

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

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Hanoi, December 10, 2021

DECREE

Detailing a number of articles of, and providing measures for implementing, the Law on Vietnamese Guest Workers¹

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

Pursuant to the June 17, 2020 [Law on Investment](#);

Pursuant to the June 17, 2020 [Law on Enterprises](#);

Pursuant to the November 13, 2020 Law on Vietnamese Guest Workers;

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

The Government promulgates the Decree detailing a number of articles of, and providing measures for implementing, the Law on Vietnamese Guest Workers.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details a number of articles of, and provides measures for implementing, the Law on Vietnamese Guest Workers regarding:

1. Conditions and dossiers of application for licenses for provision of the services of sending Vietnamese workers abroad as guest workers specified in Clause 2, Article 10; Clause 4, Article 12; Clause 4, Article 16; Clause 6, Article 17; and Clause 2, Article 74.

¹ *Công Báo Nos 1053-1054 (23/12/2021)*

2. Conditions for provision of the services of sending Vietnamese workers abroad as guest workers applicable to certain markets, professions, occupations and jobs specified in Clause 2, Article 8.

3. The deposit levels and management and use of deposits by enterprises specified in Clause 3, Article 24; and Clause 2, Article 36.

4. The maximum deposit level and management, use and return of deposits by employees specified in Clause 5, Article 25; and at Point c, Clause 1, Article 43.

5. Conditions and procedures for online registration of labor contracts signed after workers leave Vietnam specified in Clause 2, Article 54.

6. Measures for implementing the Law on Vietnamese Guest Workers.

Article 2. Subjects of applications

1. Vietnamese workers who go abroad to work under contracts signed with non-business units or Vietnamese enterprises providing the services of sending Vietnamese workers abroad as guest workers.

2. Vietnamese citizens signing lawful labor contracts after leaving the country.

3. Vietnamese enterprises providing the services of sending Vietnamese workers abroad as guest workers (below referred to as service enterprises).

4. Vietnamese enterprises sending Vietnamese workers abroad for refresher training in occupational knowledge and skills.

5. Public non-business units under ministries, ministerial-level agencies and government-attached agencies assigned to send Vietnamese workers abroad as guest workers (below referred to as non-business units).

6. Agencies, organizations and individuals involved in the field of Vietnamese guest workers.

Chapter II

CONDITIONS AND DOSSIERS OF APPLICATION FOR LICENSES FOR
PROVISION OF THE SERVICES OF SENDING VIETNAMESE WORKERS
ABROAD AS GUEST WORKERS

Article 3. Licenses for provision of the services of sending Vietnamese workers abroad as guest workers

1. Licenses for provision of the services of sending Vietnamese workers abroad as guest workers (below referred to as licenses) shall be granted by the Minister of Labor, Invalids and Social Affairs to enterprises fully meeting the conditions specified in Clause 1, Article 10 of the Law on Vietnamese Guest Workers and this Decree.

2. Licenses shall be printed on paperboards of A4 size (21cm x 29.7cm), showing light yellow patterns, the national emblem and abbreviation of the Ministry of Labor, Invalids and Social Affairs' name (MOLISA) imprinted on a bronze drum-imaged background with blue border lines according to Form No. 01 provided in Appendix 1 to this Decree.

Article 4. Conditions on professional staffs

1. For each activity specified in Article 9 of the Law on Vietnamese Guest Workers, enterprises must have at least 1 professional staff member to take charge of this activity who satisfies one of the following criteria:

a/ Possessing a college or higher degree in a major of the training discipline group of law, humanities, social services, social and behavioral sciences, or business and management;

b/ Possessing a college or higher degree in a major other than those of the training discipline group specified at Point a of this Clause and having at least 2 years' experience in sending Vietnamese workers abroad as guest workers.

2. Professional staff members must sign labor contracts with, and participate in compulsory social insurance at, enterprises, except those not required to participate in compulsory social insurance in accordance with the law on social insurance.

3. Branches that are assigned by service enterprises to implement some of the activities specified in Article 9 of the Law on Vietnamese Guest Workers must have at least 1 professional staff member who satisfies the criterion specified at Point a or b, Clause 1 and Clause 2 of this Article to take charge of each of these activities.

Article 5. Conditions on physical facilities serving orientation education for workers

1. Physical facilities serving orientation education for workers must meet security and hygiene requirements and the following criteria:

a/ Having classrooms and residence rooms for at least 100 trainees at a time; having first aid and emergency care sections with equipment and devices for provision of first aid and emergency care;

b/ For classrooms, the area per trainee is at least 1.4m² and there must be basic equipment and devices serving learning activities;

c/ For residence rooms, the area per trainee is at least 3.5m² and there must be basic equipment and devices for daily-life activities; at most 12 trainees will be arranged in a residence room and residence halls must be divided into separate areas for male trainees and female trainees with sufficient bathrooms and restrooms.

2. In case an enterprise hires physical facilities to carry out orientation education activities, at the time the enterprise submits a dossier of application for a license, the remaining lease term must be at least 2 years.

3. In case a service enterprise assigns its branch to carry out orientation education activities, the branch must have physical facilities up to safety and hygiene requirements, have classrooms and residence rooms as required at Points b and c, Clause 1 of this Article and the remaining lease term (if the branch hires physical facilities) must be at least 2 years.

4. Service enterprises must maintain the right to lawfully use the physical facilities serving orientation education activities throughout the period of providing the services of sending Vietnamese workers abroad as guest workers.

Article 6. Conditions on websites

1. Websites of enterprises must have Vietnam's national domain name ".vn" and be used to publish basic information on enterprises; the license images after enterprises are granted licenses and information on provision of the services of sending Vietnamese workers abroad as guest workers.

2. Websites of enterprises must operate constantly and continuously in accordance with the law on management, provision and use of information in the cyberspace. Within 7 days after the occurrence of a change in the information specified at Point b, Clause 2, Article 26 of the Law on Vietnamese Guest Workers, service enterprises shall update such change to their websites.

