitrator for settling their labor dispute, the labor arbitration board shall be composed of only one arbitrator who is the selected one.

5. The labor arbitration board shall work on a collegial basis and make decision by the majority rule, except the case prescribed at Point c, Clause 4 of this Article.

6. The Government shall stipulate in detail the criteria, conditions, order and procedures for appointment, relief from office and operational regimes and conditions of labor arbitrators and labor arbitration councils; organization and operation of labor arbitration councils, and formation and operation of labor arbitration boards prescribed in this Article.

Article 186. Prohibition of unilateral actions pending the settlement of labor disputes

Pending the settlement of a labor dispute by a competent agency, organization or person within the time limit provided by this Code, none of the disputing parties may take unilateral actions against the other party.

Section 2

COMPETENCE AND ORDER FOR SETTLEMENT OF INDIVIDUAL LABOR DISPUTES

Article 187. Competence to settle individual labor disputes

Agencies, organizations and individuals competent to settle individual labor disputes include:

1. Labor conciliators;

2. Labor arbitration councils;

3. People's courts.

Article 188. Order and procedures for settlement of individual labor disputes by labor conciliators

1. Individual labor disputes must be settled through the conciliation procedures conducted by labor conciliators before being brought to labor arbitration councils or courts for settlement, except the following labor disputes which are not required to go through conciliation procedures:

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a/ Disputes over the application of the disciplinary measures of dismissal or unilateral termination of labor contract;

b/ Disputes over compensation or allowances upon termination of labor contracts;

c/ Disputes between domestic workers and their employers;

d/ Disputes over social insurance in accordance with the law on social insurance, over health insurance in accordance with the law on health insurance, over unemployment insurance in accordance with the law on employment, or over occupational accident and disease insurance in accordance with the law on occupational safety and health;

dd/ Disputes over compensation between employees and enterprises or organizations sending employees abroad as guest workers;

e/ Disputes between leased employees and hiring employers.

2. Within 5 working days after receiving a conciliation request from a disputing party or an agency prescribed in Clause 3, Article 181 of this Code, the labor conciliator shall complete the conciliation.

3. Both disputing parties must be present at the conciliation meeting. The disputing parties may authorize others to attend the conciliation meeting.

4. The labor conciliator shall guide and assist the parties in conducting negotiation for settlement of the dispute.

In case the parties can reach an agreement, the labor conciliator shall make a record of successful conciliation. The successful conciliation record must bear the signatures of the disputing parties and the labor conciliator.

In case the parties cannot reach any agreement, the labor conciliator shall recommend a conciliation plan to the parties for consideration. In case the parties agree with the conciliation plan, the labor conciliator shall make a record of successful conciliation. The successful conciliation record must bear the signatures of the disputing parties and the labor conciliator.

In case the parties do not agree with the conciliation plan or one of the disputing parties is absent without a plausible reason after having been duly summoned twice, the labor conciliator shall make a record of unsuccessful conciliation. The record of unsuccessful conciliation must bear the signatures of the present disputing party and the labor conciliator.

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5. Copies of the record of successful or unsuccessful conciliation must be sent to the disputing parties within 1 working day from the date the record is made.

6. In case either party fails to implement the agreements stated in the record of successful conciliation, the other party may request settlement by a labor conciliation council or court.

7. For disputes which are not required to go through conciliation procedures prescribed in Clause 1 of this Article or in case the labor conciliator fails to conduct the conciliation though the time limit for conducting conciliation prescribed in Clause 2 of this Article has expired or for cases of unsuccessful conciliation prescribed in Clause 4 of this Article, the disputing parties may select either of the following methods for dispute settlement:

a/ Requesting a labor conciliation council to settle the dispute under Article 189 of this Code;

b/ Requesting a court to settle the dispute.

Article 189. Settlement of individual labor disputes by labor conciliation councils

1. Disputing parties may unanimously request a labor conciliation council to settle the dispute in the case prescribed in Clause 7, Article 188 of this Code. When requesting a labor conciliation council to settle the dispute, the disputing parties may not concurrently request dispute settlement by a court, except the case prescribed in Clause 4 of this Article.

2. Within 7 working days after receiving a request for labor dispute settlement under Clause 1 of this Article, a labor conciliation board must be formed to settle the dispute.

3. Within 30 days after being formed, the labor conciliation board must issue a decision on dispute settlement and send it to the disputing parties.

