THE NATIONAL ASSEMBLY	**THE SOCIALIST REPUBLIC OF VIETNAM**
----------	**Independence - Freedom – Happiness**
No. 45/2019/QH14	----------

LABOR CODE

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly promulgates the Labor Code.

Chapter I
GENERAL PROVISIONS

Article 1. Scope of regulation

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

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Article 2. Subjects of application

1. Employees, apprentices, trainees, and other workers without industrial relations.

2. Employers.

3. Foreign employees who work in Vietnam.

4. Other agencies, organizations and individuals directly related to industrial relations.

Article 3. Interpretation of terms

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

1. Employee means a person who works under a labor contract, is paid with wage and is managed, controlled and supervised by an employer.

The minimum working age for an employee is 15, unless otherwise specified in Section 1 of Chapter XI herein.

2. *Employer* means an enterprise, an agency, an organization, a cooperative, a household or an individual that hires or employs employees under labor contracts; if the employer is an individual, he/she must have full civil act capacity.

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3. *Grassroots-level employees' representative organization* means an organization voluntarily established by employees working for an employer which protects employees' rights and legitimate interests in industrial relations by collective bargaining or other forms prescribed by related law provisions on labor. Grassroots-level employees' representative organization grassroots-level Trade Unions and employees' organizations at enterprises.

4. Employers' representative organization means a lawfully established organization which represents and protects the employers' rights and legitimate interests in industrial relations.

5. *Industrial relation* means a social relation arising from the hiring or employment and wage payment between an employee, an employer, their representative organizations and competent State agencies. Industrial relations are individual industrial relations and collective industrial relations.

6. *Worker without industrial relation* means a person who does not work on the basis of a labor contract.

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

8. Labor discrimination means the discrimination, exclusion or prioritization on the basis of race, skin color, national origin or social strata, nationality, gender, age, pregnancy status, marital status, religion, belief, political belief, disabilities family responsibilities, or HIV infection, or for the reason of establishing, joining trade unions and participating in trade union activities, which impacts on equality of employment or career opportunities.

Discrimination, exclusion or prioritization based on specialized job requirements and acts of maintaining and protecting jobs for vulnerable employees shall not be considered discrimination.

9. Sexual harassment at the workplace means any sexual behavior of any person towards another person at the workplace without being desired or accepted by that person. Workplace is any place where the employee actually works as agreed upon or assigned by the employer.

Article 4. State policies on labor

1. To guarantee the rights and legitimate interests of employees and workers without industrial relations; to encourage agreements providing employees with conditions more favorable than those provided by the labor law.

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

3. To create favorable conditions for job creation, self-employment and

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vocational training and learning in order to acquire employment, and for labor-intensive production and business activities; to apply a number of provisions herein to workers without industrial relations.

4. To adopt policies on the development and distribution of human resources; to improve labor productivity; to provide vocational training, training, retraining and improvement of occupational knowledge and skills for employees; to support job maintenance and change for employees; and to give preferences for employees with high professional and technical qualifications meeting the requirements of industrial revolution, national industrialization and modernization.

5. To adopt policies on labor market development and diversify types of linkage between labor supply and demand.

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

7. To ensure gender equality; to stipulate the labor regime and social policies to protect female employees as well as disabled, elderly and minor employees.

Article 5. Rights and obligations of employees

1. An employee has the following rights:

a) To work, freely choose a job, workplace or occupation, to participate in vocational training and to improve occupational skills; and suffer no discrimination, forced labor and sexual harassment at the workplace;

b) To receive a wage commensurate with his/her occupational knowledge and skills on the basis of an agreement reached with the employer; to receive labor protection and work in assured conditions of labor safety and labor hygiene; to take leaves according to the prescribed regime and annual paid-leaves, and enjoy collective welfare benefits;

c) To form, join and participate in activities of trade unions, occupational associations and other organizations in accordance with law; to request and participate in dialogues with the employer, implement democracy regulations, make collective bargains with the employer and be consulted at the workplace to protect his/her rights and legitimate interests; and to participate in management activities according to the employer's regulations;

d) To refuse the employment which causes clear threats to his/her life and health during work performance;

dd) To unilaterally terminate the labor contract in accordance with law;

e) To go on strike.

g) Other rights according to law.

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2. An employee has the following obligations:

a) To perform the labor contract, collective labor agreement and other cooperative agreements;

b) To obey labor discipline and internal working regulations; to follow lawful administration of the employer;

c) To implement the laws on labor, occupation, vocational training, social insurance, health insurance, unemployment insurance, labor safety and labor hygiene.

Article 6. Rights and obligations of employers

1. An employer has the following rights:

a) To recruit, arrange, manage, control and supervise employees; to perform commendation work and handle violations of labor discipline;

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

c) To request the employees' representative organizations to have dialogue with the purpose of negotiating and signing a collective labor agreement; to participate in the resolution of labor disputes and strikes; to have dialogue and exchange opinions with employees' representative organizations on issues related to industrial relations and improvement of the material and spiritual lives of employees;

d) To temporarily close the workplace.

dd) Other rights in accordance with law.

2. An employer has the following obligations:

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

b) To establish a mechanism for and hold dialogue with the employees and their representative organizations; to implement the regulations on grassroots-level democracy at the workplace;

c) To provide training, retraining and improvement of occupational knowledge and skills for employees serving the job maintenance and change for employees;

d) To implement other provisions of law on labor, occupation, vocational training, social insurance, health insurance, unemployment insurance, labor safety and labor hygiene; to elaborate and implement solutions for preventing and controlling sexual harassment at the workplace;

dd) To participate in developing national occupational skill standards, to assess and recognize occupational skills for employees.

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Article 7. Establishment of industrial relations

1. Industrial relations shall be established through dialogue, negotiation and agreement based on the principles of voluntariness, good faith, equality, cooperation and mutual respect for each other's rights and legitimate interests.

2. The employers, the employers' representative organizations and the employees, the employees' representative organizations shall establish progressive, harmonious and stable industrial relations with supports of competent State agencies.

3. Trade unions shall, in collaboration with competent State agencies, facilitate the establishment of progressive, harmonious and stable industrial relations; supervise the implementation of the labor law; and protect the rights and legitimate interests of employees and employers.

4. The Vietnam Chamber of Commerce and Industry, the Vietnam Cooperatives' Union and other lawfully established employers' representative organizations shall act as representatives to protect employers' rights and legitimate interests and participate in establishing progressive, harmonious and stable industrial relations.

Article 8. Prohibited acts in the field of labor

1. Labor discrimination.

2. Maltreating employees and forcing labor.

3. Committing sexual harassment at the workplace.

4. Making use of apprenticeship or on-the-job training for the purpose of self-seeking and exploiting labor or enticing or compelling apprentices or on-the-job trainees to carry out illegal activities.

5. Using employees who have no vocational training or national occupational skills certificates for the occupations or jobs which require employees who have received vocational training or national occupational skills certificates.

6. Enticing, promising or making false advertising or other tricks to deceive employees or to employ employees for trafficking in persons and forced labor, or making use of employment services or the sending of labor to work abroad under contracts to commit illegal acts.

7. Illegally using minor employees.

Chapter II
EMPLOYMENT, RECRUITMENT AND LABOR MANAGEMENT

Article 9. Employment and creation of employment

1. Employment is any income-generating laboring activity that is not prohibited by law.

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

Article 10. The right of employees to work

1. To freely choose a job, work for any employer in any location that is not prohibited by law.

2. To directly contact an employer or through an employment service institution in order to find a job that meets his/her expectation, capacity, occupational qualification, and health.

Article 11. Recruitment of employees

1. An employer has the right to recruit labor directly or through employment service institutions and labor leasing enterprises to recruit employees in accordance with the labor demand.

2. Employees shall not pay fees for their recruitment.

Article 12. Employers' responsibilities for labor management

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

2. To report on the employment of employees within 30 days from the date of operation commencement, to periodically report about labor changes in the course of operation to the specialized labor agencies of the provincial-level People's Committees and notify the social insurance agencies.

3. The Government shall detail this Article.

Chapter III

LABOR CONTRACT

Section 1

ENTRY INTO LABOR CONTRACTS

Article 13. Labor contract

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

If the two parties' agreement is called by another name with the contents related to a paid job, wages and the management, administration and supervision of one party, it shall be considered as a labor contract.

2. Before accepting an employee, the employer and the employee shall enter into a labor contract.

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Article 14. Forms of labor contract

1. A labor contract must be established in writing and made in 02 copies, one to be kept by the employee and the other by the employer, unless otherwise stated in Clause 2 of this Article.

A labor contract established via electronic means in the form of data messages in accordance with the law on electronic transactions is valid as a written labor contract.

2. The parties may enter into a verbal labor contract for jobs with a duration of under 01 month, unless otherwise stated in Clause 2 of Article 18, Point a, Clause 1 of Article 145 and Clause 1 of Article 162 herein.

Article 15. Principles of entry into a labor contract

1. Voluntariness, fairness, good faith, cooperation and honesty.

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

Article 16. Obligation to provide information before entering into a labor contract

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

2. The employee shall provide the employer with reliable information about his/her full name, age, gender, residence address, education level, occupational skills and qualification, certificate of health conditions and other issues directly related to the entry into a labor contract as requested by the employer.