Article 7. Form of the application for a license and papers proving satisfaction of the conditions for provision of the services of sending Vietnamese workers abroad as guest workers

1. An application for a license shall be made according Form No. 02 provided in Appendix I to this Decree.

2. Papers proving satisfaction of the conditions specified in Article 10 of the Law on Vietnamese Guest Workers:

a/ 1 copy of the enterprise's charter at the time of applying for a license and papers proving the enterprise's contribution of capital in accordance with the Law on Enterprises; 1 copy of the latest version of the shareholder register, for joint-stock companies;

b/ 1 original certificate of payment of deposits for provision of the services of sending Vietnamese workers abroad as guest workers, made according to Form No. 03 provided in Appendix I to this Decree;

c/ 1 copy of the criminal record certificate issued within 6 months prior to the time of application for a license; 1 copy of the professional diploma and 1 copy of a paper proving working experience (appointment decision or labor contract, document on termination of the labor contract or showing the process of participation in social insurance, or certification of working experience issued by a former employer) of the enterprise's at-law representative;

d/ A list of professional staffs engaged in provision of the services of sending Vietnamese workers abroad as guest workers, made according to Form No. 04 provided in Appendix I to this Decree; and for each professional staff member, 1 copy of his/her professional diploma and foreign-language diploma or certificate (if any) and 1 copy of the paper proving working experience (if any) which is one of the following papers: labor contract, document on termination of the labor contract or showing the process of participation in social insurance, or certification of working experience issued by a former employer;

dd/ 1 copy of the certificate of house and land-attached asset ownership or contract on lease of physical facilities serving orientation education activities, enclosed with a self-certified list of equipment and devices and floor plan of classrooms and residence halls.

3. In case of change of professional staffs engaged in provision of the services of sending Vietnamese workers abroad as guest workers, within 7 days after the change occurs, service enterprises shall send the papers specified at Point d, Clause 2 of this Article to the Ministry of Labor, Invalids and Social Affairs.

4. In case of change of physical facilities serving orientation education activities, within 7 days after the change occurs, service enterprises shall send the papers specified at Point dd, Clause 2 of this Article to the Ministry of Labor, Invalids and Social Affairs.

Article 8. Integrability in grant of licenses via electronic information networks

1. The Ministry of Planning and Investment shall share information on names, identification numbers, addresses of head offices, at-law representatives, charter capital, owners, and lists of members and shareholders of enterprises applying for licenses with the Ministry of Labor, Invalids and Social Affairs to serve the grant of licenses.

2. The Ministry of Labor, Invalids and Social Affairs shall share information on the licenses it has granted with the Ministry of Planning and Investment for the latter to perform the state management of enterprises.

3. The coordination and integratability between the Ministry of Planning and Investment and the Ministry of Labor, Invalids and Social Affairs shall be conducted by the method of connecting and sharing digital data between information technology systems.

Article 9. Return of licenses

1. For service enterprises that are consolidated, merged or divided in accordance with the Law on Enterprises:

Within 15 days after the legal status of a service enterprise in the National Business Registration Database is changed into the status “consolidated”, “merged” or “divided”, the consolidating company, merging company or new companies established after the division shall return the granted license to the Ministry of Labor, Invalids and Social Affairs and make reports according to Clause 3 of this Article.

2. In case a service enterprise dissolves, goes bankrupt or terminates the provision of the services of sending Vietnamese workers abroad as guest workers:

Within 15 days after the legal status of the enterprise in the National Business Registration Database is changed into the status “undergoing dissolution procedures” or “bankrupt” or within 5 working days after the Members’ Council, company owner or General Assembly of Shareholders approves the resolution or decision on termination of the provision of the services of sending Vietnamese workers abroad as guest workers, the enterprise shall return its license to the Ministry of Labor, Invalids and Social Affairs and make reports according to Clause 3 of this Article.

3. Enterprises shall report in writing to the Ministry of Labor, Invalids and Social Affairs on valid labor supply contracts; lists of workers currently working abroad; lists of workers who have been recruited and are participating in refresher training courses on occupational skills and foreign languages or

orientation education; deposits and money amounts collected from workers and contributions made to the Overseas Employment Support Fund.

Article 10. Revocation of licenses

1. In case a public security agency or an agency or organization competent to issue a paper included in dossiers of application for licenses issues a document confirming that the contents declared in an enterprise's dossier are falsified, within 10 days after receiving the document, the Minister of Labor, Invalids and Social Affairs shall issue a decision to revoke the enterprise's license.

2. In case a service enterprise fails to maintain the conditions specified in Article 10 or commits one of the acts specified in Clauses 1, 2, 5, 6, 7, 8, 11, 12 and 13, Article 7, or causes serious material or spiritual damage to workers due to its failure to fulfill the obligations specified at Points c, e, g, h, and i, Clause 2, Article 26, of the Law on Vietnamese Guest Workers, within 10 days after a competent agency makes a record of the violation, the Minister of Labor, Invalids and Social Affairs shall issue a decision to revoke the enterprise's license.

3. In case a service enterprise fails to send Vietnamese workers abroad as guest workers for 24 consecutive months not because of natural disasters, epidemics, wars, political instability, economic recession or any other *force majeure* reasons, making the foreign partner unable to receive workers, within 10 days since the last day of the 24th month, the Minister of Labor, Invalids and Social Affairs shall issue a decision to revoke the enterprise's license.

4. Within 15 days after the Minister of Labor, Invalids and Social Affairs issues a decision to revoke an enterprise's license, the enterprise shall report in writing to the Ministry of Labor, Invalids and Social Affairs on valid labor supply contracts; lists of workers currently working abroad; lists of workers who have been recruited and are participating in refresher training courses on occupational skills and foreign languages or orientation education; deposits and money amounts collected from workers and contributions made to the Overseas Employment Support Fund.