4. In case the time limit prescribed in Clause 2 of this Article expires but the labor conciliation board has not yet been formed or the time limit prescribed in Clause 3 of this Article expires but the labor conciliation board still fails to issue a decision on dispute settlement, the disputing parties may request dispute settlement by a court.

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5. In case either party fails to implement the dispute settlement decision issued by the labor conciliation board, the parties may request dispute settlement by a court.

Article 190. Statute of limitations for requesting settlement of individual labor disputes

1. The statute of limitations for requesting a labor conciliator to conciliate an individual labor dispute is 6 months counting from the date of discovering an act which is claimed by the disputing party to infringe upon its/his/her lawful rights and interests.

2. The statute of limitations for requesting the Labor Arbitration Council to settle an individual labor dispute is 9 months counting from the date of discovering an act which is claimed by the disputing party to infringe upon its/his/her lawful rights and interests.

3. The statute of limitations for bringing an individual labor dispute to a court for settlement is 1 year counting from the date of discovering an act which is claimed by the disputing party to infringe upon its/his/her lawful rights and interests.

4. In case the requester can prove that his/her failure to make the request within the time limit prescribed in this Article was due to a *force majeure* event, an objective obstacle or another reason as specified by law, the time during which such *force majeure* event, objective obstacle or reason occurs shall not be included in the statute of limitations for requesting settlement of an individual labor dispute.

Section 3

COMPETENCE FOR AND PROCESS OF SETTLEMENT OF RIGHT-BASED COLLECTIVE LABOR DISPUTES

Article 191. Competence to settle right-based collective labor disputes

1. Agencies, organizations and persons competent to settle right-based collective labor disputes include:

a/ Labor conciliators;

b/ Labor arbitration councils.

c/ People’s courts.

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2. A right-based collective labor dispute must be settled through procedures for conciliation by labor conciliators before being brought to a labor arbitration council or a people's court for settlement.

Article 192. Order and procedures for settlement of right-based collective labor disputes

1. The order and procedures for conciliation of right-based collective labor disputes must comply with Clauses 2 thru 6, Article 188 of this Code.

For a dispute specified at Point b or c, Clause 2, Article 179 of this Code which is determined to involve an act of violation, a labor conciliator shall make a written record and transfer the file and documents to a competent agency for consideration and settlement in accordance with law.

2. In case of unsuccessful conciliation or where the conciliation duration prescribed in Clause 2, Article 188 of this Code expires but a labor conciliator fails to conduct the conciliation, disputing parties may select one of the following methods for dispute settlement:

a/ To request settlement by a labor arbitration council in accordance with Article 193 of this Code;

b/ To request settlement by a court.

Article 193. Settlement of right-based collective labor disputes by labor arbitration councils

1. On the basis of consensus, disputing parties may request a labor arbitration council to settle their dispute in case of unsuccessful conciliation or where the conciliation duration prescribed in Clause 2, Article 188 of this Code expires but the labor conciliator fails to conduct the conciliation, or either party fails to implement the agreement in the written record of successful conciliation.

2. Within 7 working days after receiving a request for dispute settlement as prescribed in Clause 1 of this Article, a labor arbitration board must be established to settle the dispute.

3. Within 30 days after being established, a labor arbitration board shall base itself on the labor law, collective labor agreements, registered internal working regulations and other regulations and lawful agreements to make a decision on dispute settlement and send it to disputing parties.

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For a dispute specified at Point b or c, Clause 2, Article 179 of this Code which is determined to involve an act of violation, the labor arbitration board shall not issue a decision on dispute settlement but shall make a written record and transfer the file and documents to a competent agency for consideration and settlement in accordance with law.

4. In case disputing parties choose to settle their dispute through a labor arbitration council under this Article, they may not concurrently request settlement by a court during the time the council settles the dispute.

5. In case the time limit prescribed in Clause 2 of this Article expires but no labor arbitration board is established or the time limit prescribed in Clause 3 of this Article expires but the labor arbitration board fails to make a decision on dispute settlement, disputing parties may request settlement by a court.

6. In case either of disputing parties fails to implement a dispute settlement decision of the labor arbitration board, they may request settlement by a court.

Article 194. Statute of limitations for requesting settlement of right-based collective labor disputes

1. The statute of limitations for requesting a labor conciliator to conciliate a right-based collective labor dispute is 6 months counting from the date of discovering an act which is claimed by either of disputing parties to infringe upon its/his/her lawful rights.

