

**THE GOVERNMENT**

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**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom – Happiness**

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No.: 12/2022/ND-CP

*Hanoi, January 17, 2022*

## **DECREE**

### **PENALTIES FOR ADMINISTRATIVE VIOLATIONS AGAINST REGULATIONS ON LABOUR, SOCIAL INSURANCE, AND VIETNAMESE GUEST WORKERS**

*Pursuant to the Law on Government Organization dated June 19, 2015; the Law on amendments to the Law on Government Organization and the Law on Organization of Local Governments dated November 22, 2019;*

*Pursuant to the Law on penalties for administrative violations dated June 20, 2012, and the Law on amendments to the Law on penalties for administrative violations dated November 13, 2020;*

*Pursuant to the Labour Code dated November 20, 2019;*

*Pursuant to the Law on employment dated November 16, 2013;*

*Pursuant to the Law on Occupational Safety and Health dated June 25, 2015;*

*Pursuant to the Law on Trade Union dated June 20, 2012;*

*Pursuant to the Law on Social Insurance dated November 20, 2014;*

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

*At the request of the Minister of Labour, War Invalids and Social Affairs;*

*The Government promulgates a Decree on penalties for administrative violations against regulations on labour, social insurance, and Vietnamese guest workers.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope**

This Decree deals with violations, penalties, fines, remedial measures, entities incurring penalties, the power to impose penalties, the power to make records of administrative violations, procedures for imposing penalties, and enforcement of penalties and remedial measures against violations in the fields of labour, social insurance, and Vietnamese guest workers.

## **Article 2. Regulated entities**

1. Employers, employees or workers, and other organizations and individuals (hereinafter referred to as “entities”) involved in administrative violations against regulations on labour, social insurance, and Vietnamese guest workers as prescribed in this Decree.
2. The persons competent to impose penalties and those competent to make violation records as prescribed in Chapter V of this Decree.
3. Other authorities and entities involved in the imposition and enforcement of penalties and remedial measures as prescribed in this Decree.

## **Article 3. Penalties**

1. Any entities that commit administrative violations against regulations on labour, social insurance and Vietnamese guest workers shall incur the primary penalty which is either a warning or a fine.
2. Depending on the nature and severity of each violation, the violating entity shall also incur one or some of the following additional penalties:
  - a) Suspension of the labour outsourcing license for a fixed period of 06 - 12 months;
  - b) Confiscation of the exhibits and instrumentalities for committing administrative violations, which are forged licenses, certificates or certifications;
  - c) Suspension of training in occupational safety and health for a fixed period of 01 - 03 months;
  - d) Suspension of occupational safety inspection services for a fixed period of 01 - 03 months;
  - dd) Suspension of workplace environmental monitoring services for a fixed period of 03 - 06 months;
  - e) Suspension of Vietnamese guest worker services for a fixed period of 06 - 12 months;
  - g) Suspension of workforce preparation services for a fixed period of 06 - 12 months or 12 - 24 months;
  - h) Suspension of worker recruitment services for a fixed period of 06 - 12 months;
  - i) Suspension of the execution of labour supply contract for a fixed period of 01 - 03 months;
  - k) Suspension of the activities specified in Clauses 1 through 4 Article 9 of the Law on Vietnamese guest workers for a fixed period of 06 - 12 months;

- l) Suspension of provision of Vietnamese guest workers as domestic workers for a fixed period of 06 - 12 months;
- m) Suspension of occupational safety and health assessment services for a fixed period of 01 - 03 months;
- n) Expulsion of foreign employees working in Vietnam.

#### **Article 4. Remedial measures**

In addition to the penalties prescribed in Article 3 of this Decree, the violating entity may be liable to one or some of the following remedial measures:

1. Enforced return of the amount of money received from service users of the employment agency plus the interest on such money.
2. Enforced return of the amount of money received or illegally received from employees.
3. Enforced conclusion of employment contracts or written employment contracts with employees; enforced conclusion of written employment contracts with domestic workers; enforced conclusion of written employment contract with the authorized representative of the group of employees; enforced conclusion of employment contracts of the prescribed type with employees.
4. Enforced return of original personal identity papers, diplomas and certificates, which the employer has kept, to employees.
5. Enforced return of personal identity papers to domestic workers.
6. Enforced return of money plus the interest on such money or property, which has been kept by the employer, to employees.
7. Enforced payment of salary to employees, trainees and apprentices; or enforced payment of full salary to employees.
8. Enforced payment of full salary plus interest on late payment or insufficient payment of salary to employees.
9. Enforced payment of full salary to employees during the period of suspension of their work.
10. Enforced payment of salary to employees during the temporary closure of their workplace.
11. Enforced payment of salary to members of the management board of the internal representative organization of employees during their working hours as prescribed by law for their performance of the duties of the internal representative organization of employees.

12. Enforced payment of salary to the female employee for the prescribed period of breaks that she was not allowed to take during her menstruation period or while nursing a child under 12 months of age.
13. Enforced payment of full travel expenses for the employee who is a domestic worker.
14. Enforced payment of the full amount of social insurance and health insurance premiums for the employee who is a domestic worker.
15. Enforced reinstatement of employees who return to work.
16. Enforced reinstatement of employees or strike leaders when terminating employment contracts signed with such employees or strike leaders, and enforced payment of full salary to employees during the period of termination of their employment contracts.
17. Enforced reinstatement of employees who return to work and payment of salary, social insurance and health insurance premiums in full to employees for the period during which they were not allowed to work.
18. Enforced assignment of the employee to the work or workplace as agreed in the signed employment contract.
19. Enforced extension of the employment contract signed with the employee who is a member of the management board of the internal representative organization of employees until the end of his/her term of office.
20. Enforced completion of procedures for verification and return of other documents to employees.
21. Enforced recommendation of employees suffering from occupational accidents or diseases for medical assessment, determination of the level of work capacity reduction, treatment or functional rehabilitation.
22. Enforced provision of other guarantees to members of the management board of the internal representative organization of employees in accordance with regulations of law.
23. Enforced payment of severance allowance or redundancy allowance in full, plus the interest on such amounts of money, to employees.
24. Enforced return of training fees received from trainees or apprentices that will then work for the employer.
25. Enforced payment of an amount of money equal to the employee's salary as agreed in the employment contract for the remaining notice period from the termination date.

26. Enforced payment of the full amount of money equal to the compulsory social insurance, compulsory health insurance and unemployment insurance premiums, plus the interest on such amount, to the employee.
27. Enforced issuance of public apology to the employee and payment of full treatment costs and salary to the employee during his/her treatment period if the employee is physically harmed to the extent that he/she must receive treatment at health facilities.
28. Enforced payment of allowances or benefits in kind converted into cash at the prescribed rate to employees.
29. Enforced making of co-payments and payment of other expenses which are not covered by the health insurance fund for the employee who holds a valid health insurance policy and suffers from occupational accidents or diseases.
30. Enforced payment of all costs of medical services ranging from first aid, emergency care to stable treatment for the employee who does not have a valid health insurance policy and is suffering from occupational accidents or diseases.
31. Enforced payment of costs of medical examination for assessment of the work capacity reduction level for the employee who is recommended by the employer to receive medical assessment from an authorized medical assessment council and is assessed to suffer less than 5% work capacity reduction.
32. Enforced payment of allowances or compensations, plus interest on such amounts, to employees.
33. Enforced payment of salary differentials to employees.
34. Enforced return of workplace environmental monitoring service charges, plus the interest on such charges, to the employer using workplace environmental monitoring services.
35. Enforced cancellation of occupational safety and health training results.
36. Enforced cancellation of inspection results and return of inspection service charge plus the interest on such charge.
37. Enforced cancellation of workplace environmental monitoring results.
38. Enforced cancellation of the decision to take disciplinary actions or reassign employees or strike leaders to other work or workplace location and payment of full salary to employees during the period for which their employment contracts are terminated.
39. Enforced payment of trade union dues that are overdue, partially paid or unpaid, plus the interest on such amounts.

40. Enforced transfer of illegal profits obtained from labour outsourcing activities to state budget.
41. Enforced transfer of illegally obtained profits to state budget.
42. Enforced payment of amounts payable of compulsory social insurance and unemployment insurance premiums to social insurance authorities.
43. Enforced payment of the amount of interest charged on insurance premiums accrued due to late payment, non-payment, evasion of payment or appropriation of payments, which is calculated by using the interest rate that is 02 times higher than the average interest rate of investment made by the social insurance fund in the previous year. If not doing so, at the request of competent persons, banks, other credit institutions or state treasuries shall withdraw money from the violating employer's deposit accounts to pay deferred amounts or outstanding amounts of insurance premiums plus the interest on such amounts.
44. Enforced return of the received amounts of social insurance benefits, unemployment benefits, or financial support for provision of training or retraining for improving occupational skills for employees to social insurance authorities.
45. Enforced payment of convalescence or functional rehabilitation benefits to employees suffering from occupational accidents or diseases.
46. Enforced return of compulsory social insurance benefits appropriated from employees and payment of interests on such amounts to employees.
47. Enforced transfer of illegally obtained profits to social insurance authorities.
48. Enforced provision of the full duration of vocational training courses that employees participating in unemployment insurance have enrolled.
49. Enforced provision of training or retraining for improving occupational skills according to the plan approved by competent authorities, except cases where such training or retraining activities have been completed.
50. Enforced transfer of the unused financial support for training or retraining for improving occupational skills, compared to the plan approved by competent authorities.
51. Enforced reinstatement of employees and payment of full salary as agreed in employment contracts to employees for the period during which the employee is dismissed by the employer for disciplinary reasons.
52. Enforced updating of information about employees on the database on Vietnamese guest workers.

53. Enforced transfer of full amount of contributions made by workers to the Overseas Employment Support Fund and payment of the interest on such amount, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to the Overseas Employment Support Fund.

54. Enforced payment of total amount payable plus the interest on this amount, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to the Overseas Employment Support Fund.

55. Enforced payment of compensation to employees for damage caused by the enterprise or its branch.

56. Enforced return of amounts of money illegally collected from employees and payment of the interest on such amounts to employees.

57. Enforced return of full service charges to employees and payment of the interest on such amounts to employees.

58. Enforced repatriation of workers or payment of repatriation costs to workers.

59. Enforced payment of costs of transporting remains of workers who have died while working abroad to Vietnam.

60. Enforced return of amounts of money illegally collected from workers plus the interest on such amounts to workers.

61. Enforced return of amounts of money illegally collected from workers plus the interest on such amounts to workers.

62. Enforced return of licenses, certifications or certificates to relevant licensing or issuing authorities.

#### **Article 5. Prescriptive periods of administrative violations**

1. The prescriptive periods of administrative violations against regulations on labour, social insurance, and Vietnamese guest workers shall comply with the provisions of Clause 1 Article 6 of the Law on penalties for administrative violations.

2. Determination of whether an administrative violation has been completed or is ongoing serving the calculation of the prescriptive period of that violation shall comply with the provision of Clause 1 Article 8 of the Government's Decree No. 118/2021/ND-CP dated December 23, 2021.

#### **Article 6. Fines, power to impose penalties, and rules for imposing penalties for repeated violations**

1. The fines for administrative violations prescribed in Chapter II, Chapter III and Chapter IV of this Decree shall be imposed upon violating individuals, except the fines in Clauses 1, 2, 3, 5 Article 7, Clauses 3, 4, 6 Article 13, Clause 2 Article 25, Clause 1 Article 26, Clauses 1, 5, 6, 7 Article 27, Clause 8 Article 39, Clause 5 Article 41, Clauses 1 through 12 Article 42, Clauses 1 through 8 Article 43, Clauses 1 through 6 Article 45, Clause 3 Article 46 of this Decree. The fine imposed upon an organization is twice as much as that imposed upon an individual for committing the same administrative violation.

2. The penalties imposed by the officials competent to impose penalties as prescribed in Chapter V of this Decree are incurred by violating individuals; an official competent to impose penalties shall have the right to impose a fine which is twice as much as that imposed upon an individual upon an organization for committing the same administrative violation.

3. The violating organization that incurs a fine which is twice as much as that imposed upon a violating individual as prescribed in this Decree includes:

a) Regulatory authorities committing violations, except for cases related to their assigned state management tasks;

b) Enterprises that are established and operating under the law of Vietnam; branches and representative offices of Vietnamese enterprises or those of foreign enterprises operating in Vietnam;

c) Co-operatives or cooperative unions;

d) Public service providers;

dd) Political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations, business entities or people's armed forces;

e) Resident offices in Vietnam of foreign press agencies, or representative offices in Vietnam of foreign publishing firms or foreign publication distribution organizations;

g) Representative offices of international organizations or intergovernmental organizations, except for cases of exemption from administrative penalties under treaties to which Vietnam is a signatory;

h) Non-governmental organizations;

i) Not-for-profit representative offices in Vietnam of foreign economic, commercial, financial, banking, insurance, scientific - technical, cultural, educational, medical and legal counseling organizations;

k) Educational institutions, vocational education establishments, health facilities and sociocultural establishments.



4. The repeat of a violation shall be taken into account as an aggravating factor when considering imposing penalties for that violation.

## **Chapter II**

### **ACTS OF VIOLATION, PENALTIES AND REMEDIAL MEASURES AGAINST VIOLATIONS IN LABOUR SECTOR**

#### **Article 7. Violations against regulations on employment services**

1. A fine ranging from VND 500.000 to VND 1.000.000 shall be imposed on an employment agency for commission of one of the following violations:

- a) Notifying its provision of employment services in breach of laws;
- b) Failing to publicly post the certified true copy of the original of its license or license revocation decision at its head office;
- c) Failing to monitor the employment status of employees that it has introduced or supplied for a minimum period of at least 03 months or during the validity period of employment contracts (in case of under-three-month employment contracts).

2. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed on an employment agency for commission of one of the following violations:

- a) Failing to submit reports on its provision of employment services as prescribed;
- b) Failing to have, update or manage data on employees registering for job counseling and introduction and employers registering for recruitment of workers; or failing to connect or share these data as required by competent authorities;
- c) Failing to set or publicly post employment service prices at its head office as prescribed by law.

3. A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed on an employment agency for providing false or misleading information about job positions.

4. A fine ranging from VND 45.000.000 to VND 60.000.000 shall be imposed upon any entity engaged in employment services that does not have a duly established employment service center or does not possess an employment agency license issued by a competent authority, or uses an expired employment agency license.

5. A fine ranging from VND 80.000.000 to VND 100.000.000 shall be imposed on an employment agency for commission of one of the following violations:

- a) Letting another enterprise or entity use its employment agency license;

b) Altering or falsifying any documents included in the application for issuance, renewal or re-issuance of employment agency license if not liable to criminal prosecution;

c) Altering or falsifying the issued employment agency license if not liable to criminal prosecution;

d) Forging any documents included in the application for issuance, renewal or re-issuance of employment agency license if not liable to criminal prosecution;

dd) Forging the employment agency license if not liable to criminal prosecution;

e) Failing to satisfy one of the licensing requirements set out in laws.

6. A fine ranging from VND 40.000.000 to VND 50.000.000 shall be imposed for forging the employment agency license if not liable to criminal prosecution.

#### 7. Additional penalties:

The exhibits and instrumentalities for committing the violation in Point dd Clause 5 or Clause 6 of this Article, which are forged employment agency licenses, shall be confiscated.

#### 8. Remedial measures:

a) The violating entity is compelled to return the amounts of employment service charges collected plus the interest on such amounts which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of imposition of penalties for the violation specified in Clause 4 of this Article;

b) The employment agency that commits the violation specified in Point c Clause 5 of this Article is compelled to return the employment agency license to the licensing authority.

### **Article 8. Violations against regulations on recruitment and employee management**

1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to declare the hiring and placement of employees as prescribed;

b) Charging job candidates;

c) Failing to adequately record and enter information about employees into the employee management book from the starting date of employment;

d) Failing to present the employee management book at the request of competent authorities.

2. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Practicing labour discrimination, except acts of discrimination specified in Point d Clause 1 Article 13, Clause 2 Article 23, Clause 1 Article 36 and Clause 2 Article 37 of this Decree;
- b) Employing untrained people or people without occupational training certificates to do the jobs or works that have to be done by trained workers or holders of occupational training certificates;
- c) Failing to submit reports on changes in number of employees as prescribed;
- d) Failing to make employee management book or failing to make employee management book on schedule, or failing to include basic contents as prescribed by law in the employee management book.

3. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed for persuading, inciting, promising, advertising or otherwise tricking employees into exploitation of labour or forced labour, if not liable to criminal prosecution.

4. Remedial measures:

The employer that commits the violation in Point b Clause 1 of this Article is compelled to return collected amounts to employees.