Article 11. Dossiers and procedures for renewal of licenses specified at Point b, Clause 1, Article 74 of the Law on Vietnamese Guest Workers

1. A dossier must comprise:

a/ A request for renewal of a license, made according to Form No. 05 provided in Appendix I to this Decree;

b/ A report on satisfaction of the conditions specified at Points a, b, d, dd and e, Clause 1, Article 10 of the Law on Vietnamese Guest Workers, made according to Form No. 06 provided in Appendix I to this Decree;

c/ The valid license granted under the Law No. 72/2006/QH11 on Vietnamese Guest Workers.

2. Procedures:

a/ A service enterprise shall hand-deliver or send by post 1 dossier set to the Ministry of Labor, Invalids and Social Affairs or submit it online at www.dolab.gov.vn;

b/ Within 10 days after receiving a complete dossier as prescribed, the Minister of Labor, Invalids and Social Affairs shall consider and renew the license to the service enterprise. In case of refusal to renew the license, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Chapter III

CONDITIONS FOR PROVISION OF THE SERVICES OF SENDING WORKERS APPLICABLE TO CERTAIN MARKETS, PROFESSIONS, OCCUPATIONS AND JOBS

Section 1

CONDITIONS FOR PROVISION OF THE SERVICES OF SENDING VIETNAMESE WORKERS TO TAIWAN (CHINA)

Article 12. Conditions for provision of the services of sending Vietnamese workers to Taiwan (China)

Service enterprises must maintain the conditions specified in Article 10 of the Law on Vietnamese Guest Workers and satisfy the following conditions:

1. Having sufficient qualified professional staffs to carry out professional activities as follows:

a/ At least 1 professional staff member to take charge of overseas labor market search and development activities, who possesses the Chinese language proficiency of at least HSK5 level or equivalent;

b/ At least 1 professional staff member to take charge of worker management activities, who possesses the Chinese language proficiency of at least HSK5 level or equivalent and has at least 1 year of experience in sending Vietnamese workers to Taiwan (China);

c/ At least 1 professional staff member to take charge of orientation education activities, who has at least 1 year of experience in sending Vietnamese workers to Taiwan (China).

2. Not having been sanctioned for violations in the field of sending Vietnamese workers abroad as guest workers for 2 years, counted up to the date of requesting for the Ministry of Labor, Invalids and Social Affairs' introduction to the competent authority of Taiwan (China).

Article 13. Dossiers and procedures for registration of provision of the services of sending Vietnamese workers to Taiwan (China)

1. A dossier must comprise:

a/ A request made according to Form No. 07 provided in Appendix I to this Decree;

b/ 1 copy of the foreign language diploma or certificate; 1 copy of the document proving working experience (labor contract, document on termination of labor contract or showing the process of participation in social insurance or certification of experience issued by a former employer) of each professional staff member specified in Clause 1, Article 12 of this Decree.

2. Procedures:

a/ A service enterprise shall hand-deliver or send by post 1 dossier set to the Ministry of Labor, Invalids and Social Affairs or submit it online at www.dolab.gov.vn;

b/ Within 5 working days after receiving a complete dossier as prescribed, the Ministry of Labor, Invalids and Social Affairs shall issue a letter introducing the service enterprise to the competent authority of Taiwan (China). In case of refusal to introduce the enterprise, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Article 14. Certification of lists of Vietnamese workers sent to Taiwan (China)

1. Before sending workers to Taiwan (China), service enterprises must submit a list of workers to the Ministry of Labor, Invalids and Social Affairs for certification.

2. At least 5 working days before submitting a dossier of application for visas for workers, service enterprises shall hand-deliver or send by post to the Ministry of Labor, Invalids and Social Affairs or submit online at www.dolab.gov.vn a list of workers (showing the full name, date of birth, gender, place of permanent residence, passport/citizen identity card number, and

phone number of every worker, the foreign partner(s) receiving workers, and total estimated expenses upon exit) according to approved labor supply contracts.

3. Within 5 working days after receiving the list of workers, the Ministry of Labor, Invalids and Social Affairs shall certify the list. In case of refusal to certify the list, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Section 2

CONDITIONS FOR PROVISION OF THE SERVICES OF SENDING VIETNAMESE WORKERS TO JAPAN

Article 15. Conditions for provision of the services of sending Vietnamese workers to Japan

Service enterprises must maintain the conditions specified in Article 10 of the Law on Vietnamese Guest Workers and satisfy the following conditions:

1. Having sufficient qualified professional staffs to carry out professional activities as follows:

a/ At least 1 professional staff member to take charge of overseas labor market search and development activities, who possesses the Japanese language proficiency of at least N2 level (JLPD standard) or equivalent;

b/ At least 1 professional staff member to take charge of worker management activities, who possesses the Japanese language proficiency of at least N2 level (JLPD standard) or equivalent and has at least 1 year of experience in sending Vietnamese workers to Japan;

c/ At least 1 professional staff member to take charge of orientation education activities, who has at least 1 year of experience in sending Vietnamese workers to Japan.

2. Meeting the criteria applicable to service enterprises sending Vietnamese workers to Japan under the agreement between the Ministry of Labor, Invalids and Social Affairs and the competent authority of Japan.

Article 16. Dossiers and procedures for registration of provision of the services of sending Vietnamese workers to Japan

1. A dossier must comprise:

a/ A request made according to Form No. 08 provided in Appendix I to this Decree;

b/ 1 copy of the foreign language diploma or certificate; 1 copy of the document proving working experience (labor contract, document on termination

of labor contract or showing the process of participating in social insurance or certification of experience issued by a former employer) of each professional staff member specified in Clause 1, Article 15 of this Decree.