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

1. Keeping the employees' original identity cards, diplomas and certificates.

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

3. Forcing employees to perform labor contracts in order to pay debts to employers.

Article 18. Competence to enter into labor contracts

1. Employees shall directly enter into labor contracts, unless otherwise specified in Clause 2 of this Article.

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2. For seasonal jobs or certain jobs with a definite term of less than 12 months, a group of employees who are full 18 years old or more shall authorize an employee in the group to enter into a labor contract; in this case, the labor contract must be established in writing and have the same effect as with each employee.

The labor contract signed by the authorized employee must be enclosed with a list clearly stating the full name, date of birth, gender, residence address and signature of each employee.

3. The person entering into a labor contract on the employer's side is one of the following persons:

a) The representative at law of the enterprise or the authorized person as prescribed by law;

b) The head of an agency or organization with legal status according as prescribed by law or the authorized person as prescribed by law;

c) The representative of a household, a cooperative group or other organizations without legal status or authorized persons as prescribed by law;

d) The individual directly using the employees.

4. The person entering into a labor contract on the employee's side is one of the following persons:

a) The employee who is full 18 years old or more;

b) The employee who is from 15 to under 18 years old with written consent of his/her representative at law;

c) The person who is under 15 and his/her legal representative;

d) The employee legally authorized to enter into a labor contract by employees in a group.

5. Persons who are authorized to enter into labor contracts shall not authorize others to enter into the labor contracts.

Article 19. Entry into more than one labor contract

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

2. In case an employee enters into labor contracts with more than one employer, his/her participation in social insurance, health insurance and unemployment insurance shall comply with the laws on social insurance, health insurance, unemployment insurance, and labor safety and hygiene.

Article 20. Types of labor contract

1. A labor contract must be entered into in one of the following types:

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a) An indefinite-term labor contract is a contract in which the two parties do not determine the duration and the time of termination of the contract;

b) A definite-term labor contract is a contract in which the two parties determine the duration and the time of termination of the contract within less than 36 months from the effective date of the contract.

2. When a labor contract prescribed at Point b, Clause 1 of this Article expires and the employee continues working, it shall comply as follows:

a) Within 30 days from the date of expiration of the contract, the two parties shall sign a new labor contract; pending the signing of a new labor contract, the rights, obligations and interests of both parties shall be performed in accordance with the contract already entered into;

b) If no new labor contract is entered into within 30 days from the date of expiration of the contract, the contract entered into under Point b, Clause 1 of this Article shall become an indefinite-term labor contract;

c) In case the two parties enter into a new labor contract with a definite term, only 01 additional definite-term labor contract may be signed; after that, if the employee continues working, an indefinite-term contract must be entered into, except for the labor contracts entered into by persons hired as directors of State-invested enterprises and other cases specified at Clause 1 of Article 149, Clause 2 of Article 151 and Clause 4 of Article 177 herein.

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Article 21. Contents of a labor contract

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

a) Name and address of the employer or full name, position of the person entering into a labor contract on the employer's side;

b) Full name, date of birth, gender, residence address, number of identity card or passport of the person entering into a labor contract on the employee's side;

c) Job and workplace;

d) Term of the labor contract;

dd) Wage in accordance with the job or position, form of wage payment, deadline for wage payment, wage-based allowances and other additional payments;

e) Regimes for promotion and wage raise;

g) Working time, rest time;

h) Labor protection equipment for the employee;

i) Social insurance, health insurance and unemployment insurance;

k) Training, retraining and occupational skill improvement.

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2. When an employee performs a job which is directly related to business or technology secrets as prescribed by law, the employer shall reach a written agreement with the employee on the content and duration of protection of business or technology secrets, and benefits and compensation in case of violation.

3. For employees working in agriculture, forestry, fishery or salt production, based on the type of job, both parties may skip some principal contents of the labor contract and reach additional agreements on settlement measures when the contract performance is affected by natural disaster, fire or weather.

4. The Government shall stipulate the contents of a labor contract with an employee who is hired to work as director of a State-invested enterprise.

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

Article 22. Annexes to a labor contract

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

2. An annex to a labor contract details, amends or supplements some provisions of the contract without changing the duration of the contract.

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

In case an annex amends or supplements some provisions of the labor contract, it must specify the amended or supplemented provisions and the time they take effect.

Article 23. Effectiveness of a labor contract

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

Article 24. Probation

1. An employer and an employee may reach agreement on probation stated on a labor contract or enter into a probation contract.

2. A probation contract must have the probation period and contents specified at Points a, b, c, dd, g and h, Clause 1 of Article 21 herein.

3. Employees working under labor contracts with the duration of under 01 month are not subject to probation.

Article 25. Probationary period

The probation period must be agreed upon by the two parties based on the nature and complexity of the job, but probation is applied only once for each job and

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assure the following conditions:

1. It does not exceed 180 days for the enterprise manager as prescribed by the Law on Enterprises, the Law on Management and use of state capital invested in business and production at the enterprise;

2. It does not exceed 60 days for posts which require professional and technical qualifications of collegial or higher level;

3. It does not exceed 30 days for posts which require professional and technical qualifications of intermediate level, or for technical workers and skilled employees;

4. It does not exceed 06 working days for other types of jobs.

Article 26. Wage during the probationary period

The wage for an employee during the probation period shall be agreed upon by the two parties but must be at least equal to 85% of the wage for the job.

Article 27. Expiry of the probation period

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

If the probational job is satisfactory, the employer shall continue to perform the labor contract entered into with agreement upon probation or shall sign a labor contract with the employee who entered into a probation contract.

If the probational job is unsatisfactory, the entered labor contract or the probation contract shall be terminated.

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

Section 2
PERFORMANCE OF LABOR CONTRACTS

Article 28. Performance of jobs under a labor contract

The jobs under a labor contract must be performed by the employee who has entered into the contract. The workplace may be as indicated in the labor contract or otherwise agreed upon between the two parties.

Article 29. Assignment of employees to perform jobs which are not stated in labor contracts

1. When meeting with sudden difficulties such as natural disaster, fire or epidemic, or taking measures to prevent and deal with a working accident, an occupational disease, an electricity or water supply incident, or when due to business and production needs, the employer may temporarily assign an employee to perform a job which is not stated in the labor contract provided that the assignment does not

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exceed 60 accumulated workdays within 01 year; the assignment exceeding 60 accumulated workdays within 01 year must be agreed by the employee.

The employer shall specify in the labor regulations the cases where, due to production and business needs, the employer may temporarily assign the employee to perform a job which is not stated in the labor contract.

2. When an employer temporarily assigns an employee to perform the job which is not stated the labor contract as prescribed in Clause 1 of this Article, the employer shall inform the employee at least 03 working days in advance, clearly stating the duration of temporary job, and assign the job which must be suitable to the health and gender of the employee.

3. The employee who performs a job which is not stated the labor contract is entitled to a wage for the new job. If the wage for the new job is lower than the previous wage, he/she is entitled to the previous wage for 30 working days. The wage for the new job must be at least 85% of the previous wage but not lower than the minimum wage.

4. If an employee does not agree to temporarily perform a job which is not stated the labor contract for more than 60 accumulated workdays within 01 year and has to stop working, the employer must pay the wage in case of work suspension as prescribed in Article 99 herein.

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Article 30. Suspension of a labor contract

1. Cases of suspension of a labor contract:

a) The employee is called up for military service or participates in the Militia and Self-Defense Force;

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

c) The employee is subject to a decision on application of the measure of consignment to a reformatory, compulsory drug detoxification center or compulsory education institution;

d) The female employee is pregnant in accordance with Article 138 herein;

dd) The employee is appointed to be the manager of the enterprise of a one-member limited liability company in which the State holds 100% of the charter capital;

e) The employee is authorized to exercise the rights and responsibilities of the ownership representative for the State capital portion at the enterprise;

g) The employee is authorized to exercise the rights and responsibilities of the enterprise for the enterprise's capital invested in another enterprise;

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h) Other cases as agreed by both parties.

2. During the suspension of a labor contract, the employee is not entitled to the salary and the rights and interests already stated in the entered labor contract, unless otherwise agreed by the two parties or prescribed by law.

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

Within 15 days after the expiry of the period of suspension of a labor contract, the employee shall show up at the workplace and the employer shall reinstate the employee as prescribed in the entered labor contract if the contract does not expires, unless otherwise agreed upon by the two parties or prescribed by law.

Article 32. Part-time employees

1. Part-time employee is a person who works for less than the normal daily or weekly or monthly working hours as provided by the labor law, the collective labor agreement or the employer's regulations.

2. An employee shall negotiate with the employer on working on a part-time basis when entering into a labor contract.

3. Part-time employees are entitled to a wage and have the same rights and obligations as full-time employees and are entitled to equal opportunities and to non-discrimination and assured labor safety and hygiene.

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Article 33. Modification and supplementation of a labor contract

1. During the performance of a labor contract, any party that requests to modify or supplement the contents of the labor contract shall notify at least 03 working days in advance to the other party of the contents to be modified or supplemented.

2. In case the two parties can reach an agreement, the modification or supplementation of the labor contract must be carried out by signing an annex to the labor contract or signing a new labor contract.

3. In case the two parties cannot reach an agreement on the modification or supplementation of the labor contract, they shall continue performing the labor contract already entered into.

Section 3

TERMINATION OF LABOR CONTRACTS

Article 34. Cases of termination of a labor contract

1. The labor contract expires, unless otherwise specified in Clause 4, Article 177 herein.

2. The work stated in the labor contract has been completed.

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3. Both parties agree to terminate the labor contract.