2. The statute of limitations for requesting a labor arbitration council to settle a right-based collective labor dispute is 9 months counting from the date of discovering an act which is claimed by either of disputing parties to infringe upon its/his/her lawful rights.

3. The statute of limitations for requesting a court to settle a right-based collective labor dispute is 1 year counting from the date of discovering an act which is claimed by either of disputing parties to infringe upon its/his/her lawful rights.

Section 4

COMPETENCE FOR AND PROCESS OF SETTLEMENT OF INTEREST-BASED COLLECTIVE LABOR DISPUTES

Article 195. Competence to settle interest-based collective labor disputes

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1. Organizations and persons competent to settle interest-based collective labor disputes include:

a/ Labor conciliators;

b/ Labor arbitration councils.

2. An interest-based collective labor dispute must be settled through procedures for conciliation by labor conciliators before being brought to a labor arbitration council for settlement or before carrying out procedures for a strike.

Article 196. Order and procedures for settlement of interest-based collective labor disputes

1. The order and procedures for conciliation of interest-based collective labor disputes must comply with Clauses 2 thru 5, Article 188 of this Code.

2. In case of successful conciliation, a written record of successful conciliation must include all contents agreed by disputing parties and signed by disputing parties and the labor conciliator. This record is as legally valid as the collective labor agreement of an enterprise.

3. In case of unsuccessful conciliation or the conciliation duration prescribed in Clause 2, Article 188 of this Code expires but the labor conciliator fails to conduct the conciliation or either of disputing parties fails to implement the agreement in the written record of successful conciliation, disputing parties may select one of the following methods for dispute settlement:

a/ To request settlement by a labor arbitration council in accordance with Article 197 of this Code;

b/ The employees' representative organization may carry out the procedures prescribed in Articles 200 thru 202 of this Code for a strike.

Article 197. Settlement of interest-based collective labor disputes by labor arbitration councils

1. On the basis of consensus, disputing parties may request a labor arbitration council to settle their dispute in case of unsuccessful conciliation or the conciliation duration prescribed in Clause 2, Article 188 of this Code expires but the labor conciliator fails to conduct the conciliation, or either of disputing parties fails to implement the agreement in the written record of successful conciliation.

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2. Within 7 working days after receiving a request for dispute settlement as prescribed in Clause 1 of this Article, a labor arbitration board must be established to settle the dispute.

3. Within 30 days after being established, a labor arbitration board shall base itself on the labor law, collective labor agreement, registered internal working regulations and other regulations and lawful agreements to make a decision on dispute settlement and send it to disputing parties.

4. In case disputing parties choose to settle their dispute through a labor arbitration council under this Article, the employees' representative organization may not carry out procedures for a strike during the time the council settles the dispute.

In case the time limit prescribed in Clause 2 of this Article expires but no labor arbitration board is established or the time limit prescribed in Clause 3 of this Article expires but the labor arbitration board makes no decision on dispute settlement, or the employer being a disputing party fails to implement the dispute settlement decision of the labor arbitration council, the employees' representative organization being a disputing party may carry out the procedures prescribed in Articles 200 thru 202 of this Code for a strike.

Section 5

STRIKES

Article 198. Strikes

Strike is a temporary, voluntary and organized work stoppage of employees in order to achieve their demands in the process of labor dispute settlement, which is organized and led by the employees' representative organization being a collective labor disputing party with the right to collective bargaining.

Article 199. Cases where employees have the right to go on strike

The employees' representative organization being a party to an interest-based collective labor dispute may carry out the procedures prescribed in Articles 200 thru 202 of this Code for a strike in the following cases:

1. Conciliation is unsuccessful or the conciliation duration prescribed in Clause 2, Article 188 of this Code expires but the labor conciliator fails to conduct the conciliation;

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2. A labor arbitration board is not established or is established but fails to make a decision on dispute settlement or the employer being a disputing party fails to implement a dispute settlement decision of the labor arbitration board.

Article 200. Procedures for organizing a strike

1. Collecting opinions on a strike under Article 201 of this Code.

2. Issuing a strike decision and a strike notice under Article 202 of this Code.

3. Going on strike.

Article 201. Collection of opinions on a strike

1. Before organizing a strike, the employees' representative organization with the right to organize and lead strikes specified in Article 198 of this Code shall collect opinions of all employees or members of leadership boards of employees' representative organizations participating in the bargaining.