2. Procedures:

a/ A service enterprise shall hand-deliver or send by post 1 dossier set to the Ministry of Labor, Invalids and Social Affairs or submit it online at www.dolab.gov.vn;

b/ Within 5 working days after receiving a complete dossier as prescribed, the Ministry of Labor, Invalids and Social Affairs shall issue a document approving the enterprise's provision of the services of sending Vietnamese workers to Japan and send it to the competent authority of Japan. In case of disapproval, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Article 17. Conditions for provision of the services of sending Vietnamese workers to work as nurses in Japan

Service enterprises must maintain the conditions specified in Article 10 of the Law on Vietnamese Guest Workers and satisfy the following conditions:

1. Currently performing contracts on supply of Vietnamese workers to Japan.

2. Having their own training facilities to provide refresher training in nursing skills and foreign language, or entering into joint training with a vocational education institution that meets the following criteria:

a/ Having basic audio-visual equipment for Japanese language training; having practice rooms equipped with wheelchairs, walking frames, medical beds, dining tables and chairs, wall-mounted handrails, shower chairs, bathtubs, automatic toilets and medical cabinets for refresher training in nursing skills according to the Japanese program;

b/ Having at least 1 teacher to provide refresher training in nursing skills for workers according to the Japanese program;

c/ Having at least 1 Japanese language teacher who possesses the Japanese language proficiency of at least N2 level (JLPT standard) or equivalent to provide Japanese language training for workers according to the Japanese program.

Article 18. Dossiers and procedures for registration of provision of the services of sending Vietnamese workers to work as nurses in Japan

1. A dossier must comprise:

a/ A request made according to Form No. 09 provided in Appendix I to this Decree;

b/ Photos of equipment and practice rooms specified at Point a, Clause 2, Article 17 of this Decree;

c/ 1 copy of the diploma in nursing skills of each teacher engaged in provision of refresher training in nursing skills and 1 copy of the diploma or certificate in Japanese language of each Japanese language teacher specified at Points b and c, Clause 2, Article 17 of this Decree.

2. Procedures:

a/ A service enterprise shall hand-deliver or send by post 1 dossier set to the Ministry of Labor, Invalids and Social Affairs or submit it online at www.dolab.gov.vn;

b/ Within 5 working days after receiving a complete dossier as prescribed, the Ministry of Labor, Invalids and Social Affairs shall issue a document approving the enterprise's provision of the services of sending Vietnamese workers to work as nurses in Japan. In case of disapproval, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Article 19. Certification of lists of Vietnamese workers sent to Japan

1. Before sending workers to Japan, service enterprises must submit a list of workers to the Ministry of Labor, Invalids and Social Affairs for certification.

2. Service enterprises shall hand-deliver or send by post to the Ministry of Labor, Invalids and Social Affairs or submit online at www.dolab.gov.vn a list of workers (showing the full name, date of birth, gender, passport/citizen identity card number of every worker, the foreign partner(s) receiving workers, employer(s), workers' professions or occupations, and tentative date of departure) according to approved labor supply contracts.

3. Within 5 working days after receiving the list of workers, the Ministry of Labor, Invalids and Social Affairs shall certify the list. In case of refusal to certify the list, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Section 3

CONDITIONS FOR PROVISION OF THE SERVICES OF SENDING VIETNAMESE WORKERS ABROAD TO WORK AS DOMESTIC WORKERS

Article 20. Conditions for provision of the services of sending Vietnamese workers abroad to work as domestic workers

Service enterprises must maintain the conditions specified in Article 10 of the Law on Vietnamese Guest Workers and satisfy the following conditions:

1. Currently performing contracts on supply of Vietnamese guest workers in the receiving country.

2. Having sufficient qualified professional staffs to carry out professional activities as follows:

a/ At least 1 professional staff member to take charge of overseas labor market search and development activities, who possesses the foreign language competency suitable to the receiving country and has at least 1 year of experience in sending Vietnamese workers to the receiving country;

b/ At least 1 full-time professional staff member in the foreign country to take charge of worker management activities, who possesses the foreign language competency suitable to the receiving country and has at least 1 year of experience in sending Vietnamese workers to the receiving country;

c/ At least 1 professional staff member to take charge of orientation education activities, who has at least 1 year of experience in sending Vietnamese workers to the receiving country.

3. Ensuring that workers have experience of working as domestic workers abroad or have knowledge of domestic work and foreign language qualifications meeting the requirements of the labor-receiving foreign partner under the guidance the Minister of Labor, Invalids and Social Affairs.

Article 21. Dossiers and procedures for registration of provision of the services of sending Vietnamese workers abroad to work as domestic workers

1. A dossier must comprise:

a/ A request made according to Form No. 10 provided in Appendix I to this Decree;

b/ 1 copy of the foreign language diploma or certificate; 1 copy of the document proving working experience (labor contract, document on termination of labor contract or showing the process of participation in social insurance or

certification of experience issued by a former employer) of each professional staff member specified in Clause 2, Article 20 of this Decree.

2. Procedures:

a/ A service enterprise shall hand-deliver or send by post 1 dossier set to the Ministry of Labor, Invalids and Social Affairs or submit it online at www.dolab.gov.vn;

b/ Within 5 working days after receiving a complete dossier as prescribed, the Ministry of Labor, Invalids and Social Affairs shall issue a document approving the enterprise's provision of the services of sending Vietnamese workers abroad to work as domestic workers. In case of disapproval, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Article 22. Certification of lists of Vietnamese workers sent abroad to work as domestic workers

1. Before sending workers abroad to work as domestic workers, enterprises must submit a list of workers to the Ministry of Labor, Invalids and Social Affairs for certification.

2. At least 5 working days before submitting visa application dossiers for workers, service enterprises shall hand-deliver or send by post to the Ministry of Labor, Invalids and Social Affairs or submit online at www.dolab.gov.vn a list of workers (showing the full name, date of birth, gender, passport/citizen identity card number, period of training in domestic work skills and foreign language or working experience, phone number, and tentative date of departure of every worker, name and address of the worker-receiving foreign partner and the employer) according to approved labor supply contracts.