4. The employee is sentenced to imprisonment but is not entitled to a suspended sentence or does not fall into the case of being released as prescribed in Clause 5, Article 328 of the Criminal Procedure Code, or is sentenced to death or is prohibited from performing the job stated in the labor contract under a legally effective judgment or ruling of a court.

5. The foreign employee working in Vietnam is expelled under the legally effective judgments or decisions of competent State agencies.

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

7. The individual employer dies or is declared by a court to have lost civil act capacity, be missing or dead. The institutional employer terminates operation or declared by the business registration agency of the provincial-level People's Committee to have no representative at law or authorized person performing the rights and obligations of the representative at law.

8. The employee is dismissed.

9. The employee unilaterally terminates the labor contract under Article 35 herein.

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10. The employer unilaterally terminates the labor contract under Article 36 herein.

11. The employer lays off the employee in accordance with Articles 42 and 43 herein.

12. The labor permit of a foreigner employee working in Vietnam under Article 156 herein.

13. The probation job is unsatisfactory to the probation agreement stated in the labor contract or one party cancels the probation agreement.

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

1. An employee may unilaterally terminate the labor contract and must notify the employer in advance:

a) At least 45 days if working under an indefinite-term labor contract;

b) At least 30 days if working under a definite-term labor contract with a term of 12 months to 36 months;

c) At least 03 working days if working under a definite-term labor contracts with a term of less than 12 months;

d) For work-specific labor, the notification period shall comply with the

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Government's regulations.

2. An employee may unilaterally terminate the labor contract without prior notice as follows:

a) He/she is not assigned to the job or workplace or is not given the working conditions as agreed in the labor contract, unless otherwise specified in Article 29 herein;

b) He/she is not paid in full or on time as agreed in the labor contract, unless otherwise specified in Clause 4, Article 97 herein;

c) He/she is maltreated, beaten, verbally and physically humiliated with effects on his/her health, dignity and honor, or is subject to forced labor;

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

dd) A female employee who is pregnant and must take leave as prescribed in Clause 1 of Article 138 herein;

e) He/she reaches retirement age as prescribed in Article 169 herein, unless otherwise agreed by the parties;

g) An employer provides unreliable information as prescribed in Clause 1, Article 16 herein, which affects the performance of the labor contract.

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

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

a) The employee often fails to perform his/her job stated in the labor contract determined by the criteria to assess the job performance in the employer's regulations. The regulations on assessment of job performance shall be issued by the employer and must be revised by the grassroots-level employees' representative organization if such organization exist;

b) The employee is sick or has an accident and remains unable to work after having received treatment for 12 consecutive months, in case he/she works under an indefinite-term labor contract, or for 06 consecutive months, in case he/she works under a definite-term labor contract with a term of from 12 to 36 months, or more than half the term of the labor contract, in case he/she works under a labor contract for a definite-term job or a specific job of under 12 months.

When the employee's health has recovered, he/she must be considered for continued entry into the labor contract with the employer;

c) If, as a result of natural disaster, fire, epidemic or enemy sabotage, or relocating and scaling down production and business at the request of competent

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State agencies, the employer, though having applied every remedial measure, has to cut jobs;

d) The employee is absent from the workplace after the time limit specified in Article 31 herein.

dd) The employee reaches retirement age as prescribed in Article 169 herein, unless otherwise agreed by the parties;

e) The employee quits his/her job without plausible reasons for more than 05 consecutive working days;

g) The employee provides unreliable information under Clause 2, Article 16 herein when entering into labor contracts, thus affecting his/her recruitment.

2. When unilaterally terminating a labor contract as prescribed at Points a, b, c, dd and g or Clause 1 of this Article, the employer shall notify the employee in advance:

a) At least 45 days, for indefinite-term labor contracts;

b) At least 30 days, for definite-term labor contracts with a term of from 12 to 36 months;

c) At least 03 working days if working under a definite-term labor contracts with a term of less than 12 months and cases stipulated at Point b, Clause 1 of this Article;

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d) For work-specific labor, the notification period shall comply with the Government's regulations.

3. When unilaterally terminating a labor contract prescribed at Points d and e, Clause 1 of this Article, the employer shall not notify the employee in advance.

Article 37. Cases in which an employer is prohibited from unilaterally terminating a labor contract

1. The employee is sick or has a work accident or occupational disease and is being treated or nursed under the decision of a competent health establishment, unless otherwise specified at Point b, Clause 1 of Article 36 herein.

2. The employee is on annual leave, personal leave or any other types of leave permitted by the employer.

3. The female employee is pregnant; the employee is on maternity leave or the employee is taking care of his/her small child who is under 12 months old.

Article 38. Cancellation of unilateral termination of a labor contract

Each party may cancel its unilateral termination of the labor contract at any time prior to the expiry of the time limit for prior notice provided that a written notification is sent to and such cancellation is agreed by the other party.

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Article 39. Illegal unilateral termination of a labor contract

The unilateral termination of a labor contract is illegal in the cases which do not comply with Articles 35, 36 and 37 herein.

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

1. Not to be entitled to a severance allowance.

2. To compensate the employer half of a month's wage in accordance with the labor contract and an amount equivalent to the wage in accordance with the labor contract for working days without prior notice.

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

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

1. To reinstate the employee in accordance with the entered labor contract; to pay the wage, social insurance, health insurance and unemployment insurance premiums for the days during which the employee was not allowed to work, and an additional amount equal to at least 02 months' wage in accordance with the labor contract.

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After being reinstated, the employee shall reimburse the received severance allowances and job-loss allowances if any to the employer.

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

If violating the provision on the time of prior notice as prescribed in Clause 2 of Article 36 herein, the employer shall compensate the employee an amount equivalent to his/her wage in accordance with the labor contract for the working days without prior notice.

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

3. In case the employer does not want to reinstate the employee and the employee agrees, in addition to the compensation prescribed in Clause 1 of this Article and the severance allowance prescribed in Article 46 herein, the two parties shall negotiate on an additional compensation which must be at least equal to 02 months' wage in accordance with the labor contract in order to terminate the labor contract.

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Article 42. Obligations of an employer in case of changing structure, technology or economic reasons

1. The following cases are considered structural and technological change:

a) Changing the organizational structure, reorganizing labor;

b) Changing the process, technology, machinery and equipment for production and business associated with the production and business lines of the employer;

c) Changing the product or product structure.

2. The following cases are considered as economic reasons:

a) Economic crisis or recession;

b) Implementing policies and laws of the State when restructuring the economy or implementing international commitments.

3. In case there is a change in the structure or technology that affects the employment of many employees, the employer shall elaborate and implement a labor utilization plan in accordance with Article 44 herein; in case new jobs are created, priority must be given to re-training these employees for continued employment.

4. In case more than one employee face the risk of unemployment or forced dismissal because of economic reasons, the employer shall elaborate and implement a labor utilization plan in accordance with Article 44 here in.

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5. In case the employer cannot employ and have to dismiss employees, the employer shall pay job-loss allowances to the employees in accordance with Article 47 herein.

6. The dismissal of employees in accordance with this Article shall be implemented only after discussion with the grassroots-level employees' representative organization of which the employees are members, and notification 30 days in advance to the provincial-level People's Committee and the employees.

Article 43. Obligations of an employer in case of split, separation, consolidation, merger; sale, lease, conversion of business type; transferring asset ownership or use rights of enterprises or cooperatives

1. In case of splitting, separating, consolidating, merging; selling, leasing, converting business type; transferring asset ownership or use rights of an enterprise an enterprise or a cooperative that effect the employment of many employees, the employer shall elaborate a labor utilization plan in accordance with Article 44 herein.

2. The current employer and the succeeding employer are responsible for implementing the approved labor utilization plan.

3. Employees who are dismissed shall receive job-loss allowances in accordance with Article 47 herein.

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Article 44. Labor utilization plan

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

a) The lists and numbers of employees to be further employed, employees to be re-trained for continued employment and employees to be assigned part-time jobs;

b) The list and number of employees to be retired;

c) The lists and numbers of employees to terminate their labor contracts;

d) Rights and obligations of the employer, the employee and relevant parties in the implementation of the labor utilization plan;

dd) Measures and financial sources for implementing the plan.

2. When elaborating a labor utilization plan, the employer must discuss with the grassroots-level employees' representative organization for the place where such organization exists. The labor utilization plan must be publicly notified to the employees within 15 days from the date of adoption.

Article 45. Notice of termination of a labor contract

1. The employer must notify the employee in writing of the termination of the labor contract when it terminates as prescribed herein, unless otherwise specified in Clauses 4, 5, 6, 7 and 8, Article 34 herein.

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2. In case the institutional employer terminates its operation, the time of termination of the labor contract is the time of notification of operation termination.

In case the institutional employer declared by the business registration agency of the provincial-level People's Committee to have no representative at law or authorized person performing the rights and obligations of the representative at law as prescribed in Clause 7 of Article 34 herein, the time of termination of the labor contract is the date of declaration.

Article 46. Severance allowance

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

2. The working period used for the calculation of severance allowance is the total period during which the employee actually works for the employer minus the period during which the employee benefits from unemployment insurance in accordance with the law on social insurance, and the working period for which the employer has paid a severance allowance or job-loss allowance to the employee.

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3. The wage used for the calculation of severance allowance is the average wage in accordance with the labor contract for 6 consecutive months preceding the time the employee loses his/her job.