2. Issues put up for opinion include:

a/ Agreement or disagreement to go on strike;

b/ A plan proposed by the employees' representative organization on the contents specified at Points b, c and d, Clause 2, Article 202 of this Code.

3. Opinion collection may be carried out in the form of ballot or collection of signatures or in another form.

4. The time, location and method of collecting opinions on a strike must be decided by the employees' representative organization and notified to the employer at least 1 day in advance. The collection of opinions must not affect normal production and business operations of the employer. The employer may not cause difficulties, obstruct or intervene in the collection of opinions on a strike by the employees' representative organization.

Article 202. Strike decisions and notices of starting time of a strike

1. When over 50% of employees whose opinions on a strike are collected agree with issues put up for opinion as specified in Clause 2, Article 201 of this Code, the employees' representative organization shall issue a strike decision.

2. A trike decision must have the following contents:

a/ Results of the collection of opinions on a strike;

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b/ Starting time and location of the strike;

c/ Scope of the strike;

d/ Demands of employees;

dd/ Full name and contact address of the representative of the employees' representative organization that organizes and leads the strike.

3. At least 5 working days before the starting date of a strike, the employees' representative organization that organizes and leads the strike shall send a strike decision to the employer, district-level People's Committee and a specialized agency in charge of labor affairs under the provincial-level People's Committee.

4. By the starting time of a strike, if the employer still refuses to satisfy demands of employees, the employees' representative organization may organize and lead the strike.

Article 203. Rights of parties before and during a strike

1. To continue negotiating to settle the collective labor dispute or jointly request a labor conciliator and labor arbitration council to carry out labor dispute conciliation or settlement.

2. The employees' representative organization with the right to organize and lead strikes under Article 198 of this Code has the following rights:

a/ To withdraw a strike decision if the strike has not occurred or to stop an ongoing strike;

b/ To request a court to declare the strike to be lawful.

3. The employer has the following rights:

a/ To accept the whole or part of demands of employees, and notify such in writing to the employees' representative organization that organizes and leads a strike;

b/ To temporarily close down the workplace during the strike due to shortage of conditions to maintain normal operations or to protect assets;

c/ To request a court to declare the strike to be unlawful.

Article 204. Cases in which a strike is unlawful

1. It does not fall into cases where employees may go on strike specified in Article 199 of this Code.

2. It is neither organized nor led by the employees' representative organization with the right to organize and lead strikes.

3. It violates regulations on the order and procedures for carrying out a strike prescribed in this Code.

4. It occurs when a labor collective dispute is being settled by a competent agency, organization or person in accordance with this Code.

5. It falls into cases in which strikes are prohibited specified in Article 209 of this Code.

6. It occurs when a competent agency issues a decision to postpone or stop the strike under Article 210 of this Code.

Article 205. Notification of decisions on temporary closedown of workplaces

At least 3 working days before a workplace is temporarily closed down, the employer shall publicly post up a decision on temporary closedown at the workplace and notify it to the following agencies and organizations:

1. The employees' representative organization that organizes and leads the strike;

2. The provincial-level People's Committee of the locality where the to-be-closed workplace is located;

3. The district-level People's Committee of the locality where the to-be-closed workplace is located.

Article 206. Cases where temporary closedown of workplaces is prohibited

1. More than 12 hours before the starting time of a strike as stated in the strike decision.

2. After employees stop going on strike.

Article 207. Wages and other lawful interests of employees during a strike

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1. Employees who do not go on strike but have to stop working because of a strike may receive a wage for work suspension under Clause 2, Article 99 of this Code and other benefits provided by the labor law.

2. Employees who go on strike may not receive wage and other benefits provided by law, unless otherwise agreed upon by the parties.

Article 208. Prohibited acts before, during and after a strike

1. Obstructing the exercise of the right to go on strike or instigating, dragging or forcing employees to go on strike; preventing non-strikers from going to work.

2. Using violence; destroying machines, equipment or assets of the employer.

3. Disrupting public order and safety.

4. Terminating labor contracts with, imposing labor disciplinary measures on, or transferring, employees and strike leaders to other jobs or places for the reason of strike preparation or participation.

5. Taking revenge on employees who go on strike or strike leaders.

6. Taking advantage of strikes to commit illegal acts.

Article 209. Workplaces where a strike is prohibited

1. Strike is prohibited in workplaces where it can pose a threat to national defense, security, public order or human health.