#### **Article 9. Violations against regulations on conclusion of employment contracts**

1. The following fines shall be imposed upon an employer for commission of one of the following violations: failing to enter into written employment contracts with employees who do jobs with a term of full 01 month or longer; failing to enter into a written employment contract with the authorized representative of the group of employees aged 18 or older to do seasonal works or certain jobs with a term of less than 12 months as prescribed in Clause 2 Article 18 of the Labour Code; failing to enter into the right type of employment contract with employees; entering into employment contracts that do not contain primary information as prescribed by law:

- a) A fine ranging from VND 2.000.000 to VND 5.000.000 shall be imposed if the violation involves 01 - 10 employees;
- b) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 11 - 50 employees;
- c) A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed if the violation involves 51 - 100 employees;
- d) A fine ranging from VND 15.000.000 to VND 20.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 20.000.000 to VND 25.000.000 shall be imposed if the violation involves 301 employees or more.

2. A fine ranging from VND 20.000.000 to VND 25.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Keeping original copies of personal identity papers, diplomas or certificates of employees when concluding or performing employment contracts;
- b) Forcing employees to make deposits in cash or property as security for their performance of employment contracts;
- c) Concluding employment contracts with persons aged 15 to under 18 without obtaining written consent from their legal representatives.

### 3. Remedial measures

- a) The employer is compelled to enter into written employment contracts when failing to enter into written employment contracts with employees who do jobs with a term of full 01 month or longer as specified in Clause 1 of this Article.
- b) The employer is compelled to enter into a written employment contract with the authorized representative of the group of employees to do seasonal works or certain jobs with a term of less than 12 months when failing to enter into a written employment contract with the authorized representative of the group of employees aged 18 or older to do seasonal works or certain jobs with a term of less than 12 months as prescribed in Clause 2 Article 18 of the Labour Code as specified in Clause 1 of this Article;
- c) The employer is compelled to enter into the right type of employment contract with employees when failing to enter into the right type of employment contract with employees as specified in Clause 1 of this Article;
- d) The employer that commits the violation specified in Point a Clause 2 of this Article is compelled to return original copies of personal identity papers, diplomas and certificates to employees;
- dd) The employer that commits the violation specified in Point b Clause 2 of this Article is compelled to return the amounts of money or property, that the employer has kept as security, and pay the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to employees.

## **Article 10. Violations against regulations on probation**

1. A fine ranging from VND 500.000 to VND 1.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Requesting employees who work under employment contracts with a term of less than 01 month to undergo probation;

b) Failing to inform employees of their probation results as prescribed.

2. A fine ranging from VND 2.000.000 to VND 5.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Requesting an employee to undergo more than 01 probationary period for a job;

b) Having employees take probation for a period longer than prescribed;

c) Paying probationary salary at the rate lower than 85% of the offered salary;

d) Failing to conclude the employment contract with the employee whose probation result is satisfactory in case a probation contract has been concluded.

### 3. Remedial measures

a) The employer that commits the violation specified in Point a Clause 1 or Point a, b or c Clause 2 of this Article is compelled to pay full salary to affected employees;

b) The employer that commits the violation specified in Point d Clause 2 of this Article is compelled to conclude employment contracts with affected employees.

## **Article 11. Violations against regulations on performance of employment contracts**

1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for reassigning an employee to perform a work which is not specified in the employment contract without giving 03 days' prior notice or without notification, or with an ambiguous notification, of the reassignment period, or reassigning works that are unsuitable for the employee's health and gender.

2. A fine ranging from VND 3.000.000 to VND 7.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Placing employees in jobs at places other than the ones agreed in employment contracts, except for the cases specified in Article 29 in the Labour Code;

b) Failing to reinstate the employee who returns to work after the suspension period of the employment contract if it is still unexpired, unless otherwise agreed by the employer and the employee or prescribed by law;

c) Reassigning employees to perform works which are not specified in their employment contracts for improper reasons or for incorrect periods, or without written consent from employees as prescribed by law.

3. A fine ranging from VND 15.000.000 to VND 30.000.000 shall be imposed for committing acts of sexual harassment in the workplace if not liable to criminal prosecution.

4. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Coercing or maltreating employees if not liable to criminal prosecution.

b) Forcing the employee to keep performing the employment contract to pay debt to the employer.

#### 5. Remedial measures

a) The employer that commits the violation specified in Point a Clause 2 of this Article is compelled to place employees in jobs at places agreed in employment contracts;

b) The employer that commits the violation specified in Point b Clause 2 of this Article is compelled to reinstate the employee who returns to work after the suspension period of the employment contract, unless otherwise agreed by both parties or prescribed by law, and pay salary to the employee for the period during which the employee was not allowed to work after the suspension period of the employment contract;

c) The employer that commits the violation specified in Point c Clause 2 of this Article is compelled to assign employees to perform works agreed in their employment contracts.

### **Article 12. Violations against regulations on modification, revision and termination of employment contracts**

1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for failing to give written notifications to employees of the termination of their employment contracts which is made in accordance with regulations of the Labour Code, except for the cases specified in Clauses 4 through 8 Article 34 of the Labour Code.

2. The following fines shall be imposed upon an employer for commission of one of the following violations: Changing the term of an employment contract using its annex; failing to comply with regulations on time limits for settling all payments in respect of the rights and interests of employees when terminating the employment contracts; failing to pay or insufficiently paying severance allowances to employees in accordance with regulations of law; failing to pay or insufficiently paying redundancy allowances to employees in accordance with regulations of law; failing to make or insufficiently making the prescribed payments to employees when unilaterally terminating their employment contracts in breach of law; failing to complete procedures for certification of duration of participation in social insurance and unemployment insurance, and return the certification and original copies of other documents to employees after terminating their employment contracts in accordance with regulations of law; failing to provide copies of the documents relevant to the employee's working period if requested by the employee after terminating his/her employment contract:

a) A fine ranging from VND 1.000.000 to VND 2.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 2.000.000 to VND 5.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 15.000.000 to VND 20.000.000 shall be imposed if the violation involves 301 employees or more.

3. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Dismissing employees due to changes in organizational structure, technology, or economic reasons in one of the following circumstances: failing to discuss with the internal representative organization of employees (if any), or failing to give a prior notice of at least 30 days to the Provincial People's Committee or the employee;

b) In case of changes in organizational structure, technology, or changes due to economic reasons; full division, partial division, consolidation, merger of the enterprise; sale, lease, conversion of the enterprise; transfer of the right to ownership or right to enjoyment of assets of the enterprise or cooperative, committing one of the following violations: failing to develop an employee placement plan; developing an employee placement plan that does not have adequate primary contents as prescribed by law or fail to discuss with the internal representative organization of employees (if available) during the development of the employee placement plan;

c) Failing to take opinions given by the internal representative organization of employees (if available) into consideration when adopting the rules for assessment of employees' fulfillment of duties.

#### 4. Remedial measures

a) The employer is compelled to make full payments of severance allowances or redundancy allowances plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to employees in case of failing to pay or insufficiently paying severance or redundancy allowance as specified in Clause 2 of this Article;

b) The employer is compelled to complete procedures for certification and return documents, which have been kept by the employer, to employees in case of failing to complete procedures

for certification of duration of participation in social insurance and unemployment insurance, and return the certification and original copies of other documents to employees after terminating their employment contracts in accordance with regulations of law as specified in Clause 2 of this Article;

c) The employer is compelled to pay an amount of money equal to the employee's salary as agreed in the employment contract for the remaining notice period from the termination date in case of failing to comply with regulations on notice period as specified in Point a Clause 3 of this Article.

### **Article 13. Violations against regulations on labour outsourcing**

1. A fine ranging from VND 3.000.000 to VND 5.000.000 shall be imposed upon an enterprise that uses outsourced workers (hereinafter referred to as "client enterprise") for commission of one of the following violations:

a) Failing to inform or guide outsourced workers to understand its internal labour regulations, dangerous or harmful elements, occupational safety and health measures or other regulations;

b) Failing to organize training in occupational safety and health for outsourced workers in accordance with regulations of law;

c) Failing to provide first aid or emergency care to outsourced workers suffering from occupational accidents; failing to report or investigate occupational accidents or technical incidents threatening occupational safety and health suffered by outsourced workers in accordance with regulations of law;

d) Discriminating between the outsourced workers and its directly hired employees in respect of the working conditions.

2. A fine ranging from VND 40.000.000 to VND 50.000.000 shall be imposed upon a client enterprise for commission of one of the following violations:

a) Using outsourced workers to perform works which are not included in the list of permissible outsourced jobs;

b) Using outsourced workers supplied by an enterprise that fails to possess a labour outsourcing license or uses an expired labour outsourcing license;

c) Using outsourced workers to replace other employees during a strike or settlement of labour disputes;

d) Using outsourced workers to replace employees who are dismissed due to changes in organizational structure or technology, economic reasons, full division, partial division, consolidation or merger of the enterprise;



dd) Dispatching outsourced workers to other employers;

e) Using outsourced workers without entering into an agreement with the outsourcing enterprise on responsibility to make compensation for outsourced workers suffering from occupational accidents or diseases;

g) Using outsourced workers in cases other than the following cases: the employment is necessary for the sharp increase in labor demand over a limited period of time; the outsourced worker is meant to replace another employee who is taking maternal leave, or suffers from an occupational accident or occupational disease or has to fulfill his/her citizen's duties; the work requires highly skilled workers.

3. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an outsourcing enterprise for commission of one of the following violations:

a) Failing to keep records of the number of outsourced workers and client enterprises;

b) Failing to submit reports on its provision of outsourcing services in accordance with regulations of law;

c) Failing to publicly post the original of the labour outsourcing license at its head office and the certified true copies of the original of such license at its branches and representative offices (if any);

d) Failing to send the certified true copy of its labour outsourcing license to the Department of Labour, War Invalids and Social Affairs of province or city where it provides outsourcing services;

dd) Failing to cooperate with the client enterprise in investigating the occupational accident which causes serious injuries to an outsourced worker in accordance with regulations of law;

e) Failing to inform outsourced workers of occupational safety and health-related contents included in the labour outsourcing contract;

g) Failing to appoint its employees to regularly supervise, cooperate or inspect the provision of safe and healthy working conditions for outsourced workers by the client enterprise.

4. The following fines shall be imposed upon an outsourcing enterprise for commission of one of the following violations: paying the outsourced worker a salary that is lower than that of a directly hired employee of the client enterprise who has equal qualifications and performs the same or equal work; failing to pay benefits to outsourced workers who are victims of occupational accidents or diseases in accordance with regulations of law; failing to inform or untruthfully informing outsourced workers of the contents of the labour outsourcing contract:

a) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 40.000.000 to VND 60.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 60.000.000 to VND 80.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 80.000.000 to VND 100.000.000 shall be imposed if the violation involves 301 employees or more.

5. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed for commission of one of the following violations:

a) Providing outsourcing services without obtaining a labour outsourcing license;

b) Using an expired labour outsourcing license for providing labour outsourcing services.

6. A fine ranging from VND 80.000.000 to VND 100.000.000 shall be imposed upon an outsourcing enterprise for commission of one of the following violations:

a) Letting other enterprises or entities use its labour outsourcing license to provide labor outsourcing services;

b) Providing outsourced workers to perform works which are not included in the list of permissible outsourced jobs;

c) Providing an outsourced worker for a duration exceeding 12 months;

d) Altering or falsifying any documents included in the application for issuance, renewal or re-issuance of the labour outsourcing license if not liable to criminal prosecution;

dd) Altering or falsifying the issued labour outsourcing license if not liable to criminal prosecution;

e) Forging the labour outsourcing license if not liable to criminal prosecution;

g) Forging any documents included in the application for issuance, renewal or re-issuance of the labour outsourcing license if not liable to criminal prosecution;

h) Failing to satisfy one of the licensing requirements set out in laws.

7. A fine ranging from VND 40.000.000 to VND 50.000.000 shall be imposed for forging the labour outsourcing license if not liable to criminal prosecution.

#### 8. Additional penalties:

- a) The labour outsourcing license shall be suspended for a fixed period of 06 - 12 months if the violation in Point c Clause 6 of this Article is committed;
- b) The exhibits and instrumentalities for committing the violation in Point e Clause 6 or Clause 7 of this Article, which are forged labour outsourcing licenses, shall be confiscated.

#### 9. Remedial measures

- a) The outsourcing enterprise is compelled to pay salary differentials to outsourced workers in case of paying the outsourced worker a salary that is lower than that of a directly hired employee of the client enterprise who has equal qualifications and performs the same or equal work as specified in Clause 4 of this Article;
- b) The entity that commits the violation in Clause 5 of this Article is compelled to transfer profits illegally obtained from labour outsourcing activities to state budget;
- c) The outsourcing enterprise that commits the violation in Point dd Clause 6 of this Article is compelled to return the labour outsourcing license to the licensing authority.

#### **Article 14. Violations against regulations on training and retraining for improving occupational skills**

1. The following fines shall be imposed upon an employer for commission of one of the following violations: failing to provide training for employees before reassigning them; failing to have an occupational training contract which contains the basic contents prescribed in Clause 2 Article 62 of the Labour Code; charging trainees or apprentices who will then work for the employer; failing to enter into traineeship or apprenticeship contracts with trainees or apprentices who will then work for the employer that is not required to register occupational training activities as prescribed in Clause 3 Article 61 of the Labour Code; failing to pay salary to trainees or apprentices who directly perform or participate in performance of the work; failing to enter into employment contracts with trainees or apprentices who satisfy the conditions set out in the Labour Code upon the expiry of their traineeship or apprenticeship period:

- a) A fine ranging from VND 500.000 to VND 2.000.000 shall be imposed if the violation involves 01 - 10 employees;
- b) A fine ranging from VND 2.000.000 to VND 5.000.000 shall be imposed if the violation involves 11 - 50 employees;
- c) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 51 - 100 employees;
- d) A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 15.000.000 to VND 20.000.000 shall be imposed if the violation involves 301 employees or more.

2. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Taking advantage of occupational training or apprenticeship to profiteer, or exploit the trainees or apprentices, or persuade or force them to act against the law;

b) Recruiting people under 14 years old to apprenticeship or job training, except for occupations and jobs permitted by law;

c) Recruiting apprentices for a duration of apprenticeship exceeding 03 months.

3. Remedial measures

a) The employer is compelled to return training fees collected from trainees or apprentices in case of charging trainees or apprentices who will then work for the employer as specified in Clause 1 of this Article;

b) The employer is compelled to pay salary to trainees or apprentices in case of failing to pay salary to trainees or apprentices who directly perform or participate in performance of the work as specified in Clause 1 of this Article;

b) The employer is compelled to transfer profits illegally obtained from the violation specified in Point a Clause 2 of this Article to state budget.

### **Article 15. Violations against regulations on dialogue at workplace**

A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

1. Failing to formulate, promulgate or revise the workplace democracy regulations in accordance with regulations of law.

2. Failing to hold periodic dialogue at the workplace; failing to hold a dialogue as requested; failing to cooperate in holding employees' meetings in accordance with regulations of law.

3. Failing to publicly disclose main contents of the dialogue or the workplace democracy regulations in accordance with regulations of law.

4. Failing to arrange location, time and other material conditions necessary for holding the dialogue at the workplace.

5. Failing to appoint or appointing unqualified person(s) to act as the employer's representative(s) at the dialogue at the workplace.

6. Failing to submit reports on holding of dialogue at the workplace and implementation of workplace democracy regulations to competent labour authorities upon their request.

#### **Article 16. Violations against regulations on collective bargaining and Collective bargaining agreements**

1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to send the collective bargaining agreement to the labour authority affiliated to the People's Committee of province where it is headquartered;
- b) Failing to pay costs of negotiation, conclusion, revision, submission and announcement of the collective bargaining agreement;
- c) Providing late or inaccurate information on the business performance and other information relevant to the collective bargaining issues as requested by the employees' representative to serve the collective bargaining;
- d) Failing to make the concluded collective bargaining agreement publicly available to their employees.

2. A fine ranging from VND 3.000.000 to VND 5.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to provide information on the business performance and other information relevant to the collective bargaining issues as requested by the employees' representative to serve the collective bargaining;
- b) Failing to arrange time, location or other conditions necessary for holding the collective bargaining meetings.

3. A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Refusing to participate in the collective bargaining when receiving a request for collective bargaining;
- b) Implementing the collective bargaining agreement which has been declared invalid;
- c) Causing difficulties to, obstructing or interfering with the survey conducted by the representative organization of employees to collect employees' opinions.

#### **Article 17. Violations against regulations on salaries**

1. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to publicly post the pay scale, payroll, labour productivity norms and bonus regulations at the workplace;
- b) Failing to establish pay scale, payroll, or labour productivity norms; failing to experiment labour productivity norms before they are officially introduced;
- c) Failing to consult with the internal representative organization of employees (if any) during the establishment of the pay scale, payroll, labour productivity norms and bonus regulations;
- d) Failing to provide salary notes to employees or providing salary notes to employees in breach of law;
- dd) Failing to pay salaries fairly or discriminating against genders of employees who perform equal works.