4. The Government shall detail this Article.

Article 47. Job-loss allowance

1. An employer shall pay a job-loss allowance to an employee who has worked regularly for the employer for 12 months or longer and loses his/her job under Clause 11 of Article 34 herein. The job-loss allowance is equal to 1 month's wage for each working year but must not be lower than 2 months' wage.

2. The working period used for the calculation of job-loss allowance is the total time during which the employee actually works for the employer minus the time during which the employee benefits from unemployment insurance in accordance with the law on unemployment insurance and the working period for which the employer has paid a severance allowance or job-loss allowance to the employee.

3. The wage used for the calculation of job-loss allowance is the average wage in accordance with the labor contract for 6 consecutive months preceding the time the employee loses his/her job.

4. The Government shall detail this Article.

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Article 48. Responsibilities in case of terminating labor contracts

1. Within 14 working days after termination of a labor contract, the two parties shall make all payments related to the interests of each party; this time limit may be extended but must not exceed 30 days in the following cases:

a) The institutional employer terminates its operation;

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

c) In case of splitting, separating, consolidating, merging; selling, leasing, converting business type; transferring asset ownership or use rights of an enterprise an enterprise or a cooperative;

d) In case of natural disaster, fire, enemy sabotage or epidemic.

2. The payment of wages, social insurance, health insurance, unemployment insurance, severance allowances and other benefits of its employees according to the collective labor agreement and signed labor contracts shall be prioritized in case an enterprise or a cooperative has its operation terminated, is dissolved or goes bankrupt.

3. The employer shall:

a) Complete the confirmation procedure for payment time of social insurance and unemployment insurance and return it with other papers of the employee which

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are kept by the employer;

b) Provide copies of documents related to the working process of the employee if the employee so requests. The cost of copying and sending documents shall be paid by the employer.

Section 4
INVALID LABOR CONTRACTS

Article 49. Invalid labor contracts

1. A labor contract is wholly invalid in one of the following cases:

a) The whole contents of the labor contract are illegal;

b) The individual enters into the labor contract ultra vires or violate the principles of entry into labor contracts specified in Clause 1 of Article 15 herein;

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

2. A labor contract is partially invalid when one of its contents is illegal but does not affect the remaining contents of the labor contract.

Article 50. Competence to declare labor contract to be invalid

The people's courts are competent to declare labor contracts to be invalid.

Article 51. Handling of invalid labor contracts

1. A labor contract which is declared to be partially invalid will be handled as follows:

a) The rights, obligations and benefits of the parties must be settled according to the applicable collective labor agreements; in case the collective labor agreements do not exist, the provisions of laws prevail;

b) The two parties must modify and supplement the part of the labor contract which is declared invalid to conform with the collective labor agreement or the labor law.

2. In case a labor contract is declared to be wholly invalid, the rights, obligations and benefits of the employee will be settled in accordance with law; in case it is signed ultra vires, the parties shall re-sign it.

3. The Government shall detail this Article.

Section 5
LABOR LEASE

Article 52. Labor lease

1. Labor lease means that an employee enters into a labor contract with an employer who is a labor leasing enterprise, after which the employee is transferred to work and managed by the other employer while still maintaining industrial

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relations with the leasing enterprise.

2. Labor lease is a conditional business line performed by only enterprises licensed for labor lease and applicable only to certain jobs.

Article 53. Principles of labor lease

1. The maximum duration of labor lease for employees is 12 months.

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

a) Temporarily meeting a sudden increase in the labor demand in a given period;

b) Replacing employees during maternity leave, employees who have labor accidents, occupational disease or employees who are fulfilling citizen obligations;

c) There is a need to use employees with rich professional knowledge and high technical qualifications.

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

a) Replacing employees who are in the process of exercising the right to go on strikes or settling labor disputes;

b) There is no specific agreement on the labor leasing enterprise's responsibility for compensation to the leased employees in case of labor accidents and occupational diseases;

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c) Replacing employees who are fired due to changes in structure, technology, or economic reasons, or split, separation, consolidation or merger.

4. The hiring party shall not assign the leased employees to another employer; not use the leased employees assigned by the unlicensed labor leasing enterprises.

Article 54. Labor leasing enterprises

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

2. The Government shall provide the payment of deposits, the conditions and procedures for granting, regranting and extending licenses of labor lease, and the list of jobs allowed for labor lease.

Article 55. Labor leasing contract

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

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

a) Location of the workplace, working position for the leased employee, detailed description of the job and specific requirements for the leased employee;

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b) Duration of the lease; the starting time of the lease;

c) Working time, rest time, occupational safety and hygiene conditions at the workplace;

d) Responsibility for compensation for labor accidents and occupational diseases;

dd) Obligations of each party toward the leased employee.

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

Article 56. Rights and obligations of a labor leasing enterprise

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

1. To ensure supply of a skilled employee who meets the requirements of the hiring party and the labor contract signed with the employee;

2. To inform the leased employee of the contents of the labor leasing contract;

3. To provide the hiring party with a brief personal record of the leased employee and his/her demands;

4. To ensure that the wage of the leased employee is not lower than that of a normal employee of the hiring party who has the same qualification and performs the same job or job of equal value;

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

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

Article 57. Rights and obligations of the hiring party

1. To inform and guide the leased employee to understand its internal working regulations and other regulations.

2. Not to discriminate between the leased employee and its own employees regarding working conditions.

3. To negotiate with the leased employee on working at night or overtime as prescribed herein.

4. To negotiate with the leased employee and the labor leasing enterprise in order to officially employ this employee in case the labor contract between the leased employee and the labor leasing enterprise have not yet expired.

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5. To return to the labor leasing enterprise the leased employee who fails to meet the requirements as agreed or who violates labor discipline.

6. To provide evidence of the leased employee's violation of labor discipline for the labor leasing enterprise to consider and discipline such employee.

Article 58. Rights and obligations of a leased employee

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

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

2. To comply with the labor discipline, internal labor regulations; the lawful management, control and supervision of the hiring party;

3. To be paid with a wage not lower than that of employees of the hiring party who have the same qualification and perform the same job or job of equal value;

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

5. To negotiate to terminate the labor contract with the labor leasing enterprise to sign a labor contract with the hiring party.

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Chapter IV
VOCATIONAL EDUCATION AND TRAINING, AND OCCUPATIONAL SKILL IMPROVEMENT

Article 59. Vocational training and occupational skill improvement

1. An employee is entitled to freely choose vocational training, participate in assessment and recognition of national occupational skills, or develop occupational competency, which is appropriate to his/her employment demand and capability.

2. The State shall encourage any eligible employer to carry out vocational training or occupational skill improvement for its current employees and other employees in the society through the activities as follows:

a) Establishing a vocational training institution or opening vocational training classes at the workplace in order to train and retrain for improving occupational qualifications and skills for the employees; coordinating with vocational training institutions to open elementary, intermediate or collegial vocational training programs and other training programs in accordance with law;

b) Organizing occupational skill testing for employees; participating in an occupational skill council; forecasting the demand and elaborating occupational skill standards; organizing occupational skill assessment and recognition; developing occupational competency for employees.

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Article 60. Responsibilities of an employer for training, retraining and improving vocational qualifications and skills

1. An employer shall prepare annual training plans and budgets for training, retraining and improving vocational qualifications and skills for his/her current employees and training for employees before switching them to perform other jobs for the employer.

2. An employer shall annually report on the results of training, retraining and improving vocational qualifications and skills to the specialized agency in charge of labor under the provincial-level People's Committee.

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

1. Apprenticeship to work for an employer is an employer's recruitment of an employee to conduct vocational training for him/her at the workplace. Duration of apprenticeship on the training program of each level shall comply with the Law on Vocational Education and Training.

2. On-the-job training to work for an employer is an employer's recruitment of an employee to give job-practice and job-training in accordance with his/her recruited position at the workplace. Duration of on-the-job training shall not exceed 03 months.

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3. An employer that recruits apprentices or on-the-job trainees to work for him/her does not have to register such vocational training activity; may not collect tuition fees; and shall enter into a vocational training contract in accordance with the Law on Vocational Education and Training.

4. An apprentice or on-the-job trainee must be full 14 years old or more and have appropriate health conditions required by the relevant apprenticeship and on-the-job training. The apprentices or on-the-job trainees of some occupations specified on the list of heavy, hazardous, dangerous occupations or extremely heavy, hazardous and dangerous occupations issued by the Minister of Labor, War Invalids and Social Affairs must be full 18 years old or more, except for those working in arts, physical training and sports.

5. During the period of apprenticeship or on-the-job training, if the apprentice or the on-the-job trainee directly makes, or participates in the making of, products, he/she must be paid with a wage by the employer at a level agreed by the two parties.

6. Upon the expiry of the apprenticeship or on-the-job training period, the two parties shall enter into a labor contract as conditions prescribed herein are met.

Article 62. Vocational training contract between an employer and an employee, and job training expenses

1. The two parties shall enter into a vocational training contract in case the

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employee will be trained for vocational qualification and skill improvement or re-trained at home or abroad with the employer's fund, including the fund donated by the employer's partner.

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

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

a) The trained occupation;

b) Training venue, training period and wages paid in the training period;

c) The period during which the employee commits to working for the employer after training;

d) Training expenses and responsibility to reimburse training expenses;

dd) Responsibilities of the employer;

e) Responsibilities of the employee.

3. Training expenses are those accompanied by valid documents on payment for trainers, training materials, training venues, machinery and equipment, practicing materials, support for trainees, wages, social insurance, health insurance and unemployment premiums paid for trainees during the training. In case an employee is sent to a foreign country for training, training expenses also include travel and living expenses during the period of training.