2. The Government shall promulgate the list of workplaces where a strike is prohibited and specify the settlement of labor disputes in these workplaces mentioned in Clause 1 of this Article.

Article 210. Strike postponement or cancellation decisions

1. When deeming that a strike is likely to cause serious damage to the national economy and public interests or pose threats to national defense, security, public order or human health, a provincial-level People's Committee chairperson may decide to postpone or cancel such strike.

2. The Government shall prescribe in detail the postponement and cancellation of a strike and settlement of interests of employees.

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Article 211. Handling of strikes that do not follow the prescribed order and procedures

Within 12 hours after receiving a notice of a strike that does not comply with Articles 200 thru 202 of this Code, a district-level People's Committee chairperson shall assume the prime responsibility for, and direct the specialized agency in charge of labor affairs to coordinate with the same-level trade union organization and related agencies and organizations in, holding a direct meeting with the employer and representative of the leadership board of the grassroots-level employees' representative organization for consulting and supporting the parties to find solutions and help normal production and business operations resume.

If detecting a violation, to make a written record and handle the violator or propose a competent agency to handle the violator in accordance with law.

Regarding labor dispute-related issues, depending on the type of dispute, to guide and assist the parties to carry out labor dispute settlement procedures in accordance with this Code.

Chapter XV

STATE MANAGEMENT OF LABOR

Article 212. Contents of state management of labor

1. Promulgating, and organizing the implementation of, legal documents on labor.

2. Monitoring, making statistics of and providing information on labor supply and demand and fluctuations of labor supply and demand; making decisions on wage policies applicable to employees; making decisions on policies, master plans and plans on human resources, distribution and utilization of labor in the whole society, vocational education, and development of vocational skills; formulating the national vocational qualifications and skills framework and the Vietnam national qualifications framework for vocational education levels; promulgating a list of jobs that require employees who have undergone vocational education or possess national occupational skills certificates;

3. Organizing and conducting scientific research on labor; making statistics of and providing information on labor and the labor market and on

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living standards and wage and income of employees; managing labor in terms of quantity, quality and changes.

4. Formulating mechanisms and institutions to support the development of progressive, harmonious and stable industrial relations; promoting the application of this Code to persons working without industrial relations; carrying out registration and management of the operation of employees' organizations at enterprises.

5. Carrying out examination and inspection, handling violations and settling complaints and denunciations related to labor; settling labor disputes in accordance with law.

6. Undertaking international cooperation in the field of labor.

Article 213. Competence for state management of labor

1. The Government shall perform the unified state management of labor nationwide.

2. The Ministry of Labor, Invalids and Social Affairs shall take responsibility before the Government for performing the state management of labor.

3. Ministries and ministerial-level agencies shall, within the ambit of their tasks and powers, perform, and coordinate with the Ministry of Labor, Invalids and Social Affairs in performing, the state management of labor**.**

4. People's Committees at all levels shall perform the state management of labor in their respective localities.

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Chapter XVI

LABOR INSPECTION, HANDLING OF VIOLATIONS OF THE LABOR LAW

Article 214. Contents of labor inspection

1. Inspecting compliance with the labor law.

2. Investigating occupational accidents and violations of occupational safety and health regulations.

3. Guiding the application of the system of standards and technical regulations on working conditions and occupational safety and health.

4. Settling labor-related complaints and denunciations in accordance with law.

5. Handling according to competence or proposing competent agencies to handle violations of the labor law**.**

Article 215. Specialized labor inspection

1. The competence to perform specialized labor inspection must comply with the Law on Inspection.

2. The inspection of occupational safety and health must comply with the Law on Occupational Safety and Health.

Article 216. Rights of labor inspectorates

Labor inspectorates may inspect and investigate places subject to inspection and falling within the scope of inspection as assigned to them under inspection decisions.

For unscheduled inspection under decisions of competent persons in cases of emergency that pose threats to safety, life, health, honor or dignity of employees in the workplace, no advance notice is required.

Article 217. Handling of violations

1. Persons who violate the provisions of this Code shall, depending on the severity of their violations, be disciplined, administratively sanctioned or

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examined for penal liability, and shall pay compensation for damage, if any, in accordance with law.

