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

DECREE

Detailing and guiding the implementation of a number of articles of the Labor Code regarding working conditions and industrial relations[1]

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

Pursuant to the November 20, 2019 Labor Code;

Pursuant to the June 17, 2020 Law on Investment;

Pursuant to the June 17, 2020 Law on Enterprises;

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

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

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details and guides the implementation of a number of provisions on working conditions and industrial relations in the following articles and clauses of the Labor Code:

1. Labor management referred to in Clause 3, Article 12.

[1] *Công Báo Nos 1203-1204 (28/12/2020)*

2. Labor contracts referred to in Clause 4, Article 21; Point d, Clause 1, Article 35; Point d, Clause 2, Article 36; Clause 4, Article 46; Clause 4, Article 47; and Clause 3, Article 51.

3. Labor lease referred to in Clause 2, Article 54.

4. Organization of dialogues and implementation of regulations on grassroots democracy in the workplace referred to in Clause 4, Article 63.

5. Wages referred to in Clause 3, Article 92; Clause 3, Article 96; and Clause 4, Article 98.

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

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

8. Female employees and assurance of gender equality referred to in Clause 6, Article 135.

9. Domestic workers referred to in Clause 2, Article 161.

10. Settlement of labor disputes referred to in Clause 2, Article 184; Clause 6, Article 185; Clause 2, Article 209; and Clause 2, Article 210.

Article 2. Subjects of application

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

2. Employers referred to in Clause 2, Article 2 of the Labor Code.

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

Chapter II

LABOR MANAGEMENT

Article 3. Employee management books

The making, update, management and use of employee management books referred to in Clause 1, Article 12 of the Labor Code are specified as follows:

1. Within 30 days from the date of operation commencement, an employer shall make employee management books at the places where its/his/her head office, branches and representative offices are located.

2. An employee management book shall be made in paper or electronic form but must have essential information about an employee, including full name; gender; date of birth; citizenship; place of residence; serial number of citizen identity card or people's identity card or passport; technical professional qualifications; level of occupational qualifications and skills; working position; type of labor contract; time when he/she starts working; participation in social insurance; wages; wage rank promotion and wage raise; number of day-offs in the year; number of overtime working hours; apprenticeship or training and improvement of occupational knowledge and skills; labor discipline and material responsibility; occupational accidents and diseases; and time of termination of the labor contract and reason(s) therefor.

3. Employers shall record and update the information specified in Clause 2 of this Article from the date an employee starts working; and manage, use and produce employee management books to state management agencies in charge of labor and related agencies upon request in accordance with law.

Article 4. Reporting on labor employment

The declaration of labor employment and regular reporting on labor-related changes referred to in Clause 2, Article 12 of the Labor Code are specified as follows:

1. Employers shall declare the employment of labor in accordance with the Government's Decree No. 122/2020/ND-CP of October 15, 2020, providing coordination and interconnectivity in performance of procedures for registration of establishment of enterprises and their branches and representative offices, declaration of labor employment, issuance of identification numbers for units participating in social insurance, and registration of use of invoices of enterprises.

2. Before June 5 and December 5 every year, employers shall send reports on labor-related changes, made according to Form No. 01/PLI provided in Appendix I to this Decree, to provincial-level Departments of Labor, Invalids and Social Affairs via the National Public Service Portal, and notify such to district-level social insurance agencies of localities where their head offices, branches and representative offices are located. If unable to send reports on labor-related changes via the National Public Service Portal, employers shall send paper reports, made according to Form No. 01/PLI provided in Appendix I to this Decree, to provincial-level Departments of Labor, Invalids and Social Affairs, and notify such to district-level social insurance agencies of localities where their head offices, branches and representative offices are located.

Provincial-level Departments of Labor, Invalids and Social Affairs shall summarize information on labor-related changes, in case employers send paper reports, for fully updating information in reports made according to Form No. 02/PLI provided in Appendix I to this Decree.

3. Before June 15 and December 15 every year, provincial-level Departments of Labor, Invalids and Social Affairs shall send to the Ministry of Labor, Invalids and Social Affairs reports on labor employment in localities, made according to Form No. 02/PLI provided in Appendix I to this Decree, via the National Public Service Portal.

If unable to send reports on labor employment via the National Public Service Portal, provincial-level Departments of Labor, Invalids and Social Affairs shall send paper reports, made according to Form No. 02/PLI provided in Appendix I to this Decree, to the Ministry of Labor, Invalids and Social Affairs.

Chapter III

LABOR CONTRACTS

Section 1

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

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

A labor contract for an employee hired to work as the director of an enterprise in which the State holds 100% of charter capital or an enterprise in which the State holds over 50% of charter capital or total voting shares referred to in Clause 4, Article 21 of the Labor Code must have the following principal contents:

1. Name and head office address of the enterprise as stated in the enterprise registration certificate; full name, date of birth, serial number of citizen identity card or people's identity card or passport, telephone number, and contact address of the Chairperson of the Members' Council or Company President or Chairperson of the Board of Directors.

2. Full name, date of birth, gender, citizenship, professional qualifications, address of the place of residence in Vietnam and address of the place of residence overseas (for foreign workers), serial number of citizen identity card or

people's identity card or passport, telephone number and contact address, serial number of work permit issued by a competent state agency or a written certification that the employee is exempt from work permit, and other papers as required by the employer (for foreign workers), if any, of the employee hired to work as the director.

3. Jobs permitted and jobs not permitted to be performed, and obligations combined with task performance of the employee.

4. Workplace of the employee hired to work as the director.

5. Term of the labor contract as agreed upon by the two parties, which must not exceed 36 months. For foreign workers hired to work as directors of enterprises, the term of their labor contracts must not exceed the term of their work permits issued by competent state agencies.

6. Contents, duration, and responsibility of the employee hired to work as the director to protect business secrets and technological know-how of the enterprise, and handling of violations.

7. Rights and obligations of the employer, including:

a/ To provide information to the employee hired to work as the director for his/her task performance;

b/ To examine, supervise and evaluate task performance by the employee hired to work as the director;

c/ Rights and obligations provided by law;

d/ To issue a working regulation applicable to the director;

dd/ To fulfill obligations toward the employee hired to work as the director regarding payment of wages and bonuses; payment of social insurance, health insurance and unemployment insurance premiums; furnishing of working means and assurance of travel, meal and accommodation conditions; provision of training;

e/ Other rights and obligations as agreed upon by the two parties.

8. Rights and obligations of the employee hired to work as the director, including:

a/ To perform the jobs stated in the labor contract;

b/ To report and propose solutions to address difficulties and problems in the course of performance of jobs stated in the labor contract;

c/ To report on management and use of capital, assets, labor and other resources;

d/ To be entitled to wages and bonuses; working time and rest time; furnishing of working means and assurance of travel, meal and accommodation conditions; social insurance, health insurance and unemployment insurance; and training; and other regimes as agreed upon by the two parties;

dd/ Other rights and obligations as agreed upon by the two parties.

9. Conditions, process and procedures for modification and supplementation of the labor contract, or unilateral termination of the labor contract.

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

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

12. Other contents as agreed upon by the two parties.

Article 6. Contents of labor contracts for employees hired to work as directors of enterprises in which the State holds up to 50% of charter capital or total voting shares

Contents of labor contracts for employees hired to work as directors of enterprises in which the State holds up to 50% of charter capital or total voting shares must comply with Clause 1, Article 21 of the Labor Code.

Section 2

TERMINATION OF LABOR CONTRACTS

Article 7. Period of prior notification upon unilateral termination of labor contracts for special occupations, professions and jobs

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

1. Special occupations, professions and jobs include:

a/ Aircrew; aircraft maintenance technicians and aviation repairmen specialists; and flight dispatchers;

b/ Enterprise managers as defined in the Law on Enterprises and Law on Management and Use of State Capital Invested in Production and Business at Enterprises;

c/ Crewmen working on board Vietnamese ships that currently operate overseas; and crewmen leased by Vietnamese enterprises and working on board foreign ships;

d/ Other cases specified by law.

2. When an employee who performs the occupation(s), profession(s) or job(s) specified in Clause 1 of this Article unilaterally terminates his/her labor contract or the employer unilaterally terminates the labor contract with such employee, the period of prior notification must be:

a/ At least 120 days, for indefinite-term labor contracts or labor contracts of a term of at least 12 months;

b/ At least equal to one-fourth of the term of the labor contract, for labor contracts of a term of under 12 months.

Article 8. Severance allowance, job loss allowance

1. An employer shall pay severance allowance under Article 46 of the Labor Code to the employee who has regularly worked for it/him/her for at least 12 months by the time of termination of the labor contract as specified in Clause 1, 2, 3, 4, 6, 7, 9 or 10, Article 34 of the Labor Code, except the following cases:

a/ The employee fully satisfies the conditions for enjoying pension as specified in Article 169 of the Labor Code and the law on social insurance;

b/ The employee has given up work at his/her own discretion without a plausible reason for 5 or more consecutive days as specified at Point e, Clause 1, Article 36 of the Labor Code. Cases in which an employee is regarded as having a plausible reason are specified in Clause 4, Article 125 of the Labor Code.

2. An employer shall pay job loss allowance under Article 47 of the Labor Code to the employee who has regularly worked for it/him/her for at least 12 months and is laid off under Clause 11, Article 34 of the Labor Code.

In case the employee has regularly worked for the employer for at least 12 months and is laid off while the working period used for calculation of job loss allowance specified in Clause 3 of this Article is shorter than 24 months, the employer shall pay to the employee a job loss allowance amount at least equal to the latter's 2 months' wage.

3. The working period used for calculation of severance allowance or job loss allowance is the total period in which an employee has actually worked for an employer minus the period in which he/she has paid unemployment insurance premiums under the law on unemployment insurance and the working period in

which he/she has received severance allowance or job loss allowance from the employer, of which:

a/ The total period in which the employee has actually worked for the employer includes the period in which the employee has worked; probation period; period in which he/she is sent by the employer for training; period in which he/she takes sickness leave or maternity leave under the law on social insurance; period in which he/she takes paid leave for medical treatment or functional rehabilitation after suffering an occupational accident or disease under the law on occupational safety and health; period in which he/she takes paid leave to perform civic obligations in accordance with law; work cessation period while the cessation is not due to employee's fault; weekly breaks referred to in Article 111 and fully paid leaves referred to in Articles 112, 113 and 114, and Clause 1, Article 115; period for performance of tasks of employees' representative organizations referred to in Clauses 2 and 3, Article 176, and work suspension period referred to in Article 128 of the Labor Code.

b/ The period in which the employee has paid unemployment insurance premiums includes the period in which he/she has paid unemployment insurance premiums in accordance with law and period in which he/she is not required by law to pay unemployment insurance premiums but he/she has received, together with his/her wage from the employer, an amount equal to the amount of unemployment insurance premiums paid by the employer for him/her in accordance with the laws on labor and unemployment insurance.

c/ The working period used for calculation of severance allowance or job loss allowance of an employee shall be calculated in year (full 12 months). An odd period of up to 6 months shall be regarded as a half year of working while an odd period of over 6 months shall be regarded as 1 full year of working.

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

a/ For a wholly state-owned enterprise or an equitized state enterprise, when terminating the labor contract with the employee who used to work at agencies, organizations, units or enterprises in the state sector and moved to work at such enterprise prior to January 1, 1995, while not yet having received severance allowance or job loss allowance or lump-sum allowance when being demobilized from armed forces, or demobilization or movement allowance, the employer shall calculate the period in which the employee has actually worked for it/him/her and the period in which he/she had actually worked in such state sector.

The period in which the employee had actually worked at agencies, organizations, units or enterprises in the state sector prior to January 1, 1995, includes the period in which he/she had actually worked in state agencies, public non-business units, political organizations, socio-political organizations, and armed forces units and received salary from the state budget; and the period in which he/she had worked at state enterprises.

b/ In case the employee had worked for the employer under different successive labor contracts as referred to in Clause 2, Article 20 of the Labor Code but not yet received severance allowance or job loss allowance upon termination of each labor contract, the period in which he/she had actually worked for the employer is the total working period under such labor contracts minus the actual working period under the labor contract which is declared to be wholly null and void as all contents of the contract are illegal or the job agreed in the contract is prohibited by law, the labor contract under which the employee is disciplined in the form of dismissal, and the labor contract which the employee unilaterally terminated illegally (if any).

c/ In case the employee continues working at the enterprise or cooperative under the labor utilization plan referred to in Clause 1, Article 44 of the Labor Code after such enterprise or cooperative is divided, split up, consolidated or merged; sold, leased or transformed; or transfers property ownership or use rights, the employer shall determine the period in which the employee had actually worked for it/him/her for calculating and paying severance allowance or job loss allowance as follows:

c1/ In case the labor contract is terminated under Clause 1, 2, 3, 4, 6, 7, 9 or 10, Article 34 of the Labor Code, the period in which the employee had actually worked for the employer and which is used for calculation and payment of severance allowance is the total actual working period under labor contracts signed with the employer before and after the division, splitting, consolidation or merger; sale, lease or transformation; or transfer of property ownership or use rights.

c2/ In case the labor contract is terminated under Clause 11, Article 34 of the Labor Code, the period in which the employee had actually worked for the employer and which is used for calculation and payment of job loss allowance is the total actual working period under labor contracts signed with the employer after the division, splitting, consolidation or merger; sale, lease or transformation; or transfer of property ownership or use rights. The period in which the employee had actually worked for the employer and which is used for calculation and payment of severance allowance is the actual working period

under labor contracts signed with the employer before the division, splitting, consolidation or merger; sale, lease or transformation; or transfer of property ownership or use rights.

c3/ The employer shall pay severance allowance both for the period in which the employee had worked in the state sector who was recruited to the enterprise prior to January 1, 1995, before the enterprise is divided, split, consolidated or merged; sold, leased or transformed; or transfers property ownership or use rights as specified at Point a of this Clause.

5. Wage used for calculation of severance allowance or job loss allowance is specified as follows:

a/ Wage used for calculation of severance allowance or job loss allowance is the average of 6 consecutive months' wages under the labor contract before an employee is laid off or dismissed.

b/ In case the employee had worked for the employer under different successive labor contracts as referred to in Clause 2, Article 20 of the Labor Code, wage used for calculation of severance allowance or job loss allowance is the average of 6 consecutive months' wages under the labor contracts before termination of the last labor contract. In case the last labor contract is declared to be null and void for the reason that the wage stated therein is lower than the region-based wage level announced by the Government or the wage level stated in the collective labor agreement, wage used for calculation of severance allowance shall be agreed upon by the two parties but must not be lower than the region-based wage level or the wage level stated in the collective labor agreement.

6. Funds for payment of severance allowance or job loss allowance for employees shall be accounted as production and business expenses or operating expenses of employers.

Section 3

HANDLING OF NULL AND VOID LABOR CONTRACTS

Article 9. Handling of partially null and void labor contracts

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

1. When a labor contract is declared to be partially null and void, the employer and employee concerned shall modify and supplement the contract's contents declared to be null and void to make them comply with the collective labor agreement and law.

2. Rights, obligations and interests of the two parties from the time the employee starts working under the labor contract which is declared to be partially null and void to the time the contract is modified and supplemented shall be settled under the currently applied collective labor agreement or under law if such an agreement is not available.

In case the wage stated in the labor contract which is declared to be null and void is lower than that provided by the labor law and currently applied collective labor agreement, the two parties shall re-agree on the wage level as provided by law while the employer shall determine the difference between the re-agreed wage and the wage stated in the labor contract which is declared null and void for refunding to the employee an amount corresponding to his/her actual working period under such contract.

3. In case the two parties do not agree to modify and supplement the labor contract's contents declared to be null and void:

a/ They shall terminate the contract;

b/ Rights, obligations and interests of the two parties from the time the employee starts working under the contract to the time the contract is terminated shall be settled under Clause 2 of this Article;

c/ Severance allowance shall be paid under Article 8 of this Decree;

d/ The working period of the employee under the contract shall be regarded as the period in which he/she has worked for the employer for use as a basis for implementation of relevant regimes in accordance with the labor law.

4. Other matters concerning the handling of partially null and void labor contracts that fall within jurisdiction of courts must comply with the Civil Procedure Code.

Article 10. Handling of a labor contract which is wholly null and void for the reason that its signer is incompetent or breaches the principles of entry into labor contracts

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

2. Rights, obligations and interests of the employee from the time he/she starts working under the labor contract which is declared to be null and void to the time the contract is re-signed shall be settled:

a/ Under the labor contract which is declared to be null and void, if rights and interests of each contracting party are at least equal to those provided by law and currently applied collective labor agreement;

b/ Under Clause 2, Article 9 of this Decree, if the contract's contents on rights, obligations and interests of each party are illegal but do not affect other contents of the contract;

c/ The working period of the employee under the labor contract which is declared to be null and void shall be regarded as the period in which he/she has worked for the employer for use as a basis for implementation of relevant regimes in accordance with the labor law.

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

a/ The contract shall be terminated;

b/ Rights, obligations and interests of the employee from the time the employee starts working under the labor contract which is declared null and void to the time the contract is terminated shall be settled under Clause 2 of this Article;

c/ Severance allowance shall be paid under Article 8 of this Decree.

4. Other matters concerning the handling of a labor contract which is wholly null and void for the reason that the contract signer is incompetent or breaches the principles of entry into labor contracts that fall under jurisdiction of courts must comply with the Civil Procedure Code.

Article 11. Handling of a labor contract which is wholly null and void for the reason that all contents of the contract are illegal or the job agreed upon in the contract is prohibited by law

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

2. Rights, obligations and interests of the employee from the time he/she starts working under the labor contract which is declared to be null and void to the time the new labor contract is signed shall be settled under Clause 2, Article 10 of this Decree.

3. In case the two parties do not sign a new labor contract:

a/ They shall terminate the labor contract which is declared to be null and void;

b/ Rights, obligations and interests of the employee from the time he/she starts working under the labor contract which is declared to be null and void to the time the contract is terminated shall be settled under Clause 2 of this Article;

c/ The employer shall pay to the employee an amount agreed upon by the two parties, provided that for every working year of the employee, the employer shall pay an amount at least equal to at least one month's region-based minimum wage applicable to the locality where the employee works as provided by the Government at the time the contract is declared to be null and void. The employee's working period used for allowance calculation is his/her actual working period under the labor contract which is declared to be null and void which shall be determined under Point a, Clause 3, Article 8 of this Decree;

d/ Severance allowance shall be paid under Article 8 of this Decree for the labor contracts entered into before the signing of the labor contract which is declared to be null and void, if any.

4. Other matters concerning the handling of a labor contract which is wholly null and void for the reason that all contents of the contract are illegal or the job agreed upon in the contract is prohibited by law that fall under jurisdiction of courts must comply with the Civil Procedure Code.

Chapter IV

LABOR LEASE

Section 1

GENERAL PROVISIONS ON LABOR LEASE

Article 12. Labor leasing enterprises

Labor leasing enterprise is an enterprise that is established under the Law on Enterprises, granted a labor lease license, and recruits and signs contracts with employees then transfers them to work for and submit to management by another employer while maintaining industrial relations with the labor leasing enterprise (below referred to as leasing enterprise).