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Chapter V
DIALOGUE AT WORKPLACE, COLLECTIVE BARGAINING, COLLECTIVE LABOR AGREEMENTS

Section 1
DIALOGUE AT WORKPLACE

Article 63. Conducting of dialogue at workplace

1. Dialogue at the workplace is the sharing of information, reference, discussion and exchange of opinions between employers and employees or their representative organizations on issues related to the rights, interests and concerns of the parties at the workplace to enhance understanding, cooperation, and make efforts towards solutions for mutual benefits.

2. An employer shall conduct dialogue at the workplace:

a) At least once a year;

b) At the request of one or both parties;

c) In the cases as prescribed in Point a of Clause 1, Article 36, Articles 42, 44, 93, 104, 118 and Clause 1 of Article 128 herein.

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3. Employers and employees or their representative organizations are encouraged to conduct dialogues in the cases other than prescribed in Clause 2 of this Article.

4. The Government shall provide for the conducting of dialogue and implementation of grassroots-level democracy at the workplace.

Article 64. Issues of dialogue at workplace

1. The issues of dialogue at workplace shall comply with Point c, Clause 2, Article 63 herein.

2. In addition to the issues specified in Clause 1 of this Article, the parties may discuss one or several of the following issues in a dialogue:

a) Production and business situation of the employer;

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

c) Working conditions;

d) Requests of individual employees and the employees' representative organizations to the employer;

dd) Requests of the employer to individual employees and the employees' representative organizations;

e) Other issues which concern one or both parties.

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Section 2
COLLECTIVE BARGAINING

Article 65. Collective bargaining

Collective bargaining is the discussion and negotiation between one party which is one or several employees' representative organizations and the other party which is one or several employers or employers' representative organizations in order to establish working conditions, regulate the relations between the parties and build harmonious, stable and progressive industrial relations.

Article 66. Principles of collective bargaining

Collective bargaining must be carried out on the principles of voluntariness, cooperativeness, good faith, equality, publicity and transparency.

Article 67. Issues for collective bargaining

The parties shall discuss one or several of the following issues in collective bargaining:

1. Wages, allowances, pay rise, bonuses, meals and other policies;

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

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3. Ensuring employment for employees;

4. Ensuring occupational safety and hygiene; implementation of the internal working regulations;

5. Conditions and means of operation of the employees' representative organization; relations between the employer and the employees' representative organization;

6. Mechanisms and methods for preventing and settling labor disputes;

7. Ensuring gender equality, maternity protection, annual leaves; preventing violence and sexual harassment at the workplace;

8. Other issues that concern one or both parties.

Article 68. The right to request collective bargaining of the grassroots-level employees' representative organization at an enterprise

1. The grassroots-level employees' representative organizations have the right to request collective bargaining when reaching the minimum number of members in the total number of employees of an enterprise as prescribed by the Government.

2. In case an enterprise has many grassroots-level employees' representative organizations meeting the provisions of Clause 1 of this Article, the organization has the right to request collective bargaining is the one with the largest number of members in the enterprise. Other grassroots-level employees' representative organizations may participate in collective bargaining upon agreed by the employees' representative organization having the right to request collective bargaining.

3. In case an enterprise has many grassroots-level employees' representative organization, but no organization meets the provisions of Clause 1 of this Article, the organizations shall voluntarily join together to request collective bargaining, but the total number of members of these organizations must reach the minimum rate as prescribed in Clause 1 of this Article.

4. The Government shall provide for the settlement of disputes between the parties regarding the right to request collective bargaining.

Article 69. Representatives for collective bargaining at an enterprise

1. The number of persons of each party to attend a bargaining meeting must be agreed by the two parties.

2. The participants in the collective bargaining of each party are decided by that party.

In case the employee's party includes many representative organizations participating in collective bargaining as prescribed in Clause 2, Article 68 herein, the

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representative organization has the right to request collective bargaining shall decide on the number of representatives of each representative organization to participate in the collective bargaining.

In case the employee's party includes many representative organizations participating in collective bargaining as prescribed in Clause 3, Article 68 herein, the number of representatives of each organization shall be agreed upon by such organizations. In case no agreement is reached, each organization shall determine the number of participating representatives according to the number of its members in proportion to the total number of members of the organizations.

3. Each party is entitled to invite its superior representative organization to send participants acting as the representatives for collective bargaining and the other party must not refuse. The number of collective bargaining representatives of each party shall not exceed the amount specified in Clause 1 of this Article, unless otherwise agreed by the other party.

Article 70. Process of collective bargaining

1. At the request for collective bargaining of an grassroots-level employees' representative organization which is entitled to request collective bargaining according to Article 68 herein or at the request of the employer, the party receiving the request must not refuse the collective bargaining.

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Within 07 working days after receiving the request and the issues for collective bargaining, the parties shall agree on the venue and time for starting the collective bargaining.

The employer is responsible for arranging the time, venue and necessary facilities for the collective bargaining meeting.

The time for starting the collective bargaining shall not exceed 30 days from the date of receipt of the request for collective bargaining.

2. The duration of collective bargaining shall not exceed 90 days from the commencement of the collective bargaining meeting, unless otherwise agreed by the parties.

The period during which the employees' representatives participate in the collective bargaining meeting shall be considered as the paid working period. In case an employee is a member of the employees' representative organization attending the collective bargaining meeting, the period during which the employee attends the meeting shall not be included in the period as specified in Clause 2 of Article 176 herein.

3. In the course of collective bargaining, at the request of the employee's representative party, within 10 days after receiving the request, the employer shall provide information on business, production and other issues directly related to the

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collective bargaining within the enterprise in order to create favorable conditions for collective bargaining, except for information on business secrets and technical secrets of the employer.

4. The grassroots-level employees' representative organization has the right to organize discussions and collect opinions of employees on the issues, methods of implementation and results of the collective bargaining.

The grassroots-level employees' representative organization shall decide on the time, venue and method of conducting discussions and collecting opinions of the employees but must not affect the normal production and business activities of the enterprise.

The employer must not cause difficulties, obstruct or interfere with the process of discussing and collecting opinions of employees of the employees' representative organization.

5. Collective bargaining meetings must be recorded in minutes which must specify issues that have been agreed upon by the two parties and issues on which opinions remain divergent. Minutes of collective bargaining meetings must be signed by representatives of the parties and the preparer of the minutes. The grassroots-level employees' representative organization shall publicly announce the minutes of collective bargaining meeting to all the employees.

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Article 71. Failure of collective bargaining

1. Collective bargaining fails in one of the following cases:

a) A party refuses to negotiate or does not conduct collective bargaining within the time limit specified in Clause 1, Article 70 herein;

b) The parties fail to reach an agreement after the time limit prescribed in Clause 2 Article 70 herein;

c) The time limit prescribed in Clause 2, Article 70 herein has not expired but the parties have mutually determined and declared that the collective bargaining has failed to reach an agreement.

2. In case the negotiation fails, either party shall carry out the procedures for labor dispute settlement in accordance with this Code. When labor disputes are being settled, the employees' representative organization must not organize a strike.

Article 72. Sectoral collective bargaining and multi-enterprise collective bargaining

1. Principles and issues of sectoral collective bargaining and multi-enterprise collective bargaining shall comply with Articles 66 and 67 herein.

2. The process of sectoral collective bargaining and multi-enterprise collective bargaining shall be decided by the parties, including the agreement to conduct

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collective bargaining via a collective bargaining council under Article 73 herein.

3. The sectoral collective bargaining shall be decided by the sectoral trade union and the sectoral-level employees' representative organization.

The multi-enterprise collective bargaining shall be decided by the participating parties in a voluntary and unanimous manner.

Article 73. Multi-enterprise collective bargaining conducted by a collective bargaining council

1. Since consensus reached, the participating parties in multi-enterprise collective bargaining may request the provincial-level People's Committee of the locality where the participating enterprises are headquartered, or of the place chosen by the parties if the participating enterprises have their headquarters located in various provinces and municipalities, to set up a collective bargaining council to conduct collective bargaining.

2. At the requests of the participating parties to multi-enterprise collective bargaining, the provincial-level People's Committee shall decide to set up a collective bargaining council to conduct collective bargaining. The members of such council are:

a) Chairman of the Council, who is appointed by the parties and is responsible for coordinating the activities of the council and supporting the collective bargaining of the parties;

b) Representatives of the participating parties, who are appointed by each party; the number of the representatives in the council shall be agreed by the parties;

c) Representatives of provincial-level People's Committees.

3. The collective bargaining council conducts bargaining at the request of the parties and terminates its operation when a multi-enterprise collective labor agreement is reached by the parties.

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

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

1. To organize training and retraining in collective bargaining skills for participating parties.

2. To elaborate and provide information and data related to socio-economic issues, labor markets and industrial relations to support and promote collective bargaining.

3. To assist the collective bargaining parties to reach an agreement in the

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process of collective bargaining proactively or at request of both parties; in case of no request, the active support of the provincial-level People's Committee shall only be given if the parties agree.

4. To set up a collective bargaining council at the request of multi-enterprise collective bargaining parties as prescribed in Article 73 herein.

Section 3.

COLLECTIVE LABOR AGREEMENTS

Article 75. Collective labor agreements

1. Collective labor agreement is a written agreement reached through collective bargaining and signed by the parties.

Collective labor agreements include enterprise-level collective labor agreement, sectoral-level collective labor agreement, collective labor agreement with many enterprises and other types of collective labor agreement.