3. Within 5 working days after receiving the list of workers, the Ministry of Labor, Invalids and Social Affairs shall certify the list. In case of refusal to certify the list, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

Chapter IV

DEPOSIT LEVELS, MANAGEMENT AND USE OF DEPOSITS OF ENTERPRISES

Section 1

DEPOSITS OF SERVICE ENTERPRISES

Article 23. Deposit levels

1. Each enterprise shall deposit VND 2,000,000,000 (two billion Vietnam dong) at a bank or foreign bank branch lawfully established and operating in Vietnam (below referred to as deposit-receiving bank).

2. Service enterprises that assign their branches to provide the services of sending Vietnamese workers abroad as guest workers shall deposit an additional amount of VND 500,000,000 (five hundred million Vietnam dong) for each branch.

Article 24. Management of deposits

1. An enterprise and a deposit-receiving bank shall sign a deposit contract with the following details: the enterprise's name, identification number, address and lawful representative; the deposit-receiving bank's name, address and lawful representative; deposit amount; deposit purposes; the agreed deposit interest rate; form of deposit interest payment; use of deposit; withdrawal of deposit; final settlement of the deposit account; responsibilities of related parties, and other contents in conformity with law.

2. The deposit-receiving bank shall issue a written certification of deposit payment, made according to Form No. 03 provided in Appendix I to this Decree.

3. The deposit shall be blocked by the deposit-receiving bank in accordance with law.

Article 25. Use of deposits

1. Deposits may only be used at the Ministry of Labor, Invalids and Social Affairs' written request in the following cases:

a/ Service enterprises fail to perform or fully perform the obligations specified at Points c, dd and h, Clause 2, Article 26 of the Law on Vietnamese Guest Workers;

b/ At the request of competent state agencies to comply with Points e and g, Clause 2, Article 26 of the Law on Vietnamese Guest Workers;

c/ Service enterprises fail to perform or fully perform other obligations in providing the services of sending Vietnamese workers abroad as guest workers.

2. Thirty days after its deposit is used, if the concerned service enterprise fails to refund the used amount and ensure the law-specified deposit level, the deposit-receiving bank shall issue a notice to the Ministry of Labor, Invalids and Social Affairs.

3. A service enterprise may receive back its deposit in the following cases:

a/ The enterprise does not submit a dossier of application for a license for provision of the services of sending Vietnamese workers abroad as guest workers:

The enterprise shall return 2 original certifications of deposit payment to the deposit-receiving bank to receive back its deposit.

b/ The enterprise is not granted a license for provision of the services of sending Vietnamese workers abroad as guest workers or it has made deposit at another bank account and requests final settlement of the account at which it has made deposit or it has dissolved under regulations:

The Ministry of Labor, Invalids and Social Affairs shall issue a document requesting the deposit-receiving bank to refund the deposit to the enterprise.

c/ The enterprise has fully fulfilled obligations relating to the provision of the services of sending Vietnamese workers abroad as guest workers after returning its license or having its license revoked:

The enterprise shall send to the Ministry of Labor, Invalids and Social Affairs a report thereon accompanied with documents proving its fulfillment of the obligations specified in Clause 1, Article 27 of the Law on Vietnamese Guest Workers and full contributions to the Overseas Employment Support Fund. Within 15 days after receiving the report, the Ministry of Labor, Invalids and Social Affairs shall issue a document requesting the deposit-receiving bank to refund the deposit to the enterprise. In case of refusal, the Ministry of Labor, Invalids and Social Affairs shall issue a written reply clearly stating the reason.

d/ The enterprise no longer assigns its branch(es) to provide the services of sending Vietnamese workers abroad as guest workers or its branch(es) terminate(s) operation:

The enterprise shall send a report thereon to the Ministry of Labor, Invalids and Social Affairs. Within 5 working days after receiving the report, the Ministry of Labor, Invalids and Social Affairs shall issue a document requesting to the deposit-receiving bank to refund the deposit the enterprise has paid for its branch(es).

Section 2

DEPOSITS OF VIETNAMESE ENTERPRISES SENDING VIETNAMESE WORKERS ABROAD FOR OCCUPATIONAL KNOWLEDGE AND SKILLS TRAINING OR IMPROVEMENT

Article 26. Deposit levels

1. Enterprises shall make deposits at banks or foreign bank branches lawfully established and operating in Vietnam (below referred to as deposit-receiving banks).

2. The deposit level shall be equal to 10% of an economy-class one-way air ticket from the receiving country to Vietnam multiplied by the number of workers sent abroad under contracts on recruitment of workers as apprentices.

Article 27. Management of deposits

1. An enterprise and a deposit-receiving bank shall sign a deposit contract with the following details: name, identification number, address and lawful representative of the enterprise; name, address and lawful representative of the deposit-receiving bank; deposit amount; deposit purposes; deposit interest rate; form of deposit interest payment; use of deposit; withdrawal of deposit; final settlement of the deposit account; responsibilities of related parties, and other contents specified by law.

2. The deposit-receiving bank shall issue a written certification of deposit payment, made according to Form No. 11 provided in Appendix I to this Decree.

3. The deposit amount shall be blocked by the deposit-receiving bank in accordance with law.

Article 28. Use of deposits

1. An enterprise's deposit shall be used to secure fulfillment of its obligations specified at Points dd, h, k and m, Clause 2, Article 41 of the Law on Vietnamese Guest Workers and may only be used at a written request of the Ministry of Labor, Invalids and Social Affairs (for vocational training contracts under which the period of occupational knowledge and skills training or improvement is 90 days or more) or the specialized labor agency of the provincial-level People's Committee of the locality where the enterprise's head office is located (for vocational training contracts under which the period of occupational knowledge and skills training or improvement is less than 90 days).