2. The following fines shall be imposed upon an employer for commission of one of the following violations: Failing to pay salaries on schedule as prescribed by law; failing to pay or insufficiently paying salaries to employees as agreed in their employment contracts; failing to make or insufficiently making overtime pay; failing to make or insufficiently making nightshift pay; failing to pay or insufficiently paying work suspension allowances as prescribed by law; restricting or interfering employees' spending of their salaries; forcing employees to spend their salaries on goods or services of the employer or any particular providers decided by the employer; deducting from employees' salaries in breach of law; failing to pay or insufficiently paying salaries to employees how are reassigned to perform works which are not specified in their employment contracts or during a strike; failing to make or insufficiently making payments to employees who, due to employment termination or job loss, have not taken or not entirely taken up their annual leave in compensation for their untaken leave days; failing to make or insufficiently making advance payments to employees who temporarily leave their works in accordance with regulations of law; failing to pay full salaries to employees who are not disciplined for their work suspension period:

- a) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 01 - 10 employees;
- b) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed if the violation involves 11 - 50 employees;
- c) A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed if the violation involves 51 - 100 employees;
- d) A fine ranging from VND 30.000.000 to VND 40.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 40.000.000 to VND 50.000.000 shall be imposed if the violation involves 301 employees or more.

3. The following fines shall be imposed upon an employer for paying their employees salaries which are lower than the statutory minimum wages announced by the Government:

a) A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 30.000.000 to VND 50.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed if the violation involves 51 employees or more.

4. The following fines shall be imposed upon an employer for failing to pay or insufficiently paying employees, who are not covered by compulsory social insurance, health insurance or unemployment insurance as prescribed by law, in addition to and at the same time with salary payment, amounts of money equal to total sums of compulsory social insurance, compulsory health insurance, and unemployment insurance premiums payable by the employer:

a) A fine ranging from VND 3.000.000 to VND 5.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 5.000.000 to VND 8.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 8.000.000 to VND 12.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 12.000.000 to VND 15.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 15.000.000 to VND 20.000.000 shall be imposed if the violation involves 301 employees or more.

## 5. Remedial measures

a) The employer that commits the violation specified in Clause 2 or Clause 3 of this Article is compelled to pay full salaries plus interests on late payments or insufficient payments of salary, which are calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to employees.

b) The employer that commits the violation specified in Clause 4 of this Article is compelled to pay full amounts of money equal to total sums of compulsory social insurance, compulsory health insurance, and unemployment insurance premiums payable plus interests on such

amounts, which are calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to employees.

#### **Article 18. Violations against regulations on working hours and rest periods**

1. A fine ranging from VND 2.000.000 to VND 5.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to grant personal leave or unpaid leave to employees in accordance with regulations of law;

b) Failing to send a written notification of organization of overtime working hours in excess of 200 hours to 300 hours in a year to the Department of Labour, War Invalids and Social Affairs of the province where such overtime works are performed and of the province where it is headquartered.

2. A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed upon an employer for committing violations against regulations on weekly breaks or annual leave or public holidays.

3. A fine ranging from VND 20.000.000 to VND 25.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Applying normal working hours exceeding the working hours prescribed by law;

b) Mobilizing employees to work overtime without their consent, except for the cases specified in Article 108 of the Labour Code.

4. The following fines shall be imposed upon an employer for commission of one of the following violations: failing to give rest breaks during working hours or breaks between shifts to employees in accordance with regulations of law; mobilizing employees to work overtime in excess of overtime hours prescribed by law:

a) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 40.000.000 to VND 60.000.000 shall be imposed if the violation involves 101 - 300 employees;



dd) A fine ranging from VND 60.000.000 to VND 75.000.000 shall be imposed if the violation involves 301 employees or more.

#### **Article 19. Violations against regulations on labour discipline and material responsibility**

1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for failing to make internal labour regulations publicly available to their employees or failing to post the major contents of the internal labour regulations at necessary sites at the workplace.

2. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to apply written internal labour regulations when employing 10 employees or more;

b) Failing to follow procedures for registration of internal labour regulations as prescribed by law;

c) Failing to consult with the internal representative organization of employees (if any) before issuing or revising the internal labour regulations;

d) Applying the internal labour regulations which have not been yet in effect or have become null and void;

dd) Failing to follow processes, procedures and time limits set out in law when implementing disciplinary measures at work or paying compensation for damage;

e) Suspending employees from work for a duration exceeding the maximum suspension period prescribed by law;

g) Before suspending employees from work, failing to consult with the internal representative organization of employees to which the employee is a member.

3. A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Harming the employee's health, life, honor or dignity when imposing disciplinary measures in the workplace if not liable to criminal prosecution;

b) Applying monetary fines or deducting the employee's salary wage instead of disciplinary measures;

c) Imposing a disciplinary measure against an employee for a violation which is not stipulated in the internal labour regulations or employment contract or labour laws;

d) Imposing more than one disciplinary measure for one violation;

dd) Imposing disciplinary measures against an employee during the period when he/she is taking leave on account of illness or convalescence, or on other types of leave with the employer's consent; he/she is being held under temporary custody or detention; he/she is waiting for verification and conclusion of the competent authority for acts of violations specified in Clause 1 and Clause 2 Article 125 of the Labour Code.

#### 4. Remedial measures

a) The employer that commits the violation in Point dd Clause 2 or Point c Clause 3 of this Article is compelled to reinstate the employee and pay full salary as agreed in the employment contract to employee for the period during which the employee is dismissed by the employer for disciplinary reasons.

b) The employer that commits the violation in Point e or g Clause 2 of this Article is compelled to pay full salaries to employees during the period they are suspended from work.

c) The employer that commits the violation in Point a Clause 3 of this Article is compelled to issue public apology to the employee and fully pay treatment costs and salary to the employee during his/her treatment period if the employee is physically harmed to the extent that he/she must receive treatment at health facilities.

d) The employer that commits the violation in Point b Clause 3 of this Article is compelled to return collected amounts or pay full salaries to employees.

#### **Article 20. Violations against regulations on occupational safety and health (OSH)**

1. A fine ranging from VND 500.000 to VND 1.000.000 shall be imposed upon an employee for failing to submit timely reports to responsible person when detecting any OSH risks which may cause occupational accidents or occupational diseases.

2. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for failing to submit reports or lately submitting reports on OSH as prescribed by law.

3. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations: failing to make statistical reports on occupational accidents; failing to submit periodic reports or submitting inadequate, inaccurate or late reports on occupational accidents and occupational diseases; failing to submit periodic reports or submitting inadequate, inaccurate or late reports on serious technical incidents threatening OSH in accordance with regulations of law.

#### **Article 21. Violations against regulations on OSH measures**

1. A fine ranging from VND 500.000 to VND 1.000.000 shall be imposed upon an employer for failing to make occupational health profile regarding hazards and prevention and control of occupational diseases in accordance with regulations of law.

2. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to formulate, issue or organize implementation of plans, rules and regulations on OSH at the workplace, or formulating them without consulting with the grassroots trade union executive committees;
- b) Failing to establish department or assign person(s) to take charge of OSH tasks or assigning unqualified person(s) to take charge of OSH tasks; failing to establish department or assign person(s) to take charge of healthcare tasks or failing to a healthcare service contract with a qualified health facility or assigning unqualified person(s) to take charge of healthcare tasks;
- c) Failing to run adequate first aid and emergency care forces at the workplace as prescribed;
- d) Failing to provide training for first aid and emergency care forces at the workplace, or providing such training courses which do not comply with regulations in force.

3. A fine ranging from VND 20.000.000 to VND 25.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to carry out periodic inspection and maintenance of machinery, equipment, factories or other facilities as prescribed;
- b) Failing to provide equipment meeting OSH standards at the workplace as prescribed;
- c) Failing to develop and adopt workplace incident or emergency response plans;
- d) Failing to develop plans on implementation of OSH measures at workplace when building, expanding or renovating construction structures and facilities used for production, use, maintenance and storage of machines, equipment, supplies or substances subject to strict OSH requirements;
- dd) Failing to investigate occupational accidents falling under their jurisdiction as prescribed by law; failing to declare, or lately or untruthfully declaring occupational accidents; failing to declare, or lately or untruthfully declaring serious technical incidents threatening OSH;
- e) Failing to provide adequate shower rooms and toilets at workplace as prescribed by law;
- g) Failing to equip technical and medical equipment to ensure response and first aid tasks to be performed on time in case of serious technical incidents threatening OSH or occupational accidents.

4. The following fines shall be imposed upon an employer for failing to provide or insufficiently providing personal protective equipment and healthcare policies for workers performing arduous, hazardous or dangerous works or extremely arduous, hazardous or dangerous works in accordance with regulations of law in force:

a) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 40.000.000 to VND 60.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 60.000.000 to VND 75.000.000 shall be imposed if the violation involves 301 employees or more.

5. A fine ranging from VND 50.000.000 to VND 70.000.000 shall be imposed upon an employer for failing to carry out working conditions-based assessment and classification of employees performing arduous, hazardous or dangerous works or extremely arduous, hazardous or dangerous works so as to provide benefits to them according to Clause 3 Article 22 of the Law on occupational safety and health.

## **Article 22. Violations against regulations on prevention of occupational accidents and occupational diseases**

1. A fine ranging from VND 500.000 to VND 1.000.000 shall be imposed upon an employee for commission of one of the following violations:

a) Failing to use the provided personal protective equipment;

b) Failing to get involved in responding to emergencies, incidents or accidents at work upon receipt of orders from his/her employer or competent authorities.

2. A fine ranging from VND 1.000.000 to VND 3.000.000 per employee but not exceeding VND 75.000.000 shall be imposed upon an employer for failing to provide regular health check-ups or medical examination for detection of occupational diseases for their employees.

3. A fine ranging from VND 5.000.000 to VND 10.000.000 per employee but not exceeding VND 75.000.000 shall be imposed upon an employer for failing to provide health check-ups for employees before they are reassigned to perform arduous, hazardous or dangerous works or after they recover from occupational accidents or diseases and return to work, except cases where the employee has undergone a medical examination for assessment of work capacity reduction level given by an authorized medical assessment council.

4. A fine ranging from VND 10.000.000 to VND 15.000.000 per employee but not exceeding VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to provide medical treatment, care and functional rehabilitation for employees suffering occupational diseases or accidents;

b) Failing to assign works suitable to health conditions of employees suffering from occupational diseases or occupational accidents according to the conclusions given by the medical assessment council.

5. A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to provide information on occupational accidents, occupational diseases, hazards and harmful factors, and OSH measures at workplace for employees;

b) Failing to identify and assess hazards and harmful factors at the workplace;

c) Failing to display warning or instruction signs, in Vietnamese language and another common language of employees, of OSH requirements for machines, equipment, supplies and substances subject to strict OSH requirements at easily visible and legible sites at the workplace and the areas where they are stored, maintained or used.

6. A fine ranging from VND 15.000.000 to VND 20.000.000 shall be imposed upon an employer for failing to develop and implement plans for assessment of OSH risks to its production and business facilities posing high risks of occupational accidents or diseases.

7. A fine ranging from VND 20.000.000 to VND 25.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to promptly take remedial measures or stop operation of machines, equipment or entire workplace posing potential risks of occupational accidents or diseases;

b) Failing to carry out decontamination and disinfection measures for their employees working in areas affected by contaminant or infectious agents;

c) Failing to implement incident or emergency response measures when risks are detected or any occupational accident or technical incident threatening OSH occurs at workplace beyond their control.

8. The following fines shall be imposed upon an employer for commission of one of the following violations: Failing to provide or insufficiently providing personal protective equipment, or providing such equipment that does not meet quality standards; failing to grant allowances or benefits in kind or granting them at the rates lower than the prescribed ones; paying money in lieu of allowances or benefits in kind to employees working in contact with hazards or harmful factors:

a) A fine ranging from VND 3.000.000 to VND 6.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 6.000.000 to VND 10.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 15.000.000 to VND 20.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed if the violation involves 301 employees or more.

9. A fine ranging from VND 25.000.000 to VND 40.000.000 shall be imposed upon an employer for violating national technical regulations on OSH (except for the violations specified in Clause 8 of this Article, and Article 24 of this Decree).

10. A fine ranging from VND 30.000.000 to VND 40.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Forcing their employees to work inconsistently with law when there is any risk of occupational accident likely to seriously endanger their health or life;

b) Forcing their employees to not to leave their workplace inconsistently with law when there is any risk of occupational accident likely to seriously endanger their health or life;

c) Forcing their employees to keep working inconsistently with law when such risks of occupational accident likely to seriously endanger their health or life have not been controlled.

#### 11. Remedial measures

The employer is compelled to pay employees allowances or benefits in kind which are converted into cash at the prescribed rates in case of failing to grant allowances or benefits in kind or granting them at the rates lower than the prescribed ones to employees working in contact with hazards or harmful factors as specified in Clause 8 of this Article.

#### **Article 23. Violations against regulations on responsibility of employer to employees suffering from occupational accidents or occupational diseases**

1. A fine ranging from VND 2.000.000 to VND 4.000.000 per employee but not exceeding VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to provide first aid or emergency care to employees suffering from occupational accidents;

b) Failing to make co-payments or other expenses which are not covered by the health insurance fund for the employee who holds valid health insurance policy and suffers from occupational accidents or diseases;

c) Failing to make advance payments of costs of first aid or emergency care or failing to pay all costs of medical services ranging from first aid, emergency care to stable treatment for the employee who does not have a valid health insurance policy and is suffering from occupational accidents or diseases;

d) Failing to recommend employees suffering from occupational accidents or diseases for medical assessment, determination of the level of work capacity reduction, treatment or functional rehabilitation in accordance with regulations of law;

dd) Failing to pay costs of medical examination for assessment of work capacity reduction levels which must be payable by the employer in accordance with regulations of law;

e) Failing to pay or insufficiently or lately paying compensation or allowances to employees suffering from occupational accidents or diseases in accordance with regulations of law.

2. The following fines shall be imposed upon an employer for commission of one of the following violations: Discriminating against the employee who refuses to work or abandons his/her workplace when he/she clearly sees a risk of an occupational accident seriously threatening his/her life or health; discriminating against persons in charge of OSH tasks, OSH officers or persons in charge of healthcare tasks on the grounds that they have performed OSH tasks at the workplace:

a) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 30.000.000 to VND 40.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 40.000.000 to VND 50.000.000 shall be imposed if the violation involves 301 employees or more.

### 3. Remedial measures

a) The employer that commits the violation specified in Point b Clause 1 of this Article is compelled to make co-payments and pay other expenses which are not covered by the health

insurance fund for the employee who holds a valid health insurance policy and suffers from occupational accidents or diseases;

b) The employer that commits the violation specified in Point c Clause 1 of this Article is compelled to pay all costs of medical services ranging from first aid, emergency care to stable treatment for the employee who does not have a valid health insurance policy and is suffering from occupational accidents or diseases;

c) The employer that commits the violation specified in Point d Clause 1 of this Article is compelled to recommend employees suffering from occupational accidents or diseases for medical assessment, determination of their work capacity reduction levels, treatment or functional rehabilitation in accordance with regulations of law;

d) The employer that commits the violation specified in Point dd Clause 1 of this Article is compelled to pay costs of medical examination for assessment of the work capacity reduction level for the employee who is recommended by the employer to receive medical assessment from an authorized medical assessment council and is assessed to suffer less than 5% work capacity reduction;

dd) The employer that commits the violation specified in Point e Clause 1 of this Article is compelled to pay the amounts of allowances and/or compensation plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to employees.

#### **Article 24. Violations against regulations on use of machines and equipment subject to strict OSH requirements**

The following fines shall be imposed for violating regulations on use of machines, equipment and supplies subject to strict occupational safety requirements:

1. A fine ranging from VND 1.000.000 to VND 2.000.000 shall be imposed for failing to notify the local Department of Labour, War Invalids and Social Affairs within a duration of 30 days before or after putting machines, equipment and supplies subject to strict occupational safety requirements into use.

2. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed for failing to retain adequate technical documents on machines, equipment and supplies subject to strict occupational safety requirements.

3. A fine ranging from VND 15.000.000 to VND 20.000.000 shall be imposed for commission of one of the following violations: violating any provision laid down in national technical regulations on OSH for use of machines, equipment and supplies subject to strict occupational safety requirements; using machines, equipment and supplies subject to strict occupational safety requirements which have not yet been certified as compliant with corresponding national technical regulations; using machines, equipment and supplies subject to strict occupational safety requirements which are of unknown origin or whose service life has been expired.



4. The following fines shall be imposed for failing to carry out inspections before use or failing to carry out periodic inspections during use of machines, equipment and supplies subject to strict occupational safety requirements:

a) A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed if the violation involves 01 - 03 pieces of machines, equipment and supplies;

b) A fine ranging from VND 30.000.000 to VND 50.000.000 shall be imposed if the violation involves 04 - 10 pieces of machines, equipment and supplies;

c) A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed if the violation involves 11 - 20 pieces of machines, equipment and supplies;

d) A fine of VND 75.000.000 shall be imposed if the violation involves 21 pieces of machines, equipment and supplies, or more.

5. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed for continuing using machines, equipment and supplies subject to strict occupational safety requirements whose inspection results are unsatisfactory.

#### **Article 25. Violations against regulations on training in OSH**

1. The following fines shall be imposed upon an employer for failing to organize training in OSH for employees in accordance with regulations of law or making arrangements with training institutions under which they can attain training results without participating in any training courses or using employees who do not have occupation safety cards issued in accordance with regulations of law to perform works or jobs bound by strict OSH requirements:

a) A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed if the violation involves 11 - 50 employees;

c) A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed if the violation involves 51 - 100 employees;

d) A fine ranging from VND 30.000.000 to VND 40.000.000 shall be imposed if the violation involves 101 - 300 employees;

dd) A fine ranging from VND 40.000.000 to VND 50.000.000 shall be imposed if the violation involves 301 employees or more.

2. The following fines shall be imposed upon an OSH training institution for committing violations against regulations on OSH training:

a) A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed for commission of one of the following violations: failing to submit reports on OSH training as prescribed by law; failing to notify competent authorities when providing OSH training courses under the training framework programs for persons in charge of OSH tasks (group 2), persons performing works or jobs bound by strict OSH requirements (group 3) or OSH trainers as prescribed by law;

b) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed for commission of one of the following violations: Providing inadequate contents of compulsory training courses designed according to legally prescribed framework programs; hiring unqualified trainers; failing to provide necessary training facilities as prescribed by law; failing to prepare training materials for trainees;

c) A fine ranging from VND 30.000.000 to VND 50.000.000 shall be imposed for commission of one of the following violations: Providing training results without any training courses that have been provided; providing training results inconsistent with the provided training contents;

d) A fine ranging from VND 120.000.000 to VND 140.000.000 shall be imposed for commission of one of the following violations: providing training courses during the period when its OSH training activities are suspended or when its certificate of eligibility to provide OSH training has been revoked or expired; providing training courses beyond the scope of the issued certificate of eligibility to provide OSH training in respect of training contents which shall only be provided under a valid certificate of eligibility to provide OSH training; failing to maintain its satisfaction of eligibility requirements to provide OSH as prescribed by law; altering or falsifying the certificate of eligibility to provide OSH training if not liable to criminal prosecution; altering or falsifying any documents included in the application for certificate of eligibility to provide OSH training, if not liable to criminal prosecution; forging any documents included in the application for certificate of eligibility to provide OSH training, if not liable to criminal prosecution; forging certificate of eligibility to provide OSH training, if not liable to criminal prosecution.

3. The following fines shall be imposed upon an employer that themselves organizes OSH training activities for committing violations against regulations on OSH training:

a) A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed for commission of one of the following violations: failing to submit reports on OSH training as prescribed by law; failing to notify competent authorities when providing OSH training courses under the training framework programs for persons in charge of OSH tasks (group 2), persons performing works or jobs bound by strict OSH requirements (group 3) or OSH trainers as prescribed by law;

b) A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed for commission of one of the following violations: Providing inadequate contents of compulsory training courses designed according to legally prescribed framework programs; hiring unqualified trainers; failing to provide necessary training facilities as prescribed by law; failing to prepare training materials for trainees;

c) A fine ranging from VND 15.000.000 to VND 25.000.000 shall be imposed for commission of one of the following violations: Providing training results without any training courses that have been provided; providing training results inconsistent with the provided training contents;

d) A fine ranging from VND 60.000.000 to VND 70.000.000 shall be imposed for commission of one of the following violations: failing to obtain a certificate of eligibility to provide OSH training when organizing training activities in cases such a certificate of eligibility to provide OSH training is required, or organizing training activities during the period when its OSH training activities are suspended or when its certificate of eligibility to provide OSH training has been revoked or expired; providing training courses beyond the scope of the issued certificate of eligibility to provide OSH training in respect of training contents which shall only be provided under a valid certificate of eligibility to provide OSH training; failing to maintain its satisfaction of eligibility requirements to provide OSH as prescribed by law; altering or falsifying the certificate of eligibility to provide OSH training if not liable to criminal prosecution; altering or falsifying any documents included in the application for certificate of eligibility to provide OSH training, if not liable to criminal prosecution; forging any documents included in the application for certificate of eligibility to provide OSH training, if not liable to criminal prosecution; forging certificate of eligibility to provide OSH training, if not liable to criminal prosecution.

4. A fine ranging from VND 60,000,000 to VND 70,000,000 shall be imposed for commission of one of the following violations: failing to obtain a certificate of eligibility to provide OSH training when organizing training activities in cases such a certificate of eligibility to provide OSH training is required; forging certificate of eligibility to provide OSH training if not liable to criminal prosecution.

#### 5. Additional penalties:

a) The OSH training institution's provision of OSH training courses shall be suspended for a fixed period of 01 - 03 months if committing one of the following violations: providing training results without any training courses that have been provided; providing training results inconsistent with the provided training contents; providing training courses beyond the scope of the issued certificate of eligibility to provide OSH training in respect of training contents which shall only be provided under a valid certificate of eligibility to provide OSH training; failing to maintain its satisfaction of eligibility requirements to provide OSH as prescribed by law as prescribed in Points c, d Clause 2 of this Article;

b) The employer that themselves organizes OSH training activities shall be suspended from organizing OSH training activities for a fixed period of 01 - 03 months if committing one of the following violations: providing training results without any training courses that have been provided; providing training results inconsistent with the provided training contents; providing training courses beyond the scope of the issued certificate of eligibility to provide OSH training in respect of training contents which shall only be provided under a valid certificate of eligibility to provide OSH training; failing to maintain its satisfaction of eligibility requirements to provide OSH as prescribed by law as prescribed in Points c, d Clause 3 of this Article;

c) The exhibits and instrumentalities for committing violations in Point d Clause 2, Point d Clause 3, and Clause 4 of this Article, which are forged certificate of eligibility to provide OSH training, shall be confiscated.

#### 6. Remedial measures

a) The OSH training institution that commits the violation in Point b or c Clause 2 of this Article is compelled to invalidate training results it has already provided;

b) The employer that itself organizes OSH training activities but commits the violation in Point b or c Clause 3 of this Article is compelled to invalidate training results it has already provided;

c) The violating entity is compelled to return the altered or falsified certificate of eligibility to provide OSH training to the issuing authority in case of the violation in Point d Clause 2 or Point d Clause 3 of this Article.

#### **Article 26. Violations against regulations on technical safety inspection**

1. The following fines shall be imposed upon a technical safety inspection service provider for committing violations against regulations on technical safety inspection:

a) A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed for failing to submit reports on its provision of technical safety inspection services as prescribed;

b) A fine ranging from VND 3.000.000 to VND 5.000.000 shall be imposed for failing to notify the competent authority that has issued the certificate of eligibility to provide technical safety inspection services of changes in its address of its headquarters or branch;

c) A fine ranging from VND 40.000.000 to VND 50.000.000 shall be imposed for commission of one of the following violations: providing technical safety inspection services beyond the scope of the certificate of eligibility to provide technical safety inspection services; failing to comply with inspection procedures; hiring inspectors whose inspector certificate has been revoked or expired; hiring persons who do not possess valid inspector certificates to perform inspection tasks; hiring inspectors without entering into employment contracts or piecework contracts with them; failing to maintain its satisfaction of eligibility requirements to provide technical safety inspection services as prescribed by law; failing to ensure independence and objectivity in providing inspection services;

d) A fine ranging from VND 80.000.000 to VND 100.000.000 shall be imposed for commission of one of the following violations: providing false inspection results; providing inspection results without carrying out any inspections;

dd) A fine ranging from VND 120.000.000 to VND 140.000.000 shall be imposed for commission of one of the following violations: providing inspection services when the certificate of eligibility to provide technical safety inspection services has been expired or revoked or during the period of suspension of inspection services; altering or falsifying the issued certificate

of eligibility to provide technical safety inspection services if not liable to criminal prosecution; altering or falsifying any documents included in the application for certificate of eligibility to provide technical safety inspection services if not liable to criminal prosecution; forging any documents included in the application for certificate of eligibility to provide technical safety inspection services if not liable to criminal prosecution; forging certificate of eligibility to provide technical safety inspection services if not liable to criminal prosecution.

2. A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed upon an inspector for one of the following violations:

- a) Failing to comply with inspection procedures issued by competent authorities;
- b) Performing inspection tasks for a technical safety inspection service provider that does not have a certificate of eligibility to provide technical safety inspection services.

3. A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed upon an inspector for performing inspection tasks when failing to possess a valid inspector certificate or performing inspection tasks beyond the scope of his/her inspection certificate.

4. A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed upon an individual for performing inspection tasks without possessing a valid inspector certificate.

5. A fine ranging from VND 60.000.000 to VND 70.000.000 shall be imposed for commission of one of the following violations: providing inspection services without possessing a valid certificate of eligibility to provide technical safety inspection services; forging certificate of eligibility to provide technical safety inspection services if not liable to criminal prosecution; forging inspector certificate if not liable to criminal prosecution.

6. A fine ranging from VND 60.000.000 to VND 70.000.000 shall be imposed upon an inspector for altering or falsifying his/her inspector certificate if not liable to criminal prosecution; forging certificate of eligibility to provide technical safety inspection services if not liable to criminal prosecution.

7. Additional penalties:

a) Technical safety services rendered by the technical safety inspection service provider that commits the violation in Point d Clause 1 of this Article shall be suspended for a fixed period of 01 - 03 months;

b) The exhibits and instrumentalities for committing violations in Point dd Clause 1, and Clause 5 of this Article, which are forged certificates of eligibility to provide technical safety inspection services, shall be confiscated;

c) The exhibits and instrumentalities for committing the violation in Clause 5 of this Article, which are forged inspector certificates, shall be confiscated.

## 8. Remedial measures

- a) The violating entity is compelled to invalidate inspection results and return the received amounts of inspection costs plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition in case of the violations in Points c, d, dd Clause 1 of this Article, except for the act of altering the issued certificates of eligibility to provide technical safety inspection services, if not liable to criminal prosecution;
- b) The violating entity is compelled to return the altered or falsified certificate of eligibility to provide technical safety inspection services to the issuing authority in case of the violation in Point dd Clause 1 of this Article;
- c) The violating entity is compelled to return the altered or falsified inspector certificate to the issuing authority in case of the violation in Clause 6 of this Article.

## **Article 27. Violations against regulations on workplace environmental monitoring**

1. A fine ranging from VND 1.000.000 to VND 2.000.000 shall be imposed on the workplace environmental monitoring service provider for commission of one of the following violations: failing to submit annual reports on business results to competent authorities as prescribed; failing to notify competent authorities of changes in address of its headquarters or branch; failing to participate in training courses on updated knowledge about legislative policies, scientific and technological advances regarding workplace environmental monitoring activities as prescribed by law.
2. A fine ranging from VND 2.000.000 to VND 5.000.000 shall be imposed upon an employer for failing to inform employees working at sites where the workplace environmental monitoring is conducted, and where inspection, assessment and management of workplace hazards are performed, of results thereof immediately after receipt.
3. A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed upon an employer for failing to conduct workplace environmental monitoring to control health hazards in accordance with regulations of law.
4. A fine ranging from VND 40.000.000 to VND 60.000.000 shall be imposed upon an employer for colluding with the workplace environmental monitoring service provider to perform fraudulent acts related to workplace environmental monitoring, if not liable to criminal prosecution.
5. A fine ranging from VND 80.000.000 to VND 120.000.000 shall be imposed upon a workplace environmental monitoring service provider for commission of one of the following violations: colluding with employers to perform fraudulent acts related to workplace environmental monitoring, if not liable to criminal prosecution; carrying out workplace environmental monitoring in contravention of rules and procedures set out in laws.

6. A fine ranging from VND 120.000.000 to VND 140.000.000 shall be imposed upon a workplace environmental monitoring service provider for producing environmental monitoring results without carrying out environmental monitoring activities as prescribed or providing environmental monitoring services during the period for which its environmental monitoring services are suspended.

7. A fine ranging from VND 120.000.000 to VND 150.000.000 shall be imposed upon a workplace environmental monitoring service provider for commission of one of the following violations:

a) Providing workplace environmental monitoring services before obtaining recognition of eligibility to provide workplace environmental monitoring services in accordance with regulations of law;

b) Employing persons who fail to meet standards set out in laws to perform workplace environmental monitoring activities;

c) Failing to maintain its recognized satisfaction of eligibility requirements for providing workplace environmental monitoring services during its operation.

8. Additional penalties:

The workplace environmental monitoring service provider that commits any of the violations in Clauses 5, 6, 7 of this Article shall be suspended from providing such workplace environmental monitoring services for a fixed period of 03 - 06 months.

9. Remedial measures

a) Workplace environmental monitoring results must be invalidated in case of commission of any of the violations in Clauses 4, 5, 6, 7 of this Article;

b) The workplace environmental monitoring service provider that commits any of the violations in Clauses 5, 6, 7 of this Article is compelled to return the collected amounts of service charges plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to its service users, except for the act of colluding with employers to perform fraudulent acts related to workplace environmental monitoring, if not liable to criminal prosecution, specified in Clause 5 of this Article.

## **Article 28. Violations against regulations on female employees and assurance of gender equality**

1. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to ensure gender equality and implementation of measures for promoting gender equality in recruitment, job assignment, placement, training, working hours, rest periods, salaries and other policies;

b) Failing to consult with female employees or their representatives when making decisions which affect their rights and interests.

2. A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Requiring a female employee who reaches her seventh month of pregnancy, or her sixth month of pregnancy when working in upland, remote, border and island areas, to work overtime, work at night or go on a long distance working trip;

b) Requiring a female employee who is raising a child under 12 months of age to work overtime, work at night or go on a long distance working trip, unless otherwise agreed by the employee;

c) Failing to reassign a female employee who is performing an arduous, hazardous and dangerous work or job, or an extremely arduous, hazardous and dangerous work or job, or any work or job that might negatively affect her maternity and child nursing, to a less arduous or safer work or reduce her working hours when being informed by her of pregnancy as prescribed in Clause 2 Article 137 of the Labour Code, unless otherwise agreed by two parties;

d) Failing to allow a female employee to take a 30-minute break in every working day during her menstruation period, unless otherwise agreed by two parties;

dd) Failing to allow a female employee who is nursing a child under 12 months of age to take a 60-minute break in every working day, unless otherwise agreed by two parties;

e) Failing to ensure employment for employees as prescribed in Article 140 of the Labour Code;

g) Failing to prioritize the conclusion of a new employment contract with a female employee who is pregnant or nursing a child under 12 months of age upon expiration of her employment contract;

h) Taking disciplinary measures against a female employee during her pregnancy or maternity leave in accordance with regulations of laws on social insurance; taking disciplinary measures against a female employee who is nursing a child under 12 months of age;

i) Dismissing or unilaterally terminating the employment contract with an employee due to his/her marriage, pregnancy, maternity leave, or nursing of a child under 12 months of age, except for cases where the employer that is a natural person dies or is declared incapacitated, missing or dead by the court, or the employer that is not a natural person ceases its business operations, declared by a business registration authority affiliated to the provincial People's Committee that it does not have a legal representative or a person authorized to perform the legal representative's rights and obligations, if not liable to criminal prosecution;



k) Failing to provide adequate information on the hazards, risks and requirements of the works for their employees to serve their decision making and failing to ensure OSH conditions for employees when assigning them to perform any of the works included in the list of jobs and works that are harmful to child-bearing and parenting functions;

l) Failing to set up a lactation room at the workplace when employing 1.000 female employees or more.

### 3. Remedial measures

a) The employer that commits the violation in Point d Clause 2 of this Article is compelled to pay salary to the female employee for the period of breaks that she is not allowed to take during her menstruation period as prescribed by law;

b) The employer that commits the violation in Point dd Clause 2 of this Article is compelled to pay salary to the female employee for the period of breaks that she is not allowed to take during the period when she is nursing a child under 12 months of age as prescribed by law;

c) The employer that commits the violation specified in Point i Clause 2 of this Article is compelled to reinstate employees.

### **Article 29. Violations against regulations on minor employees**

1. A fine ranging from VND 1.000.000 to VND 2.000.000 shall be imposed upon an employer for failing to prepare a separate record of minor employees or preparing a separate record which does not have adequate information as prescribed in Clause 3 Article 144 of the Labour Code when employing minor employees or failing to present such record or minor employees at the request of a competent authority.