2. The contents of a collective labor agreement must not be against the labor law and must be more favorable for the employees than what is provided by law.

Article 76. Collecting comments and signing of a collective labor agreement

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1. With regard to the enterprise collective labor agreement, the draft collective labor agreement negotiated by the parties must be consulted by all employees in the enterprise before signing. An enterprise collective labor agreement shall only be signed when there are more than 50% of the employees of the enterprise voted for voting agree.

2. In the case of collective bargaining agreements, the branches and subjects to collect opinions include all members of the management board of the representative organizations of workers at the enterprises participating in the negotiation. The sector collective labor agreement can only be signed when there are more than 50% of the total number of people voted for voting agree.

For collective bargaining agreements with multiple enterprises, the subjects to collect comments include all employees at the enterprises participating in the bargaining or all members of the management board of the representative organizations of workers at the businesses involved in negotiations. Only enterprises with more than 50% of the people voting for approval can join the signing of a collective labor agreement with multiple businesses.

3. Time, place and method of collecting voting ideas on the draft collective labor agreement shall be decided by the workers' representative organization but must not affect the production and business activities of organizations in negotiation.

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The employer must not cause difficulties, obstruct or interfere with the process of organizing representatives of employees to vote on the draft agreement.

4. The collective labor agreement is signed by the legal representative of the negotiating parties.

In case a collective labor agreement has multiple enterprises conducted through a collective bargaining council, it shall be signed by the chairman of the collective bargaining council and the legal representative of the negotiating parties.

5. Collective labor agreements must be sent to each contracting party and to the labor specialized agencies of the provincial-level People's Committees according to the provisions of Article 77 of this Code.

For a sectoral-level collective labor agreement or a collective labor agreement with many enterprises, each employer and each representative organization of employees at the enterprises participating in the agreement must receive 01 copy.

6. After the collective labor agreement is signed, the employer must disclose to his employees.

7. The Government shall detail this Article.

Article 77. Sending of the collective labor agreement

Within 10 days from the date the collective labor agreement is signed, the employer participating in the agreement must send 01 copy of the collective labor agreement to the labor agency under the Provincial People's Committee, where the head office is located.

Article 78. Validity and duration of collective labor agreements

1. The effective date of the collective labor agreement is agreed upon by the parties and stated in the agreement. In case the parties do not agree on the effective date, the collective labor agreement takes effect from the signing date.

Collective labor agreements after being effective must be respectfully implement by the parties.

2. The enterprise collective labor agreement takes effect on the employer and all employees of the enterprise. The sector collective labor agreement and the collective labor agreement with many enterprises shall be valid for all employers and employees of enterprises participating in the collective labor agreement.

3. The collective labor agreement has a term of between 01 year and 03 years. The specific period of time shall be agreed upon by the parties and stated in the collective labor agreement. The parties shall have the right to agree on different terms for the contents of a collective labor agreement.

Article 79. Implementation of collective labor agreements at enterprises

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1. Employers and employees, including employees who come to work after the effective date of a collective labor agreement, shall be obliged to fully implement the effective collective labor agreement.

2. Where the rights, obligations, and interests of the parties to a labor contract concluded before the effective date of the collective labor agreement are lower than the relevant provisions of the collective labor agreement then provisions of the collective labor agreement shall prevail. The employer's regulations which are not in accordance with the collective labor agreement must be amended accordingly. In the time of the amendment, the relevant content of the collective labor agreement shall apply.

3. When one party considers that the other party has not fully implemented or violated the collective labor agreement, such party shall have the right to request the proper implementation of the collective labor agreement and the parties are responsible for considering and settling. If it is not resolved, each party shall have the right to request the settlement of collective labor disputes in accordance with the law.

Article 80. Implementation of enterprise collective labor agreements in case of division, separation, consolidation or merger; sale, lease, conversion of business type; transfer of ownership, right to use assets of the enterprise

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1. In cases of division, splitting, consolidation or merger; sale, lease, conversion of business type; transfer of the ownership or right to use the property of the enterprise, the next employer and the representative organization of the employee have the right to negotiate in accordance with Article 68 of this Code based on the utilization plan, with regard to considering the option of continuing to implement, amend and supplement the old enterprise collective labor agreement or negotiate to sign a new collective labor agreement.

2. In case the enterprise collective labor agreement ceases to be effective due to the termination of operation by the employer, the employee's interests shall be settled according to the provisions of law.

Article 81. Relationship between enterprise collective labor agreements, sectoral-level collective bargaining agreements, and collective enterprise agreements

1. In cases where an enterprise collective labor agreement or a collective labor agreement contains multiple enterprises and a collective labor agreement stipulating different rights, obligations, and interests of employees, it must be implemented according to the content that is most beneficial to the employees.

2. Enterprises subject to the application of a sectoral collective labor agreement or a collective labor agreement with multiple enterprises but have not yet had a collective labor agreement may formulate a collective labor agreement

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businesses with content that are more beneficial to workers than industry collective bargaining agreements or collective labor agreements with many businesses.

3. To encourage enterprises that have not yet elaborated the sectoral collective bargaining agreement or the collective bargaining agreement to have more enterprises implementing content that is more beneficial to employees of the sectoral collective labor agreement or labor agreement collective action that has multiple businesses.

Article 82. Amendments and supplements to collective labor agreements

1. Collective labor agreements may be amended and supplemented only by voluntary agreements of the parties through collective bargaining.

The amendment and supplementation of the collective labor agreement are done as the negotiation and signing of the collective labor agreement.

2. When the provisions of law change resulting in a collective labor agreement that is no longer in accordance with the provisions of law, the parties must proceed to amend and supplement the collective labor agreement to suit provisions of law. During the period of amendment and supplementation of the collective labor agreement, the rights of the employee shall be implemented in accordance with the law.

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Article 83. Collective labor agreement expires

Within 90 days before the expiration of a collective labor agreement, the parties may negotiate to extend the term of the collective labor agreement or sign a new collective labor agreement. In case the parties agree to extend the term of the collective labor agreement, they must seek comments as prescribed in Article 76 of this Code.

When the collective bargaining agreement expires and the parties continue to negotiate, the old collective labor agreement may continue to be implemented for a period not exceeding 90 days from the date the collective labor agreement expires, unless otherwise agreed by the parties.

Article 84. Extending the scope of application of a sector collective labor agreement or a collective labor agreement with many enterprises

1. When a sectoral collective bargaining agreement or collective bargaining agreement has many enterprises, the scope of application shall account for over 75% of the employees or over 75% of enterprises of the same industry, line or field in the industrial park, an economic zone, an export processing zone, or a high-tech park, the employer or its representative organization shall request the competent state agency to decide to expand the scope of partial application or the entire agreement with enterprises of the same industry, industry, and sector in industrial parks, economic zones, export processing zones, and hi-tech parks.

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2. The Government shall detail Clause 1 of this Article; stipulate the order, procedures, and competence to decide to expand the scope of application of a collective labor agreement prescribed in Clause 1 of this Article.

Article 85. Joining and withdrawing from a sector collective labor agreement or collective labor agreement with many enterprises

1. An enterprise may join a sectoral collective labor agreement, a collective labor agreement with many enterprises with the consent of all employers and the representative organization of employees at the enterprise which is a member of the agreement, except for the case specified in Clause 1, Article 84 of this Code.

2. A member enterprise of a sectoral collective labor agreement having multiple businesses can withdraw from the collective labor agreement when having the consent of all employers and organizations, representatives of employees at the enterprise are members of the agreement, except for cases of special difficulties in production and business activities.

3. The Government shall detail this Article.

Article 86. Invalid collective labor agreement

1. Collective labor agreement is partially invalid when one or some of the contents of the collective labor agreement violates the law.

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2. The collective labor agreement is totally invalidated in one of the following cases:

a) All contents of the collective labor agreement violate the law;

b) The signer is not under the authority;

c) Failure to comply with the process of negotiation and signing of the collective labor agreement.

Article 87. Competence to declare a collective bargaining agreement is invalid

The People's Court shall have the right to declare a collective bargaining agreement invalid.

Article 88. Handling of invalid collective labor agreements

When a collective bargaining agreement is declared invalid, the rights, obligations, and interests of the parties stated in the collective labor agreement corresponding to all or part of the declared invalid shall be settled in accordance with the provisions of laws and legal agreements in the labor contract.

Article 89. Expenses for negotiating and signing collective labor agreements

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All expenses for negotiating, signing, amending, supplementing, sending and announcing the collective labor agreement are paid by the employer.

Chapter VI

WAGE

Article 90. Wages

1. Wage means the amount of money the employer pays to the employee under an agreement to perform the job, including the wage based on the job or title, wage allowance and other additional payments.

2. The wage according to the job or title cannot be lower than the minimum wage.

3. Employers must ensure equal pay, regardless of gender, for employees of equal value.

Article 91. Minimum wage

1. The minimum wage is the lowest wage paid to employees who perform the simplest jobs under normal working conditions in order to ensure the minimum living standards of employees and their families, in accordance with social and economic development conditions.

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2. The minimum wage is set by region, decided by month and hour.

3. The minimum wage is adjusted based on the minimum living standard of workers and their families; the correlation between the minimum wage and the market wage; consumer price index, economic growth rate; labor supply and demand relations; employment and unemployment; labor productivity; affordability of the business.