2. Thirty days after its deposit amount is used, if the concerned enterprise fails to refund the used amount and ensure the law-specified deposit level, the deposit-receiving bank shall issue a notice to the Ministry of Labor, Invalids and Social Affairs (for vocational training contracts under which the period of occupational knowledge and skills training or improvement is 90 days or more) or the specialized labor agency of the provincial-level People's Committee of the locality where the enterprise's head office is located (for vocational training contracts under which the period of occupational knowledge and skills training or improvement is less than 90 days).

3. Within 5 working days after receiving an enterprise's report on liquidation of overseas vocational training contracts with workers, enclosed with supporting documents, the Ministry of Labor, Invalids and Social Affairs (for vocational training contracts under which the period of occupational knowledge and skills training or improvement is 90 days or more) or the specialized labor agency of the provincial-level People's Committee of the locality where the enterprise's head office is located (for vocational training contracts under which the period of occupational knowledge and skills training or improvement is less than 90 days) shall issue a document requesting the deposit-receiving bank to refund the deposit to the enterprise.

Chapter V

MAXIMUM LEVELS OF WORKERS' DEPOSITS, AND MANAGEMENT, USE AND REFUND OF WORKERS' DEPOSITS

Section 1

WORKERS' DEPOSITS WITH SERVICE ENTERPRISES

Article 29. Maximum levels of workers' deposits

Service enterprises and workers shall reach agreements on deposit-receiving banks and payment of deposits in which deposit amounts must not exceed the maximum deposit levels specified in Appendix II to this Decree and be clearly stated in contracts on sending Vietnamese workers abroad as guest workers.

Article 30. Payment of deposits

1. Workers, service enterprises and deposit-receiving banks shall reach agreement on signing of deposit contracts to perform the obligations stated in the contracts on sending Vietnamese workers abroad as guest workers. A deposit contract must have the following details: name, people's identity card/passport number and address of the worker; name, address and lawful representative of the deposit-receiving bank; name, identification number, address and lawful representative of the enterprise; deposit amount; deposit purposes; deposit interest rate; form of deposit interest payment; use of deposit; withdrawal of deposit; final settlement of the deposit account; responsibilities of related parties, and other contents in conformity with law.

2. The payment of deposit shall be made only after a service enterprise and a worker sign a contract on sending Vietnamese workers abroad as guest worker and the worker is accepted by the foreign partner or granted an entry visa by the receiving country or territory.

Article 31. Management and use of deposits

1. Workers' deposits shall be used to compensate for damage caused by their faults to service enterprises under contracts on sending Vietnamese workers abroad as guest workers.

2. Service enterprises and workers or persons authorized by workers shall reach agreement on the level of compensation for damage caused by workers and write such agreement in contract liquidation documents.

Article 32. Refund of deposits

1. Cases of refunding a worker's deposit

a/ The worker completes or terminates the contract on sending Vietnamese workers abroad as guest workers ahead of schedule but does not cause any damage to the enterprise; the worker unilaterally terminates the contract on sending Vietnamese workers abroad as guest workers under Point dd, Clause 1, Article 6 of the Law on Vietnamese Guest Workers;

b/ The worker has paid his/her deposit but the enterprise fails to send him/her abroad as a guest worker within the committed time limit or the exit-awaiting time limit has expired and the worker no longer wishes to work abroad;

c/ Cases in which the worker does not cause damage to the enterprise;

d/ The remainder of the worker's deposit after it is used to compensate for damage caused by his/her fault to the enterprise under the contract on sending Vietnamese workers abroad as guest workers.

2. Procedures for refund of workers' deposits

a/ In the cases specified at Points a, b and c, Clause 1 of this Article, based on the document on liquidation of the contract on sending Vietnamese workers abroad as guest workers, the deposit-receiving bank shall refund both principal and interest of the worker's deposit to the worker or the person authorized by the worker;

b/ In the case specified at Point d, Clause 1 of this Article, the deposit-receiving bank shall refund both principal and interest of the deposit to the worker based on the document on liquidation of the contract on sending Vietnamese workers abroad as guest workers, legally valid decision on settlement of complaints, successful mediation document or court's legally effective decision.

3. In case a service enterprise fails to carry out the prescribed procedures for a worker to receive back his/her deposit or reach agreement with a worker under

Clause 2, Article 31 of this Decree, the worker may file a petition with the Ministry of Labor, Invalids and Social Affairs for settlement according to the order and procedures for settlement of complaints or initiate a lawsuit in accordance with law.

4. In case an enterprise transfers its rights and obligations to another licensed enterprise under Clause 3, Article 28 or Point a, Clause 3, Article 29 of the Law on Vietnamese Guest Workers, the responsibility to liquidate contracts on sending Vietnamese workers abroad as guest workers for workers to have their deposits refunded shall be placed on the enterprise being the transferee.

5. In case a bankrupt enterprise hands over workers' dossiers to the Ministry of Labor, Invalids and Social Affairs under Point b, Clause 3, Article 29 of the Law on Vietnamese Guest Workers, the Ministry of Labor, Invalids and Social Affairs shall send to the deposit-receiving bank a document on refund of deposits to workers.

Section 2

WORKERS' DEPOSITS WITH NON-BUSINESS UNITS

Article 33. Methods of deposit payment

1. Non-business units and workers shall reach agreement on methods of deposit payment in conformity with international agreements specified in Clause 1, Article 42 of the Law on Vietnamese Guest Workers.

2. In case the concerned international agreement contains no provisions on methods of deposit payment, the non-business unit and its workers shall reach agreement on payment of deposits in accordance with the civil law but the deposit amount must not exceed the maximum deposit level specified in Appendix II to this Decree.