2. In case a strike has been ruled by the court to be unlawful, employees going on strike shall immediately stop doing so and return to work, otherwise, they may be subject to labor disciplinary measures in accordance with the labor law, depending on the severity of their violations.

In case an unlawful strike causes damage to the employer, the employees' representative organization that organizes and leads the strike shall pay compensation for damage in accordance with law.

3. Those who take advantage of a strike to disrupt public disorder and safety, or to damage machines, equipment or assets of the employer; those who prevent the exercise of the right to strike or instigate, drag or force employees to go on strike; and those who take revenge on strikers and strike leaders shall, depending on the severity of their violations, be administratively sanctioned or examined for penal liability, and shall pay compensation for damage, if any, in accordance with law.

Chapter XVII

IMPLEMENTATION PROVISIONS

Article 218. Exemption from, or reduction of, procedures for an employer with under 10 employees

An employer that employs under 10 employees shall comply with the provisions of this Code but is entitled to exemption from, or reduction of, some procedures prescribed by the Government.

Article 219. To amend and supplement a number of articles of the laws concerning labor

1. To amend and supplement a number of articles of Law No. 58/2014/QH13 on Social Insurance, which was amended and supplemented under Law No. 84/2015/QH13 and Law No. 35/2018/QH14:

a/ To amend and supplement Article 54 as follows:

"Article 54. Conditions for pension enjoyment

1. The employees defined at Points a, b, c, d, g, h and i, Clause 1, Article 2 of this Law, except those defined in Clause 3 of this Article, who have paid

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social insurance premiums for at least full 20 years, are entitled to pension when falling in one of the following cases:

a/ Having reached the retirement age specified in Clause 2, Article 169 of the Labor Code;

b/ Having reached the retirement age specified in Clause 3, Article 169 of the Labor Code, and having full 15 years or more doing heavy, hazardous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs on the list promulgated by the Ministry of Labor, Invalids and Social Affairs, or having full 15 years or more working in localities with extremely difficult socio-economic conditions, including the period of working in localities where a region-based allowance coefficient of 0.7 or higher is applied prior to January 1, 2021;

c/ Being at most 10 years younger than the retirement age specified in Clause 2, Article 169 of the Labor Code and having full 15 years or more working in coal mines;

d/ Being infected with HIV due to exposure to occupational risks while performing assigned tasks.

2. The employees defined at Points dd and e, Clause 1, Article 2 of this Law, who cease working after having paid social insurance premiums for at least full 20 years, are entitled to pension when falling in one of the following cases:

a/ Being at most 5 years younger than the retirement age specified in Clause 2, Article 169 of the Labor Code, unless otherwise provided by the Law on Officers of the Vietnam People's Army, Law on the People's Public Security Forces, Law on Cipher or Law on Professional Army Men and Defense Workers and Employees;

b/ Being at most 5 years younger than the retirement age specified in Clause 3, Article 169 of the Labor Code and having full 15 years or more doing heavy, hazardous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs on the list promulgated by the Ministry of Labor, Invalids and Social Affairs, or having full 15 years or more working in localities with extremely difficult socio-economic conditions, including the period of working in localities where a region-based allowance coefficient of 0.7 or higher is applied prior to January 1, 2021;

c/ Being infected with HIV due to exposure to occupational risks while performing assigned tasks.

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3. Female employees who are commune-level cadres or civil servants or part-timers in communes, wards or townships, and cease working after having paid social insurance premiums for between full 15 years and under 20 years, and having reached the retirement age specified in Clause 2, Article 169 of the Labor Code, are entitled to pension.

4. Conditions on ages eligible for pension enjoyment in a number of special cases must comply with the Government's regulations.";

b/ To amend and supplement Article 55 as follows:

"Article 55. Conditions for employees to enjoy pension when suffering working capacity decrease

1. The employees defined at Points a, b, c, d, g, h, and i, Clause 1, Article 2 of this Law, who cease working after having paid social insurance premiums for at least full 20 years, are entitled to pension lower than that applicable to persons who fully satisfy the conditions for pension enjoyment as specified at Points a, b and c, Clause 1, Article 54 of this Law when falling in one of the following cases:

a/ Being at most 5 years younger than the retirement age specified in Clause 2, Article 169 of the Labor Code and suffering a working capacity decrease of between 61% and under 81%;

b/ Being at most 10 years younger than the retirement age specified in Clause 2, Article 169 of the Labor Code and suffering a working capacity decrease of 81% or more;

c/ Having full 15 years or more doing extremely heavy, hazardous or dangerous occupations or jobs on the list promulgated by the Ministry of Labor, Invalids and Social Affairs and suffering a working capacity decrease of 61% or more.