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

Article 92. National Wages Council

1. The National Wage Council is an agency that advises the Government on minimum wages and wage policies for employees.

2. The Prime Minister shall set up a National Wages Council comprising members who are representatives of the Ministry of Labor, War Invalids and Social Affairs, the Vietnam General Confederation of Labor, a number of user representative organizations for central workers and independent experts.

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

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

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1. The employer must establish a wage scale, payroll, and labor norms as a basis for recruiting and employing employees, agree upon a wage according to the job or title stated in the labor contract and pay wage for employees.

2. The labor level must be the average to ensure that a majority of workers can perform the job without having to extend normal working hours and must finish before official issuance.

3. The employer must consult the representative organization of the employee at the grassroots level for the place where the labor representative organization at the grassroots level is formulated when setting the wage scale, payroll, and labor norms.

Wage scale, payroll and labor rates must be publicly announced at the workplace before implementation.

Article 94. Wage payment principles

1. The employer must pay employees directly, fully and on time. In case the employee cannot receive wage directly, the employer may pay the wage to the one the employee legally authorizes.

2. The employer must not restrict or interfere with the employee's right to self-determination of wage payment. It is forbidden to force employees to spend wages on the purchase of goods or services of the employer or other units designated by the employer.

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Article 95. Wage payment

1. Employers pay employees based on agreed wages, labor productivity and quality of job performance.

2. Wages stated in labor contracts and wages paid to employees in Vietnam dong, in case foreign employees in Vietnam may be in foreign currencies.

3. Each time of payment, the employer must notify the payroll list to the employee, clearly stating his/her wage, overtime pay, night work wage, content and amount deducted (if any).

Article 96. Forms of payment

1. The employer and the employee agree on the method of payment based on time, product or package.

2. Wages are paid in cash or through the employees' personal accounts opened at banks.

In case of payment of salaries through an employee's personal account opened at a bank, the employer must pay all fees related to account opening and wage transfer.

3. The Government shall detail this Article.

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Article 97. Term of wage payment

1. Employees entitled to hourly, daily or weekly wages shall be paid after the working hours, days, weeks or gross payment shall be agreed upon by the two parties but must not be paid in a lump sum for more than 15 days.

2. The employee who receives a monthly wage is paid once a month or once every half a month. The time of payment is agreed upon by the two parties and must be set at a cyclical time.

3. Employees enjoying wages according to product or piece rate shall be paid according to the agreement of the two parties. If the job has to be worked for many months, the monthly wage will be advanced according to the amount of work done in the month.

4. Where due to force majeure reasons, the employer has sought all remedies but cannot pay the wage on time, it must not be later than 30 days. If the employer pays a late wage of 15 days or more, the employer must compensate the employee for an amount of at least equal to the interest of the deferred payment calculated according to the one-month deposit interest rate due to the bank where the employer opens the payroll account for the employee announced at the time of pay.

Article 98. Wage for overtime pay work and night work

1. An employee who performs overtime work must be paid according to the wage unit or wage for his/her current job as follows:

a) On normal days, at least equal to 150%;

b) On weekends, at least equal to 200%;

c) On public holidays, Lunar New Year Holidays and paid leave days, at least equal to 300%, excluding the wage for public holidays, Lunar New Year Holidays and paid leave days of employees who receive daily wages.

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

3. An employee who performs overtime work at night must be paid under Clauses 1 and 2 of this Article. He/she must be paid with an additional amount equal to 20% of the wage calculated according to the wage unit or the wage for a job performed during daytime of normal workdays, weekends or public holidays, Lunar New Year Holidays.

4. The Government shall detail this Article.

Article 99. Wage in case of work suspension

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

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1. If due to the fault of the employer, the employee shall be entitled to payment of the full wage according to the labor contract;

2. If due to his/her fault, he/she shall not be entitled to payment of wage; other employees in the same unit who also have to suspend the work shall be entitled to the wages as agreed upon by the two parties, provided that those wages are not lower than the regional minimum wage;

3. If due to power or water incidents rather than the fault of the employer, employees or for other objective reasons such as natural calamity, fire, dangerous epidemic, enemy sabotage, relocation of the operation place upon request of a competent state agency, or for economic reasons, the wage for work suspension must be agreed by the two parties as follows:

a) In case of work suspension for 14 working days or less, the wage for work suspension shall be agreed by the two parties but shall not be lower than the minimum wage;

b) In case of work suspension for more than 14 working days, the wage for work suspension shall be agreed by the two parties but shall ensure that the wage in the first 14 days is not lower than the minimum wage.

Article 100. Payment of wage via foreman

1. In case foremen or similar intermediary persons are used, the employer who is the principal owner shall have a list and addresses of these people together with a list of employees working with them, and shall ensure that they comply with the law on wage payment and occupational safety and hygiene.

2. In case a foreman or similar intermediary person fails to pay wages or pays insufficient wages and fails to ensure other interests of employees, the employer who is the principal owner shall pay wages to, and to ensure such interests of, the employees.

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

Article 101. Advance of wage

1. An employee shall be given a wage in advance according to the conditions agreed upon by the two parties.

2. An employer shall advance a wage amount to an employee corresponding to the number of days off which the employee takes to perform citizens' obligations from 01 week to 01 month at most according to the labor contract and the employee shall refund this advance amount.

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The employee who is enlisted in the army in accordance with the Law on Military Service shall not be entitled to an advance of wage.

3. When taking annual leave, an employee is entitled to an advance payment of at least equal to the wage of days off.

Article 102. Deduction of wages

1. An employer may only make deductions from the wage of an employee for compensation for damage of the employer's tools, equipment and assets in accordance with Article 129 of this Code.

2. The employee shall be entitled to know the reasons for his/her wage deductions.

3. A monthly wage deduction must not exceed 30% of the monthly wage of an employee after having paid compulsory social insurance, health insurance and unemployment and personal income tax.

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

Wage raise, rank promotion, allowances, subsidies and other incentives for employees must be agreed in the labor contracts and the collective labor agreement or stipulated in the regulations of the employer.

Article 104. Bonuses

1. Bonus is a sum of money or property or other forms that an employer rewards his/her employees on the basis of annual business results and the level of work performance of employees.

2. Bonus regulations shall be decided and publicly announced by the employer at the workplace after consultation with the representative organization of the grassroots-level employees in the case there is a representative organization of the grassroots-level employees.

Chapter VII

WORKING TIME AND REST TIME

Section 1

WORKING TIME

Article 105. Normal working time

1. Normal working time shall not exceed 8 hours per day or 48 hours per week.

2. An employer may determine the working time on an hourly, daily or weekly basis but must notify his/her employees; in case of working on a weekly basis, the normal working time shall not exceed 10 hours per day and not exceed 48 hours per week.

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The State encourages employers to apply 40 working hours per week for employees.

3. An employer shall ensure the working time limit for employees who are exposed to dangerous and harmful factors in accordance with national technical regulations and relevant laws.

Article 106. Working hours at night

Working hours at night are counted from 22:00 pm on the previous day to 06:00 am on the next day.

Article 107. Overtime work

1. Overtime is time worked in addition to normal working hours prescribed in the law, collective labor agreements or internal working regulations

2. An employer may request an employee to work overtime upon fully meeting the following conditions:

a) Obtaining the employee's consent;

b) Ensuring that the number of overtime working hours of the employee does not exceed 50% of the normal working hours per day; in case of applying regulations on weekly work, the total of normal working hours and overtime working hours must not exceed 12 hours per day; does not exceed 40 hours per month;

c) Ensuring that the number of overtime working hours of the employee does not exceed 200 hours per year, except for the case specified in Clause 3 of this Article.

3. An employer may request an employee to work overtime for no more than 300 hours per year in the following industries, jobs or cases:

a) Producing, processing and exporting textile, garment, leather, shoes, electric and electronic products; processing agricultural, forestry, salt-producing and aquatic products;

b) Producing, supplying electricity, telecommunications, oil refining; water supply and drainage;

c) In case of handling jobs requiring employees with high professional and technical qualifications which labor market can not provide sufficient and timely;

d) In case of urgent work that cannot be delayed, due to the seasonality and timing of raw materials, products or to solve jobs arising due to unpredictable objective factors result from weather consequences, natural disasters, enemy sabotage, fire, lack of electricity, lack of raw materials and technical problems of production lines;

dd) Other cases prescribed by the Government.

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4. If an employer organizes the overtime working as prescribed in Clause 3 of this Article, he/she shall send a written notification to the labor agency of the provincial People's Committee.

5. The Government shall detail this Article.

Article 108. Working overtime in special cases

An employer may request an employee to work overtime in any days without limitation on the number of overtime hours as prescribed in Article 107 of this Code and the employee may not refuse in the following cases:

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

2. Implementing the tasks to protect human lives and assets of agencies, organizations or individuals in the prevention and remediation of consequences of a natural calamity, fire, dangerous epidemic or disaster, except for the case that may affect the employee's health and lives in accordance with the law on occupational safety and hygiene.

Section 2

REST TIME

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Article 109. Rest breaks during working hours

1. An employee who works for more than 06 hours per day under Article 105 of this Code shall be entitled to a break of at least 30 minutes in the middle of working. If working at night, he/she shall be entitled to a break of at least 45 minutes in the middle of working.

In case an employee works in a continuous shift of 06 hours or more, the break time shall be counted into working hours.

2. Besides the breaks in the middle of working prescribed in Clauses 1 of this Article, the employer shall determine other short breaks and include them in the internal working regulations.