Article 34. Payment of deposits

1. Workers, non-business units and deposit-receiving banks shall reach agreement on signing of deposit contracts to perform the obligations stated in contracts on sending of Vietnamese workers abroad as guest workers. A deposit contract must have the following details: name, people's identity card/passport number and address of the worker; name, address and lawful representative of the non-business unit; name, address and lawful representative of the deposit-receiving bank; deposit amount; deposit purposes; deposit interest rate; form of deposit interest payment (if paying deposits in cash); use of deposits; refund of deposits; responsibilities of related parties, and other contents in conformity with law.

2. The payment of deposits shall be made only after a non-business unit and a worker sign a contract on the sending of Vietnamese workers abroad as guest workers and the worker is accepted by the foreign partner or granted an entry visa.

Article 35. Management and use of deposits

1. Workers' deposits shall be used to compensate for damage caused by their faults to non-business units under contracts on sending of Vietnamese workers abroad as guest workers.

2. Non-business units and workers or persons authorized by workers shall reach agreement on compensation for damage caused by workers and write such agreement in contract liquidation documents.

Article 36. Refund of deposits

1. Cases of refunding a worker's deposit

a/ The worker completes or terminates the contract on sending Vietnamese workers abroad as guest workers ahead of schedule and does not cause any damage to the non-business unit; the worker unilaterally terminates the contract on sending Vietnamese workers abroad as guest workers under Point dd, Clause 1, Article 6 of the Law on Vietnamese Guest Workers;

b/ The worker has paid the deposit but the non-business unit fails to send him/her abroad;

c/ Cases in which the worker does not cause damage to the non-business unit;

d/ The worker has compensated for damage caused by his/her fault to the non-business unit under the contract on sending Vietnamese workers abroad as guest workers.

2. Procedures for refund of workers' deposits

a/ In the cases specified at Points a, b and c, Clause 1 of this Article, based on the document on liquidation of the contract on sending Vietnamese workers abroad as guest workers, the deposit-receiving bank shall refund both principal and interest of the deposit (if the deposit is paid in cash) to the worker or person authorized by the worker;

b/ In the case specified at Point d, Clause 1 of this Article, the deposit-receiving bank shall refund both principal and interest of the deposit (if the deposit is paid in cash) to the worker based on the document on liquidation of the contract on sending Vietnamese workers abroad as guest workers, legally valid

decision on settlement of complaints, successful mediation document, or the court's legally effective decision.

3. In case a non-business unit fails to carry out procedures for a worker to receive back his/her deposit or reach agreement with the worker as specified in Clause 2, Article 35, the worker may file a petition with the non-business unit's managing agency for settlement according to the order and procedures for settlement of complaints or initiate a lawsuit in accordance with law.

Chapter VI

CONDITIONS AND PROCEDURES FOR ONLINE REGISTRATION OF LABOR CONTRACTS SIGNED AFTER WORKERS LEAVE THE COUNTRY

Article 37. Conditions on registration of labor contracts signed after workers leave the country

1. Not being banned from exit or not being permitted for exit or being subject to exit suspension as specified by Vietnam's law.

2. Having signed a lawful labor contract.

3. Legally residing in the host country in the course of performance of the labor contract.

Article 38. Procedures for online registration of labor contracts and contributions to the Overseas Employment Support Fund

1. A worker shall register his/her labor contract online at www.dolab.gov.vn according to Form No. 12 provided in Appendix I to this Decree, and upload the electric version of his/her labor contract, passport's page containing personal information and signature, residence permit or other e-papers proving his/her lawful residence in the host country in the course of performance of the labor contract.

2. Within 5 working days after receiving the online registration of a labor contract, the Ministry of Labor, Invalids and Social Affairs shall give a reply on receipt of the online registration of the labor contract and concurrently notify thereof to the Vietnamese representative mission in the host country. In case of refusal of the online registration, the Ministry of Labor, Invalids and Social Affairs shall clearly state the reason.

3. After receiving the Ministry of Labor, Invalids and Social Affairs' notice of its approval of the contract registration, the worker shall make contribution to the Overseas Employment Support Fund in cash or via bank transfer.

Chapter VII

ORGANIZATION OF IMPLEMENTATION

Article 39. Responsibilities of the Ministry of Labor, Invalids and Social Affairs

1. To formulate legal documents on Vietnamese guest workers.
2. To coordinate with related agencies in studying and developing overseas labor markets.
3. To negotiate and propose competent authorities to conclude treaties on labor in accordance with the law on treaties; to conclude international agreements on labor in accordance with the law on international agreements.
4. To organize further training courses on the services of sending Vietnamese workers abroad as guest workers for professional staffs of service enterprises.
5. To decide to grant or revoke licenses for provision of the services of sending Vietnamese workers abroad as guest workers.
6. To build and update the information technology system for connecting and sharing digital data among state management agencies in accordance with this Decree and relevant legal documents.
7. To maintain and regularly update on www.molisa.gov.vn and www.dolab.gov.vn policies and legal documents concerning Vietnamese guest workers, information on treaties and international agreements which Vietnam has signed concerning Vietnamese guest workers; policies and laws of Vietnamese worker-receiving countries; list of enterprises providing the services of sending Vietnamese workers abroad as guest workers; list of enterprises that have returned their licenses or have their licenses revoked.
8. To organize and guide the reporting and registration of contracts by Vietnamese organizations and individuals making offshore investment; by enterprises and Vietnamese guest workers; to supervise the reporting on, and performance of, registered contracts.
9. To settle complaints and denunciations related to the sending of Vietnamese workers abroad as guest workers in accordance with law.

10. To organize and carry out inspection and examination of the sending of Vietnamese workers abroad as guest workers.

11. To coordinate with the Ministry of Foreign Affairs in assigning civil servants, organizing the management of and directing, providing professional instructions on management and protection of the lawful rights and interests of Vietnamese guest workers.

12. To make statistics of and provide information on the field of Vietnamese guest workers.

13. To coordinate with the Ministry of Foreign Affairs, Ministry of Public Security, Ministry of Finance, Ministry of Planning and Investment, State Bank of Vietnam, localities and other related agencies and organizations in the field of Vietnamese guest workers.