Article 13. Hiring parties

Hiring parties include enterprises, agencies, organizations, cooperatives, households and individuals that have full civil act capacity and employ leased employees for performing jobs on the list of jobs allowed for labor lease in a given period.

Article 14. Leased employees

Leased employees are those who have full civil act capacity, are recruited by and sign labor contracts with leasing enterprises, then move to work for and submit to management by hiring parties.

Section 2

DEPOSIT PAYMENT BY LEASING ENTERPRISES

Article 15. Payment and use of deposits

1. Enterprises shall pay a deposit at the level specified in Clause 2, Article 21 of this Decree at Vietnamese commercial banks or foreign bank branches lawfully established and operating in Vietnam (below referred to as deposit-receiving banks).

2. Deposits shall be used for payment of wages and social insurance, health insurance, unemployment insurance, and occupational accident and disease insurance premiums, and implementation of other regimes for leased employees as agreed upon in labor contracts, collective labor agreements and regulations of leasing enterprises or for payment of compensations to leased employees in case leasing enterprises breach labor contracts with the leased employees or cause damage to the leased employees as a result of failure to guarantee the latter's lawful rights and interests.

Article 16. Payment of deposits

1. Leasing enterprises shall pay deposits under regulations of deposit-receiving banks and comply with law. Leasing enterprises may enjoy deposit interests as agreed upon with deposit-receiving banks and provided by law.

2. Deposit-receiving banks shall issue certificates of deposits for labor lease activities according to Form No. 01/PLIII provided in Appendix III to this Decree after leasing enterprises complete deposit payment procedures. If wishing to change any of information details in its certificate of deposits for labor lease activities, such as name of the enterprise, head office address, or deposit account number, a leasing enterprise shall send a written request together with documents supporting the change to the deposit-receiving bank for making a change in such certificate.

Article 17. Management of deposits

1. Deposit-receiving banks shall freeze all deposits of leasing enterprises and manage deposits in accordance with regulations on deposit payment.

2. Deposit-receiving banks shall let leasing enterprises withdraw deposits or deduct part of deposits and request the latter to additionally pay deposits under Article 18, 19 or 20 of this Decree.

3. Deposit-receiving banks may not let leasing enterprises withdraw deposits without obtaining a written approval of chairpersons of provincial-level People's Committees.

Article 18. Withdrawal of deposits

1. Chairpersons of provincial-level People's Committees of localities where head offices of leasing enterprises are located may permit leasing enterprises to withdraw deposits when such enterprises fall into one of the following cases:

a/ They encounter difficulties and are financially unable to fully pay wages and social insurance, health insurance, unemployment insurance and occupational accident and disease insurance premiums, and implement other regimes for leased employees as agreed upon in labor contracts, collective labor agreements and regulations of leasing enterprises after 30 days from the law-specified due date for payment;

b/ They encounter difficulties and are unable to pay compensations to leased employees for the reason that they breach labor contracts signed with, or cause damage to, the leased employees for the reason that they fail to guarantee lawful rights and interests of the leased employees after 60 days from the law-specified due date for payment of compensations;

c/ Their applications for labor lease licenses are rejected;

d/ Their labor lease licenses are revoked or their requests for extension or re-grant of labor lease licenses are rejected;

dd/ They have paid deposits at Vietnamese commercial banks or Vietnam-based branches foreign commercial banks.

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

a/ A leasing enterprise's written request for deposit withdrawal;

b/ A plan on use of the amount to be withdrawn from the deposit account, stating the reason for and purpose of the withdrawal; list and number of employees, money amount, time and method of payment, for the case specified at Point a or b, Clause 1 of this Article;

c/ A report on fulfillment of obligations of leased employees together with supporting documents, for the case specified at Point d, Clause 1 of this Article;

d/ A certificate of deposit for labor lease activities, for the case specified at Point dd, Clause 1 of this Article.

3. A dossier for deposit withdrawal from a deposit-receiving bank must comprise:

a/ A leasing enterprise's written request for deposit withdrawal as specified at Point a, Clause 2 of this Article;

b/ The provincial-level People's Committee chairperson's permission for deposit withdrawal, made according to Form No. 02/PLIII provided in Appendix III to this Decree;

c/ A document on deposit withdrawal as provided by the deposit-receiving bank (if any).

4. Order and procedures for deposit withdrawal:

a/ A leasing enterprise shall submit 1 dossier specified in Clause 2 of this Article at the provincial-level Department of Labor, Invalids and Social Affairs of the locality where its head office is located;

b/ The provincial-level Department of Labor, Invalids and Social Affairs shall receive the dossier, check it and issue a receipt stating the date of dossier receipt. Within 5 working days after receiving the leasing enterprise's complete dossier of request for deposit withdrawal, the provincial-level Department of Labor, Invalids and Social Affairs shall check and verify the dossier, examine the leasing enterprise's fulfillment of obligations toward leased employees in the case specified at Point d, Clause 1 of this Article, and propose the provincial-level People's Committee chairperson to permit the leasing enterprise to withdraw the deposit;

c/ Within 5 working days after receiving the dossier from the provincial-level Department of Labor, Invalids and Social Affairs, the provincial-level People's Committee chairperson shall issue a written approval of deposit withdrawal and plan on use of deposit (if any) and send it to the leasing enterprise and deposit-receiving bank. If disapproving the deposit withdrawal, the provincial-level People's Committee chairperson shall issue a written reply stating the reason to the leasing enterprise;

d/ After obtaining the provincial-level People's Committee chairperson's written approval of deposit withdrawal, the leasing enterprise shall submit a dossier specified in Clause 3 of this Article at the deposit-receiving bank;

dd/ The deposit-receiving bank shall receive and check the leasing enterprise's dossier of request for deposit withdrawal and, if the dossier complies with regulations, permit the leasing enterprise to withdraw the deposit within 1 working day after receiving the dossier.

In the case specified at Point a or b, Clause 1 of this Article, the deposit-receiving bank shall, after deducting banking service charges, directly make

payments and compensations for leased employees under the plan approved by the provincial-level People's Committee chairperson.

Article 19. Deduction of deposits in case leasing enterprises fail to fulfill obligations toward leased employees

1. Past 60 days from the due date for payment, if a leasing enterprise has not yet made payments for the regimes and interests for leased employees as specified in Clause 2, Article 15 of this Decree, the provincial-level Department of Labor, Invalids and Social Affairs shall, after consulting the social insurance agency and other related agencies and organizations, send a written request to the leasing enterprise for the latter to make payments for the regimes and interests for leased employees. Past 10 days from the date the provincial-level Department of Labor, Invalids and Social Affairs issues the request, if the leasing enterprise fails to make payments for the employees or makes no written request for withdrawal of deposit for making the payments, the provincial-level Department of Labor, Invalids and Social Affairs shall propose the provincial-level People's Committee chairperson to permit the deduction of deposit of the leasing enterprise for making payments for the regimes and interests for leased employees according to the following order and procedures:

a/ The provincial-level Department of Labor, Invalids and Social Affairs shall request the leasing enterprise to report on the number and list of leased employees, and the amount not yet paid for the regimes and interests for each leased employee. Within 5 working days after receiving the request of the provincial-level Department of Labor, Invalids and Social Affairs, the leasing enterprise shall complete the reporting. Within 3 working days after receiving the leasing enterprise's report, the provincial-level Department of Labor, Invalids and Social Affairs shall summarize the report and propose the provincial-level People's Committee chairperson to decide on the deduction of deposit of the leasing enterprise for making payments for the leased employees;

b/ Within 5 working days after receiving the proposal of the provincial-level Department of Labor, Invalids and Social Affairs, the provincial-level People's Committee chairperson shall issue a decision on deduction of deposit of the leasing enterprise according to Form No. 03/PLIII in Appendix III to this Decree;

c/ Within 7 working days after receiving the decision of the provincial-level People's Committee chairperson, the deposit-receiving bank shall deduct deposit of the leasing enterprise and, after subtracting banking service charges, directly make payments for leased employees on the list enclosed with such decision. Deposit of the leasing enterprise shall be paid in the following order of priority:

wage; social insurance, health insurance and unemployment insurance premiums; and occupational accident and disease insurance premiums, and other regimes for leased employees as agreed upon in labor contracts, collective labor agreement and regulations of the leasing enterprise.

2. Provincial-level Departments of Labor, Invalids and Social Affairs shall supervise the making of payments and compensations for leased employees referred to in Clause 1 of this Article and send reports on implementation results to provincial-level People's Committees.

Article 20. Additional payment of deposits

1. Within 30 days after withdrawing deposits for making payments in the case specified at Point a or b, Clause 1, Article 18, and Article 19, of this Decree, leasing enterprises shall additionally pay deposits to ensure the deposit level specified in Clause 2, Article 21 of this Decree.

2. Within 30 days from the date of expiration of the time limit specified in Clause 1 of this Article, if a leasing enterprise fails to additionally pay deposit to ensure the law-required level, the deposit-receiving bank shall send a notice thereof to the provincial-level Department of Labor, Invalids and Social Affairs and chairperson of the provincial-level People's Committee of the locality where the leasing enterprise's head office is located. Within 15 days after receiving the deposit-receiving bank's notice, the provincial-level Department of Labor, Invalids and Social Affairs shall propose to the provincial-level People's Committee chairperson the revocation of the leasing enterprise's labor lease license under Clause 4, Article 28 of this Decree.

Section 3

CONDITIONS, COMPETENCE, ORDER AND PROCEDURES FOR GRANT, EXTENSION, RE-GRANT AND REVOCATION OF LABOR LEASE LICENSES AND THE LIST OF JOBS ALLOWED FOR LABOR LEASE

Article 21. Conditions for grant of labor lease licenses

1. The at-law representative of a leasing enterprise must satisfy the following conditions:

a/ Being an enterprise manager as defined by the Law on Enterprises;

b/ Having no previous criminal records;

c/ Having been engaged in professional jobs or management of labor lease or labor supply for at least full 3 years (36 months) during the period of 5 years prior to the time of application for a labor lease license.

2. A leasing enterprise has paid a deposit of VND 2,000,000,000 (two billion).

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

Chairpersons of provincial-level People's Committees of localities where head offices of enterprises are located may grant, extend, re-grant or revoke labor lease licenses for such enterprises.

Article 23. Labor lease licenses

1. A labor lease license shall be printed on a hard cardboard sheet of A4 size (21 cm x 29.7 cm). Its front side is inscribed with contents of the license on a white background with sky-blue patterns and gravure-pressed national emblem and in a black border frame. Its back side bears the official state name and national emblem of Vietnam and the phrase "LABOR LEASE LICENSE" printed on a sky-blue background.

2. Contents of a labor lease license are specified in Form No. 04/PLIII provided in Appendix III to this Decree.

3. Validity period of labor lease licenses:

a/ The maximum validity period of labor lease licenses is 60 months;

b/ A labor lease license may be extended more than once with each extension not exceeding 60 months;

c/ The validity period of a re-granted labor lease license is equal to the remaining validity period of the original one.

Article 24. Dossier of application for a labor lease license

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

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

3. Criminal record certificate No. 1 of the at-law representative of the enterprise, made in accordance with the law on criminal records. In case the at-law representative of the enterprise is a foreigner who is not subject to issuance of criminal record certificate No. 1, such a certificate may be substituted by his/her criminal record certificate issued by the country of which he/she is a national.

The document specified in this Clause must be that issued no more than 6 months before the date of dossier submission. If such document is in a foreign

language, it must be translated into Vietnamese and have its Vietnamese translation authenticated and consularly legalized in accordance with law.

4. A document evidencing the period during which the at-law representative of the enterprise was directly engaged in professional jobs or management of labor lease or labor supply as specified at Point c, Clause 1, Article 21 of this Decree, which is one of the following documents:

a/ An authenticated copy of the original labor contract or work contract or decision on recruitment or appointment of, or assignment of tasks to, the at-law representative of the enterprise;

b/ An authenticated copy of the original decision on appointment (for persons working under the appointment regime) or the original document on recognition of election results (for persons working under the election regime) of the at-law representative of the enterprise, or a copy of the enterprise registration certificate (for at-law representatives of labor leasing or supplying enterprises).

If the documents specified at Points a and b of this Clause are in foreign languages, they must be translated into Vietnamese and have their Vietnamese translations authenticated and consularly legalized in accordance with law.

5. A certificate of payment of deposits for labor lease activities, which shall be made according to Form No. 01/PLIII provided in Appendix III to this Decree.

Article 25. Order and procedures for grant of labor lease licenses

1. An enterprise shall send a dossier specified in Article 24 of this Decree to the provincial-level Department of Labor, Invalids and Social Affairs of the locality where its head office is located for applying for a labor lease license.

2. After checking all documents in the dossier of application for a labor lease license specified in Article 24 of this Decree, the provincial-level Department of Labor, Invalids and Social Affairs shall issue a receipt clearly stating the date of dossier receipt.

3. Within 20 working days after receiving a valid dossier under regulations, the provincial-level Department of Labor, Invalids and Social Affairs shall examine and forward it to the chairperson of the provincial-level People's Committee for grant of a labor lease license to the enterprise.

In case the dossier is invalid, within 10 working days after receiving it, the provincial-level Department of Labor, Invalids and Social Affairs shall request in writing the enterprise to complete it.

4. Within 7 working days after receiving the dossier from the provincial-level Department of Labor, Invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall consider granting a labor lease license to the enterprise. In case of refusal to grant such a license, he/she shall reply in writing to the enterprise, clearly stating the reason.

5. An enterprise may not be granted a labor lease license in the following cases:

a/ It fails to satisfy the conditions specified in Article 21 of this Decree;

b/ It has used a forged license to carry out labor lease activities;

c/ Its at-law representative used to act as the at-law representative of the enterprise that has its labor lease license revoked for a reason specified at Point d, dd or e, Clause 1, Article 28 of this Decree for 5 years prior to the date of application for a labor lease license;

d/ Its at-law representative used to act as the at-law representative of the enterprise that used a forged labor lease license.

Article 26. Extension of labor lease licenses

1. An enterprise may have its labor lease license extended when satisfying the following conditions:

a/ The conditions specified in Article 21 of this Decree;

b/ Not falling into one of the cases subject to license revocation specified in Article 28 of this Decree;

c/ Having fully complied with the reporting regime prescribed in this Decree;

d/ Sending a dossier of request for license extension to the provincial-level Department of Labor, Invalids and Social Affairs at least 60 working days before the date of expiration of its labor lease license.

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

a/ An enterprise's written request for extension of a labor lease license, made according to Form No. 05/PLIII provided in Appendix III to this Decree;

b/ The document specified in Clause 5, Article 24 of this Decree;

c/ The documents specified in Clauses 2, 3 and 4, Article 24 of this Decree, in case the enterprise requests extension of its labor lease license together with change of its at-law representative.

3. Order and procedures for extension of a labor lease license

a/ An enterprise shall send a dossier specified in Clause 2 of this Article to the provincial-level Department of Labor, Invalids and Social Affairs of the locality where its head office is located for requesting the license extension. After checking all documents in the dossier as specified in Clause 2 of this Article, the provincial-level Department of Labor, Invalids and Social Affairs shall issue a receipt clearly stating the date of dossier receipt;

b/ Within 15 working days after receiving a valid dossier under regulations, the provincial-level Department of Labor, Invalids and Social Affairs shall examine and forward it to the chairperson of the provincial-level People's Committee for extension of the license for the enterprise. In case the dossier is invalid, within 7 working days after receiving it, the provincial-level Department of Labor, Invalids and Social Affairs shall request in writing the enterprise to complete it;

c/ Within 7 working days after receiving the dossier from the provincial-level Department of Labor, Invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall consider extending the license for the enterprise. In case of refusal to extend the license, he/she shall reply the enterprise in writing, clearly stating the reason.

4. For leasing enterprises that fail to satisfy the conditions specified in Clause 1 of this Article or fall into one of the cases specified in Clause 5, Article 25 of this Decree, chairpersons of provincial-level People's Committees shall reply in writing to enterprises, clearly stating reasons for refusal to extend labor lease licenses.

Article 27. Re-grant of labor lease licenses

1. A leasing enterprise shall request the chairperson of a provincial-level People's Committee to re-grant its labor lease license in the following cases:

a/ There is a change in one of contents of the granted license, such as the enterprise's name; address of its head office, which is still located in the provincial-level locality where its license has been granted; or its at-law representative;

b/ Its license is lost;

c/ Its license is so damaged that information thereon can no longer be fully read;

d/ Its head office is relocated to a provincial-level locality other than that where its license has been granted.

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

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

b/ A copy of the enterprise registration certificate, in case of change of the name of the enterprise or address of head office of the enterprise which is still located in the provincial-level locality where its license has been granted, or in case the license is so damaged that information thereon can no longer be fully read;

c/ The documents specified in Clauses 2, 3 and 4, Article 24 of this Decree, for enterprises that change their at-law representatives;

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

dd/ The original license, for the case specified at Point a or c, Clause 1 of this Article.

3. Order and procedures for re-grant of labor lease licenses, for the cases specified at Points a, b and c, Clause 1 of this Article:

a/ An enterprise shall send a dossier specified in Clause 2 of this Article to the provincial-level Department of Labor, Invalids and Social Affairs of the locality where its head office is located for requesting re-grant of its labor lease license. After checking all documents in the dossier as specified in Clause 2 of this Article, the provincial-level Department of Labor, Invalids and Social Affairs shall issue a receipt clearly stating date of dossier receipt;

b/ Within 15 working days after receiving a valid dossier under regulations, the provincial-level Department of Labor, Invalids and Social Affairs shall examine and forward it to the chairperson of the provincial-level People's Committee for re-grant of a labor lease license to the enterprise. In case the dossier is invalid, within 7 working days after receiving it, the provincial-level Department of Labor, Invalids and Social Affairs shall request in writing the enterprise to complete it;

c/ Within 7 working days after receiving the dossier from the provincial-level Department of Labor, Invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall consider re-granting the license to the enterprise. In case of refusal to re-grant the license, he/she shall reply in writing to the enterprise, clearly stating the reason.

4. Order and procedures for re-grant of labor lease licenses, for the case specified at Point d, Clause 1 of this Article:

a/ A dossier of request for re-grant of a labor lease license must comprise a written request for re-grant of a labor lease license, made according to Form No. 05/PLIII provided in Appendix III to this Decree; a copy of the enterprise registration certificate granted by the business registration office of the locality where the new head office of the enterprise is located in accordance with law; and the original license granted by the chairperson of the provincial-level People's Committee of the locality where the old head office of the enterprise is located;

b/ An enterprise shall send a dossier specified at Point a of this Clause to the provincial-level Department of Labor, Invalids and Social Affairs of the locality where its new head office is located for requesting re-grant of a labor lease license. The provincial-level Department of Labor, Invalids and Social Affairs shall issue a receipt clearly stating the date of dossier receipt provided the dossier comprises all the documents specified at Point a of this Clause;

c/ Within 10 working days, the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the new head office of the enterprise is located shall request in writing the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the enterprise has its original license granted to provide a copy of the dossier of application for a labor lease license and certify that the enterprise satisfies conditions so as not to have its license revoked;

d/ Within 7 working days after receiving a written request of the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the new head office of the enterprise is located, the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the enterprise has its original license granted shall give comments on operation of the enterprise in the locality and issue a written reply to the former together with a copy of the enterprise's dossier of application for a labor lease license.