2. A fine ranging from VND 20.000.000 to VND 25.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Employing a minor employee without obtaining the consent of his/her parent or guardian;

b) Committing any of the following acts when employing a person under 15: failing to conclude a written employment contract with the employee and his/her legal representative; arranging the working hours in such a way that affects the employee's study hours; failing to obtain a health certificate from an authorized health facility which certifies that the employee is fit for the work assigned; failing to provide periodic health check-ups for the employee at least once every 06 months; or failing to ensure that the working conditions, and OSH conditions are suitable for the employee's age;

c) Hiring minors to work in excess of the working hours prescribed in Article 146 of the Labour Code;

d) Hiring persons under 15 to work overtime or at night;

dd) Hiring persons aged 15 to under 18 to work overtime or at night in certain works or jobs which are not permitted by laws.

3. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Hiring persons aged 13 to under 15 to perform works which are not included in the list of legally permitted works as prescribed in Clause 3 Article 143 of the Labour Code;

b) Hiring persons under 13 to perform works other than the legally permitted ones as prescribed in Clause 3 Article 145 of the Labour Code or hiring persons under 13 to perform legally permitted works without obtaining the permission from the competent labour authority affiliated to the provincial People's Committee;

c) Hiring persons aged 15 to under 18 to perform prohibited works or to work at prohibited workplaces as prescribed in Article 147 of the Labour Code, if not liable to criminal prosecution.

### **Article 30. Violations against regulations on domestic workers**

1. A warning shall be imposed upon an employer for commission of one of the following violations:

a) Failing to enter into a written employment contract with the domestic worker;

b) Failing to pay travel expenses for the domestic worker to return their place of residence at the end of his/her service, except for cases where the domestic worker terminates the employment contract before its expiry date.

2. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to notify the communal-level People's Committee of employment or termination of employment of domestic workers as prescribed;

b) Repeating the violation specified in Clause 1 of this Article for which a warning has been imposed.

3. A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Keeping personal identity papers of the domestic worker;

b) Failing to pay the domestic worker amounts of his/her social insurance and health insurance premiums in accordance with regulations of law so that the domestic worker can proactively participate in social insurance and health insurance.

4. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed upon an employer for mistreating, sexually harassing, extracting forced labor, or using force or violence against the domestic worker, if not liable to criminal prosecution.

#### 5. Remedial measures

a) The employer that commits the violation specified in Point a Clause 1 of this Article is compelled to conclude written employment contracts with domestic workers;

b) The employer that commits the violation in Point b Clause 1 of this Article is compelled to fully pay travel expenses to domestic workers;

c) The employer that commits the violation in Point a Clause 3 of this Article is compelled to return personal identity papers to domestic workers;

d) The employer that commits the violation in Point b Clause 3 of this Article is compelled to fully pay amounts of social insurance and health insurance premiums to domestic workers.

### **Article 31. Violations against regulations on elderly employees and disabled employees**

1. A fine ranging from VND 5.000.000 to VND 10.000.000 per employee shall be imposed upon an employer for commission of one of the following violations:

a) Failing to consult with disabled employees before deciding matters of relevance to their rights and interests;

b) Hiring a slightly disabled person who suffers from at least 51% work capacity reduction, or with severe or very severe disabilities to work overtime or work at night, unless otherwise agreed by the disabled employee.

2. A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed upon an employer for hiring elderly employees to perform arduous, hazardous and dangerous works or jobs, or extremely arduous, hazardous and dangerous works or jobs, which are harmful to their health, unless safe working conditions are ensured.

### **Article 32. Violations against regulations on foreigners working in Vietnam**

1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to submit reports or submitting inaccurate or late reports on employment of foreigners as prescribed;

b) Failing to submit the original copy or certified true copy of the signed employment contract, after the foreign employee has been issued with the work permit or has his/her work permit

extended, at the request of the competent authority that has issued or extended such work permit in case that foreign employee works under an employment contract.

2. A fine ranging from VND 5.000.000 to VND 10.000.000 per employee but not exceeding VND 75.000.000 shall be imposed upon an employer for hiring a foreign employee against his/her work permit or certification of eligibility for work permit exemption, unless otherwise prescribed by law.

3. A fine ranging from VND 15.000.000 to VND 25.000.000 shall be imposed upon a foreigner working in Vietnam for commission of one of the following violations:

a) Failing to obtain a work permit or certification of eligibility for work permit exemption when working in Vietnam as prescribed by law;

b) Using an expired work permit or certification of eligibility for work permit exemption.

4. The following fines shall be imposed upon an employer for hiring a foreign employee who does not have a work permit or certification of eligibility for work permit exemption or who uses an expired one to work in Vietnam:

a) A fine ranging from VND 30.000.000 to VND 45.000.000 shall be imposed if the violation involves 01 - 10 employees;

b) A fine ranging from VND 45.000.000 to VND 60.000.000 shall be imposed if the violation involves 11 - 20 employees;

c) A fine ranging from VND 60.000.000 to VND 75.000.000 shall be imposed if the violation involves 21 employees or more.

5. Additional penalties:

Foreign employees are expelled from Vietnam in case of commission of the violation in Clause 3 of this Article.

### **Article 33. Violations committed by foreign entities in Vietnam when recruiting and employing Vietnamese employees to work for them**

1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed for hiring Vietnamese employees but failing to submit reports or submitting inaccurate or late reports to authorities competent to recruit and manage Vietnamese employees on their recruitment and employment of Vietnamese employees in accordance with regulations of law.

2. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed for failing to send written notifications, enclosed with certified true copies of the employment contracts signed with Vietnamese employees and other documents as prescribed by law, to authorities competent to

recruit and manage Vietnamese employees after the date of conclusion of such employment contracts in accordance with regulations of law.

#### **Article 34. Violations against regulations on settlement of labour disputes**

1. A warning shall be imposed upon an employee for joining a strike after Chairperson of the provincial People's Committee issues a decision to postpone or cancel that strike.

2. A fine ranging from VND 1.000.000 to VND 2.000.000 shall be imposed upon an employee for commission of one of the following violations:

a) Obstructing employees in exercising their rights to strike, inciting, inducing or forcing employees to go on strike;

b) Preventing employees who do not take part in the strike from working;

c) Using violence; sabotaging machinery, equipment or assets of the employer, if not liable to criminal prosecution.

3. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Terminating employment contracts or disciplining or reassigning employees or strike leaders to other works or workplaces due to their preparation for or involvement in the strike;

b) Retaliating, inflicting punishment against employees who take part in strike or against strike leaders;

c) Temporarily closing the workplace in cases specified in Article 206 of the Labour Code;

d) Causing difficulties to, obstructing or interfering with the survey conducted by the internal representative organization of employees to collect employees' opinions about the strike.

#### **4. Remedial measures**

a) The employer that commits the violation in Point a Clause 3 of this Article is compelled to reinstate employees and strike leaders when terminating employment contracts signed with them, or invalidate decisions to take disciplinary measures or reassign employees or strike leaders to other works or workplaces due to their preparation for or involvement in the strike, and pay full salaries to employees for the period during which the employee's employment contract has been terminated;

b) The employer that commits the violation in Point c Clause 3 of this Article is compelled to pay full salaries to employees for the period during which the workplace has been temporarily closed.

### **Article 35. Violations against regulations on assurance of exercise of rights by internal representative organizations of employees**

1. A fine ranging from VND 3.000.000 to VND 5.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to arrange working time, during which salaries are still paid in full by the employer, for members of the management board of the internal representative organization of employees to perform their duties as prescribed in Clause 2 Article 176 of the Labour Code;
- b) Failing to admit superior trade union officers to the organization or enterprise to disseminate information, mobilize and instruct employees to establish or join the trade union or perform trade union activities;
- c) Obstructing or causing difficulties to employees' lawful establishment, joining and participation in activities of the internal representative organization of employees;
- d) Failing to allow members of the management board of the internal representative organization of employees to approach employees at the workplace during the performance of their duties, provided it does not affect the employer's normal operation.

2. A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to enter into a written agreement with the management board of the internal representative organization of employees when unilaterally terminating the employment contract with, reassigning or dismissing for disciplinary reasons an employee who is a member of the management board, if not liable to criminal prosecution, and except for cases where such agreement cannot be reached by two parties;
- b) Failing to send a notice within the prescribed time limit to the labour authority affiliated to the Provincial People's Committee of its decision to unilaterally terminate the employment contract with, reassign or dismiss, for disciplinary reasons, an employee who is a member of the management board of the internal representative organization of employees in case it cannot reach an agreement with the management board of the internal representative organization of employees as prescribed in Clause 3 Article 177 of the Labour Code.
- c) Failing to extend the employment contract, until the end of the employee's term of office, signed with the employee who is a member of the management board of the internal representative organization of employees and has his/her employment contract expired before the end of his/her term of office.

3. A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed for taking advantage of establishment, joining or performance of duties of the internal representative organization of employees to commit violations of law, infringe state interests, the lawful rights and interests of other entities or enterprises.

#### 4. Remedial measures

The employer that commits the violation in Point c Clause 2 of this Article is compelled to extend the employment contract, until the end of the employee's term of office, signed with the employee who is a member of the management board of the internal representative organization of employees and has his/her employment contract expired before the end of his/her term of office.

#### **Article 36. Acts of discrimination due to establishment, participation in and operation of internal representative organization of employees**

1. A fine ranging from VND 15.000.000 to VND 30.000.000 shall be imposed upon an employer for performing any of the following acts of discrimination against employees or members of the management board of the internal representative organization of employees due to the establishment, participation in or operation of the representative organization of employees:

- a) Discriminating by salary, working hours, other rights and obligations in the labour relation;
- b) Requesting an employee to participate, not to participate, or to leave the internal representative organization of employees as a condition for being recruited, or having his/her employment contract signed or extended;
- c) Disciplining or unilaterally terminating employment contracts; refusing to conclude employment contracts or extend employment contracts; or reassigning employees to other works;
- d) Obstructing, disrupting or otherwise impairing the operation of the internal representative organization of employees.

#### 2. Remedial measures

The employer that commits the violation in Point c Clause 1 of this Article is compelled to reinstate employees and fully pay salaries, social insurance and health insurance premiums to employees for the period during which they were not allowed to work.

#### **Article 37. Acts of implementing economic measures or other measures aimed to cause disadvantages to organization and operation of the internal representative organization of employees**

1. A fine ranging from VND 5.000.000 to VND 10.000.000 shall be imposed upon an employer for commission of one of the following violations:

- a) Failing to pay salaries to members of the management board of the internal representative organization of employees during their working hours as prescribed by law for performance of the duties of the internal representative organization of employees;

b) Failing to provide members of the management board of the internal representative organization of employees with other guarantees in labour relation or performance of the representative's duties as prescribed by law.

2. A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed upon an employer for interfering or influencing the establishment, election, planning or operation of the internal representative organization of employees, including financial support or other economic measures aimed to neutralize or weaken the functions of the internal representative organization of employees, or discriminating between internal representative organizations of employees.

### 3. Remedial measures

a) The employer that commits the violation in Point a Clause 1 of this Article is compelled to pay salaries to members of the management board of the internal representative organization of employees during their working hours as prescribed by law for performance of the duties of the internal representative organization of employees;

b) The employer that commits the violation in Point b Clause 1 of this Article is compelled to fully provide other guarantees to members of the management board of the internal representative organization of employees in accordance with regulations of law.

## **Article 38. Violations against regulations on payment of trade union dues**

1. A fine equal to 12% to under 15% of total amount of trade union dues payable at the date of issuance of violation record, but not exceeding VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Paying trade union dues behind schedule;

b) Making insufficient payment of trade union dues;

c) Failing to pay trade union dues for all members who are mandatorily required to pay trade union dues.

2. A fine equal to 18% to 20% of total amount of trade union dues payable at the date of issuance of violation record, but not exceeding VND 75.000.000 shall be imposed upon an employer for failing to pay trade union dues for their total number of employees who are mandatorily required to pay trade union dues.

### 3. Remedial measures

Within 30 days from the issue date of the penalty imposition decision, the employer that commits any of the violations in Clauses 1 and 2 of this Article is compelled to pay deferred amounts, remaining amounts or outstanding amounts of trade union dues, plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition.



## **Chapter III**

### **ACTS OF VIOLATION, PENALTIES, FINES AND REMEDIAL MEASURES AGAINST VIOLATIONS IN SOCIAL INSURANCE SECTOR**

#### **Article 39. Violations against regulations on payment of compulsory social insurance and unemployment insurance premiums**

1. A fine ranging from VND 500.000 to VND 1.000.000 shall be imposed upon an employee for reaching an agreement with his/her employer on not participating in compulsory social insurance and unemployment insurance premiums, or participating in an incorrect insurance plan, or not paying insurance premiums at the prescribed rate.

2. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to annually post information on an employees' payment of social insurance premiums as provided by social insurance authorities as prescribed in Clause 7 Article 23 of the Law on Social Insurance;

b) Failing to provide or providing inadequate information on an employee's payment of compulsory social insurance and unemployment insurance premiums at the request of that employee or trade unions.

3. A fine ranging from VND 1.000.000 to VND 3.000.000 per employee, but not exceeding VND 75.000.000 shall be imposed upon an employer for failing to complete procedures for verification of payment of unemployment insurance premiums for employees so that they can complete their applications for unemployment insurance benefits as prescribed.

4. A fine ranging from 5.000.000 to VND 10.000.000 shall be imposed upon an employer for failing to provide accurate, adequate and timely information and documents on payment of compulsory social insurance and unemployment insurance premiums or enjoyment of such insurance benefits at the request of competent authorities or social insurance authorities.

5. A fine equal to 12% to under 15% of total amount of compulsory social insurance and unemployment insurance premiums payable at the date of issuance of violation record, but not exceeding VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Making late payment of compulsory social insurance and unemployment insurance premiums;

b) Paying social insurance and unemployment insurance premiums under the prescribed rates but not to the extent that they are accused of evasion of payment of insurance premiums;

c) Failing to pay social insurance and unemployment insurance premiums for total number of employees eligible for participation in compulsory social insurance and unemployment insurance but not to the extent that they are accused of evasion of payment of insurance premiums;

d) Appropriating social insurance and unemployment insurance premiums paid by employees.

6. A fine equal to 18% to 20% of total amount of compulsory social insurance and unemployment insurance premiums payable at the date of issuance of violation record, but not exceeding VND 75.000.000 shall be imposed upon an employer for failing to pay compulsory social insurance and unemployment insurance premiums for total number of employees eligible for participation in compulsory social insurance and unemployment insurance, if not liable to criminal prosecution.

7. A fine ranging from VND 50.000.000 to VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Evading paying compulsory social insurance and unemployment insurance premiums, if not liable to criminal prosecution;

b) Altering or falsifying any documents included in the application for lower-than-normal rate of contributions to the occupational accident and occupational disease insurance fund, if not liable to criminal prosecution.

8. A fine ranging from VND 50.000.000 to VND 70.000.000 shall be imposed upon an OSH assessment organization for providing inaccurate reports on assessment of OSH and reduced incidence frequency of occupational accidents.

9. Additional penalties:

The OSH assessment organization that commits the violation in Clause 8 of this Article shall be suspended from providing OSH assessment services for a fixed period of 01 - 03 months.

10. Remedial measures

a) The employer that commits any of the violations in Clauses 5, 6, 7 of this Article is compelled to pay total amount of compulsory social insurance and unemployment insurance premiums payable to social insurance authorities;

b) The employer that commits any of the violations in Clauses 5, 6, 7 of this Article for a duration of at least 30 days is compelled to pay an amount of interest charged on insurance premiums accrued due to late payment, non-payment, evasion of payment or appropriation of payments, which is calculated by using the interest rate that is 02 times higher than the average interest rate of investment made by the social insurance fund in the previous year. If not doing so, at the request of competent persons, banks, other credit institutions or state treasuries shall withdraw money from the violating employer's deposit accounts to transfer deferred amounts or outstanding amounts of insurance premiums plus the interest on such amounts, which is

calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to the account of the relevant social insurance authority.

**Article 40. Violations against regulations on preparation of application and documentation requirements for enjoyment of social insurance and unemployment insurance benefits**

1. A fine ranging from VND 1.000.000 to VND 2.000.000 shall be imposed upon an employee for commission of one of the following violations:

- a) Making untruthful declarations, or altering, erasing or falsifying information related to payment of insurance premiums or enjoyment of social insurance and unemployment insurance benefits, if not liable to criminal prosecution;
- b) Failing to notify the employment service center as prescribed when the employee has got a job within 15 working days from the date of submission of application for unemployment benefits;
- c) As a beneficiary of unemployment benefits, he/she fails to send the required notifications to the employment service center in one of the following cases: he/she has got a job; he/she is performing military or public security service; he/she receives monthly retirement pensions; or he/she is attending a training course for a full period of at least 12 months.

2. A fine ranging from VND 10.000.000 to VND 20.000.000 per application but not exceeding VND 75.000.000 shall be imposed upon an employer for forging or falsifying applications for social insurance and unemployment insurance benefits for profiteering such insurance benefits, if not liable to criminal prosecution.