14. To direct, guide and coordinate with state management agencies in localities in, the state management of Vietnamese guest workers.

Article 40. Responsibilities of the Ministry of Foreign Affairs

1. To coordinate with the Ministry of Labor, Invalids and Social Affairs and related ministries and sectors in studying and proposing to the Government guidelines and policies on Vietnamese guest workers.

2. To direct and guide overseas Vietnamese representative missions:

a/ To conduct consular protection, protection of lawful rights and interests of Vietnamese guest workers in host countries in accordance with the law of Vietnam, laws of host countries and treaties to which Vietnam and these countries are contracting parties;

b/ To coordinate with domestic functional agencies in handling matters arising in relation to Vietnamese guest workers in host countries; to study and provide information serving the development of markets for Vietnamese guest workers;

c/ To coordinate with the Ministry of Labor, Invalids and Social Affairs and related agencies in organizing activities to promote overseas labor markets;

d/ To exploit information on Vietnamese workers currently working overseas on the database on Vietnamese guest workers;

dd/ To disseminate the state's policies and laws on Vietnamese guest workers;

e/ To mobilize Vietnamese workers abroad to register contracts signed after they leave the country.

Article 43. Responsibilities of the Ministry of Public Security

1. To direct the public security forces at all levels to prevent, detect and promptly handle violations of security, social order and safety concerning Vietnamese guest workers.

2. To detect and promptly handle acts of illegally sending Vietnamese persons abroad to work or abusing the sending of workers abroad as guest workers to exit Vietnam or send Vietnamese persons abroad for other purposes.

3. To coordinate with the Ministry of Labor, Invalids and Social Affairs, overseas Vietnamese representative missions and related agencies of Vietnamese worker-receiving nations in receiving Vietnamese workers who are expelled by receiving countries or forced to return to the country.

Article 42. Responsibilities of the Ministry of Planning and Investment

1. To share information on names, identification numbers, head office addresses, at-law representatives, charter capital, owners, lists of members or shareholders of enterprises applying for licenses and service enterprises with the Ministry of Labor, Invalids and Social Affairs for the latter to perform the state management of provision of the services of sending Vietnamese workers abroad as guest workers.

2. To provide information on grant, modification and invalidation of offshore investment registration certificates to the Ministry of Labor, Invalids and Social Affairs within 5 working days after granting, modifying, or issuing a decision invalidating an offshore investment registration certificate for joint management of Vietnamese workers sent abroad as guest workers under contracts signed with offshore investors.

Article 43. Responsibilities of ministries, ministerial-level agencies and government-attached agencies

1. To direct the settlement of issues relating to Vietnamese workers sent abroad by non-business units under their management.

2. To settle complaints and denunciations relating to non-business units that send Vietnamese workers abroad as guest workers under their management in accordance with law.

3. To coordinate with the Ministry of Labor, Invalids and Social Affairs in managing Vietnamese guest workers performing a number of specific professions, occupations or jobs under their management.

Article 44. Responsibilities of provincial-level People's Committees

1. To perform the state management of local workers sent abroad.
2. To direct their attached specialized agencies and subordinate People's Committees:
 - a/ To disseminate the State's guidelines, policies and laws on Vietnamese guest workers;
 - b/ To support service enterprises and non-business units to recruit local workers to be sent abroad and manage local workers working overseas;
 - c/ To settle complaints and denunciations of organizations and individuals related to Vietnamese guest workers under their management in accordance with law;
 - d/ To examine and inspect, and timely handle violations committed in localities by organizations and individuals sending Vietnamese workers abroad;
 - dd/ To organize the receipt of registration of labor contracts signed directly between Vietnamese guest workers and their overseas employers and update information thereon on the database on Vietnamese guest workers;
 - e/ To organize the receipt of registration of contracts of Vietnamese enterprises that send workers abroad in the form of occupational knowledge and skills training or improvement for a period of less than 90 days.
3. To send annual reports to the Ministry of Labor, Invalids and Social Affairs and unscheduled reports as requested on local workers sent abroad as guest workers.

Chapter VIII

IMPLEMENTATION PROVISIONS

Article 45. Effect

1. This Decree takes effect on January 1, 2022.
2. The Government's Decree No. 38/2020/ND-CP of April 3, 2020, detailing a number of articles of the Law on Vietnamese Guest Workers; Joint Circular No. 17/2007/TTLT-BLDTBXH-NHNNVN of September 4, 2007, of the Ministry of Labor, Invalids and Social Affairs and the State Bank of Vietnam, providing the management and use of deposits of enterprises and deposits of Vietnamese guest workers, cease to be effective on the effective date of this Decree.

Article 46. Transitional provisions

1. Enterprises that have been granted licenses before the effective date of this Decree shall review, supplement and adjust to meet the conditions specified at Points a, b, d, dd and e, Clause 1, Article 10 of the Law on Vietnamese Guest Workers and Articles 4, 5 and 6 of this Decree; make reports according to Form No. 06 provided in Appendix I and certification of deposit paymen according to Form No. 03 provided in Appendix I to this Decree, and send them to the Ministry of Labor, Invalids and Social Affairs before January 1, 2023.

2. Service enterprises that have obtained approval for sending Vietnamese workers to Taiwan (China) and Japan and as domestic workers overseas may continue sending workers to such markets or to perform such professions, occupations or jobs and, at the same time, shall review, supplement and adjust to meet the conditions specified in Chapter III of this Decree before January 1, 2023.

3. Deposit agreements signed between workers and service enterprises or non-business units before the effective date of this Decree shall continue to be implemented in accordance with law.

Article 47. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, provincial-level People’s Committee chairpersons, and subjects regulated by this Decree shall implement this Decree.-

On behalf of the Government
For the Prime Minister
Deputy Prime Minister
VU DUC DAM

** The Appendices to this Decree are not translated.*