In case the leasing enterprise is subject to license revocation as specified in Clause 1, Article 28 of this Decree, the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the enterprise has its original license granted shall report such to the chairperson of the provincial-level People's Committee for revocation of the license and notify such to the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the new head office of the enterprise is located;

dd/ Within 6 working days after receiving the report of the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the enterprise has its original license granted, the provincial-level Department of

Labor, Invalids and Social Affairs of the locality where the new head office of the enterprise is located shall propose the chairperson of the provincial-level People's Committee to re-grant a labor lease license to the enterprise.

In case the leasing enterprise has its license revoked by the chairperson of the provincial-level People's Committee of the locality where its old head office is located under Point a, Clause 1, Article 28 of this Decree, the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the new head office of the enterprise is located shall request in writing the enterprise to complete the dossier and propose the chairperson of the provincial-level People's Committee to grant a labor lease license to the enterprise.

In case the leasing enterprise has its license revoked by the chairperson of the provincial-level People's Committee of the locality where its old head office is located under Point c, d, dd or e, Clause 1, Article 28 of this Decree, the provincial-level Department of Labor, Invalids and Social Affairs shall propose the chairperson of the provincial-level People's Committee not to grant a labor lease license to the enterprise;

e/ Within 4 working days after receiving a dossier from the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the new head office of the enterprise is located, the chairperson of the provincial-level People's Committee shall consider granting a labor lease license to the enterprise. In case of refusal to grant a license, he/she shall reply in writing to the enterprise, clearly stating the reason.

Article 28. Revocation of labor lease licenses

1. A leasing enterprise will have its labor lease license revoked in the following cases:

a/ It willingly terminates its labor lease activities;

b/ It is dissolved or declared bankrupt under a court ruling;

c/ It fails to satisfy one of the conditions specified in Article 21 of this Decree;

d/ It lets other enterprises, organizations or individuals use its license;

dd/ It leases labor to perform jobs not on the list of jobs allowed for labor lease provided in Appendix II to this Decree;

e/ It commits the act of forging documents in the dossier of application for, or dossier of request for extension or re-grant of, a labor lease license, or erasing or altering contents of its granted license, or using a forged license.

2. A dossier of request for revocation of a labor lease license in the case specified at Point a or b, Clause 1 of this Article must comprise:

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

b/ The granted license or a written pledge of the leasing enterprise to take responsibility before law in case its license is lost;

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

d/ Copies of labor lease contracts that remain valid by the time of request for license revocation.

3. Order and procedures for revocation of a labor lease license in the case specified at Point a or b, Clause 1 of this Article:

a/ An enterprise shall send a dossier specified in Clause 2 of this Article to the provincial-level Department of Labor, Invalids and Social Affairs of the locality where its head office is located;

b/ The provincial-level Department of Labor, Invalids and Social Affairs shall receive and examine the dossier and issue a receipt clearly stating the date of receipt of a complete dossier. Within 10 working days after receiving the enterprise's complete dossier of request for license revocation, the provincial-level Department of Labor, Invalids and Social Affairs shall check and review valid labor lease contracts of the enterprise before requesting the latter to settle regimes for employees under Article 29 of this Decree, and propose the chairperson of the provincial-level People's Committee to revoke the license;

c/ Within 7 working days after receiving the dossier from the provincial-level Department of Labor, Invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall issue a decision on license revocation according to Form No. 08/PLIII provided in Appendix III to this Decree.

4. Order and procedures for revocation of labor lease licenses for the cases specified at Points c, d, dd and e, Clause 1 of this Article:

a/ When detecting a leasing enterprise falling into one of the cases specified at Points c, d, dd and e, Clause 1 of this Article, the provincial-level Department of Labor, Invalids and Social Affairs of the locality where the head office of the enterprise is located shall carry out examination, collect relevant evidences and propose the chairperson of the provincial-level People's Committee to revoke the labor lease license of such enterprise;

b/ Within 7 working days after receiving the proposal of the provincial-level Department of Labor, Invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall decide on revocation of the labor lease license of the enterprise;

c/ Within 3 working days after receiving a decision on license revocation, the leasing enterprise shall return its license to the provincial-level People's Committee.

5. A leasing enterprise may not be granted a labor lease license within 5 years after having its previous license revoked for a violation specified at Point c, d, dd or e, Clause 1 of this Article.

Article 29. Responsibilities of leasing enterprises in case they have their labor lease licenses revoked or their licenses are neither extended nor re-granted

Within 15 working days after receiving a notice of refusal to extend or re-grant or revocation of its labor lease license from the chairperson of the provincial-level People's Committee, a leasing enterprise shall liquidate all labor lease contracts which it is performing, settle lawful rights and interests for leased employees and hiring parties in accordance with the labor law and publicize contents of termination of labor lease activities on at least one lawfully licensed online newspaper for 7 consecutive days.

Article 30. List of jobs allowed for labor lease

The list of jobs allowed for labor lease is provided in Appendix II to this Decree.

Section 4

RESPONSIBILITY TO ORGANIZE LABOR LEASE ACTIVITIES

Article 31. Responsibilities of leasing enterprises

1. To publicly post up their original labor lease licenses at their head offices and authenticated copies of such licenses at their branches and representative offices (if any). In case a leasing enterprise is relocated to another provincial-level locality, it shall send an authenticated copy of its labor lease license to the provincial-level Department of Labor, Invalids and Social Affairs of such locality for monitoring and management.

2. To send biannual reports and annual reports on labor lease activities before June 20 and December 20 every year, respectively, made according to Form No. 09/PLIII provided in Appendix III to this Decree, to chairpersons of provincial-level People's Committees and provincial-level Departments of Labor, Invalids and Social Affairs of localities where their head offices are

located; at the same time, to report on labor lease activities to provincial-level Departments of Labor, Invalids and Social Affairs of localities where they carry out such activities.

3. To promptly report on occurrence of incidents related to labor lease activities to competent state agencies in their localities or upon request of state management agencies in charge of labor.

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

Article 32. Responsibilities of deposit-receiving banks

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

2. To send quarterly reports on deposit payment by leasing enterprises before the 15th of the first month of the subsequent quarter, made according to Form No. 11/PLIII provided in Appendix III to this Decree, to provincial-level branches of the State Bank, chairpersons of provincial-level People's Committees, and provincial-level Departments of Labor, Invalids and Social Affairs of localities where head offices of such enterprises are located.

3. To fulfill responsibilities of deposit-receiving banks specified in this Chapter.

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

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

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

3. To monitor and sum up, and send biannual reports and annual reports before July 20 of the year and before January 20 of the subsequent year, respectively, made according to Form No. 10/PLIII provided in Appendix III to this Decree, on payment of deposits and grant of labor lease licenses in localities under their management to chairpersons of provincial-level People's Committees and the Ministry of Labor, Invalids and Social Affairs.

4. To fulfill responsibilities of provincial-level Departments of Labor, Invalids and Social Affairs specified in this Chapter.

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

1. To send notices of grant, extension, re-grant or revocation of labor lease licenses to the Ministry of Labor, Invalids and Social Affairs within 5 working days from the date of license grant, extension, re-grant or revocation for monitoring and management, and concurrently to chairpersons of provincial-level People's Committees of localities where enterprises have their original labor lease licenses granted, for leasing enterprises relocating their head offices to provincial-level localities other than those where their labor lease licenses have been granted.

2. To announce enterprises that have labor lease licenses granted, extended, re-granted or revoked on websites of provincial-level People's Committees.

3. To fulfill responsibilities of chairpersons of provincial-level People's Committees specified in this Chapter.

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

1. To disseminate and popularize, and guide, inspect, examine and supervise the implementation of, the labor law's provisions on labor lease.

2. To sum up and publicize enterprises that have their labor lease licenses granted, extended, re-granted or revoked on its website.

3. To fulfill responsibilities of the Ministry of Labor, Invalids and Social Affairs specified in this Chapter.

Article 36. Responsibilities of the State Bank of Vietnam

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

Chapter V

DIALOGUES IN THE WORKPLACE

Section 1

ORGANIZATION OF DIALOGUES IN THE WORKPLACE

Article 37. Responsibility to organize dialogues in the workplace

1. Employers shall coordinate with grassroots-level employees' representative organizations (if any) in holding dialogues in the workplace under Clause 2, Article 63 of the Labor Code.

If in the workplace there are employees who are not members of grassroots-level employees' representative organizations, employers shall coordinate with grassroots-level employees' representative organizations (if any) in guiding, supporting, and creating conditions for, such employees to select by themselves members to act as their representatives (below referred to as employees' representative group in dialogues) to participate in dialogues with employers under Clause 2, Article 63 of the Labor Code. The number of members of an employees' representative group in dialogues shall be determined under Clause 2, Article 38 of this Decree.

2. Employers shall specify in regulations on grassroots democracy in the workplace the following principal contents for organizing dialogues in the workplace under Clause 2, Article 63 of the Labor Code:

a/ Principles for dialogues in the workplace;

b/ Number and composition of each party's participants in dialogues as specified in Article 38 of this Decree;

c/ Number and time of holding annual dialogues;

d/ Method of holding regular dialogues, dialogues at the request of either party or both parties and dialogues upon occurrence of cases;

dd/ Responsibilities of the parties when participating in dialogues under Clause 2, Article 63 of the Labor Code;

e/ Application of Article 176 of the Labor Code to employees' representatives participating in dialogues who are not leaders of grassroots-level employees' representative organizations;

g/ Other contents (if any).

3. In addition to complying with Clauses 1 and 2 of this Article, employers shall:

a/ Appoint their representatives to participate in dialogues in the workplace under regulations;

b/ Arrange venues, fix time, and prepare other necessary physical conditions for holding dialogues in the workplace;

c/ Report on holding of dialogues and implementation of regulations on grassroots democracy in the workplace to state management agencies in charge of labor when so requested.

4. Grassroots-level employees' representative organizations and employees' representative groups in dialogues shall:

a/ Appoint their members as representatives to participate in dialogues under regulations;

b/ Advise employers on contents of regulations on grassroots democracy in the workplace;

c/ Collect and sum up opinions of employees and prepare contents proposed for dialogues;

d/ Participate in dialogues with employers under Clause 2, Article 63 of the Labor Code, this Decree and regulations on grassroots democracy in the workplace.

5. Employers, employees and employees' representative organizations are encouraged to hold dialogues in cases other than those specified in Clause 2, Article 63 of the Labor Code depending on production, business and labor organization conditions in the workplace and specific provisions of regulations on grassroots democracy in the workplace.

Article 38. Number and composition of dialogue participants

The number and composition of dialogue participants specified in Clause 2, Article 63 of the Labor Code are prescribed as follows:

1. For employers

Depending on production, business and labor organization conditions, an employer may decide on the number and composition of its/his/her representatives to participate in dialogues, which must be at least 3 persons, including its/his/her at-law representative, and stated in regulations on grassroots democracy in the workplace.

2. For employees

a/ Depending on production, business and labor organization conditions, structure and number of employees, and gender equality factors, grassroots-level employees' representative organizations and employees' representative groups in dialogues shall determine the number and composition of dialogue participants, which must be:

a1/ At least 3 persons, in case the employer has under 50 employees;

a2/ Between 4 persons and 8 persons, in case the employer has between 50 employees and under 150 employees;

a3/ Between 9 persons and 13 persons, in case the employer has between 150 employees and under 300 employees;

a4/ Between 14 persons and 18 persons, in case the employer has between 300 employees and under 500 employees;

a5/ Between 19 persons and 23 persons, in case the employer has between 500 employees and under 1,000 employees;

a6/ At least 24 persons, in case the employer has 1,000 employees or more.

b/ Depending on the number of employees' representatives in dialogues specified at Point a of this Clause, grassroots-level employees' representative organizations and employees' representative groups in dialogues shall determine the number of representatives to participate in dialogues in proportion to the ratio of their members to total employees.

3. A list of representatives of employers and employees to participate in dialogues specified in Clauses 1 and 2 of this Article shall be drawn up at least once every 2 years and publicly notified in the workplace. In the interval between two periods of determination of representatives to participate in dialogues, if any representative can no longer participate in dialogues, the employer or each employees' representative organization or employees' representative group in dialogues shall consider and decide on replacement in its membership and publicly notify it in the workplace.

4. Upon holding dialogues under Clause 2, Article 63 of the Labor Code, in addition to the dialogue participants specified in Clause 3 of this Article, the two parties shall reach agreement on inviting all employees or a number of concerned employees to participate in dialogues, ensuring participation of representatives of female employees in dialogues on issues related to rights and interests of female employees under Clause 2, Article 136 of the Labor Code.

Article 39. Organization of regular dialogues in the workplace

1. Employers shall coordinate with grassroots-level employees' representative organizations and employees' representative groups in dialogues in holding regular dialogues under Point a, Clause 2, Article 63 of the Labor Code and regulations on grassroots democracy in the workplace.

2. Regular dialogue participants are representatives of the two parties specified in Clause 3, Article 38 of this Decree. The time, venue and method of holding a regular dialogue shall be determined by the two parties to suit practical conditions and conform to regulations on grassroots democracy in the workplace.

3. At least 5 working days before the expected date of holding a regular dialogue, the parties shall send dialogue contents to dialogue participants.

4. A regular dialogue may only be held when it is participated by the employer's at-law representative or authorized person and over 70% of total employees' representatives as specified in Clause 3, Article 38 of this Decree. Dialogue proceedings shall be recorded in minutes bearing signatures of the at-law representative or authorized person of the employer and representatives of employees' representative organizations (if any) and of employees' representative groups in dialogues (if any).

5. Within 3 working days after a dialogue is finished, the employer shall publicly notify in the workplace the principal dialogue contents; employees' representative organizations (if any) and employees' representative groups in dialogues (if any) shall disseminate the principal dialogue contents among employees who are their members.

Article 40. Holding of dialogues at the request of either party or both parties

1. A dialogue may be held at the request of either party or both parties when contents proposed by requesting party(ies) to be put for dialogue are agreed upon by:

a/ The at-law representative of the employer;

b/ At least 30% of employees' representatives participating in the dialogue as specified in Clause 3, Article 38 of this Decree.

2. Within 5 working days after receiving contents requested to be put for dialogue specified in Clause 1 of this Article, the request-receiving party shall issue a written reply, expressing its agreement on the time and venue of the dialogue. The employer and employees' dialogue representatives shall coordinate with each other in holding the dialogue.

3. Dialogue proceedings shall be recorded in minutes bearing signatures of representatives of the dialogue participants as specified in Clause 4, Article 39 of this Decree.

4. Within 3 working days after a dialogue is finished, the employer shall publicly notify in the workplace the principal dialogue contents; employees' representative organizations (if any) and employees' representative groups in dialogues (if any) shall disseminate the principal dialogue contents among employees who are their members.

Article 41. Holding of dialogues upon occurrence of cases

1. For cases in which employers are required to consult or exchange opinions with grassroots-level employees' representative organizations regarding

regulations on evaluation of job performance under Point a, Clause 1, Article 36; dismissal of employees under Article 42; labor utilization plans under Article 44; wage scales, wage tables and labor norms under Article 93; bonus regulations under Article 104, and internal working regulations under Article 118, of the Labor Code:

a/ Employers shall send written requests stating contents that need opinions of employees to their representatives participating in dialogues;

b/ Employees' representatives participating in dialogues shall collect opinions of employees whom they represent and sum them up in reports of grassroots-level employees' representative organizations and employees' representative groups in dialogues for sending to employers. In case dialogue contents are related to rights and interests of female employees, their opinions shall be collected;

c/ Based on opinions of grassroots-level employees' representative organizations and employees' representative groups in dialogues, employers shall hold dialogues for discussion and exchange of opinions, consultation and sharing of information on contents they have proposed;

d/ The number and composition of participants in, and time and venues of, dialogues shall be determined by the two dialogue parties under regulations on grassroots democracy in the workplace;

dd/ Dialogue proceedings shall be recorded in minutes bearing signatures of representatives of dialogue participants under Clause 4, Article 39 of this Decree;

e/ Within 3 working days after a dialogue is finished, the employer shall publicly notify in the workplace the principal dialogue contents; employees' representative organizations (if any) and employees' representative groups in dialogues (if any) shall disseminate the principal dialogue contents among employees who are their members.

2. For cases leading to suspension of employees from work under Clause 1, Article 128 of the Labor Code, employers and employees' representative organizations of which the employees subject to work suspension are members may exchange their opinions in writing or their representatives participating in dialogues may directly exchange opinions.

Section 2

IMPLEMENTATION OF REGULATIONS ON Grassroots democracy IN THE WORKPLACE

Article 42. Principles of implementation of regulations on grassroots democracy in the workplace

1. Goodwill, cooperation, honesty, equality, publicity and transparency.

2. Respect for lawful rights and interests of employees, employers and other related organizations and individuals.

3. Lawfulness and conformity with social ethics.

Article 43. Contents subject to publicization by employers and modes of publicization

1. Employers shall publicize the following contents to employees:

a/ Production and business situation of employers;

b/ Internal working regulations, wage scales and tables, labor norms, internal working regulations and rules, and other regulatory documents of employers related to interests, obligations and responsibilities of employees;

c/ Collective labor agreements in which employers join;

d/ Setting aside and use of reward fund, welfare fund and other funds contributed by employees (if any);

dd/ Setting aside and payment of trade union dues, and social insurance, health insurance and unemployment insurance premiums;

e/ Emulation, commendation and rewarding, disciplining, and settlement of complaints and denunciations related to rights, obligations and interests of employees;

g/ Other contents as prescribed by law.

2. Employers shall publicize the contents specified in Clause 1 of this Article by modes prescribed by law. In case no mode of publicization is prescribed by law, employers shall base themselves on production, business and labor organization conditions and contents subject to publicization to select the following modes and show them in regulations on grassroots democracy in the workplace under Article 48 of this Decree:

a/ Public posting in the workplace;

b/ Notification at meetings and dialogues between employers and grassroots-level employees' representative organizations or employees' representative groups in dialogues;

c/ Sending of notices to grassroots-level employees' representative organizations for further notification to employees;

d/ Notification on internal information systems;

dd/ Other modes not banned by law.

Article 44. Contents on which employees may contribute opinions and modes of opinion contribution

1. Employees may contribute their opinions on the following contents:

a/ Formulation, modification and supplementation of internal rules, regulations and other regulatory documents of employers related to rights, obligations and interests of employees;

b/ Formulation, modification and supplementation of wage scales and tables, and labor norms; proposal of contents of collective bargaining;

c/ Proposal and implementation of solutions to save costs, improve labor productivity and working conditions, protect the environment, and prevent and fight fires and explosion;

d/ Other contents related to rights, obligations and interests of employees in accordance with law.