3. Remedial measures

The employer that commits any of the violations in Clauses 1 and 2 of this Article is compelled to return the received amounts of social insurance benefits, unemployment benefits, or financial support for provision of training or retraining for improving occupational skills for employees to social insurance authorities.

**Article 41. Violations against other regulations on social insurance and unemployment insurance**

1. A fine ranging from VND 1.000.000 to VND 2.000.000 per employee but not exceeding VND 75.000.000 shall be imposed upon an employer for failing to pay convalescence and health rehabilitation allowances after occupational accidents and diseases for employees within 05 days from the date of receipt of such allowances from social insurance authorities.

2. A fine equal to 18% to 20% of total amount of compulsory social insurance benefits appropriated by the employer at the date of issuance of the violation record, but not exceeding VND 75.000.000 shall be imposed upon an employer for appropriating compulsory social insurance benefits of employees.

3. A fine ranging from VND 2.000.000 to VND 4.000.000 shall be imposed upon an employer for failing to notify the employment service center of the locality where its head office is located of any changes in labour or employment status at its enterprise in accordance with regulations of law.

4. A fine ranging from VND 2.000.000 to VND 4.000.000 per employee but not exceeding VND 75.000.000 shall be imposed upon an employer for commission of one of the following violations:

a) Failing to prepare and submit application for participation in compulsory social insurance for employees within 30 days from the date of conclusion of the labour, employment or recruitment contract; failing to prepare and submit application for participation in unemployment insurance for employees within 30 days after the labour or employment contract becomes effective;

b) Failing to compile the list of employees or failing to prepare applications or failing to submit applications within the prescribed time limits as specified in Clause 2 Article 102, Clause 1 Article 103, Clause 1 Article 110, Clause 2 Article 112 of the Law on Social Insurance, or Clause 1 Article 59, Clause 1 Article 60 of the Law on occupational safety and health;

c) Failing to recommend the employees prescribed in Article 47 of the Law on occupational safety and health and Article 55 of the Law on Social Insurance to receive medical assessment of their work capacity reduction from authorized medical assessment councils;

d) Failing to return social insurance books to their employees according to the provisions of Clause 5 Article 21 of the Law on Social Insurance.

5. A fine ranging from VND 2.000.000 to VND 4.000.000 per employee who has participated in unemployment insurance and is given vocational support but not exceeding VND 150.000.000 shall be imposed upon a vocational training institution for commission of one of the following violations:

a) Providing vocational training courses with sufficient duration for employees who are given vocational support;

b) Colluding with relevant entities to earn illegal profits from vocational support amounts, if not liable to criminal prosecution.

6. A fine ranging from VND 10.000.000 to VND 20.000.000 shall be imposed upon an employer that is given financial support for provision of training or retraining for improving occupational skills and ensuring employment for employees for providing training or retraining for improving occupational skills for their employees against the plans approved by competent authorities.

7. Remedial measures

- a) The employer that commits the violation in Clause 1 of this Article is compelled to pay convalescence or functional rehabilitation benefits to employees suffering from occupational accidents or diseases;
- b) The employer that commits the violation specified in Clause 2 of this Article is compelled to return the appropriated amounts of compulsory social insurance benefits, and pay the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to employees;
- c) The vocational training institution that commits the violation in Point a Clause 5 of this Article is compelled to provide vocational training courses with sufficient duration to employees who have participated in unemployment insurance and are given vocational support, if requested by employees;
- d) The vocational training institution that commits the violation in Point b Clause 5 of this Article is compelled to return illegally obtained profits to social insurance authorities;
- dd) The vocational training institution that commits the violation in Clause 6 of this Article is compelled to provide training or retraining for improving occupational skills according to the plans approved by competent authorities, except cases where such training or retraining activities have been completed;
- e) The employer that commits the violation in Clause 6 of this Article is compelled to transfer the unused financial support for training or retraining for improving occupational skills, compared to the plans approved by competent authorities.

## **Chapter IV**

### **ACTS OF VIOLATION, PENALTIES, FINES AND REMEDIAL MEASURES AGAINST VIOLATIONS IN THE FIELD OF VIETNAMESE GUEST WORKERS**

#### **Article 42. Violations committed by an enterprise providing Vietnamese guest worker services (hereinafter referred to as “service provider”)**

1. A fine ranging from VND 10.000.000 to VND 15.000.000 shall be imposed for commission of one of the following violations:
  - a) Failing to openly post the copy of the license to provide Vietnamese guest worker services at the head office of the service provider or failing to post that license on its website within 30 days from the date of issuance, re-issuance or modification of the license;
  - b) The branch that is authorized by the service provider to provide Vietnamese guest worker services fails to openly post the authorization decision or the copy of the license of the service enterprise at the branch’s office;

c) Failing to give a written notification to the Ministry of Labor, War Invalids and Social Affairs or failing to update information about the branch that is authorized by the service provider to provide Vietnamese guest worker services on the database on Vietnamese guest workers as prescribed;

d) Failing to publish or failing to update on the website of the service provider any changes in the following information: legal representative, list of professional employees, head office's address, business location, facilities serving orientation education for employees before sending them to work abroad, or decision to authorize its branches to provide services;

dd) Failing to publish on the website of the service provider the following information: the approval given by the Ministry of Labour, War Invalids and Social Affairs for preparation of labour sources; adequate and accurate information about the number or recruitment standards or working conditions or rights and obligations of workers under the labour supply contract;

e) Failing to submit reports or submitting inadequate, inaccurate or late reports on its provision of Vietnamese guest worker services in accordance with regulations of law;

g) Failing to update information about workers sent abroad by the service provider on the database on Vietnamese guest workers from the date on which the worker travels abroad until terminating the contract for provision of Vietnamese guest worker services in accordance with regulations of law;

h) Failing to submit reports or submitting untruthful reports to the Ministry of Labor, War Invalids and Social Affairs on situations of workers sent abroad by the service provider and measures for fulfilling its obligations under the valid labour supply contract or contract for provision of Vietnamese guest worker services and written agreement reached with the receiving service provider on rights and obligations in the case specified in Point b Clause 1 Article 28 of the Law on Vietnamese guest workers as prescribed;

i) Failing to instruct the workers to participate in social insurance in accordance with regulations of the Law on social insurance;

k) Failing to make contributions to the Overseas Employment Support Fund on schedule as prescribed by law.

2. A fine ranging from VND 10.000.000 to VND 20.000.000 per worker but not exceeding VND 200.000.000 shall be imposed for commission of one of the following violations:

a) Failing to provide orientation education or failing to issue certificates of completion of orientation education course to workers before they travel abroad to work in accordance with regulations of law;

b) Reaching an agreement with the worker on payment of deposit which is higher than the one prescribed by law;

- c) Failing to enter into a contract for provision of Vietnamese guest worker services with the worker, or entering into a contract of incorrect form;
- d) Failing to specify the service charges and other costs incurred by the worker in the contract for provision of Vietnamese guest worker services signed with the worker;
- dd) Failing to terminate or terminating the contract for provision of Vietnamese guest worker services signed with the worker in contravention of law;
- e) Entering into a contract for provision of Vietnamese guest worker services whose contents are contrary to those of the signed labour supply contract.

3. A fine equal to 20% to 30% of total amount of contributions made to the Overseas Employment Support Fund as prescribed by law at the date of issuance of violation record, but not exceeding VND 200.000.000 shall be imposed for failing to make contributions or making insufficient contributions to the Overseas Employment Support Fund as prescribed by law.

4. A fine equal to 40% to 50% of total amount of contributions made to the Overseas Employment Support Fund by workers through the service provider at the date of issuance of violation record, but not exceeding VND 200.000.000 for failing to transfer or insufficiently transferring total amount of contributions received to the Overseas Employment Support Fund.

5. A fine ranging from VND 50.000.000 to VND 70.000.000 shall be imposed for commission of one of the following violations:

- a) Failing to maintain its satisfaction of any of the conditions set out in Article 10 of the Law on Vietnamese guest workers during its operation;
- b) Failing to maintain its satisfaction of the condition set out in Point b Clause 2 Article 20 of the Government's Decree No. 112/2021/ND-CP dated December 10, 2021 during its provision of Vietnamese guest workers as domestic workers and during the period when a Vietnamese guest worker provided by the service provider works as a domestic worker abroad;
- c) Failing to strictly comply with terms and conditions of the signed and approved labour supply contract;
- d) Failing to pay compensation to workers for damage caused by the service provider or its branch as prescribed by law;
- dd) Failing to provide counseling and assistance for workers in completing procedures related to termination of their employment contracts, rights and benefits, and repatriation procedures;
- e) Performing workforce preparation activities before obtaining a written approval from the Ministry of Labor, War Invalids and Social Affairs;

g) Failing to make a written commitment to prioritize recruitment of workers who have attended workforce preparation activities performed by the service provider;

h) Providing inaccurate information on quantity, recruitment standards, working conditions, or rights and obligations of workers defined in the labour supply contract when advertising, advising, announcing recruitment or providing information for workers or local government of the place where such recruitment activities are performed;

i) Failing to make written commitment on waiting period for travel abroad which must not exceed 180 days after a worker has been recruited to work abroad or failing to comply with the written commitment on waiting period for travel abroad.

6. A fine ranging from VND 50.000.000 to VND 70.000.000 per worker but not exceeding VND 200.000.000 shall be imposed for taking advantage of the workforce preparation activities or recruitment of Vietnamese workers for working abroad or Vietnamese guest worker services to illegally receive money from workers.

7. The following fines shall be imposed for sending Vietnamese guest workers abroad in excess of the registered number of workers as specified in the labour supply contract:

a) A fine ranging from VND 40.000.000 to VND 80.000.000 shall be imposed if the number of workers sent abroad exceeds the registered one by 01 - 10 workers;

b) A fine ranging from VND 80.000.000 to VND 120.000.000 shall be imposed if the number of workers sent abroad exceeds the registered one by 11 - 50 workers;

c) A fine ranging from VND 120.000.000 to VND 180.000.000 shall be imposed if the number of workers sent abroad exceeds the registered one by more than 50 workers.

8. A fine ranging from VND 80.000.000 to VND 100.000.000 shall be imposed for commission of one of the following violations:

a) Collecting service charges from workers against regulations of law;

b) Failing to reimburse or insufficiently reimbursing their workers the service charges, plus the interest on such service charges, in proportion to the remaining period of the contract for provision of Vietnamese guest worker services in case the worker has paid full service charges for the entire validity period of the contract but has to return Vietnam ahead of schedule through no fault of his or her own;

c) Failing to manage and protect legitimate rights and interests of workers sent for working abroad by the service provider as prescribed by law;

d) Failing to provide legal assistance for the worker who is abused, exploited or discriminated while working abroad;



dd) Failing to implement requests of competent authorities or failing to cooperate with relevant authorities and organizations of the host country in settling disputes involving the worker;

e) Failing to deal with issues concerning the worker in one of the following cases: the worker dies, suffers occupational accident or disease, has his/her life, health, honor, dignity and/or property harmed, is affected by natural disasters, epidemics, war events, political instability or emergency state.

9. A fine ranging from VND 150.000.000 to VND 180.000.000 shall be imposed for commission of one of the following violations:

a) Taking advantage of its provision of Vietnamese guest worker services to organize illegal immigration, exploitation of labour or forced labour, if not liable to criminal prosecution;

b) Sending Vietnamese guest workers abroad to work in prohibited areas, perform works or jobs which are prohibited or harmful to social ethics or health of workers or community, if not liable to criminal prosecution, or without obtaining approval from the host country;

c) Forcing, persuading, inciting or tricking Vietnamese guest workers into illegal stay in foreign countries, if not liable to criminal prosecution;

d) Discriminating or harming honor or dignity of Vietnamese workers when sending them abroad for working;

dd) Sending Vietnamese guest workers abroad without following procedures for registration of the labour supply contract or before obtaining approval for the labour supply contract;

e) Altering or falsifying any documents included in the application for issuance or re-issuance of the license to provide Vietnamese guest worker services if not liable to criminal prosecution;

g) Altering or falsifying contents of the issued license to provide Vietnamese guest worker services if not liable to criminal prosecution;

h) Forging any documents included in the application for issuance or re-issuance of the license to provide Vietnamese guest worker services if not liable to criminal prosecution;

i) Sending Vietnamese workers to work in Taiwan (China) or Japan without introduction or obtaining approval from the Ministry of Labor, War Invalids and Social Affairs;

k) Sending Vietnamese workers to work abroad as domestic workers without obtaining written approval from the Ministry of Labor, War Invalids and Social Affairs.

10. A fine ranging from VND 180.000.000 to VND 200.000.000 shall be imposed for commission of one of the following violations:

a) Using the license to provide Vietnamese guest worker services of another service provider;

- b) Allowing other entities to use its license to provide Vietnamese guest worker services;
- c) Authorize its branch to provide Vietnamese guest worker services against regulations;
- d) Performing workforce preparation activities during the period of suspension of such activities; performing labour supply contracts during the period of suspension of labour supply contracts; performing any of the activities specified in Clauses 1, 2, 3, 4 Article 9 of the Law on Vietnamese guest workers during suspension period.

11. The following fines shall be imposed sending Vietnamese workers whose names are not included in the list of workers approved by the Ministry of Labor, War Invalids and Social Affairs to work in Taiwan (China) or Japan:

- a) A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed if the violation involves 01 - 10 workers;
- b) A fine ranging from VND 60.000.000 to VND 100.000.000 shall be imposed if the violation involves 11 - 50 workers;
- c) A fine ranging from VND 150.000.000 to VND 180.000.000 shall be imposed for the violation involves more than 50 workers.

12. The following fines shall be imposed sending Vietnamese workers whose names are not included in the list of workers approved by the Ministry of Labor, War Invalids and Social Affairs to work abroad as domestic workers:

- a) A fine ranging from VND 20.000.000 to VND 40.000.000 shall be imposed if the violation involves 01 - 10 workers;
- b) A fine ranging from VND 60.000.000 to VND 100.000.000 shall be imposed if the violation involves 11 - 50 workers;
- c) A fine ranging from VND 150.000.000 to VND 180.000.000 shall be imposed for the violation involves more than 50 workers.

13. Additional penalties

- a) Performance of labour supply contracts shall be suspended for a fixed period of 01 – 03 months in case of commission of the violation in Point e Clause 2 of this Article;
- b) The activities specified in Clauses 1 through 4 Article 9 of the Law on Vietnamese guest workers shall be suspended for a fixed period of 06 - 12 months in case of commission of the violation in Point a Clause 5 Point dd Clause 8 of this Article;

c) The provision of Vietnamese guest workers as domestic workers shall be suspended for a fixed period of 06 - 12 months in case of commission of the violation in Point b Clause 5 of this Article;

d) Workforce preparation activities shall be suspended for a fixed period of 12 – 24 months in case of commission of the violation in Point e Clause 5 of this Article;

dd) Workforce preparation activities shall be suspended for a fixed period of 06 - 12 months in case of taking advantage of the workforce preparation activities to illegally receive money from workers as specified in Clause 6 of this Article;

e) Recruitment activities shall be suspended for a fixed period of 06 - 12 months in case of taking advantage of recruitment activities to illegally receive money from workers as specified in Clause 6 of this Article.

#### 14. Remedial measures

a) The service provider that commits the violation in Point g Clause 1 of this Article is compelled to update information on workers it sent abroad on the database on Vietnamese guest workers as prescribed by law;

b) The service provider that commits the violation in Clause 3 of this Article is compelled to pay total amount payable plus the interest on this amount, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to the Overseas Employment Support Fund;

c) The service provider that commits the violation in Clause 4 of this Article is compelled to transfer the full amount of contributions made by workers to the Overseas Employment Support Fund and pay the interest on such amount, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to the Overseas Employment Support Fund.

d) The service provider that commits the violation in Point d Clause 5 of this Article is compelled to pay compensation to workers for damage caused by the enterprise or its branch;

dd) The service provider that commits the violation specified in Clause 6 or Point a Clause 8 of this Article is compelled to return the amounts of money illegally collected from workers plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to workers;

e) The service provider that commits the violation specified in Point b Clause 8 of this Article is compelled to fully return collected service charges plus the interest on such amounts to workers;

g) The service provider that commits the violation in Point g Clause 9 of this Article is compelled to return the license to provide Vietnamese guest worker services to the licensing authority.

**Article 43. Violations against regulations on sending of Vietnamese workers abroad by enterprises winning bids or awarded bids for overseas constructions or projects**

1. A fine ranging from VND 3.000.000 to VND 5.000.000 shall be imposed for commission of one of the following violations:

- a) Failing to update information about workers on the database on Vietnamese guest workers;
- b) Failing to submit reports on completion of overseas construction or project or failing to submit ad hoc reports at the request of the Ministry of Labor, War Invalids and Social Affairs as prescribed by law.

2. A fine ranging from VND 3.000.000 to VND 5.000.000 per worker but not exceeding VND 200.000.000 for failing to ensure provision of periodic health check-ups for workers, including examination of reproductive health, and medical examination and treatment in case the worker suffers illness or accident while working abroad.