2. The employees defined at Points dd and e, Clause 1, Article 2 of this Law, who cease working after having paid social insurance premiums for at least full 20 years, and suffer a working capacity decrease of 61% or more, are entitled to pension lower than that applicable to persons who fully satisfy the conditions for pension enjoyment as specified at Points a and b, Clause 2, Article 54 of this Law when falling in either of the following cases:

a/ Being at most 10 years younger than the retirement age specified in Clause 2, Article 169 of the Labor Code;

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b/ Having full 15 years or more doing extremely heavy, hazardous or dangerous occupations or jobs on the list promulgated by the Ministry of Labor, Invalids and Social Affairs.";

c/ To amend and supplement Clause 1, Article 73 as follows:

"1. Employees are entitled to pension when fully satisfying the following conditions:

a/ Having reached the retirement age specified in Clause 2, Article 169 of the Labor Code;

b/ Having paid social insurance premiums for at least full 20 years.".

2. To amend and supplement Article 32 of Civil Procedure Code No. 92/2015/QH13 as follows:

a/ To amend and supplement the title of Article 32 and Clause 1; and add Clauses 1a, 1b and 1c below Clause 1, as follows:

"Article 32. Labor disputes and labor-related disputes within the jurisdiction of courts

1. An individual labor dispute between the employee and the employer which has been successfully conciliated by a labor conciliator while disputing parties fail to comply or properly comply with conciliation results, or which has been unsuccessfully conciliated, or when the conciliation time limit expires in accordance with the labor law but a labor conciliator fails to carry out the conciliation, except the following labor disputes for which conciliation procedures are not required:

a/ Dispute over labor discipline in the form of dismissal or unilateral termination of a labor contract;

b/ Dispute over compensation for damage or allowance upon termination of a labor contract;

c/ Dispute between a domestic worker and his/her employer;

d/ Dispute over social insurance in accordance with the law on social insurance; over health insurance in accordance with the law on health insurance; over unemployment insurance in accordance with the law on employment; or over occupational accident or disease insurance in accordance with the law on occupational safety and health;

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dd/ Dispute over compensation for damage between an employee and an enterprise or organization that sends the employee abroad as a guest worker;

e/ Dispute between a leased employee and his/her employer.

1a. For an individual labor dispute which disputing parties agree to select a labor arbitration council to settle but past the time limit prescribed by the labor law, no labor arbitration board is established or the labor arbitration board makes no dispute settlement decision or either party fails to implement a decision of the labor arbitration board, disputing parties may request dispute settlement by a court.

1b. For a right-based collective labor dispute under the labor law that has undergone conciliation procedures carried out by a labor conciliator but the conciliation fails or for which a labor conciliator fails to carry out the conciliation though the conciliation time limit prescribed by the labor law has expired or either party fails to implement the agreement in the written record of successful conciliation, disputing parties may request dispute settlement by a court.

1c. For a right-based collective labor dispute which the two parties agree to select a labor arbitration council to settle but past the time limit prescribed by the labor law, no labor arbitration board is established or the labor arbitration board makes no dispute settlement decision or either party fails to implement a decision of the labor arbitration board, disputing parties may request dispute settlement by a court.";

b/ To annul Clause 2, Article 32.

Article 220. Effect

1. This Code takes effect on January 1, 2021.

Labor Code No. 10/2012/QH13 ceases to be effective on the effective date of this Code.

2. From the effective date of this Code, signed labor contracts, collective labor agreements and other lawful agreements with contents not contrary to, or assuring employees of rights and conditions more favorable than those provided by, this Code may continue to be performed, unless contracting parties agree on appropriate modification or supplementation thereof to apply the provisions of this Code.

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3. Labor regimes applicable to cadres, civil servants, public employees, members of the People's Army and People's Public Security forces and social organizations, members of cooperatives, and persons without industrial relations shall be provided in other legal documents but some provisions of this Code may be applied to certain subjects.

This Code was passed on November 20, 2019, by the XIVth National Assembly of the Socialist Republic of Vietnam at its 8th session.-

Chairwoman of the National Assembly
NGUYEN THI KIM NGAN

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