2. Employees shall contribute their opinions on the contents specified in Clause 1 of this Article by modes prescribed by law. In case no mode of opinion contribution is prescribed by law, employees shall base themselves on production, business and labor organization conditions, contents on which they may contribute opinions, and regulations on grassroots democracy in the workplace to select the following modes:

a/ Contribution of opinions directly or through grassroots-level employees' representative organizations or employees' representative groups in dialogues at employees' conferences or dialogues in the workplace;

b/ Direct sending of opinions or recommendations;

c/ Other modes not banned by law.

Article 45. Contents that may be decided by employees and modes of decision

1. Employees may decide on the following contents:

a/ Entry into, modification, supplementation and termination of, labor contracts in accordance with law;

b/ Joining or refusal to join grassroots-level employees' representative organizations;

c/ Going on or refusal to go on strike in accordance with law;

d/ Voting on collectively bargained contents for signing of collective labor agreements in accordance with law;

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

2. Modes of decision by employees must comply with law.

Article 46. Contents which employees may inspect and supervise and modes of inspection and supervision

1. Employees may inspect and supervise the following contents:

a/ Performance of labor contracts and implementation of collective labor agreements;

b/ Implementation of internal working regulations, rules and other regulatory documents of employers relating to rights, obligations and interests of employees;

c/ Use of reward funds, welfare funds, and funds contributed by employees;

d/ Deduction for payment of trade union dues and social insurance, health insurance and unemployment insurance premiums by employers;

dd/ Performance of commendation and reward work, disciplining, and settlement of complaints and denunciations relating to rights, obligations and interests of employees.

2. Modes of inspection and supervision by employees must comply with law.

Article 47. Employees' meetings

1. Employees' meetings shall be organized annually by the employer in coordination with grassroots-level employees' representative organizations (if any) and employees' representative groups in dialogues (if any) in the form of plenary meeting or representatives' meeting.

2. Employees' meetings must have the contents specified in Article 64 of the Labor Code and other contents agreed upon by the two parties.

3. The form of organization of employees' meetings; contents of and composition of participants in the meetings; time, venue, and process of the meetings; responsibility to organize the meetings; and forms of publicizing results of the meetings must comply with regulations on grassroots democracy in the workplace specified in Article 48 of this Decree.

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

1. Employers shall promulgate regulations on grassroots democracy in the workplace in order to implement this Decree's provisions on dialogues and exercise of grassroots democracy in the workplace.

2. When formulating, modifying or supplementing regulations on grassroots democracy in the workplace, employers shall consult grassroots-level employees' representative organizations (if any) and employees' representative groups in dialogues (if any) in order to finalize and promulgate the regulations. In case of non-acceptance of some recommendations of grassroots-level employees' representative organizations and employees' representative groups in dialogues, employers shall explain the reasons therefor.

3. Regulations on grassroots democracy in the workplace shall be publicized to employees.

Chapter VI

WAGES

Section 1

THE NATIONAL WAGE COUNCIL

Article 49. Functions of the National Wage Council

The National Wage Council shall be established under decision of the Prime Minister according to Clause 2, Article 92 of the Labor Code to perform the functions of advising the Government on:

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

2. Wage policies applicable to employees in accordance with the Labor Code.

Article 50. Tasks of the National Wage Council

1. To research, survey, collect information on, and analyze and assess, wages and minimum living standards of employees; production and business activities of enterprises; and labor supply-demand relation, employment and unemployment in the economy and other related factors used as grounds for determination of minimum wage levels.

2. To formulate reports on employees' minimum wage levels in association with factors for determining minimum wage levels specified in Clause 3, Article 91 of the Labor Code.

3. To review minimum living standards of employees and their families; to delimit regions for application of minimum wage levels which shall serve as a ground for formulating plans on adjustment of minimum wage levels for each period.

4. Annually, to organize negotiations so as to recommend to the Government plans on adjustment of region-based minimum wage levels (including monthly minimum wage levels and hourly minimum wage levels).

5. To give the Government advices and recommendations on a number of wage policies to be applied commonly to employees working in enterprises of various types, agencies, organizations and cooperatives in accordance with the Labor Code.

Article 51. Organizational structure of the National Wage Council

1. The National Wage Council has 17 members, including 5 members being representatives of the Ministry of Labor, Invalids and Social Affairs; 5 members being representatives of the Vietnam General Confederation of Labor; 5 members being representatives of a number of central-level employers' representative organizations; and 2 members being independent experts (below referred to as independent members), of whom:

a/ A Deputy Minister of Labor, Invalids and Social Affairs shall act as the Chairperson of the National Wage Council;

b/ A Deputy President of the Vietnam General Confederation of Labor, a Deputy President of the Vietnam Chamber of Commerce and Industry and a Deputy President of the Vietnam Cooperative Alliance shall act as 3 deputy chairpersons of the National Wage Council;

c/ Four representatives of the Ministry of Labor, Invalids and Social Affairs; 4 representatives of the Vietnam General Confederation of Labor; 3 representatives of central-level employers' representative organizations (including 1 representative of the Vietnam Association of Small and Medium Enterprises and 2 representatives of 2 central-level trade associations involving a large number of employees); 2 independent representatives who are experts and scientists specialized in the fields of labor, wage and socio-economic affairs (excluding experts and scientists working at agencies, units, research institutes and universities under the Ministry of Labor, Invalids and Social Affairs, Vietnam General Confederation of Labor and central-level employers' representative organizations) shall act as members of the National Wage Council.

2. The Prime Minister shall appoint and relieve from duty the Chairperson and Deputy Chairpersons of the National Wage Council specified at Points a and b, Clause 1 of this Article and authorize the Minister of Labor, Invalids and Social Affairs to appoint and relieve from duty other members of the National Wage Council specified at Point c, Clause 1 of this Article. The Chairperson, Deputy Chairpersons and members of the National Wage Council specified at Point c, Clause 1 of this Article shall work on a part-time basis. The term of office of members of the National Wage Council must not exceed 5 years.

3. The National Wage Council is composed of a technical section and a standing section in charge of assisting the Council and Council Chairperson to formulate technical reports related to the Council's tasks and performing administrative work of the Council. Staff members of the technical section and standing section are employees of agencies which have their representatives in the Council and other related agencies and organizations and shall work on a part-time basis.

Article 52. Operation of the National Wage Council

1. The National Wage Council shall work on a collegial basis through meetings run by the Council Chairperson; conduct discussion in a democratic and public manner; and make decision by majority vote.

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

3. Funds for operation of the National Wage Council shall be included in the state budget's annual current expenditure estimates of the Ministry of Labor, Invalids and Social Affairs and allocated from other lawful funding sources in accordance with law. The management, use and account finalization of state budget funds must comply with the law on the state budget and guiding documents.

Article 53. Responsibilities to implement regulations on establishment and operation of the National Wage Council

1. The President of the Vietnam General Confederation of Labor, the President of the Vietnam Chamber of Commerce and Industry, the President of the Vietnam Cooperative Alliance, and the President of the Vietnam Association of Small and Medium Enterprises shall appoint representatives to join the National Wage Council and send lists of representatives to the Ministry of Labor, Invalids and Social Affairs for summarization.

2. The President of the Vietnam Chamber of Commerce and Industry shall assume the prime responsibility for and coordinate and exchange opinions with

the President of the Vietnam Cooperative Alliance so as to select and request 2 central-level trade associations involving a large number of employees to appoint their representatives to join the National Wage Council in conformity with each period.

3. The Chairperson of the National Wage Council shall exchange opinions with Deputy Chairpersons of the Council, propose and select independent members of the Council for reporting to the Minister of Labor, Invalids and Social Affairs for consideration and appointment; and promulgate working regulations of the Council and its technical section and standing section.

4. The Minister of Labor, Invalids and Social Affairs shall propose the Prime Minister to decide on the establishment of the National Wage Council; propose the Prime Minister to appoint and relieve from duty the Chairperson and Deputy Chairpersons of the National Wage Council; and appoint and relieve from duty other members of the National Wage Council.

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

Section 2

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

Article 54. Forms of wage payment

The forms of wage payment under Article 96 of the Labor Code are specified as follows:

1. Based on the characteristics of jobs and production and business conditions, employers and employees shall reach agreement on the form of wage payment based on time, product or piecework in labor contracts as follows:

a/ Time-based wage shall be paid to employees who enjoy time-based wage on the basis of work period calculated in month, week, day or hour as agreed in labor contracts, specifically as follows:

a1/ Monthly wage shall be paid for one working month;

a2/ Weekly wage shall be paid for one working week. In case it is agreed in labor contracts that wage will be paid on a monthly basis, the weekly wage shall be determined as equaling the monthly wage multiplied by 12 months and then divided by 52 weeks;

a3/ Daily wage shall be paid for one working day. In case it is agreed in labor contracts that wage will be paid on a monthly basis, the daily wage shall be determined as equaling the monthly wage divided by the number of normal working days in a month in accordance with law as selected by enterprises. In case it is agreed in labor contracts that wage will be paid on a weekly basis, the daily wage shall be determined as equaling the weekly wage divided by the number of working days in a week as agreed in the labor contract;

a4/ Hourly wage shall be paid for one working hour. In case it is agreed in labor contracts that wage will be paid on a monthly or weekly or daily basis, the hourly wage shall be determined as equaling the daily wage divided by the number of normal working hours in a day as specified in Article 105 of the Labor Code.

b/ Product-based wage shall be paid to employees who enjoy product-based wage on the basis of the degree of completion of assigned work regarding quantity and quality of products according to labor norms and price unit of products.

c/ Piecework-based wage shall be paid to employees who enjoy piecework-based wage on the basis of work volume and quality and deadline for completion of work.

2. Employees' wages which are paid in the forms specified in Clause 1 of this Article shall be paid in cash or via employees' personal bank accounts. In case wages are paid via personal bank accounts, employers shall pay charges related to account opening and bank transfer.

Article 55. Overtime pay

Overtime pay referred to in Clause 1, Article 98 of the Labor Code shall be specified as follows:

1. An employee who enjoys time-based wage will be entitled to overtime pay when working beyond the normal working time specified by his/her employer under Article 105 of the Labor Code, which shall be calculated according to the following formula:

$$\text{Overtime pay} = \text{Hourly wage actually paid for the employee's current job on normal workdays} \times \text{Minimum rate of 150\% or 200\% or 300\%} \times \text{Number of overtime hours}$$

In which:

a/ Hourly wage actually paid for the employee's current job on normal workdays shall be determined as equaling the wage actually paid for the employee's current job in the month or week or day when the employee works overtime (exclusive of overtime pay, night work pay, pay for working on public holidays, new year festivals and paid day-offs specified in the Labor Code; bonuses specified in Article 104 of the Labor Code, rewards for innovations; shift meals, petrol, telephone, travel, accommodation, childcare and child raising allowances; supports upon death or marriage of employees' next of kin, employees' birthday anniversaries, and occupational diseases, and other supports and allowances not related to performance of jobs or titles stated in labor contracts) divided by the total number of actual working hours in the month or week or day when the employee works overtime (which must not exceed the number of normal workdays in a month and the number of normal working hours in a day or a week in accordance with law as selected by enterprises and be exclusive of the number of overtime hours);

b/ A minimum rate of 150% of the hourly wage actually paid for the employee's current job on normal workdays shall be applied to overtime hours on normal workdays; a minimum rate of 200% of the hourly wage actually paid for the employee's current job on normal workdays shall be applied to overtime hours on weekly day-offs; and a minimum rate of 300% of the hourly wage actually paid for the employee's current job on normal workdays, exclusive of the pay for working on public holidays, new year festivals and paid day-offs, shall be applied to overtime hours on public holidays, new year festivals and paid day-offs, for employees enjoying daily wage.

2. An employee who enjoys product-based wage will be entitled to overtime pay when working beyond the normal working time in order to turn out an extra quantity or volume of products in addition to the quantity or volume of products based on the labor norms agreed with his/her employer, which shall be calculated according to the following formula:

Overtime pay	=	Product-based wage unit for normal workdays	x	Minimum rate of 150% or 200% or 300%	x	Quantity or volume of products of overtime work

In which:

A minimum rate of 150% of the product-based wage unit for normal workdays shall be applied to products of overtime work on normal workdays; a minimum rate of 200% of the product-based wage unit for normal workdays shall be applied to products of overtime work on weekly day-offs; and a

minimum rate of 300% of the product-based wage unit for normal workdays shall be applied to products of overtime work on public holidays, new year festivals or paid day-offs.

3. Employees who work overtime on public holidays or new year festivals which fall on weekly day-offs will be entitled to overtime pay for public holidays or new year festivals. In case employees work overtime on day-offs following or preceding public holidays or new year festivals which fall on weekly day-offs, they will be entitled to overtime pay for weekly day-offs.

Article 56. Night work pay

Nigh work pay referred to in Clause 2, Article 98 of the Labor Code shall be calculated according to the following formulas:

1. For an employee who enjoys time-based wage, night work pay shall be calculated as follows:

$$\text{Night work pay} = \left\{ \begin{array}{c} \text{Hourly wage actually paid for the employee's current job on normal workdays} \\ + \\ \text{Hourly wage actually paid for the employee's current job on normal workdays} \end{array} \times \text{Minimum rate of 30\%} \right\} \times \text{Number of night working hours}$$

In which: Hourly wage actually paid for the employee's current job on normal workdays shall be determined according to Point a, Clause 1, Article 55 of this Decree.

2. For an employee who enjoys product-based wage, night work pay shall be calculated as follows:

$$\text{Night work pay} = \left\{ \begin{array}{c} \text{Product-based wage unit for normal workdays} \\ + \\ \text{Product-based wage unit for normal workdays} \end{array} \times \text{Minimum rate of 30\%} \right\} \times \text{Quantity or volume of products of night work}$$

Article 57. Pay for overtime work at night

An employee who performs overtime work at night under Clause 3, Article 98 of the Labor Code will be entitled to a pay calculated according to the following formulas:

1. For an employee who enjoys time-based wage, pay for overtime work at night shall be calculated as follows:

$$\text{Pay for overtime work at night} = \left\{ \text{Hourly wage actually paid for the employee's current job on normal workdays} \times \text{Minimum rate of 150\% or 200\% or 300\%} + \text{Hourly wage actually paid for the employee's current job on normal workdays} \times \text{Minimum rate of 30\%} + 20\% \times \text{Hourly wage for daytime of normal workdays or weekly day-offs or public holidays, new year festivals or paid day-offs} \right\} \times \text{Number hours of overtime work at night}$$

In which:

a/ Hourly wage actually paid for the employee's current job on normal workdays shall be determined according to Point a, Clause 1, Article 55 of this Decree;

b/ Hourly wage for daytime of normal workdays or weekly day-offs or public holidays, new year festivals or paid day-offs shall be determined as follows:

b1/ Hourly wage for daytime of normal workdays must at least equal hourly wage actually paid for the employee's current job on normal workdays in case the employee does not work overtime during the daytime of that day (before working overtime at night); or at least equal 150% of hourly wage actually paid for the employee's current job on normal workdays in case the employee works overtime during the daytime of that day (before working overtime at night);

b2/ Hourly wage for daytime of weekly day-offs must at least equal 200% of hourly wage actually paid for the employee's current job on normal workdays;

b.3/ Hourly wage for daytime of public holidays, new year festivals and paid day-offs must at least equal 300% of hourly wage actually paid for the employee's current job on normal workdays.

2. For an employee who enjoys product-based wage, pay for overtime work at night shall be calculated as follows:

Pay for overtime work at night	= {	Product-based wage unit for normal workdays	x	Minimum rate of 150% or 200% or 300%	+	Product-based wage unit for normal workdays	x	Minimum rate of 30%	+	20% x	Product-based wage unit for daytime of normal workdays or weekly day-offs or public holidays, new year festivals or paid day-offs	} x	Number of products of overtime work at night

In which product-based wage unit for daytime of normal workdays or weekly day-offs or public holidays, new year festivals or paid day-offs shall be determined as follows:

a/ Product-based wage unit for daytime of normal workdays must at least equal product-based wage unit for normal workdays, in case the employee does not work overtime during the daytime of that day (before working overtime at night); or at least equal 150% of product-based wage unit for normal workdays, in case the employee works overtime during the daytime of that day (before working overtime at night);

b/ Product-based wage unit for daytime of weekly day-offs must at least equal 200% of product-based wage unit for normal workdays;

c/ Product-based wage unit for daytime of public holidays, new year festivals or paid day-offs must at least equal 300% of product-based wage unit for normal workdays.

Chapter VII

WORKING TIME, REST TIME

Article 58. Time periods included in paid working time

1. Breaks in the middle of working time specified in Clause 2, Article 64 of this Decree.

2. Rest breaks based on characteristics of jobs.

3. Breaks during working hours which have been included in labor norms to meet human physiological needs.

4. Breaks for female employees during pregnancy or in the period of raising under-12-month children or menstruation period according to Clauses 2 and 4, Article 137 of the Labor Code.

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

6. Time periods for meeting, study and refresher training at the request of employers or as consented by employers.

7. Time periods during which apprentices or on-the-job trainees directly carry out or participate in labor activities as specified in Clause 5, Article 61 of the Labor Code.

8. Time periods during which employees being members of the leadership boards of grassroots-level employees' representative organizations perform their tasks as specified in Clauses 2 and 3, Article 176 of the Labor Code.

9. Time periods for health checkups, occupational disease screening examinations and medical assessment to identify the extent of working capacity loss due to occupational accidents or diseases, if such events are arranged or requested by employers.

10. Time periods for registration for, and medical examination and health checkups upon, conscription for military service during which employees are fully paid in accordance with the law on military service.

Article 59. Employees' consents upon performance of overtime work

1. In cases other than those specified in Article 108 of the Labor Code, when organizing overtime work, employers must obtain employees' consents on the following contents:

a/ Time of overtime work;

b/ Place of overtime work;

c/ Jobs to be performed overtime.

2. In case employees' consents are made in a separate document, Form No. 01/PLIV provided in Appendix IV to this Decree may be referred to.

Article 60. Limits on overtime working hours

1. The total number of overtime working hours must not exceed 50% of the normal working hours in a day, for cases of overtime work on normal workdays, except the cases specified in Clauses 2 and 3 of this Article.

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

3. In case of part-time work specified in Article 32 of the Labor Code, the total number of normal working hours and overtime working hours in a day must not exceed 12.

4. The total number of overtime working hours in a day must not exceed 12, in case of overtime work on public holidays, new year festivals or weekly day-offs.

5. The time periods specified in Clause 1, Article 58 of this Decree shall be subtracted when calculating the total number of overtime working hours in a month or a year serving ascertainment of the observance of Points b and c, Clause 2, Article 107 of the Labor Code.