3. A fine ranging from VND 10.000.000 to VND 20.000.000 per worker but not exceeding VND 200.000.000 shall be imposed for commission of one of the following violations:

- a) Failing to provide orientation education courses for Vietnamese workers before they travel to work abroad;
- b) Failing to adequately, accurately and clearly provide information about working conditions, living conditions, rights or benefits of workers working at overseas constructions or projects;
- c) Failing to directly organize travel of Vietnamese workers to foreign countries.

4. A fine ranging from VND 20.000.000 to VND 30.000.000 shall be imposed for commission of one of the following violations:

- a) Failing to organize repatriation of workers or failing to pay repatriation costs in case the worker suffers illness or accident to the extent he/she is unable to continue working abroad;
- b) Failing to organize transport of remains of workers who have died while working abroad to Vietnam; failing to pay costs of transporting remains of workers who have died while working abroad to Vietnam.

5. A fine ranging from VND 30.000.000 to VND 50.000.000 shall be imposed for commission of one of the following violations:

a) Sending Vietnamese workers abroad in excess of the number of workers specified in the plan for sending Vietnamese workers abroad which has been approved by the Ministry of Labor, War Invalids and Social Affairs;

b) Failing to reach an agreement by signing an annex to the employment contract with the worker as prescribed or reaching an agreement by signing an annex to the employment contract with the worker which is contrary to the plan for sending Vietnamese workers abroad approved by the Ministry of Labor, War Invalids and Social Affairs.

6. A fine ranging from VND 75.000.000 to VND 90.000.000 shall be imposed for commission of one of the following violations:

a) Failing to report or failing to cooperate with Vietnamese representative missions abroad in managing and protecting legitimate rights and interests of workers while working abroad;

b) Failing to implement requests of competent authorities or failing to cooperate with relevant authorities and organizations of the host country in settling disputes involving the worker while working abroad;

c) Failing to deal with issues concerning the worker in one of the following cases: the worker dies, suffers accident, has his/her life, health, honor, dignity and/or property harmed, is affected by natural disasters, epidemics, war events, political instability, economic downturn, emergency state or other force majeure events.

7. A fine ranging from VND 50.000.000 to VND 70.000.000 per worker but not exceeding VND 200.000.000 shall be imposed for taking advantage of sending Vietnamese workers for working abroad to illegally receive money from workers.

8. A fine ranging from VND 150.000.000 to VND 180.000.000 shall be imposed for commission of one of the following violations:

a) Taking advantage of sending Vietnamese workers abroad for working to organize illegal immigration, exploitation of labour or forced labour, if not liable to criminal prosecution;

b) Sending Vietnamese workers abroad to work in prohibited areas, perform works or jobs which are prohibited or harmful to social ethics or health of workers or community, if not liable to criminal prosecution, or without obtaining approval from the host country;

c) Forcing, persuading, inciting or tricking Vietnamese workers into illegal stay in foreign countries, if not liable to criminal prosecution;

d) Sending Vietnamese workers abroad without submitting the plan for sending Vietnamese workers abroad to the Ministry of Labor, War Invalids and Social Affairs or before obtaining approval from the Ministry of Labor, War Invalids and Social Affairs for the submitted plan.

9. Additional penalties

The act of sending Vietnamese workers abroad by enterprises winning bids or awarded bids for overseas constructions or projects shall be suspended for a fixed period of 06 - 12 months in case of commission of any of the violations in Clauses 6, 7, 8 of this Article.

#### 10. Remedial measures

- a) The Vietnamese enterprise winning bids or awarded bids for overseas constructions or projects that commits the violation in Point a Clause 1 of this Article is compelled to update information on workers on the database on Vietnamese guest workers;
- b) The Vietnamese enterprise winning bids or awarded bids for overseas constructions or projects that commits the violation in Point a Clause 4 of this Article is compelled to organize repatriation of workers or payment of repatriation costs to workers;
- c) The Vietnamese enterprise winning bids or awarded bids for overseas constructions or projects is compelled to pay costs of transporting remains of workers who have died while working abroad to Vietnam in case of failing to pay such costs as specified in Point b Clause 4 of this Article;
- d) The Vietnamese enterprise winning bids or awarded bids for overseas constructions or projects that commits the violation specified in Clause 7 of this Article is compelled to return the amounts of money illegally collected from workers plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to workers.

#### **Article 44. Violations against regulations on sending of Vietnamese workers abroad by Vietnamese entities making outward investments**

- 1. A fine ranging from VND 500.000 to VND 1.500.000 shall be imposed for failing to submit annual reports as prescribed or ad hoc reports on sending of Vietnamese workers abroad for working as prescribed by law.
- 2. A fine ranging from VND 1.500.000 to VND 2.500.000 shall be imposed for failing to update information about workers on the database on Vietnamese guest workers.
- 3. A fine ranging from VND 5.000.000 to VND 10.000.000 per worker but not exceeding VND 100.000.000 shall be imposed for commission of one of the following violations:
  - a) Failing to provide orientation education courses for Vietnamese workers before they travel to work abroad;
  - b) Failing to adequately, accurately and clearly provide information about working conditions, living conditions, rights or benefits of workers working at overseas production or business facilities or construction works of the Vietnamese entity that makes outward investment;
  - c) Failing to directly organize travel of Vietnamese workers to foreign countries;

d) Failing to directly manage and use Vietnamese workers sent abroad for working.

4. A fine ranging from VND 15.000.000 to VND 25.000.000 shall be imposed for commission of one of the following violations:

a) Sending Vietnamese workers abroad in excess of the number of workers specified in the plan for sending Vietnamese workers abroad which has been approved by the Ministry of Labor, War Invalids and Social Affairs;

b) Failing to reach an agreement by signing an annex to the employment contract with the worker as prescribed or reaching an agreement by signing an annex to the employment contract with the worker which is contrary to the plan for sending Vietnamese workers abroad approved by the Ministry of Labor, War Invalids and Social Affairs;

c) Failing to enter into a contract for sending Vietnamese worker to work abroad with contents or using the form prescribed by the Ministry of Labor, War Invalids and Social Affairs in case a new worker is sent abroad;

d) Failing to terminate the contract for sending Vietnamese worker to work abroad within 180 days from the date on which the worker's employment contract is terminated.

5. A fine ranging from VND 35.000.000 to VND 45.000.000 shall be imposed for commission of one of the following violations:

a) Failing to report or failing to cooperate with Vietnamese representative missions abroad in managing and protecting legitimate rights and interests of workers while working abroad;

b) Failing to implement requests of competent authorities or failing to cooperate with relevant authorities and organizations of the host country in settling disputes involving the worker while working abroad;

c) Failing to deal with issues concerning the worker in one of the following cases: the worker dies, suffers accident, has his/her life, health, honor, dignity and/or property harmed, is affected by natural disasters, epidemics, war events, political instability, economic downturn, emergency state or other force majeure events.

6. A fine ranging from VND 25.000.000 to VND 35.000.000 per worker but not exceeding VND 100.000.000 shall be imposed for taking advantage of sending Vietnamese workers for working abroad to illegally receive money from workers.

7. A fine ranging from VND 75.000.000 to VND 90.000.000 shall be imposed for commission of one of the following violations:

a) Taking advantage of sending Vietnamese workers for working abroad to organize illegal immigration, exploitation of labour or forced labour, if not liable to criminal prosecution;

- b) Sending Vietnamese workers abroad to work in prohibited areas, perform works or jobs which are prohibited or harmful to social ethics or health of workers or community, if not liable to criminal prosecution, or without obtaining approval from the host country;
- c) Forcing, persuading, inciting or tricking Vietnamese workers into illegal stay in foreign countries, if not liable to criminal prosecution;
- d) Sending Vietnamese workers abroad without submitting the plan for sending Vietnamese workers abroad to the Ministry of Labor, War Invalids and Social Affairs or before obtaining approval from the Ministry of Labor, War Invalids and Social Affairs for the submitted plan.

#### 8. Additional penalties

The act of sending Vietnamese workers abroad by the Vietnamese entity making outward investments shall be suspended for a fixed period of 06 - 12 months in case of commission of any of the violations in Clauses 5, 6, 7 of this Article.

#### 9. Remedial measures

- a) The Vietnamese entity making outward investments that commits the violation in Clause 2 of this Article is compelled to update information on workers on the database on Vietnamese guest workers;
- b) The Vietnamese entity making outward investments that commits the violation specified in Clause 6 of this Article is compelled to return the amounts of money illegally collected from workers plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to workers.

### **Article 45. Violations committed by Vietnamese enterprises sending Vietnamese workers abroad for training or retraining to improve their vocational competence and skills**

- 1. A fine ranging from VND 1.000.000 to VND 3.000.000 shall be imposed for failing to submit reports on sending of workers abroad for training or retraining to improve their vocational competence and skills to competent authorities as prescribed by law.
- 2. A fine ranging from VND 3.000.000 to VND 5.000.000 shall be imposed for failing to update information about workers on the database on Vietnamese guest workers.
- 3. A fine ranging from VND 10.000.000 to VND 20.000.000 per worker but not exceeding VND 200.000.000 shall be imposed for commission of one of the following violations:
  - a) Failing to provide orientation education courses for Vietnamese workers before they attend overseas training or retraining courses aimed to improve their vocational competence and skills;



b) Failing to adequately, accurately and clearly provide information about the contents specified in Clause 2 Article 37 of the Law on Vietnamese guest workers.

4. A fine ranging from VND 30.000.000 to VND 50.000.000 shall be imposed for commission of one of the following violations:

a) Sending Vietnamese workers abroad for attending training or retraining courses aimed to improve their vocational competence and skills in excess of the number of workers registered with competent authorities;

b) Entering into contracts for recruitment of interns which do not have adequate contents as prescribed in Clause 2 Article 37 of the Law on Vietnamese guest workers;

c) Failing to enter into vocational training contracts before sending workers abroad for attending training or retraining courses aimed to improve their vocational competence and skills;

d) Entering into contracts for overseas training whose contents are contrary to contracts for recruitment of interns.

5. A fine ranging from VND 75.000.000 to VND 90.000.000 shall be imposed for commission of one of the following violations:

a) Failing to report or failing to cooperate with Vietnamese representative missions abroad in managing and protecting legitimate rights and interests of workers while working abroad;

b) Failing to implement requests of competent authorities or failing to cooperate with relevant authorities and organizations of the host country in settling disputes involving the worker while working abroad;

c) Failing to deal with issues concerning the worker in one of the following cases: the worker dies, suffers accident, has his/her life, health, honor, dignity and/or property harmed, is affected by natural disasters, epidemics, war events, political instability, economic downturn, emergency state or other force majeure events.

6. A fine ranging from VND 150.000.000 to VND 180.000.000 shall be imposed for commission of one of the following violations:

a) Taking advantage of sending Vietnamese workers abroad for attending training or retraining courses aimed to improve their vocational competence and skills to organize illegal immigration, exploitation of labour or forced labour, if not liable to criminal prosecution;

b) Sending Vietnamese workers abroad for attending training or retraining courses aimed to improve their vocational competence and skills without following procedures for registration of the contract for recruitment of interns with a competent authority or before obtaining approval from the relevant competent authority for the registered contract;

c) Forcing, persuading, inciting or tricking Vietnamese workers into illegal stay in foreign countries, if not liable to criminal prosecution.

## 7. Remedial measures

The Vietnamese enterprise sending Vietnamese workers abroad for attending training or retraining courses aimed to improve their vocational competence and skills that commits the violation in Clause 2 of this Article is compelled to update information on workers on the database on Vietnamese guest workers.

### **Article 46. Violations committed by Vietnamese guest workers and some other related entities**

1. A fine ranging from VND 80.000.000 to VND 100.000.000 shall be imposed upon a worker for illegally staying in the foreign country after his/her employment contract or vocational training contract has expired without any threat or force, if not liable to criminal prosecution.

2. A fine ranging from VND 80.000.000 to VND 100.000.000 shall be imposed for commission of one of the following violations:

a) Organizing recruitment and collecting service charges from Vietnamese guest workers, or sending Vietnamese workers abroad without obtaining the license to provide Vietnamese guest worker services or fulfilling eligibility requirements to send Vietnamese workers abroad in one of the following forms: enterprises winning bids or awarded bids for overseas constructions or projects send Vietnamese workers abroad for working, entities making outward investments send Vietnamese workers abroad for working, or enterprises send Vietnamese workers abroad for attending training or retraining courses aimed to improve their vocational competence and skills;

b) Forcing, persuading, inciting or tricking Vietnamese workers into illegal stay in foreign countries, if not liable to criminal prosecution;

c) Forging the license to provide Vietnamese guest worker services if not liable to criminal prosecution.

3. A fine ranging from VND 180.000.000 to VND 200.000.000 shall be imposed upon a branch of the service provider for sending Vietnamese workers abroad for working beyond the scope or validity period of authorization given by the service provider.

## 4. Additional penalties

The exhibits and instrumentalities for committing the violation in Point c Clause 2 of this Article, which are forged licenses to provide Vietnamese guest worker services, shall be confiscated.

## 5. Remedial measures

The entity that commits the violation specified in Point a Clause 2 or Clause 3 of this Article is compelled to return the amounts of money illegally collected from workers plus the interest on such amounts, which is calculated at the highest rate of the demand deposit interest rates publicly quoted by state-owned commercial banks on the date of penalty imposition, to workers.

## **Chapter V**

### **POWER TO IMPOSE ADMINISTRATIVE PENALTIES AND POWER TO MAKE RECORDS OF ADMINISTRATIVE VIOLATIONS; PROCEDURES FOR IMPOSING PENALTIES; ENFORCEMENT OF PENALTIES AND REMEDIAL MEASURES AGAINST VIOLATIONS IN THE FIELDS OF LABOUR, SOCIAL INSURANCE, AND VIETNAMESE GUEST WORKERS**

#### **Section 1. POWER TO IMPOSE ADMINISTRATIVE PENALTIES AND MAKE RECORDS OF VIOLATIONS**

##### **Article 47. Power to make records of administrative violations**

The following officers shall have the power to make records of the administrative violations prescribed herein:

1. The officers that have the power to impose administrative penalties mentioned in Articles 48 through 57 of this Decree within the ambit of their assigned functions, tasks and powers.
2. Public officials and employees, and officers of people's army or people's public security forces that are performing inspection tasks relating to labour, social insurance, and Vietnamese guest workers according to legislative documents or administrative documents issued by competent authorities or persons.

##### **Article 48. Power to impose penalties of Chairpersons of People's Committees**

1. Chairpersons of Communal-level People's Committees shall have the power to impose warnings or fines up to VND 5.000.000 for the administrative violations in the fields of labour, social insurance and Vietnamese guest workers specified in Chapter II, Chapter III and Chapter IV of this Decree.
2. Chairpersons of District-level People's Committees shall have the power to:
  - a) Issue warning;
  - b) Impose fines up to VND 37.500.000 for the administrative violations in the fields of labour and social insurance specified in Chapter II, Chapter III of this Decree, except the violations in Clause 3 Article 32 of this Decree.
  - c) Impose fines up to VND 50.000.000 for the administrative violations in the field of Vietnamese guest workers specified in Chapter IV of this Decree;

d) Impose additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree, except those specified in Clause 5 Article 32 of this Decree;

dd) Impose the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

3. Chairpersons of Provincial-level People's Committees shall have the power to:

a) Issue warning;

b) Impose fines up to VND 75.000.000 for the administrative violations in the fields of labour and social insurance specified in Chapter II, Chapter III of this Decree, except the violations in Clause 3 Article 32 of this Decree;

c) Impose fines up to VND 100.000.000 for the administrative violations in the field of Vietnamese guest workers specified in Chapter IV of this Decree;

d) Impose additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree, except those specified in Clause 5 Article 32 of this Decree;

dd) Impose the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

#### **Article 49. Power to impose penalties of labour inspectors**

1. On-duty labour inspectors and persons assigned to carry out specialized inspections shall have the power to impose warnings or fines up to VND 500.000 for the administrative violations in the fields of labour, social insurance and Vietnamese guest workers specified in Chapter II, Chapter III and Chapter IV of this Decree.