Article 61. Cases in which organization of overtime work of between over 200 hours and 300 hours per year is permitted

In addition to the cases specified at Points a, b, c, and d, Clause 3, Article 107 of the Labor Code, the organization of overtime work of between over 200 hours and 300 hours per year shall be permitted in the following cases:

1. Cases in which it is needed to settle urgent issues which cannot be delayed and arise due to objective factors directly related to performance of public duties in state agencies and units, except the cases specified in Article 108 of the Labor Code.

2. Provision of public services; medical examination and treatment services; education or vocational education services.

3. Direct production and business jobs at enterprises applying the regime of normal working time not exceeding 44 hours per week.

Article 62. Notification of organization of overtime work of between over 200 hours and 300 hours per year

1. When organizing overtime work of between over 200 hours and 300 hours per year, an employer shall notify thereof to provincial-level Departments of Labor, Invalids and Social Affairs of:

a/ The locality where the employer organizes overtime work of between over 200 hours and 300 hours per year;

b/ The locality where the employer's head office is located, in case such locality is other than the locality where the employer organizes overtime work of between over 200 hours and 300 hours per year.

2. The notification shall be conducted no later than 15 days after the starting of overtime work of between over 200 hours and 300 hours per year.

3. The notice shall be made according to Form No. 02/PLIV provided in Appendix IV to this Decree.

Article 63. Working shifts and organization of shift-based work

1. Working shift is the time period of working of an employee which lasts from the time the employee takes on his/her assigned tasks until he/she completes and transfers the tasks to another person, including working time and mid-shift break.

2. Organization of shift-based work means the arrangement of at least 2 persons or 2 groups of persons to take turns working in the same position in a day (24 consecutive hours).

3. Cases of organization of consecutive shift-based work for entitlement to the break in the middle of working time specified in Clause 1, Article 109 of the Labor Code are cases of organization of shift-based work under Clause 2 of this Article, provided these working shifts meet the following conditions:

a/ Employees work for 6 or more hours in each shift;

b/ The interval between 2 consecutive working shifts must not exceed 45 minutes.

Article 64. Breaks during working time

1. The break of at least 45 consecutive minutes in the middle of working time specified in Clause 1, Article 109 of the Labor Code shall be applied to employees who work for 6 or more hours in a day, including at least 3 hours of working during the night working hours specified in Article 106 of the Labor Code.

2. The period of break in the middle of working time to be included in working time for cases of working in consecutive shifts specified in Clause 3, Article 63 of this Decree must be at least 30 minutes or at least 45 minutes for those working at night.

3. Employers shall decide on the time of break during working time but may not arrange such break at the beginning or the end of a working shift.

4. In addition to cases of organizing consecutive shift-based work specified in Clause 3, Article 63 of this Decree, the parties are encouraged to negotiate on inclusion of the break in the middle of working time in working time.

Article 65. Time considered as working time for calculation of the number of annual leave days of an employee

1. The period of apprenticeship and on-the-job training specified in Article 61 of the Labor Code, if the employee works for the employer after the expiration of the period of apprenticeship and on-the-job training.

2. The probation period, if the employee continues working for the employer after the expiration of the probation period.

3. The period of paid personal leaves specified in Clause 1, Article 115 of the Labor Code.

4. The period of unpaid leaves, provided the employer so agrees, which, however, when aggregated, must not exceed 1 month per year.

5. The period of leaves due to occupational accidents or diseases, which, however, when aggregated, must not exceed 6 months.

6. The period of sickness leaves, which, however, when aggregated, must not exceed 2 months per year.

7. The period of maternity leaves in accordance with the law on social insurance.

8. The time period of performing tasks of grassroots-level employees' representative organizations which is regarded as working time in accordance with law.

9. The period of work stoppage or absence from work not due to the employee's fault.

10. The period of suspension from work but later it is concluded that the employee has not committed a violation or is not subject to labor discipline.

Article 66. Methods of calculation of the number of annual leave days in special cases

1. The number of annual leave days of an employee who has worked for less than 12 months specified in Clause 2, Article 113 of the Labor Code shall be calculated as follows: To add the number of annual leave days and the number of leave days increased based on working seniority (if any) then divide by 12 months and multiply by the actual number of working months in the year.

2. In case an employee has not yet worked for a full month, if the total number of working days and paid day-offs of the employee (leaves on public holidays, new year festivals, annual leaves and paid personal leaves under Articles 112, 113, 114 and 115 of the Labor Code) accounts for 50% or more of the normal workdays in a month as agreed upon, such month shall be regarded as 1 working month when calculating the number of annual leave days.

3. The whole period during which an employee works at agencies, organizations and units of the state sector and state enterprises shall be regarded as the working period for calculation of the number of increased annual leave days under Article 114 of the Labor Code, provided the employee continues working at agencies, organizations and units of the state sector and state enterprises.

Article 67. Travel allowances and wages for the time of travel, wages for annual leave days and other paid day-offs

1. Travel allowances and wages for days of travel in addition to annual leave days specified in Clause 6, Article 113 of the Labor Code shall be agreed upon by the two parties.

2. The wage which serves as a ground to make payment to an employee for leaves on public holidays, new year festivals, annual leaves or paid personal leaves under Article 112, Clauses 1 and 2 of Article 113, Article 114, and Clause 1, Article 115, of the Labor Code is the employee's wage at the time he/she takes leaves on public holidays, new year festivals, annual leaves or paid personal leaves, which shall be calculated based on the employee's labor contract.

3. The wage which serves as a ground to make payment to an employee for untaken annual leave days under Clause 3, Article 113 of the Labor Code is the employee's wage of the month preceding the month when he/she quits or loses his/her job, which shall be calculated based on the employee's labor contract.

Article 68. Special jobs in terms of working time and rest time

1. In addition to the special jobs specified in Article 116 of the Labor Code, other special jobs in terms of working time and rest time include:

a/ Natural disaster, fire and epidemic prevention and control jobs;

b/ Jobs in the fields in physical training and sports;

c/ Manufacture of drugs, vaccines and biologicals;

d/ Operation, maintenance and repair of gas distribution pipeline systems and gas facilities.

2. The Minister of Labor, Invalids and Social Affairs shall prescribe in detail working time and rest time for employees doing seasonal production jobs or jobs of processing goods under orders.

3. Line ministries and sectors shall prescribe in detail working time and rest time for the special jobs specified in Article 116 of the Labor Code and Clause 1 of this Article after reaching agreement with the Ministry of Labor, Invalids and Social Affairs.

Chapter VIII

LABOR DISCIPLINE, MATERIAL RESPONSIBILITY

Article 69. Internal working regulations

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

1. The employer shall issue its/his/her internal working regulations; such regulations must be in written form if 10 or more employees are employed; the employer is not required to issue its/his/her internal working regulations in written form but shall reach agreement on the contents on labor discipline and material responsibility in labor contracts if fewer than 10 employees are employed.

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

a/ Working time and rest time, including the normal working time per day and per week; and work shift; the starting time and ending time of a work shift; overtime work (if any), overtime work in special cases; time of breaks in addition to mid-shift breaks; breaks between shifts; weekly breaks; and annual leaves, personal leaves, and unpaid leaves;

b/ Order in the workplace, covering working and walking space during working hours; behavioral culture and attire; and compliance with the employer’s assignment and transfer;

c/ Occupational safety and health in the workplace, including responsibility to observe regulations on, internal rules and processes of, and measures to ensure occupational safety and health, fire and explosion prevention and fighting; use and preservation of personal protective equipment and devices to ensure occupational safety and health in the workplace; and sanitation, sterilization and disinfection in the workplace;

d/ Prevention and combat of sexual harassment in the workplace; order and procedures for handling acts of sexual harassment in the workplace, including the employer's regulations on prevention and combat of sexual harassment specified in Article 85 of this Decree;

dd/ Protection of assets, business secrets, technological secrets and intellectual property of the employer, including the list of assets, documents, technological secrets, business secrets and intellectual property; responsibility and measures applied to protect assets and secrets; and acts of infringing upon assets and secrets;

e/ Specific provisions on cases in which, to meet production and business needs, the employer may temporarily assign its/his/her employee to perform a job other than that stated in the labor contract as prescribed in Clause 1, Article 29 of the Labor Code;

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

h/ Material responsibility, including cases in which the employee must pay compensation for damage caused by him/her to the employer's tools, equipment or assets; for the loss of the employer's tools, equipment or assets or use of supplies in excess of law-prescribed norms; levels of compensation for damage corresponding to the extents of actual damage; and persons competent to handle compensation for damage;

i/ Persons competent to handle breaches of labor discipline, who are persons competent to enter into labor contracts on the employer's side as prescribed in Clause 3, Article 18 of the Labor Code or persons clearly defined in internal working regulations.

3. Before issuing or modifying internal working regulations, the employer shall consult grassroots-level employees' representative organizations, if available. The consultation with grassroots-level employees' representative organizations shall be held in accordance with Clause 1, Article 41 of this Decree.

4. After being issued, internal working regulations shall be sent to grassroots-level employees' representative organizations (if available) and notified to all employees with their principal contents displayed at places where necessary in the workplace.

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

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

1. If detecting an employee committing a breach of labor discipline at the time the breach is committed, the employer shall make a written record of the breach and notify thereof to the grassroots-level employees' representative organization of which such employee is a member or the at-law representative of the employee, in case he/she is under full 15 years. In case the employer detects a breach of labor discipline after it is committed, it/he/she shall collect evidence to prove the employee's fault.

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

a/ At least 5 working days before the meeting is held, the employer shall notify the contents, time and place of the meeting, full name of the employee subject to the handling of the breach, and the breach subject to the handling to the compulsory attendances at the meeting as prescribed at Points b and c, Clause 1, Article 122 of the Labor Code, ensuring that the latter receive the notice prior to the meeting;

b/ After receiving the employer's notice of the meeting, the compulsory attendances at the meeting prescribed at Points b and c, Clause 1, Article 122 of the Labor Code shall confirm their attendance with the employer. In case one of them cannot attend the meeting at the notified time and place, the employer and employee shall reach agreement on the change of the meeting's place and time; if no agreement can be reached, the employer shall decide on the meeting's time and place;

c/ The employer shall hold the meeting at the notified time and place mentioned at Points a and b of this Clause. In case one of the compulsory attendances at the meeting as prescribed at Points b and c, Clause 1, Article 122 of the Labor Code fails to confirm his/her attendance or is absent, the employer shall still hold the meeting.

3. The contents of a meeting about the handling of a breach of labor discipline shall be recorded in a minutes, approved before the end of the meeting and must bear the signatures of the attendances as prescribed at Points b and c, Clause 1, Article 122 of the Labor Code. In case an attendance refuses to sign the minutes, the minutes maker shall clearly record the full name of such attendance and reason(s), if any, for his/her refusal.

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

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

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

1. Upon detecting that an employee causes damage to or loses tools and equipment or loses assets of the employer or other assets assigned to him/her by the employer or commits other acts causing damage to the employer's assets, or uses supplies in excess of the law-prescribed norms, the employer shall request the employee to give written explanations.

2. Within the statute of limitations for handling of compensation for damage prescribed in Article 72 of this Decree, the employer shall hold a meeting about the handling of compensation for damage as follows:

a/ At least 5 working days before the meeting is held, the employer shall notify the meeting's time and place, full name of the employee subject to the handling of compensation for damage and his/her breaches, to the compulsory attendances at the meeting, including those prescribed at Points b and c, Clause 1, Article 122 of the Labor Code, and valuers (if any), ensuring that the latter receive the notice prior to the meeting;

b/ After receiving the employer's notice of the meeting, the compulsory attendances at the meeting mentioned at Point a of this Clause shall confirm their attendance with the employer. In case one of them cannot attend the meeting at the notified time and place, the employee and employer shall reach agreement on the change of the meeting's time and place; if no agreement can be reached, the employer shall decide on the meeting's time and place;

c/ The employer shall hold the meeting at the notified time and place mentioned at Points a and b of this Clause. In case one of the compulsory attendances at the meeting as specified at Point a of this Clause fails to confirm his/her attendance or is absent, the employer shall still hold the meeting in accordance with law.

3. The contents of a meeting about the handling of compensation for damage shall be recorded in a minutes, approved before the end of the meeting and must bear the signatures of the attendances mentioned at Point a, Clause 2 of this Article. In case an attendance refuses to sign the minutes, the minutes maker

shall clearly record the full name of such attendance and reason(s), if any, for his/her refusal.

4. A decision on handling of compensation for damage shall be issued within the statute of limitations for handling of compensation for damage. Such decision must clearly state the extent of damage, reasons for damage, level of compensation, and deadline and form of damage compensation, and shall be sent to the compulsory attendances mentioned at Point a, Clause 2 of this Article.

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

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

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

1. The statute of limitations for handling of compensation for damage is 6 months after an employee causes damage to or loses tools and equipment or loses assets of the employer or other assets assigned to him/her by the employer or commits other acts causing damage to the employer's assets, or uses supplies in excess of the law-prescribed norms.

2. No damage compensation will be handled for the employee prescribed in Clause 4, Article 122 of the Labor Code.

3. Upon the expiration of the time limit specified in Clause 4, Article 122 of the Labor Code, if the statute of limitations for handling of compensation for damage expires or its remaining period is shorter than 60 days, it may be extended but must not exceed 60 days from the expiration date mentioned above.

Article 73. Complaints about labor discipline, material responsibility

The employee who is subject to one of the forms of handling breaches of labor discipline, suspension from work, or payment of compensation in accordance with the regime of material responsibility and feels unsatisfied with such form of handling breaches, may file a complaint with the employer and a competent agency under the Government's regulations on settlement of labor-related complaints or request settlement of individual labor disputes according to the order prescribed in Section 2, Chapter XIV of the Labor Code.

In case the employer decides on handling of breaches of labor discipline by applying the measure of dismissal in contravention of law, it/he/she shall comply with Article 41 of the Labor Code in addition to performing the obligations and responsibilities under the Government's regulations on settlement of labor-related complaints or settlement of individual labor disputes according to the order prescribed in Section 2, Chapter XIV of the Labor Code.

Chapter IX

FEMALE EMPLOYEES AND ASSURANCE OF GENDER EQUALITY

Section 1

GENERAL PROVISIONS ON FEMALE EMPLOYEES AND ASSURANCE OF GENDER EQUALITY

Article 74. Employers that employ intensive female employees

Employers that employ intensive female employees are employers falling in one of the following cases:

1. Employing between 10 female employees and fewer than 100 female employees, of which the number of female employees makes up 50% or higher of the total employees.

2. Employing between 100 female employees and fewer than 1,000 female employees, of which the number of female employees makes up 30% or higher of the total employees.

3. Employing 1,000 or more female employees.

Article 75. Labor-intensive areas

Labor-intensive areas shall be identified as follows:

1. Industrial parks, industrial clusters, export processing zones, economic zones, and hi-tech parks (below collectively referred to as industrial parks) accommodating 5,000 or more employees who are working in enterprises and pay social insurance premiums in localities where exist industrial parks.

2. Communes, wards or townships accommodating 3,000 or more employees who register their permanent residence or temporary residence in such communes, wards or townships.

Article 76. Rooms for breast milk pump and storage

A room for breast milk pump and storage means a private space, other than a bathroom or restroom, that is equipped with electricity, water, tables, chairs, hygienic refrigerators, and fans or air conditioners; and arranged in a place convenient for use, and shielded from intrusion and view of coworkers and the public so that female employees can breastfeed her baby or pump and store breast milk.

Article 77. Nurseries, pre-primary classes

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

1. Nurseries and childcare groups for children of between 3 months and 3 years old.

2. Pre-primary schools and classes for children of between 3 years and 6 years old.

3. Early childhood schools and classes, which are education institutions providing both nursery and pre-primary education for children of between 3 months and 6 years old.

Section 2

ASSURANCE OF GENDER EQUALITY AND SPECIFIC PROVISIONS APPLICABLE TO FEMALE EMPLOYEES

Article 78. The right to equal employment of employees, implementation of measures to ensure gender equality

1. The right to equality of employees:

a/ Employers shall exercise the right to equality of female employees and male employees and implement measures to ensure gender equality in recruitment, employment, training, wages, commendation, promotion, remuneration, social insurance, health insurance and unemployment insurance regimes, working conditions, occupational safety, working time, rest time, sickness, pregnancy and other material and spiritual welfare regimes;

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

2. Employers shall consult female employees or their representatives before deciding on issues related to rights, obligations and interests of women. The consultation with female employees' representatives shall be held in accordance with Clause 1, Article 41 of this Decree.

3. The State shall encourage employers to:

a/ Prioritize the recruitment and employment of women who fully meet the conditions and criteria for performing jobs suitable for both men and women; and prioritize the entry into a new labor contract for a female employee in case her labor contract expires;

b/ Implement regimes and policies toward female employees better than those prescribed by law.

Article 79. Increase of welfare and improvement of working conditions

1. Employers shall ensure sufficient suitable bathrooms and restrooms in the workplace according to the Ministry of Health's regulations.

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

a/ Developing plans and implementing solutions to ensure female employees and male employees have regular employment, implementing the regime of flexible schedule, part-time work or home-based work, providing training to improve employees' occupational skills; providing female employees with further training on standby jobs suitable to their physical and physiological characteristics and their motherhood;

b/ Building cultural, sports and health facilities, houses and other physical facilities for employees in labor-intensive areas.

Article 80. Healthcare for female employees

1. In regular health checkups, female employees are entitled to obstetric examination according to the list of obstetric examinations issued by the Ministry of Health.

2. Employers are encouraged to create conditions for pregnant employees to take more leaves for prenatal checkups in accordance with Article 32 of the Law on Social Insurance.

3. Female employees' menstrual leave:

a/ A female employee in her menstruation period is entitled to a 30-minute break per day which is included in her working hours with full pay as stated in the labor contract. The number of days with menstrual leave shall be agreed upon by the female employee and her employer to suit practical conditions in the workplace and the female employee's needs but must be at least 3 working days per month. The employee shall notify the specific time for her menstrual leave in a month to her employer;

b/ In case a female employee wishes to take menstrual leave with more flexible time than the time mentioned at Point a of this Clause, she shall reach agreement with her employer on menstrual leave to be arranged suitable to practical conditions in the workplace and meet her needs;

c/ In case a female employee does not wish to take menstrual leave and get her employer's consent for working during the menstrual leave entitlement period, she will be entitled to payment for the work she has performed during such period in addition to the pay under Point a of this Clause, and such period shall not be included in her overtime period.

4. Breaks in the period of nursing a child under 12 months old:

a/ A female employee in the period of nursing a child under 12 months old is entitled to a 60-minute break per day during working hours to breastfeed, pump and store breast milk and rest with full pay as stated in the labor contract;

b/ In case a female employee wishes to take a break with more flexible time than the time mentioned at Point a of this Clause, she shall reach agreement with her employer on breaks to be arranged suitable to practical conditions in the workplace and meet her needs;

c/ In case a female employee does not wish to take a break and get her employer's consent for working during the nursing break entitlement period, she will be entitled to payment for the work she has performed during such period in addition to the pay under Point a of this Clause.