2. Chief Inspectors of Departments of Labour, War Invalids and Social Affairs shall have the power to:

a) Issue warning;

b) Impose fines up to VND 37.500.000 for the administrative violations in the fields of labour and social insurance specified in Chapter II, Chapter III of this Decree, except the violations in Clause 3 Article 32 of this Decree.

c) Impose fines up to VND 50.000.000 for the administrative violations in the field of Vietnamese guest workers specified in Chapter IV of this Decree;

d) Impose additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree, except those specified in Clause 5 Article 32 of this Decree;

dd) Impose the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

3. Chief Inspector of the Ministry of Labour, War Invalids and Social Affairs shall have the power to:

a) Issue warning;

b) Impose fines up to VND 75.000.000 for the administrative violations in the fields of labour and social insurance specified in Chapter II, Chapter III of this Decree, except the violations in Clause 3 Article 32 of this Decree;

c) Impose fines up to VND 100.000.000 for the administrative violations in the field of Vietnamese guest workers specified in Chapter IV of this Decree;

d) Impose additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree, except those specified in Clause 5 Article 32 of this Decree;

dd) Impose the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

4. Heads of ministerial-level labour inspection teams shall have the power to:

a) Issue warning;

b) Impose fines up to VND 52.500.000 for the administrative violations in the fields of labour and social insurance specified in Chapter II, Chapter III of this Decree, except the violations in Clause 3 Article 32 of this Decree;

c) Impose fines up to VND 70.000.000 for the administrative violations in the field of Vietnamese guest workers specified in Chapter IV of this Decree;

d) Impose additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree, except those specified in Clause 5 Article 32 of this Decree;

dd) Impose the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

5. Heads of labour inspection teams of provincial-department level and those established by regulatory authorities in charge of performing specialized inspections of issues concerning labour, social insurance and Vietnamese guest workers shall have the power to:

a) Issue warning;

- b) Impose fines up to VND 37.500.000 for the administrative violations in the fields of labour and social insurance specified in Chapter II, Chapter III of this Decree, except the violations in Clause 3 Article 32 of this Decree.
- c) Impose fines up to VND 50.000.000 for the administrative violations in the field of Vietnamese guest workers specified in Chapter IV of this Decree;
- d) Impose additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree, except those specified in Clause 5 Article 32 of this Decree;
- dd) Impose the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

**Article 50. Power to impose penalties of Director General of Department of Overseas Labour**

The Director General of Department of Overseas Labour shall have the power to:

- 1. Impose fines up to VND 100.000.000 for the administrative violations in the field of Vietnamese guest workers specified in Chapter IV of this Decree.
- 2. Impose additional penalties specified in Chapter IV of this Decree.
- 3. Impose the remedial measures specified in Chapter IV of this Decree.

**Article 51. Power to impose penalties of Director General of Department of Work safety**

The Director General of the Department of Work Safety shall have the power to:

- 1. Impose fines up to VND 75.000.000 for the administrative violations prescribed in Article 18, Articles 20 through 27, Point b Clause 7 Article 39, and Clause 8 Article 39 of this Decree.
- 2. Impose additional penalties specified in Articles 25, 26, 27 and Clause 9 Article 39 of this Decree.
- 3. Impose the remedial measures specified in Articles 22, 23, 25, 26, 27, and Clause 10 Article 39 of this Decree.

**Article 52. Power to impose penalties of social insurance authorities**

- 1. Directors of provincial-level social insurance authorities shall have the power to:
  - a) Impose fines up to VND 37.500.000 for the violations against regulations on payment of social insurance and unemployment insurance premiums specified in Clauses 1, 3, 4, 5, 6, 7 Article 39, Point a Clause 1 Article 40 of this Decree;

b) Impose the remedial measures specified in Clause 10 Article 39, Clause 3 Article 40 of this Decree.

2. The General Director of Vietnam Social Security shall have the power to:

a) Impose fines up to VND 75.000.000 for the violations against regulations on payment of social insurance and unemployment insurance premiums specified in Clauses 1, 3, 4, 5, 6, 7 Article 39, Point a Clause 1 Article 40 of this Decree;

b) Impose the remedial measures specified in Clause 10 Article 39, Clause 3 Article 40 of this Decree.

3. Heads of specialized inspection teams established by the General Director of Vietnam Social Security shall have the power to:

a) Impose fines up to VND 52.500.000 for the violations against regulations on payment of social insurance and unemployment insurance premiums specified in Clauses 1, 3, 4, 5, 6, 7 Article 39, Point a Clause 1 Article 40 of this Decree;

b) Impose the remedial measures specified in Clause 10 Article 39, Clause 3 Article 40 of this Decree.

### **Article 53. Power to impose penalties of people's public security forces**

1. Communal-level Police Chiefs, Heads of Police Posts, Heads of Police Stations at border gates, export processing zones, Heads of International Airport Police Offices, Majors of Mobile Police Battalions, and Captains of Squadrons shall have the power to impose fines up to VND 2.500.000 for the violations specified in Point d Clause 1 Article 8 and Clause 2 Article 34 of this Decree.

2. Heads of district-level police agencies, heads of operations divisions affiliated to the Police Department for Administrative Management of Social Order, heads of operations divisions affiliated to the Immigration Department, and heads of provincial-level police agencies, including: Police Divisions for Administrative Management of Social Order, Investigation Police Divisions on Social Order-related Crimes, Investigation Police Divisions on Corruption, Economic and Smuggling Crimes, and Immigration Divisions, shall have the power to impose fines up to VND 15.000.000 for the violations specified in Point d Clause 1 Article 8 and Clause 2 Article 34 of this Decree.

3. Directors of Provincial-level Police Departments shall have the power to:

a) Impose fines up to VND 37.500.000 for the violations specified in Point d Clause 1 Article 8, Clause 3 Article 11, Point a Clause 3 Article 19, Point dd Clause 3 Article 21, Article 31, Clause 3 Article 32, Clause 2 Article 34, Clause 3 Article 35 of this Decree;

b) Impose additional penalties specified in Clause 5 Article 32 of this Decree;

c) Impose the remedial measures specified in Point c Clause 4 Article 19 of this Decree.

4. Directors of the Police Department for Administrative Management of Social Order, the Investigation Police Department for Social Order-related Crimes and the Immigration Department shall have the power to:

a) Impose fines up to VND 75.000.000 for the violations specified in Points b, c, d, dd Clause 5, Clause 6 Article 7, Point d Clause 1, Clause 3 Article 8, Clause 3, Point a Clause 4 Article 11, Points e, g Clause 6 and Clause 7 Article 13, Point a Clause 2 Article 14, Point a Clause 3 Article 19, Point dd Clause 3 Article 21, Point c Clause 3 Article 29, Clause 4 Article 30, Article 31, Clause 2 Article 34, Clause 3 Article 35, the act of forging any documents included in the application for certificate of eligibility to provide OSH training or forging certificate of eligibility to provide OSH training specified in Point d Clause 3 and Clause 4 Article 25, the act of forging any documents included in the application for certificate of eligibility to provide inspection services or forging certificate of eligibility to provide inspection services specified in Point dd Clause 1, Clause 5 and Clause 6 Article 26 of this Decree;

b) Impose fines up to VND 100.000.000 for the violations specified in Points a, b, c, e, g, h Clause 9 Article 42, Points a, b, c Clause 8 Article 43, Points a, b, c Clause 7 Article 44, Points a, c Clause 6 Article 45, Clause 1, Clause 2 Article 46, and the act of harming honor or dignity of Vietnamese workers who are sent abroad for working specified in Point d Clause 9 Article 42 of this Decree;

c) Impose additional penalties specified in Clause 7 Article 7, Clause 9 Article 43, Clause 8 Article 44, and Clause 4 Article 46 of this Decree;

d) Impose the remedial measures specified in Point b Clause 8 Article 7;], Point c Clause 3 Article 14, Point c Clause 4 Article 19, Point g Clause 14 Article 42, and Clause 5 Article 46 of this Decree.

5. Director of the Immigration Department shall have the power to impose penalties for the violations specified in Clause 3 Article 32 and impose the additional penalties specified in Clause 5 Article 32 of this Decree.

#### **Article 54. Power to impose penalties of coast guard forces**

1. On-duty coast guard officers shall have the power to:

a) Issue warning;

b) Impose fines up to VND 1.500.000 for the administrative violations specified in Chapter II of this Decree.

2. Coastguard team leaders shall have the power to:

a) Issue warning;



b) Impose fines up to VND 3.750.000 for the administrative violations specified in Chapter II of this Decree.

3. Coastguard squad leaders and captains of coastguard stations shall have the power to:

a) Issue warning;

b) Impose fines up to VND 7.500.000 for the administrative violations specified in Chapter II of this Decree;

c) Impose the remedial measures specified in Point a Clause 1 Article 28 of the Law on penalties for administrative violations.

4. Commanders of coastguard platoons shall have the power to:

a) Issue warning;

b) Impose fines up to VND 15.000.000 for the administrative violations specified in Chapter II, except the violations in Clause 3 Article 32 of this Decree;

c) Impose the remedial measures specified in Chapter II of this Decree.

5. Captains of Naval Border Guard Squadrons, Heads of Reconnaissance Commissions, and Heads of Task Force Commissions for Drug Crime Prevention and Control under the control of the High Command of Vietnam Coast Guard shall have the power to:

a) Issue warning;

b) Impose fines up to VND 22.500.000 for the administrative violations specified in Chapter II, except the violations in Clause 3 Article 32 of this Decree;

c) Impose the remedial measures specified in Chapter II of this Decree.

6. Regional Commands of Coast Guard and Director of the Department of Operations and Legislation under the control of the High Command of Vietnam Coast Guard shall have the power to:

a) Issue warning;

b) Impose fines up to VND 37.500.000 for the administrative violations specified in Chapter II of this Decree, except the violations in Clause 3 Article 32 of this Decree;

c) Impose additional penalties specified in Chapter II of this Decree, except those specified in Clause 5 Article 32 of this Decree;

d) Impose the remedial measures specified in Chapter II of this Decree.

7. Commander of Vietnam Coast Guard shall have the power to:

- a) Issue warning;
- b) Impose fines up to VND 75.000.000 for the administrative violations specified in Chapter II, except the violations in Clause 3 Article 32 of this Decree;
- c) Impose additional penalties specified in Chapter II of this Decree, except those specified in Clause 5 Article 32 of this Decree;
- d) Impose the remedial measures specified in Chapter II of this Decree.

**Article 55. Power to impose penalties of Commanders of Provincial-level Border Guard Forces, Captains of Naval Border Guard Squadrons, and Director of Department of Drug and Crime Prevention and Control affiliated to Border Guard High Command**

Commanders of Provincial-level Border Guard Forces, Captains of Naval Border Guard Squadrons, and Director of Department of Drug and Crime Prevention and Control affiliated to the Border Guard High Command shall have the power to:

- 1. Impose fines up to VND 100.000.000 for the violations specified in Point a Clause 9 Article 42; Point a Clause 8 Article 43; Point a Clause 7 Article 44; Point a Clause 6 Article 45 of this Decree;
- 2. Impose additional penalties specified in Clause 9 Article 43 and Clause 8 Article 44 of this Decree.

**Article 56. Power to impose penalties of heads of diplomatic missions, consular missions and other authorities**

Heads of diplomatic missions, consular missions and other authorities authorized to perform consular functions of the Socialist Republic of Vietnam in foreign countries shall have the power to:

Impose fines up to 100.000.000 for the violations specified in Point c Clause 9 Article 42, Point c Clause 8 Article 43, Point c Clause 7 Article 44, Point c Clause 6 Article 45, Clause 1 Article 46, Point b Clause 2 Article 46 of this Decree.

**Article 57. Delegation of authority to impose penalties**

- 1. The officers competent to impose penalties prescribed in Article 48, Clauses 2, 3 Clause 49, Articles 50 through 56 of this Decree may assign their deputies to exercise the power to impose penalties for administrative violations.
- 2. The delegation of authority to impose penalties specified in Clause 1 of this Article must comply with in accordance with regulations of laws in force.

## **Section 2. PROCEDURES FOR IMPOSING ADMINISTRATIVE PENALTIES**

### **Article 58. Procedures for imposing administrative penalties**

1. Procedures for imposing penalties for administrative violations against regulations on labour, social insurance, and Vietnamese guest workers shall comply with the Law on penalties for administrative violations, its guiding documents, Clause 2 of this Article and Article 59 of this Decree.

2. When detecting any acts of forging licenses, certificates or certifications, forging documents or papers issued by regulatory authorities or organizations as prescribed in Points d, dd Clause 5, Clause 6 Article 7, Points e, g Clause 6, Clause 7 Article 13, Point d Clause 2, Point d Clause 3, Clause 4 Article 25, Point dd Clause 1, Clause 5, Clause 6 Article 26, Point h Clause 9 Article 42, Point c Clause 2 Article 46 of this Decree, the officers competent to handle the case shall immediately transfer the case file to the relevant criminal proceedings agency to initiate criminal prosecution as prescribed in Article 62 of the Law on penalties for administrative violations. If the criminal proceedings agency decides not to initiate criminal prosecution, the case file shall be transferred to the officer competent to impose penalties for that administrative violation as prescribed in Clause 3 Article 62 of the Law on penalties for administrative violations for imposing suitable administrative penalties as prescribed in this Decree.

### **Article 59. Procedures for imposing penalties upon workers committing violation in Clause 1 Article 46 of this Decree**

1. Chairpersons of People's Committees, Chief Inspectors of Ministries, Director General of Department of Overseas Labour, and heads of diplomatic missions, consular missions and other authorities authorized to perform consular functions of Vietnam in foreign countries (hereinafter referred to as "officer competent to impose penalties"), officials and public employees that are performing inspection of issues concerning Vietnam guest workers according to legislative documents or administrative documents issued by competent authorities or persons shall make records of administrative violation regarding the worker's act of illegally staying in the foreign country after his/her employment contract or vocational training contract has expired without any threat or force, if not liable to criminal prosecution, on one of the following grounds:

- a) The officer competent to impose penalties directly detects the violation when he/she is on duty;
- b) The officer competent to impose penalties receives a written notice from a competent authority or organization of the host country of the violation committed by the worker;
- c) The officer competent to impose penalties receives a written notice from the foreign employer of the violation committed by the worker. The accuracy of the received notice must be considered and verified before making record of violation.

2. The records of administrative violations shall be made in accordance with the Law on penalties for administrative violations and the Government's Decree providing guidelines for implementation of the Law on penalties for administrative violations.

3. After the record of violation is made, it must be transferred to the violating worker and immediately transferred to the officer competent to impose penalties in charge of the place of residence of the violating worker to issue a penalty imposition decision as prescribed.

4. Penalty imposition decisions shall be issued according to Articles 66, 67 and 68 of the Law on penalties for administrative violations.

### **Section 3. ENFORCEMENT OF PENALTIES AND REMEDIAL MEASURES**

#### **Article 60. Enforcement of administrative penalties**

1. Enforcement of penalties for administrative violations against regulations on labour, social insurance, and Vietnamese guest workers shall comply with the Law on penalties for administrative violations, its guiding documents, and Clauses 2, 3, 4 of this Article.

2. The person issuing the penalty imposition decision shall send a copy of the penalty imposition decision to:

a) The authority competent to issue license to provide employment agency license in respect of the violation in Clause 5 Article 7 of this Decree;

b) The person competent to issue labour outsourcing license in respect of any of the violations in Points a, b, d, dd, e, g, h Clause 6 Article 13 of this Decree;

c) The authority competent to issue certificate of eligibility to provide OSH training in respect of the violation in Point c or d Clause 2, or Point c or d Clause 3 Article 25 of this Decree;

d) The authority competent to issue certificate of eligibility to provide technical safety inspection services in respect of the violation in Point d or dd Clause 1, or Clause 6 Article 26 of this Decree;

dd) The Minister of Labor, War Invalids and Social Affairs in respect of the violation in Point a or b Clause 5, Clause 6, Point a, b, dd, e, g or h Clause 9, Point a, b, or c Clause 10 Article 42 of this Decree.

3. If the worker incurring fines is staying in a foreign country, he/she may pay fines at the Vietnamese diplomatic mission or consular mission in that foreign country.

4. Fines must be paid in VND. If a fine is paid in a foreign currency, it shall be converted into VND at the exchange rate announced by a commercial bank at the date of penalty imposition.

#### **Article 61. Enforcement of remedial measures**

The enforcement of the remedial measures specified in this Decree shall comply with the Law on penalties for administrative violations and its guiding documents.

## **Chapter VI**

### **IMPLEMENTATION**

#### **Article 62. Effect**

1. This Decree comes into force from January 17, 2022.
2. The Government's Decree No. 28/2020/ND-CP dated March 01, 2020 prescribing penalties for administrative violations against regulations on labour, social insurance, and Vietnamese guest workers shall be null and void from the effective date of this Decree.

#### **Article 63. Transition**

Regulations herein shall apply to consideration of the administrative violations in the fields of labour, social insurance, and Vietnamese guest workers which have been detected before the effective date of this Decree but are put under consideration if this Decree does not provide for legal liability or impose less serious legal liability.

#### **Article 64. Responsibility for guidance and implementation**

1. The Minister of Labor, War Invalids and Social Affairs shall provide guidelines and inspect the implementation of this Decree.
2. Ministers, heads of ministerial agencies, heads of Governmental agencies and Chairpersons of provincial-level People's Committees shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT  
PP. THE PRIME MINISTER  
DEPUTY PRIME MINISTER**

**Vu Duc Dam**