5. Employers are encouraged to arrange a room for breast milk pump and storage suitable to practical conditions in the workplace, female employees' needs and their capacity. An employer that employs 1,000 or more female employees shall arrange a room for breast milk pump and storage in the workplace.

6. Employers are encouraged to create conditions for female employees nursing children aged 12 months or older to pump and store breast milk in the workplace. Break time for an employee to pump and store breast milk shall be agreed upon between the employee and her employer.

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

1. Provincial-level People's Committees shall:

a/ Reserve land areas for building nurseries and pre-primary classes in labor-intensive areas in local land use plans;

b/ Build nurseries and pre-primary classes to meet employees' needs;

c/ Invest in infrastructure, build part or the whole of works or use the area of houses or infrastructure currently leased to organizations and individuals to establish nurseries and pre-primary classes to meet employees' needs;

d/ Direct the implementation of mechanisms and policies on socialization of educational activities, create favorable conditions for enterprises, organizations and individuals to access land and loans and administrative procedures to invest in building nurseries and pre-primary classes to meet employees' needs;

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

2. People-founded and private nurseries and pre-primary classes in labor-intensive areas may enjoy policies applicable to people-founded and private independent early childhood education institutions in areas where exist industrial parks specified in Article 5 of the Government's Decree No. 105/2020/ND-CP of September 8, 2020, prescribing early childhood education development policies.

3. Children in early childhood age who are offspring of employees working in labor-intensive areas may enjoy similar policies applicable to children in early childhood age who are offspring of industrial park workers specified in Article 8 of the Government's Decree No. 105/2020/ND-CP of September 8, 2020, prescribing early childhood education development policies.

4. Early childhood teachers teaching at people-founded and private nurseries and pre-primary classes in labor-intensive areas may enjoy policies applicable to early childhood teachers teaching at people-founded and private early childhood education institutions in areas where exist industrial parks specified in Article 10 of the Government's Decree No. 105/2020/ND-CP of September 8, 2020, prescribing early childhood education development policies.

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

Article 82. Employers' assistance and support to employees in childcare expenses

Based on practical conditions, employers shall develop plans to assist employees having children in nursery and pre-primary age by covering part of their childcare expenses at nurseries and pre-primary classes in kind or cash. Employers shall decide on the support level and support entitlement period after holding discussions and exchanging opinions with employees through dialogues in the workplace under Articles 63 and 64 of the Labor Code and Chapter V of this Decree.

Article 83. Support policies for employers

1. Employers that invest in building nurseries, pre-primary classes, health establishments, cultural facilities and other welfare works meeting conditions on scale and standards specified in socialization promotion policies are entitled to incentives specified in policies to promote socialization of activities in the fields of education, vocational training, healthcare, culture, sports and environment.

Employers that build houses for employees are entitled to incentive policies prescribed in the Housing Law.

Employers that invest in or organize nurseries and pre-primary classes are entitled to exemption from or reduction of rental for physical facilities.

2. Employers are entitled to the State's support as follows:

a/ Employers that employ intensive female employees are entitled to tax reduction as prescribed in the tax laws;

b/ Increased expenses for female employees, assurance of gender equality and prevention and combat of sexual harassment in the workplace specified in this Decree shall be included in deductible expenses when determining incomes liable to enterprise income tax according to the Ministry of Finance's regulations.

Section 3

PREVENTION AND COMBAT OF SEXUAL HARASSMENT IN THE WORKPLACE

Article 84. Sexual harassment in the workplace

1. Sexual harassment specified in Clause 9, Article 3 of the Labor Code may occur in a form of exchange such as a proposal, request, suggestion, intimidation, or coercion of sex exchange for any work-related interests; or an act of sexual nature that is not for the purpose of sexual exchange but makes the working environment become hostile and insecure and causes harms to physical and spiritual health, work performance and life of the recipient.

2. Sexual harassment in the workplace includes:

a/ Physical conducts, including acts, gestures, contacts with or impacts on the human body that are of sexual nature or sexual suggestiveness;

b/ Verbal sexual harassment, including direct speeches or speeches via phone calls or via electronic means with sexual contents or sexual overtones;

c/ Non-verbal sexual harassment, including body language; display or description of visual materials on sex or related to sexual activities in a direct manner or via electronic means.

3.Workplace referred to in Clause 9, Article 3 of the Labor Code means a place where an employee actually works as agreed upon with or assigned by the employer, including also work-related locations or spaces such as social activities, conferences, training courses, official work trips, meals, telephone conversations, or communication activities via electronic means or on means of

transportation arranged by the employer from the employee's place of residence to the workplace and vice versa, in the place of residence accommodated by the employer, or other locations specified by the employer.

Article 85. Employers' regulations on prevention and combat of sexual harassment in the workplace

1. Employers' regulations on prevention and combat of sexual harassment shall be stated in internal working regulations or annexes to internal working regulations, which must have the following principal contents:

a/ Prohibition of acts of sexual harassment in the workplace;

b/ Detailed and specific regulations on acts of sexual harassment in the workplace in conformity with nature and characteristics of work and workplace;

c/ Responsibilities, time limit, order and procedures for internally handling acts of sexual harassment in the workplace, including also responsibilities, time limit, order and procedures for filing and settling complaints and denunciations and relevant regulations;

d/ Forms of handling breaches of labor disciplines for employees who commit acts of sexual harassment or persons who file untruthful denunciations, depending on nature and severity of their violations;

dd/ Compensation for victims' damage and remedial measures.

2. Employers' regulations on complaints and denunciations about sexual harassment and handling of acts of sexual harassment must adhere to the following principles:

a/ Timeliness and promptness;

b/ Protection of secrecy, honor, prestige, dignity and safety of victims of sexual harassment, complaints, the complained, denouncers and the denounced.

Article 86. Responsibilities and obligations to prevent and combat sexual harassment in the workplace

1. Employers have the following obligations:

a/ To implement, and supervise the implementation of, the law on prevention and combat of sexual harassment in the workplace;

b/ To disseminate the law and regulations on prevention and combat of sexual harassment in the workplace for employees;

c/ When receiving complaints or denunciations about acts of sexual harassment in the workplace, to promptly prevent and handle such acts and take

measures to protect secrecy, honor, prestige, dignity and safety of victims of sexual harassment, complainants, the complained, denouncers and the denounced.

2. Employees have the following obligations:

a/ To strictly comply with regulations on prevention and combat of sexual harassment in the workplace;

b/ To participate in building sexual harassment-free working environment;

c/ To prevent and denounce acts of sexual harassment in the workplace.

3. Grassroots-level employees' representative organizations shall:

a/ Participate in formulating, implementing, and monitoring the implementation of, regulations on prevention and combat of sexual harassment in the workplace;

b/ Provide information and consultancy to, and represent, employees who suffer sexual harassment, or are complained or denounced about acts of sexual harassment;

c/ Disseminate, and provide training in, regulations on prevention and combat of sexual harassment in the workplace.

4. Employers and grassroots-level employees' representative organizations are encouraged to choose putting contents on prevention and combat of sexual harassment in the workplace for collective bargaining.

Section 4

RESPONSIBILITY FOR ORGANIZATION OF THE IMPLEMENTATION OF POLICIES APPLICABLE TO FEMALE EMPLOYEES AND GENDER EQUALITY

Article 87. Organization of the implementation of policies applicable to female employees and assurance of gender equality

1. The Ministry of Labor, Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with related agencies in, disseminating policies applicable to female employees, assurance of gender equality, and prevention and combat of sexual harassment in the workplace.

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

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

4. The Ministry of Health shall:

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

b/ Promulgate the list of obstetric examinations for female employees specified in Clause 1, Article 80 of this Decree;

c/ Guide the building of rooms for breast milk pump and storage specified in Clause 5, Article 80 of this Decree.

5. Provincial-level People's Committees shall:

a/ Disseminate, and examine and inspect the implementation of, policies applicable to female employees, assurance of gender equality, and prevention and combat of sexual harassment in the workplace specified in this Chapter;

b/ Review and identify labor-intensive locations and organize the implementation of Article 81 of this Decree.

6. The Vietnam Fatherland Front and its member organizations shall, within the ambit of their tasks and powers, supervise the implementation of this Chapter.

Chapter X

SPECIFIC REGULATIONS APPLICABLE TO DOMESTIC WORKERS

Article 88. Domestic workers

Domestic worker means an employee defined in Clause 1, Article 3 of the Labor Code who enters into a written labor contract to perform the jobs specified in Clause 1, Article 161 of the Labor Code.

Article 89. Specific regulations applicable to domestic workers

1. Regulations on forms of labor contracts specified in Article 14 and Clause 1, Article 162; obligation to provide information upon entry into labor contracts specified in Article 16; contents of labor contracts specified in Clause 1, Article 21; unilateral termination of labor contracts specified in Clause 2, Article 35, Clause 3, Article 36, and Clause 2, Article 162; obligations upon illegal unilateral termination of labor contracts specified in Articles 40 and 41; and severance allowance specified in Article 46, of the Labor Code shall be implemented as follows:

a/ When employing a domestic worker, the employer shall enter into a labor contract with such worker. The labor contract shall be entered into in writing in accordance with Clause 1, Article 14 and Clause 1, Article 162 of the Labor Code;

b/ Before entering into a labor contract, the domestic worker and the employer shall provide information under Article 16 of the Labor Code; at the same time, the employer shall provide specific information on the scope of jobs to be performed by the domestic worker and his/her accommodation conditions in the employer's family and other necessary information related to assurance of safety and health in the work performance as required by the domestic worker;

c/ Contents of a labor contract must comply with Clause 1, Article 21 of the Labor Code. Based on Form No. 01/PLV provided in Appendix V to this Decree, the employer and domestic worker shall reach agreement on rights, obligations and interests of each party in the labor contract in conformity with practical conditions provided that the labor contract must have principal contents specified in Clause 1, Article 21 of the Labor Code;

d/ During the performance of a labor contract, each party may unilaterally terminate the labor contract without a reason but shall make a notice at least 15 days in advance, except the following cases in which no prior notice is required:

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

d2/ The employer unilaterally terminates the labor contract due to one of the following reasons: The domestic worker does not show him/her up at the workplace after the time limit specified in Article 31 of the Labor Code; or has given up work at his/her own discretion without a plausible reason for 5 or more consecutive working days;

dd/ Unilateral termination of a labor contract will be regarded as illegal if it does not comply with Point d of this Clause. When a labor contract is unilaterally

terminated illegally, the domestic worker shall fulfill the obligations specified in Article 40, and the employer shall fulfill the obligations specified in Article 41, of the Labor Code. If violating the provision on period of prior notification of Point d of this Clause, the employer shall pay the domestic worker an amount equivalent to the latter's wage stated in the labor contract for the days he/she does not work without being notified in advance of the contract termination.

e/ In case a labor contract is terminated under Clause 1, 2, 3, 4, 6 or 7, Article 34 of the Labor Code or Point d of this Clause, the employer shall pay severance allowance to the domestic worker under Article 46 of the Labor Code; the two parties shall fully pay amounts related to their interests.

2. The domestic worker and employer shall reach agreement on wage, bonus, and payment of wage and bonus in accordance with Chapter VI (except Article 93) of the Labor Code, specifically, the domestic worker's wage agreed upon in the labor contract under Clauses 1 and 2, Article 90 of the Labor Code includes job-based wage, wage-based allowances and other additional amounts (if any). Job-based wage, including also accommodation expenses in case the domestic worker lives together with the employer's family (if any), must not be lower than the region-based minimum wage level announced by the Government. The employer and domestic worker shall agree on the latter's monthly accommodation expenses (if any), which must not exceed 50% of the job-based wage stated in the labor contract.

3. Working time and rest time must comply with Chapter VII of the Labor Code and Chapter VII of this Decree, specifically, rest time in a normal workday or a weekly break is as follows:

a/ In a normal workday, in addition to the working time agreed in the labor contract according under regulations, the employer shall ensure that the domestic worker is entitled to a break of at least 8 hours, including 6 consecutive hours in a period of 24 consecutive hours;

b/ The domestic worker is entitled to weekly breaks in accordance with Article 111 of the Labor Code. If unable to arrange weekly breaks for the domestic worker, the employer shall ensure that the domestic worker has at least 4 days off on average in a month.

4. Simultaneously with paying wage to the domestic worker, the employer shall pay an amount equivalent to the compulsory social insurance premium and health insurance premium he/she has to pay in accordance with the laws on social insurance and health insurance for the domestic worker to participate in social insurance and health insurance by himself/herself.

For a domestic worker who concurrently enters into different labor contracts, the employer's responsibility to pay social insurance and health insurance premiums shall be implemented under each labor contract.

5. Occupational safety and health applicable to domestic workers:

a/ The employer shall instruct the domestic worker to use machines, devices and utensils and take fire and explosion prevention and fighting measures in the family which are related to the latter's work; and provide him/her with personal protective equipment;

b/ When the domestic worker suffers an occupational accident or disease, the employer shall perform his/her responsibilities toward the domestic worker in accordance with Articles 38 and 39 of the Law on Occupational Safety and Health;

c/ The domestic worker shall comply with instructions on use of machines, devices and utensils, and fire and explosion prevention and fighting measures; and environmental hygiene requirements for the household and residential quarter in the place of residence.

6. Labor discipline and material responsibility applicable to domestic workers:

a/ The employer and domestic worker shall specify acts of breaching labor discipline, forms of handling breaches of labor discipline, and material responsibility in accordance with Clause 2, Article 118, and Article 129 of the Labor Code and state them in the labor contract or express them in other forms of agreement;

b/ Forms of handling breaches of labor discipline applicable to the domestic worker include reprimand and dismissal specified in Clauses 1 and 4, Article 124 of the Labor Code;

c/ The employer may apply dismissal as a form of discipline in the following cases: The domestic worker commits one of acts specified in Clauses 1, 2 and 4, Article 125 of the Labor Code or commits an act of ill-treating or beating or verbally or physically humiliating the employer, which affects the latter's health, dignity or honor or his/her family members;

d/ If detecting that the domestic worker commits an act of breaching labor discipline, the employer shall consider and handle such breach in the forms specified at Point b of this Clause. For a domestic worker aged between full 15 years and under 18 years, the employer shall notify the handling of breach of labor discipline to worker's at-law representative;

dd/ The handling of breaches of labor discipline must comply with the principles, order and procedures specified at Points a and c, Clause 1, and Clauses 2, 3, 4, and 5, Article 122 of the Labor Code.

Article 90. Obligations of employers and domestic workers

1. To fulfill the obligations specified in Articles 163, 164 and 165 of the Labor Code.

2. Employers shall send to People's Committees of communes, wards and townships (below referred to as commune-level People's Committees) a notice of the employment of domestic workers and a notice of the termination of employment of domestic workers, made according to Forms No. 02/PLV and No. 03/PLV, respectively, provided in Appendix V to this Decree within 10 days after entering into or terminating labor contracts.

Article 91. Responsibility for management of domestic workers

1. Provincial-level People's Committees shall direct provincial-level Departments of Labor, Invalids and Social Affairs to guide district-level Divisions of Labor, Invalids and Social Affairs to disseminate the regulations on domestic workers; manage, inspect, examine and supervise the implementation of regulations on domestic workers in their localities.

2. People's Committees of rural districts, urban districts, towns, provincial cities and municipal cities (below referred to as district-level People's Committees) shall direct district-level Divisions of Labor, Invalids and Social Affairs to guide commune-level civil servants to disseminate regulations on domestic workers; manage, inspect, examine and supervise the implementation of regulations on domestic workers in their localities.

3. Commune-level People's Committees shall:

a/ Organize the dissemination of regulations on domestic workers under guidance of provincial-level Departments of Labor, Invalids and Social Affairs and district-level Divisions of Labor, Invalids and Social Affairs;

b/ To assign focal points for monitoring, managing, examining and supervising the implementation of regulations on domestic workers in their localities under their management;

c/ To receive notices of the employment of domestic workers and termination of employment of domestic workers specified in Clause 2, Article 90 of this Decree; to synthesize and report on the employment of domestic workers in their localities under their management upon request of competent state management agencies.

Chapter XI

SETTLEMENT OF LABOR DISPUTES

Section 1

LABOR CONCILIATORS

Article 92. Criteria for a labor conciliator

1. Being a Vietnamese citizen who has full civil act capacity in accordance with the Civil Code, and having good health and good ethical qualities.

2. Having a university or higher degree and at least 3 years' working experience in the fields related to industrial relations.

3. Not currently being examined for penal liability or having completely served his/her sentence without having his/her criminal records expunged.

Article 93. Order and procedures for appointment of labor conciliators

1. Formulation of plans on recruitment and appointment of labor conciliators

a/ In the first quarter every year, district-level Divisions of Labor, Invalids and Social Affairs shall review demands for the recruitment and appointment of labor conciliators under their management in order to formulate plans on recruitment and appointment of labor conciliators and report them to provincial-level Departments of Labor, Invalids and Social Affairs before March 31;

b/ A provincial-level Department of Labor, Invalids and Social Affairs shall synthesize plans of district-level Divisions of Labor, Invalids and Social Affairs and its own plan in order to formulate a plan of the province or centrally run city and submit it to the chairperson of the provincial-level People's Committee for approval.

2. Order and procedures for recruitment and appointment of labor conciliators

a/ Based on the plan on recruitment and appointment of labor conciliators approved by the chairperson of the provincial-level People's Committee, the provincial-level Department of Labor, Invalids and Social Affairs shall notify in writing the recruitment of labor conciliators in the locality on its portal and in the mass media, and send it to the concerned district-level Division of Labor, Invalids and Social Affairs for coordination in implementation;

b/ Within the time limit stated in the provincial-level Department of Labor, Invalids and Social Affairs' notice of recruitment of labor conciliators, an individual may himself/herself register or, as introduced by a state agency or

unit, political organization, socio-political organization, or another organization to the provincial-level Department of Labor, Invalids and Social Affairs or district-level Division of Labor, Invalids and Social Affairs, sit recruitment exams for a labor conciliator.

A dossier of request for recruitment must comprise: an application for recruitment of a labor conciliator; a resume certified by a competent authority; a health certificate issued by a competent health agency in accordance with regulations of the Ministry of Health; duplicates issued from the master registers, certified copies or copies together with the originals for comparison of relevant diplomas and certificates; and a written introduction for recruitment of a labor conciliator, made by an related agency or organization (if any);

c/ Within 5 working days after the deadline for submission of dossiers stated in the notice of recruitment of labor conciliators, the district-level Division of Labor, Invalids and Social Affairs shall review eligible persons and send a sum-up report to the provincial-level Department of Labor, Invalids and Social Affairs for appraisal;

d/ Within 10 working days after receiving the report of the district-level Division of Labor, Invalids and Social Affairs, the provincial-level Department of Labor, Invalids and Social Affairs shall appraise the recruitment dossiers (including dossiers it directly receives), choose and make a list of to-be-appointed positions for labor conciliators under the management of the provincial-level Department of Labor, Invalids and Social Affairs and district-level Division of Labor, Invalids and Social Affairs, and propose the chairperson of the provincial-level People's Committee to consider and appoint labor conciliators;

dd/ Within 5 working days after receiving the provincial-level Department of Labor, Invalids and Social Affairs' proposal, the chairperson of provincial-level People's Committee shall consider and decide on the appointment of labor conciliators. The term of office of a labor conciliator must not exceed 5 years.

3. Reappointment of labor conciliators

a/ At least 3 months before the expiration of his/her term of office, if a labor conciliator wishes to continue working as a labor conciliator, he/she shall send a written request for reappointment to the provincial-level Department of Labor, Invalids and Social Affairs;

b/ Based on the annual plan on recruitment and appointment of labor conciliators approved by the chairperson of the provincial-level People's Committee; results of review of standards for labor conciliators, and assessment

of labor conciliators' task performance according to regulations on management decentralization, within 10 working days after receiving a labor conciliator's written request for reappointment, the provincial-level Department of Labor, Invalids and Social Affairs shall send a written proposal to the chairperson of the provincial-level People's Committee;

c/ Within 5 working days after receiving the provincial-level Department of Labor, Invalids and Social Affairs' proposal, the chairperson of the provincial-level People's Committee shall consider and decide on reappointment, for labor conciliators fully satisfying the law-specified criteria and conditions.

4. Provincial-level Departments Labor, Invalids and Social Affairs and district-level Divisions of Labor, Invalids and Social Affairs shall publicize, update and post lists with their full names, assigned operation areas, telephone numbers and contact addresses of labor conciliators that are appointed or reappointed on their portals and notify such in the mass media in their localities for employers and employees to know and contact.

Article 94. Relief of labor conciliators from duty

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

a/ He/she files a written request for relief from duty of labor conciliator;

b/ He/she fails to fully meet the criteria specified in Article 92 of this Decree;

c/ He/she has committed law-breaking acts, causing harms to interests of the parties or the State while performing tasks of a labor conciliator in accordance with law;

d/ He/she has been assessed as failing to fulfill assigned tasks according to regulations on management of labor conciliators in 2 years;

dd/ He/she has refused the conciliation tasks twice or more when being assigned to settle labor disputes or disputes over vocational training contracts without plausible reasons according to regulations on management of labor conciliators.

2. Order and procedures for relieving labor conciliators from duty

a/ For the case specified at Point a, Clause 1 of this Article, within 5 working days after receiving a labor conciliator's written request for relief from duty of labor conciliator the provincial-level Department of Labor, Invalids and Social Affairs shall send a written proposal to the chairperson of provincial-level

People's Committee for the latter to consider and relieve the labor conciliator from duty;

b/ For the cases specified at Points b, c, d, and dd, Clause 1 of this Article, the provincial-level Department of Labor, Invalids and Social Affairs shall, based on the report of the district-level Division of Labor, Invalids and Social Affairs and review results, propose the chairperson of the provincial-level People's Committee to consider and relieve the labor conciliator from duty;

c/ Within 10 working days after receiving the proposal of the provincial-level Department of Labor, Invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall consider and decide to relieve the labor conciliator from duty.

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

1. The appointment of a labor conciliator to perform conciliation tasks shall be performed by provincial-level Departments of Labor, Invalids and Social Affairs or district-level Divisions of Labor, Invalids and Social Affairs as decentralized in regulations on management of labor conciliators.

2. Order and procedures for appointment of labor conciliators

a/ A written request for settlement of a labor dispute or a dispute over vocational training contract or provision of support for development of industrial relations shall be sent to the concerned provincial-level Department of Labor, Invalids and Social Affairs or district-level Division of Labor, Invalids and Social Affairs or a labor conciliator.

In case the labor conciliator receives the written request for dispute settlement directly from disputing parties, within 12 hours after receiving the request, the labor conciliator shall forward it to the provincial-level Department of Labor, Invalids and Social Affairs or district-level Division of Labor, Invalids and Social Affairs currently managing him/her for classification and handling;

b/ Within 5 working days after receiving the request, the provincial-level Department of Labor, Invalids and Social Affairs or district-level Division of Labor, Invalids and Social Affairs as decentralized shall classify it and issue a written document on appointment of labor conciliators to handle the case according to regulations.

Within 12 hours after receiving the written request from the labor conciliator as specified at Point a of this Clause, the provincial-level Department of Labor, Invalids and Social Affairs or district-level Division of Labor, Invalids

and Social Affairs as decentralized shall issue a written document on appointment of labor conciliators according to regulations.

3. Based on the complexity of the case, the provincial-level Department of Labor, Invalids and Social Affairs or district-level Division of Labor, Invalids and Social Affairs may appoint one or more than one labor conciliator for jointly settlement.

Article 96. Regimes applicable to and conditions for operation of labor conciliators

1. Labor conciliators are entitled to the following regimes:

a/ To be entitled to an allowance of 5% of the average of region-based minimum monthly wage levels applicable to employees working under labor contracts prescribed by the Government in each period (from January 1, 2021, the region-based minimum wage levels are prescribed in the Government's Decree No. 90/2019/ND-CP of November 15, 2019) for each day of performing tasks of labor conciliators.

Provincial-level People's Committees may consider and propose People's Councils of the same level to decide to apply an allowance higher than the level specified at this Point as suitable to their local budgets' capacity;

b/ To have agencies, units and organizations where they are working creating favorable conditions and arranging appropriate time schedules for them to perform tasks of labor conciliators according to regulations;

c/ To be entitled to the work-trip allowance regime applicable to state cadres, civil servants, public employees during the period of performing tasks of labor conciliators according to regulations;

d/ To participate in training and further training courses held by competent authorities to improve professional qualifications and skills;

dd/ To be commended and rewarded in accordance with the Law on Emulation and Commendation for achievements in performing tasks of labor conciliators according to regulations;

e/ To be entitled to other regimes in accordance with law.

2. Agencies appointing labor conciliators specified in Article 95 of this Decree shall arrange venues and provide equipment, documents, stationery and other necessary conditions for labor conciliators to work.

3. Funds for implementation of regulations on regimes applicable to, and conditions for operation of, labor collaborators specified in Clauses 1 and 2 of

this Article shall be covered by the state budget. The estimation, management and account finalization of funds must comply with the law on the state budget.

Article 97. Management of labor conciliators

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

a/ Formulate, submit to competent agencies for promulgation, or promulgate according to its competence, legal documents on labor conciliators;

b/ Propagandize, guide, inspect, examine and supervise the implementation of regulations on labor conciliation;

c/ Develop contents and programs and organize training and further training courses to improve professional capacity for labor conciliators.

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

a/ Appoint, re-appoint, relieve from duty, and manage activities of, labor conciliators in their localities.

Provinces and centrally run cities which accommodate a large number of enterprises with many employees and arising labor disputes may consider and appoint a number of full-time labor conciliators under provincial-level Departments of Labor, Invalids and Social Affairs. Full-time labor conciliators shall participate in the settlement of labor disputes and disputes over vocational training contracts, support the development of industrial relations and assist provincial-level Departments of Labor, Invalids and Social Affairs in managing labor conciliation in their localities. Criteria for selection and appointment and tasks of full-time labor conciliators must comply with regulations on management of labor conciliators;

b/ Issue regulations on management of labor conciliators, and decentralize the management of labor conciliators under provincial-level Departments of Labor, Invalids and Social Affairs and district-level Divisions of Labor, Invalids and Social Affairs;

c/ Direct the formulation and implementation of regimes and policies applicable to, and emulation and commendation of, labor conciliators according to regulations.

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

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

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

c/ Formulate and implement annual plans on selection and appointment of labor conciliators;

d/ Appoint labor conciliators to perform the tasks of settling disputes and supporting the development of industrial relations as decentralized; ensure working conditions for labor conciliators; evaluate performance and levels of task fulfillment of labor conciliators; implement regimes applicable to, and emulation and commendation work for, labor conciliators according to regulations; and manage dossiers of labor conciliators, dossiers of dispute settlement cases and other related documents;

dd/ Assume the prime responsibility for, and coordinate with specialized units of the Ministry of Labor, Invalids and Social Affairs in, organizing professional training and further training courses for labor conciliators in their localities;

e/ Inspect, examine and supervise labor conciliation in accordance with law;

g/ Annually, sum up the situation of labor conciliation and report thereon to chairpersons of provincial-level People's Committees and the Ministry of Labor, Invalids and Social Affairs.

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

a/ Manage labor conciliators in their localities as decentralized;

b/ Formulate and implement annual plans on selection and appointment of labor conciliators as decentralized;

c/ Appoint labor conciliators to perform the tasks of settling disputes and supporting the development of industrial relations as decentralized; ensure working conditions for labor conciliators; evaluate performance and level of task fulfillment of labor conciliators, implement regimes applicable to, and emulation and commendation work for, labor conciliators; and manage and archive dossiers of dispute settlement cases and other related documents;

d/ Send labor conciliators to participate in professional training and further training courses organized by the Ministry of Labor, Invalids and Social Affairs and provincial-level Departments of Labor, Invalids and Social Affairs;

dd/ Annually, sum up the situation of labor conciliation in their localities and report thereon to provincial-level Departments of Labor, Invalids and Social Affairs.

Section 2

LABOR ARBITRATION COUNCILS

Article 98. Criteria and conditions for labor arbitrators

1. Being Vietnamese citizens, having full civil act capacity in accordance with the Civil Code, being physically fit, and being of good moral character, prestigious and impartial.

2. Possessing a university or higher degree, and having legal knowledge and at least 5 years of working in fields related to industrial relations.

3. Neither being examined for penal liability nor executing criminal judgments or having completed execution of criminal judgments but not yet having their convictions expunged.

4. Being nominated as labor arbitrators by provincial-level Departments of Labor, Invalids and Social Affairs or provincial-level Labor Federations or employers' representative organizations in their provincial-level localities according to Clause 2, Article 185 of the Labor Code.

5. Not being judges, procurators, investigators, executors, or civil servants of the people's courts, people's procuracies, investigation agencies, or judgment enforcement agencies.

Article 99. Appointment of labor arbitrators

1. Based on the number of labor arbitrators of a labor arbitration council specified in Clause 2, Article 185 of the Labor Code and the criteria and conditions for labor arbitrators specified in Article 98 of this Decree, provincial-level Labor Federations or employers' representative organizations in provincial-level localities shall make dossiers of nomination of labor arbitrators and send them to provincial-level Departments of Labor, Invalids and Social Affairs.

2. Within 10 working days after receiving dossiers of nomination of labor arbitrators from provincial-level Labor Federations or employers' representative organizations in their provinces or centrally run cities, provincial-level Departments Labor, Invalids and Social Affairs shall summarize and appraise dossiers and, at the same time, nominate labor arbitrators and then summarize and submit to chairpersons of provincial-level People's Committees for appointment of labor arbitrators.

The nomination of labor arbitrators by provincial-level Departments of Labor, Invalids and Social Affairs must ensure proper composition of members of labor arbitration councils specified at Point a, Clause 2, Article 185 of the

Labor Code serving the appointment of holders of labor arbitration council chairperson and secretary titles.

3. A dossier of nomination must comprise:

a/ A written request of the nominating agency;

b/ The nominee's application for working as a labor arbitrator;

c/ The nominee's curriculum vitae certified by a competent authority;

d/ The nominee's health certificate issued by a competent health authority according to regulations of the Ministry of Health;

dd/ Duplicates from master registers or certified copies or copies of relevant diplomas and certificates; if submitting uncertified copies, their originals shall be produced for comparison.

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

The period of appointment of a labor arbitrator must coincide with the term of office of the labor arbitration council. During the term of office of the labor arbitration council, if the council is added or substituted with new labor arbitrators for those who are relieved from duty under Article 100 of this Decree, the period of appointment of added or substituted labor arbitrators must coincide with the remaining period of the term of office the labor arbitration council.

At the end of the period of appointment, labor arbitrators who fully meet the criteria and conditions specified in Article 98 of this Decree and are nominated again by the agencies specified at Points a, b and c, Clause 2, Article 185 of the Lao Code may be considered for re-appointment as labor arbitrators according to the order and procedures specified in this Article.

Article 100. Relief of labor arbitrators from duty

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

a/ He/she files a written request for relief from duty as a labor arbitrator;

b/ He/she fails to fully meet the criteria and conditions specified in Article 98 of this Decree;

c/ The agency that has nominated him/her files a written request for relief from duty or replacement of labor arbitrator;

d/ He/she commits law-breaking acts, causing harms to interests of the parties or the State while performing tasks of labor arbitrators in accordance with law;

dd/ He/she has been assessed as failing to fulfill his/her tasks in 2 years according to regulations on management of labor arbitrators.

2. Order and procedures for relief of labor arbitrators from duty

a/ For the case specified at Point a, Clause 1 of this Article, within 2 working days after receiving a labor arbitrator's written request for relief from duty of labor conciliator, the chairperson of the labor arbitration council shall send a report to the provincial-level Department of Labor, Invalids and Social Affairs. Within 3 working days after receiving the report of the chairperson of the labor arbitration council, the provincial-level Department of Labor, Invalids and Social Affairs shall exchange opinions with the agency having nominated the labor arbitrator and propose the chairperson of provincial-level People's Committee to consider and relieve the labor arbitrator from duty;

b/ For the cases specified at Points b, c, d, and dd, Clause 1 of this Article, the provincial-level Department of Labor, Invalids and Social Affairs shall, based on the written report of the chairperson of the labor arbitration council, review and exchange opinions with the agency having nominated the labor arbitrator and propose the chairperson of the provincial-level People's Committee to consider and relieve the labor arbitrator from duty;

c/ Within 10 working days after receiving the proposal of the provincial-level Department of Labor, Invalids and Social Affairs, the chairperson of the provincial-level People's Committee shall consider and decide to relieve the labor arbitrator from duty.

Article 101. Establishment of labor arbitration councils

1. Chairpersons of provincial-level People's Committees shall decide to establish labor arbitration councils. A council has the term of office of 5 years and comprises of labor arbitrators appointed under Article 99 of this Decree, of whom:

a/ The chairperson of the council is a leader of the provincial-level Department of Labor, Invalids and Social Affairs who shall be appointed as labor arbitrator and work on a part-time basis;

b/ The secretary of the council is a civil servant of the provincial-level Department of Labor, Invalids and Social Affairs who shall be appointed as labor arbitrator, act as the permanent member of the council and work on a full-time basis;

c/ Other members are remaining labor arbitrators who shall work on a part-time basis;

d/ The labor arbitration council may use its own seal.

2. Labor arbitration councils shall:

a/ Settle labor disputes under Articles 189, 193 and 197 of the Labor Code;

b/ Settle collective labor disputes over interests at workplaces where strike is prohibited as specified in Section 3 of this Chapter;

c/ Settle other labor disputes in accordance with law;

d/ Support the development of provincial-level industrial relations in provincial-level localities according to their operation regulations;

dd/ Annually report to chairpersons of provincial-level People's Committees and notify provincial-level Departments of Labor, Invalids and Social Affairs, provincial-level Labor Federations and employers' representative organizations in their provincial-level localities of their operation results.

3. The chairperson of a labor arbitration council shall:

a/ Issue the operation regulation of the labor arbitration council after consulting the provincial-level Department of Labor, Invalids and Social Affairs, provincial-level Labor Federation and employers' representative organization in the provincial-level locality;

b/ Assign specific tasks to labor arbitrators and administer activities of the labor arbitration council;

c/ Decide to establish a labor arbitration board; participate in and perform tasks of the labor arbitration board according to Article 102 of this Decree;

d/ Chair annual meetings of the labor arbitration council to evaluate performance and fulfillment of tasks of each labor arbitrator according to the operation regulation of the labor arbitration council, summarize and report thereon to the chairperson of provincial-level People's Committee.

4. The secretary of a labor arbitration council shall:

a/ Act as the permanent member of the council, perform administrative, organizational and logistical tasks to ensure operations of the labor arbitration council;

b/ Assist the labor arbitration council to make work plans and organize the labor arbitration board's meetings to settle labor disputes;

c/ Receive requests for settlement of labor disputes, advise and propose the selection establishment of a labor arbitration board to the chairperson of the labor arbitration council;

d/ Participate in and perform tasks of the labor arbitration board according to Article 102 of this Decree;

dd/ Classify and archive dossiers of settlement of labor disputes according to regulations;

e/ Perform other jobs as assigned by the chairperson of the labor arbitration council and the operation regulation of the labor arbitration council.

5. Labor arbitrators shall:

a/ Participate in and perform tasks of the labor arbitration board as specified in Article 102 of this Decree;

b/ Perform other tasks according to the operation regulation of the labor arbitration council and as assigned by the chairperson of the labor arbitration council.

Chapter XI

SETTLEMENT OF LABOR DISPUTES

Section 2

LABOR ARBITRATION COUNCILS

Article 102. Establishment and operation of labor arbitration boards

1. Within 7 working days after receiving a request for labor dispute settlement under Points a, b and c, Clause 2, Article 101 of this Decree, a labor arbitration council shall establish a labor arbitration board.

2. Composition of a labor arbitration board shall be determined under Points a, b and c, Clause 4, Article 185 of the Labor Code. In case either disputing party or both disputing parties fails or fail to select a labor arbitrator under Point a, Clause 4, Article 185 of the Labor Code, the chairperson of the labor arbitration council shall select a labor arbitrator on behalf of the parties.

In case two selected labor arbitrators disagree to choose another labor arbitrator to act as the head of the labor arbitration board under Point b, Clause 4, Article 185 of the Labor Code, the chairperson of the labor arbitration council shall decide to choose another labor arbitrator to act as the head of the labor arbitration board.

3. When a labor arbitration board is established or is settling a labor dispute, and there are clear evidences that the labor arbitrator participating in the dispute settlement is neither impartial nor objective and may affect rights and interests of a disputing party, such disputing party may request the chairperson of the labor arbitration council to change such labor arbitrator.

4. Within 30 days after its establishment, the labor arbitration board shall:

a/ Study the case or matter files and collect evidences according to its competence provided in Article 183 of the Labor Code to come up with a dispute settlement plan;

b/ Organize a meeting to settle the labor dispute;

c/ Issue a decision to settle the labor dispute in accordance with principles specified in Clause 5, Article 185 of the Labor Code and send it to the disputing parties.

A decision of the labor arbitration board must have the following main contents: Time and date of decision issuance; names and addresses of disputing parties; contents proposed for dispute settlement; grounds for dispute settlement; specific contents of dispute settlement awards of the labor arbitration board; signature of the head of the labor arbitration board, and affixed seal of the labor arbitration council.

In case no decision is issued, the labor arbitration board shall notify such in writing to disputing parties. For rights-based collective labor disputes specified at Points b and c, Clause 2, Article 179 of the Labor Code, which are determined to involve acts of law violation, the labor arbitration board shall make a minutes of violation and transfer the case file and documents to a competent agency for consideration and settlement in accordance with law.

5. Procedures for organizing a meeting to settle a labor dispute under Point b, Clause 4 of this Article are as follows:

a/ At least 5 days before holding a meeting, the labor arbitration board shall send a summons to the meeting to disputing parties, clearly stating time and venue of the meeting;

b/ Upon receiving the summons, disputing parties shall notify the labor arbitration board of their participation in the meeting. In case either party has a plausible reason to be absent from the meeting, it may request the labor arbitration board to change the meeting time to a more appropriate time. The labor arbitration board may decide on change of meeting time and shall notify such to disputing parties;

c/ Representatives or authorized persons of disputing parties as provided by law shall be present at the meeting for labor dispute settlement. In case either party is absent, even if there is a request to change the meeting time which is not approved, the labor arbitration board shall still hold the meeting;

d/ During the meeting, the labor arbitration board shall clarify contents proposed by the parties for settlement, listen to details of the case or matter and record them in a minutes that must bear signatures of all labor arbitrators and disputing parties participating in the meeting.

Article 103. Regimes and conditions for operation of labor arbitrators and labor arbitration councils

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

a/ To enjoy an allowance equal to 5% of the average of monthly minimum wages applicable to all regions for employees working under labor contracts as specified by the Government in each period (from January 1, 2021, the region-based minimum wages must comply with the Government's Decree No. 90/2019/ND-CP of November 15, 2019) for each day of actually studying case or matter files, collecting evidences and proceeding with meetings to settle labor disputes as assigned.

Provincial-level People's Committees may consider and propose same-level People's Councils to decide on application of a remuneration level higher than that specified at this Point, provided the local budget capacity can cover it;

b/ To be provided with conditions and appropriate time by agencies, units or organizations where they are working to participate in the labor arbitration council or labor arbitration board to settle disputes;

c/ To enjoy working trip allowance applicable to state cadres, civil servants and public employees during the time of participating in the labor arbitration board to settle disputes;

d/ To receive training and further training provided by competent authorities for improving their professional qualifications and skills;

dd/ To be commended and rewarded in accordance with the Law on Emulation and Commendation for achievements in performing tasks of labor arbitrators in accordance with law;

e/ To enjoy other regimes provided by law.

2. Secretaries of labor arbitration councils are entitled to a work responsibility allowance equal to 0.5 of the basic salary level specified in the Government's Decree No. 204/2004/ND-CP of December 14, 2004, on salary

levels for cadres, civil servants, public employees and armed forces personnel. In case the Government promulgates a new salary regime under Resolution No. 27-NQ/TW of May 21, 2018, of the 7th plenum of the 12th Communist Party of Vietnam Central Committee, on reform of salary policies for officials, civil servants, public employees, armed forces personnel and enterprise employees, work responsibility allowance shall be paid according to new regulations.

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

a/ Provincial-level Departments of Labor, Invalids and Social Affairs shall arrange workplaces, equipment, documents, stationery and other necessary conditions for work of labor arbitrators and for operation of labor arbitration boards and labor arbitration councils;

b/ Workplaces of labor arbitration councils may be arranged at offices of provincial-level Departments of Labor, Invalids and Social Affairs;

c/ Funding for operation of labor arbitration councils shall be ensured by the state budget and annually allocated together with estimated current expenditures of provincial-level Departments of Labor, Invalids and Social Affairs. The estimation, management and finalization of funds for operation of labor arbitration councils must comply with the law on the state budget.

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

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

a/ Formulate and submit to competent agencies for promulgation, or promulgate according to its competence, legal documents on labor arbitrators and labor arbitration councils;

b/ Propagandize, guide, inspect, examine and supervise the implementation of regulations on labor arbitrators and labor arbitration councils in accordance with law;

c/ Formulate programs and contents and organize training and further training for improvement of professional capacity for labor arbitrators.

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

a/ Appoint and dismiss labor arbitrators and establish labor arbitration councils;

b/ Direct the formulation and implementation of regimes, policies, emulation and commendation for labor arbitrators and labor arbitration councils in accordance with this Decree.

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

a/ Appraise dossiers and propose the appointment and dismissal of labor arbitrators and establishment of labor arbitration councils;

b/ Give opinions for chairpersons of labor arbitration councils to promulgate operation regulations of labor arbitration councils;

c/ Ensure working conditions for labor arbitrators, labor arbitration boards and labor arbitration councils; pay wages, allowances and rewards for labor arbitrators and labor arbitration councils; manage and archive records of labor arbitrators and labor arbitration councils, files of cases or matters on labor dispute settlement of labor arbitration boards and other relevant documents in accordance with law;

d/ Assume the prime responsibility for, and coordinate with specialized units of the Ministry of Labor, Invalids and Social Affairs in, providing professional training and further training for labor arbitrators in their localities;

dd/ Inspect, examine and supervise labor arbitration in accordance with law;

e/ Annually summarize actual operation of labor arbitrators and labor arbitration councils for reporting to chairpersons of provincial-level People's Committees and the Ministry of Labor, Invalids and Social Affairs.

SECTION 3

LIST OF WORKPLACES WHERE STRIKES ARE PROHIBITED AND SETTLEMENT OF LABOR DISPUTES IN WORKPLACES WHERE STRIKES ARE PROHIBITED

Article 105. List of workplaces where strikes are prohibited

To promulgate in Appendix VI to this Decree the list of workplaces where strikes are prohibited, including enterprises and enterprise divisions where strikes can pose a threat to national defense, security, public order and human health.

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

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

2. Rights-based collective labor disputes shall be settled under Articles 191, 192, 193 and 194 of the Labor Code.

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

1. Interest-based collective labor disputes shall be settled through conciliation procedures by labor conciliators before requests for settlement by labor arbitration councils or chairpersons of provincial-level People's Committees are made.

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

a/ The settlement of interest-based collective labor disputes by labor conciliators must comply with Clauses 1 and 2, Article 196 of the Labor Code;

b/ In case of unsuccessful conciliation or time limit for conciliation specified in Clause 2, Article 188 of the Labor Code expires but the labor conciliator fails to carry out conciliation or either party fails to comply with agreements in the minutes of successful conciliation, disputing parties may request for settlement by a labor arbitration council or provincial-level People's Committee chairperson to settle the dispute.

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

a/ The settlement of interest-based collective labor disputes by labor arbitration councils must comply with Clauses 1, 2 and 3, Article 197 of the Labor Code;

b/ In case the time limit specified in Clause 2, Article 197 of the Labor Code expires but no labor arbitration board is established or the time limit specified in Clause 3, Article 197 of the Labor Code expires but the arbitration board fails to issue a dispute settlement award or either party fails to comply with the dispute settlement award of the labor arbitration board, either party may request the concerned provincial-level People's Committee chairperson to settle the dispute.

During the time labor arbitration councils settle interest-based collective labor disputes, disputing parties may not request provincial-level People's Committee chairpersons to settle the disputes.

4. Settlement of an interest-based collective labor dispute by the chairperson of a provincial-level People's Committee

a/ Within 2 working days after receiving a request for settlement of an interest-based collective labor dispute, the provincial-level People's Committee chairperson shall assign the provincial-level Department of Labor, War Invalids and Social Affairs to coordinate with relevant agencies in proposing the dispute settlement;

b/ Within 10 working days after being assigned to settle the labor dispute by the provincial-level People's Committee chairperson, the provincial-level Department of Labor, Invalids and Social Affairs shall coordinate with the provincial-level Labor Federation and relevant agencies in studying the case and matter and guiding disputing parties to negotiate for settling the dispute. In case the disputing parties can reach an agreement, the provincial-level Department of Labor, Invalids and Social Affairs shall make a minutes signed by representatives of the disputing parties and report in writing to the provincial-level People's Committee chairperson to notify agreed labor dispute settlement results. Past the 10-working-day time limit, if the disputing parties fail to reach an agreement, the provincial-level Department of Labor, Invalids and Social Affairs shall, within subsequent 5 working days, coordinate with the provincial-level Labor Federation and related agencies in proposing a labor dispute settlement plan and reporting it to the chairperson of provincial-level People's Committee for consideration and decision;

c/ Within 5 working days after receiving the labor dispute settlement plan proposed by the provincial-level Department of Labor, Invalids and Social Affairs, the provincial-level People's Committee chairperson shall preside over a meeting to invite the disputing parties, representatives of the provincial-level Labor Federation and related agencies and organizations to give their opinions on the dispute settlement plan and issue a labor dispute settlement decision.

The labor dispute settlement decision of the provincial-level People's Committee chairperson shall be the final one that the disputing parties must comply with.

Article 108. Settlement of disputes related to the collective bargaining right at workplaces where strikes are prohibited

Disputes between parties related to the collective bargaining right at workplaces where strikes are prohibited must comply with the Government's regulations on dispute settlement between parties related to the collective bargaining right under Clause 4, Article 68 of the Labor Code.

SECTION 4

STRIKE POSTPONEMENT AND SUSPENSION AND SETTLEMENT OF EMPLOYEES' RIGHTS

Article 109. Cases of strike postponement and cancellation

1. Strike postponement means a case where a provincial-level People's Committee chairperson issues a decision to delay starting time of a strike as specified in the strike decision of the grassroots-level employees' representative organization that has the right to organize and lead strikes.

2. Strike suspension means a case where a provincial-level People's Committee chairperson issues a decision to suspend an ongoing strike until the a risk of causing serious damage to the national economy and public interests or posing a threat to national defense, security, public order or human health no longer exists.

3. Cases of strike postponement:

a/ A strike expected to be held at an organization providing electricity, water, public transport or other services to directly serve a public meeting or public holiday under Clause 1, Article 112 of the Labor Code;

b/ A strike expected to be held in a locality where activities are taking place to prevent and remedy consequences of a natural disaster, fire or dangerous epidemic or a state of emergency in accordance with law.

4. Cases of strike suspension:

a/ A strike taking place in the area where a natural disaster, fire, dangerous epidemic or state of emergency occurs as specified by law;

b/ A strike continues for the third day at an electricity, water and public sanitation provision unit, affecting the environment, living conditions and health of people in a provincial-level city;

c/ A strike takes place with violent or disruptive acts affecting property and life of investors, causing serious damage to the national economy and public interests or pose threats to national defense, security, public order or human health.

Article 110. Order and procedures for strike postponement

1. Within 24 hours after receiving a strike decision of a grassroots-level employees' representative organization that has the right to organize and lead the strike, the director of a provincial-level Department of Labor, Invalids and Social Affairs shall consider and report in writing to a provincial-level People's

Committee chairperson for deciding strike postponement if deeming the strike falls into one of cases specified in Clause 3, Article 109 of this Decree.

A written request for strike postponement sent to the provincial-level People's chairperson must have the following basic contents: name of the employer where the strike is expected to take place, and name of the employees' representative organization that organizes and leads the strike; scheduled place of the strike; expected time when the strike begins; requirements of the employees' representative organization; necessary reasons for strike postponement; petition and time limit for strike postponement and measures to implement the strike postponement decision of the provincial-level People's Committee chairperson.

2. Within 24 hours after receiving the report of the director of the provincial-level Department of Labor, Invalids and Social Affairs, the provincial-level People's Committee chairperson shall consider and issue a strike postponement decision. Within 12 hours after issuing the decision, the provincial-level People's Committee chairperson shall notify it to the district-level People's Committee chairperson, provincial-level Labor Federation chairperson, labor arbitration council chairperson, employees' representative organization having the right to organize and lead the strike, and the employer where the strike is expected to take place. The strike postponement decision of the provincial-level People's Committee chairperson takes effect on the date of its signing.

3. Based on the strike postponement decision of the provincial-level People's Committee chairperson, the employees' representative organization having the right to organize and lead the strike, employees, employer and related individuals and organizations shall immediately postpone the strike in accordance with law.

Article 111. Order and procedures for strike suspension

1. If deeming a strike falls into one of cases specified in Clause 4, Article 109 of this Decree, the concerned district-level Division of Labor, Invalids and Social Affairs shall promptly report it to the district-level People's Committee chairperson for suspension of such strike.

Within 12 hours after receiving a report from the district-level Division of Labor, Invalids and Social Affairs, the district-level People's Committee chairperson shall consider and request the provincial-level People's Committee chairperson to decide on strike suspension and concurrently send such a request to the director of the provincial-level Department of Labor, Invalids and Social Affairs. A request for strike suspension to be send to the provincial-level People's Committee chairperson must have the following basic contents: name

of the employer where the strike is taking place; name of the employees' representative organization that organizes and leads the strike; location, starting time and scope of the strike; number of employees taking part in the strike; demands of the employees' representative organizations; reasons for strike suspension; recommendations on strike suspension and measures to implement the strike suspension decision of the provincial-level People's Committee chairperson.

2. Within 12 hours after receiving the report from the district-level People's Committee chairperson, the director of the provincial-level Department of Labor, Invalids and Social Affairs shall give opinions for the provincial-level People's Committee chairperson to consider and decide on strike suspension.

3. Within 12 hours after receiving opinions of the director of the provincial-level Department of Labor, War Invalids and Social Affairs, the provincial-level People's Committee chairperson shall consider and issue a strike suspension decision. Within 12 hours after issuing such decision, the provincial-level People's Committee chairperson shall notify it to the district-level People's Committee chairperson, provincial-level Labor Federation chairperson, labor arbitration council chairperson, employees' representative organization of establishments having the right to organize and lead strikes, and the employer where the strike is taking place. The strike suspension decision of the provincial-level People's Committee chairperson takes effect on the date of its signing.

4. Within 12 hours after the provincial-level People's Committee chairperson issues the strike suspension decision, the grassroots-level employees' representative organization having the right to organize and lead strikes, employees, employer and related individuals and organizations shall immediately suspend the strike in accordance with law.

5. Within 24 hours after receiving the strike suspension decision from the provincial-level People's Committee chairperson, the district-level People's Committee chairperson shall report to the former on strike suspension results.

Article 112. Settlement of employees' interests upon strike postponement or suspension

1. During the implementation of the strike postponement or suspension decision at the request of the provincial-level People's Committee chairperson, the provincial-level Department of Labor, Invalids and Social Affairs and district-level Division of Labor, Invalids and Social Affairs shall coordinate with the provincial- or district-level Labor Federation, grassroots-level employees' representative organization having the rights to organize and lead strikes, employers where strikes have been postponed or suspended and related agencies

in supporting the parties to negotiate and reconcile to settle employees' interests and other related disputes.

2. When a strike postponement or suspension period under a decision of a provincial-level People's Committee chairperson expires but the two parties fail to negotiate and settle employees' interests and other related disputes, the grassroots-level employees' representative organization having the right to organize and lead strikes may resume the strike but shall notify such in writing to the employer, district-level People's Committee, provincial-level Department of Labor, Invalids and Social Affairs at least 5 working days before resuming the strike.

Article 113. Rights and responsibilities of employees upon strike suspension

1. After a provincial-level People's Committee chairperson decides on strike suspension, employees shall return to work with their wages paid.

2. After a provincial-level People's Committee chairperson decides on strike suspension but employees refuse to return to work, their wages shall not be paid, unless otherwise agreed upon by the two parties. Depending on severity of their violation, employees shall be disciplined in accordance with the labor internal regulations and law.

Chapter XI

IMPLEMENTATION PROVISIONS

Article 114. Effect

1. This Decree takes effect on February 1, 2021.

2. From the effective date of this Decree, the following Decrees cease to be effective:

a/ The Government's Decree No. 03/2014/ND-CP of January 16, 2014, detailing a number of articles of the Labor Code on employment;

b/ The Government's Decree No. 44/2013/ND-CP of May 9, 2013, detailing a number of articles of the Labor Code on labor contracts; Decree No. 05/2015/ND-CP of January 12, 2015, detailing and guiding the implementation of a number of provisions of the Labor Code; and Decree No. 148/2018/ND-CP of October 24, 2018, amending and supplementing a number of articles of Decree No. 05/2015/ND-CP;

c/ The Government's Decree No. 29/2019/ND-CP of March 20, 2019, detailing Clause 3, Article 54 of the Labor Code on licensing of labor lease, payment of deposits and the list of jobs for which labor may be leased;

d/ The Government's Decree No. 149/2018/ND-CP of November 7, 2018, detailing Clause 3, Article 63 of the Labor Code on implementation of regulations on grassroots democracy at the workplace;

dd/ The Government's Decree No. 49/2013/ND-CP of May 14, 2013, detailing a number of articles of the Labor Code on wages; and Decree No. 121/2018/ND-CP of September 13, 2018, amending and supplementing a number of articles of Decree No. 49/2013/ND-CP;

e/ The Government's Decree No. 45/2013/ND-CP of May 10, 2013, detailing a number of articles of the Labor Code on working time, rest time and occupational safety and health;

g/ The Government's Decree No. 85/2015/ND-CP of October 1, 2015, detailing a number of articles of the Labor Code on policies applicable to female employees;

h/ The Government's Decree No. 27/2014/ND-CP of April 7, 2014, detailing a number of articles of the Labor Code on domestic employees;

i/ The Government's Decree No. 46/2013/ND-CP of May 10, 2013, detailing a number of articles of the Labor Code on labor disputes;

k/ The Government's Decree No. 41/2013/ND-CP of May 8, 2013, detailing the implementation of the Labor Code's Article 220 on the list of employing units in which strikes are prohibited and settlement of demands of employees' collectives at these units.

3. Labor leasing enterprises that have been granted licenses for labor lease before the effective date of this Decree shall continue carrying out labor leasing activities until their licenses expire. Cases of license extension, re-grant and revocation must comply with Articles 26, 27 and 28 of this Decree.

4. Employers that employ less than 10 employees are not required to organize employees' meetings or issue regulations on grassroots democracy in the workplace under Articles 47 and 48 of this Decree. Employers being state administrative agencies or public non-business units that hire or employ employees under labor contracts under the Government's Decree No. 68/2000/ND-CP of November 17, 2000, on implementation of contractual regimes for a number of types of work in state administrative agencies and non-business units, and the Government's Decree No. 161/2018/ND-CP of November 29, 2018, amending and supplementing a number of regulations on

recruitment of civil servants and public employees, raising of civil servants' ranks, promotion of public employees' ranks and implementation of contractual regimes for a number of types of work in state administrative agencies and non-business units subject to the Government's Decree No. 04/2015/ND-CP of January 9, 2015, on exercise of democracy in operation of state administrative agencies and public non-business units, are not required to organize dialogues or implement regulations on grassroots democracy at workplace under Chapter V of this Decree.

5. Working time and rest time regimes applicable to cadres, civil servants, public employees, members of the People's Army and People's Public Security forces shall be provided in other legal documents. In case other legal documents do not provide such regimes, the provisions of Chapter VII of this Decree apply.

6. Labor conciliators appointed before the effective date of this Decree whose appointment remains effective may continue working as labor conciliators until their periods of appointment expire, unless they are relieved from duty under Points a, c, d and dd, Clause 1, Article 94 of this Decree.

7. In case the documents referred to in this Decree are amended, supplemented or replaced, the new documents prevail.

Article 115. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees, and related agencies, enterprises, organizations and individuals shall implement this Decree.-

On behalf of the Government
Prime Minister
NGUYEN XUAN PHUC