Article 110. Breaks between shifts

An employee who works in shifts shall be entitled to a break of at least 12 hours before moving to another shift.

Article 111. Weekly breaks

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

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

3. In case weekly days off coincide with public holidays and New Year holidays specified in Clause 1, Article 112 of this Code, employees shall be entitled to a weekly day off on the next working day.

Article 112. Public and New Year holidays

1. Employees are entitled to a leave of absence from work and full pay during the following holidays:

a) Calendar New Year Holiday: 01 day (the first day of January of the calendar year);

b) Lunar New Year Holidays: 05 days;

c) Liberation Day: 01 day (April 30 of the solar calendar);

d) International Labor Day: 01 day (the first day of May of each calendar year);

dd) National Day: 02 days (the second day of September of each calendar year and 01 day immediately preceding or after);

e) Commemorative Celebration of Vietnam's Forefather - Kings Hung: 01 day (the tenth of March of the lunar year).

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2. An foreign employee working in Vietnam, in addition to the public holidays specified in Clause 1 of this Article, he/she shall be entitled to 01 traditional new year holiday and 01 national day of his/her country.

3. Annually, on the basis of practical conditions, the Prime Minister shall decide on specific holidays prescribed at Points b and dd, Clause 1 of this Article.

Article 113. Annual leave

1. An employee who has been working for an employer for full 12 months shall be entitled a fully paid annual leave as stated in his/her labor contract as follows:

a) 12 working days for an employee working in normal conditions;

b) 14 working days for a juvenile employee, a disabled employee or an employee doing a heavy, hazardous and dangerous job;

c) 16 working days for an employee doing an extremely heavy, hazardous or dangerous job.

2. An employee who has been working less than 12 months for an employer shall be entitled to take annual leave with the number of leave days proportionate to the working time.

3. An employee who, due to job leaving or job loss, fails to take or fully take his/her annual leave shall be entitled to a cash payment for the untaken leave days.

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4. An employer shall be responsible for setting the annual leave schedule after consulting with employees and must notify it in advance to them. An employee may reach an agreement with the employer on taking annual leave in installments or combining annual leaves of maximum every three years.

5. When taking annual leave before the period of payment, an employee shall be entitled to an advance payment in accordance with Clause 3, Article 101 of this Code.

6. When taking annual leave, if an employee travels by road, railway or waterway and the return trip takes more than 02 days, the travel days from the 3rd day onward will be added to the annual leave and this will be applied for only one annual leave in a year.

7. The Government shall detail this article.

Article 114. Annual leave increased based on the length of employment

The annual leave of an employee stipulated in Clause 1, Article 113 of this Code will be increased 1 day for every 05 years' working for an employer.

Article 115. Personal leave and unpaid leave

1. An employee may take fully paid leave for personal reasons and must notify the employer in the following cases:

a) Marriage: take 03 days;

b) Marriage of his/her child: 01 day;

c) Death of a blood parent, an adoptive parent, a blood parent of his/her spouse, an adoptive parent of his/her spouse, his/her spouse or child: 03 days.

2. An employee may take a day off without pay and shall inform the employer when a paternal or maternal grandparent or blood sibling dies; his/her father or mother gets married; or a blood sibling gets married.

3. An employee may agree with the employer on unpaid leave in addition to the leaves specified in Clauses 1 and 2 of this Article.

Section 3

WORKING TIME AND REST TIME FOR PEOPLE DOING SPECIAL JOBS

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

For special jobs in the field of road, railway, waterway or airway transportation; petroleum prospecting and exploitation at sea; working at sea; offshore work; arts; use of radiation and nuclear techniques; application of high-frequency waves; informatics and information technology; research and application

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of advanced science and technology; industrial design; diver's jobs; work in pit mines; seasonal production work and processing of goods under orders; and work that requires 24/24 hours on duty; For other special jobs as stipulated by the Government, the managing ministries and branches shall specify working time and rest time after consulting the Ministry of Labor, War Invalids and Social Affairs and ensure compliance with Article 109 of this Code.

Chapter VIII

LABOR DISCIPLINE AND MATERIAL RESPONSIBILITIES

Section 1

LABOR DISCIPLINE

Article 117. Labor discipline

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

Article 118. Internal working regulations

1. An employer employing 10 or more employees must have internal working regulations in writing.

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

a) Working time and rest time;

b) Order at workplace;

c) Occupational safety and hygiene at workplace;

d) Prevention and combat against sexual harassment at the workplace; order and procedures for handling sexual harassment at the workplace;

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

f) Temporary transfer of employees to other jobs other than jobs stipulated in the labor contract;

g) Employees' violations of labor discipline, forms of dealing with violations of labor discipline;

h) Material responsibility;

i) Persons competent to handle violations of labor discipline.

3. Before issuing the internal working regulations or amending and supplementing the internal working regulations, an employer shall consult the

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representative organization of the grassroots-level employees in the case there is a representative organization of the grassroots-level employees.

4. The internal working regulations must be notified to employees and their key contents must be displayed at necessary places in the workplace.

5. The Government shall detail this Article.

Article 119. Registration of internal working regulations

1. An employer employing 10 or more employees shall register its internal working regulations with a labor agency under the provincial People's Committee where the employer registers its business.

2. Within 10 days from the date of issuance of the internal working regulations, an employer shall submit a dossier for registration of the internal working regulations.

3. Within 07 working days from the date of receipt of a dossier for registration of the internal working regulations, if the internal working regulations have contents contrary to law, the labor agency under the provincial People's Committee shall notify and instruct the employer to amend, supplement and re-register.

4. In case an employer has branches, units, production and business establishments located in different areas, he/she shall send the registered internal working regulations to the labor agency under the provincial People's Committee where the branches, units and production and business establishments are located.

5. Based on specific conditions, the labor agency under the provincial-level People's Committee may authorize the labor agency of the district-level People's Committee to register internal working regulations under this Article.

Article 120. Dossier for registration of internal working regulations

An application for registration of internal labor regulations includes:

1. An application for registration of the internal working regulations;

2. The internal working regulations;

3. Minutes of comments of the representative organization of the grassroots-level employees in the case there is a representative organization of the grassroots-level employees;

4. Documents of the employer related to labor discipline and material responsibilities (if any).

Article 121. Validity of internal working regulations

The internal working regulations shall be effective 15 days after the date the competent state agency prescribed in Article 119 of this Code receives the sufficient registration dossier of the internal working regulations.

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In case the employer employing less than 10 employees issues internal working regulations in writing, the validity shall be decided by the employer in the internal working regulations.

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

1. The handling of a violation of labor discipline is provided as follows:

a) The employer must prove the employee's fault;

b) The representative organization of the grassroots-level employees where the employee being disciplined is a member must participate in the handling;

c) The employee must be present and may defend himself/herself or ask a lawyer or a representative organization of employees to defend him/her; if the employee is under 15 years old, his/her at-law representative must participate in the handling;

d) The handling of the violation of labor discipline must be recorded in the minutes.

2. It shall be prohibited to impose more than one form of discipline for a single violation of labor discipline.

3. In case an employee simultaneously commits more than one violation of labor discipline, it shall be only allowed to apply the highest form of discipline corresponding to the most serious violation.

4. Labor discipline may not be imposed for violations committed by an employee who is currently:

a) Taking sickness or convalescence leave or a leave with the employer’s consent;

b) Kept in custody or temporary detention;

c) Waiting for results of verification and conclusion of a competent agency for acts of violation specified in Clauses 1 and 2, Article 125 of this Code;

d) A pregnant female employee; an employee taking maternity leave or rearing a child under 12 months of age.

5. Labor discipline shall not be imposed on an employee who violates the internal working regulations while suffering a mental disorder or another disease which deprives him/her of the capacity to perceive or control his/her acts.

6. The Government shall specify the order and procedures for handling of violations of labor discipline.

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

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

2. Upon expiry of the period specified in Clause 4, Article 122 of this Code, if the statute of limitations for handling violations of labor discipline has expired or still remained valid but less than 60 days, it may be extended to handle violations of labor discipline but for no more than 60 days from the expiry date mentioned above.

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

Article 124. Forms of handling of violations of labor discipline

1. Reprimand.

2. Prolongation of the wage rise period for no more than 06 months.

3. Demotion.

4. Dismissal.

Article 125. Application of dismissal as a form of discipline

Dismissal may be applied by an employer as a form of discipline in the following cases:

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1. An employee commits an act of theft, embezzlement, gambling, intentional infliction of injury, use of drugs inside the workplace;

2. An employee commits an act of disclosing technological or business secrets or causing serious damage or threatening to cause serious damage to the assets or interests of the employer; sexual harassment at the workplace as stipulated in the internal working regulations;

3. An employee who has been subject to the disciplinary measure of prolonging the wage rise period or dismissing commits recidivism when the disciplinary record has not yet been written off. Recidivism means that an employee re-commits the same violation for which he/she has been disciplined while his/her disciplinary record has not yet been written off as prescribed in Article 126 of this Code;

4. An employee has been absent from work without permission for a total of 05 working days within 30 days or 20 days within 365 days without plausible reasons.

Plausible reasons include natural disaster, fire, illness of the employee or his/her next of kin with certification by a competent health treatment and

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examination establishment and other events defined in the internal working regulations.

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

1. After 03 months from the date of being reprimanded or after 06 months from the date of being disciplined by prolonging the wage rise period or after 03 years from the date of being disciplined for dismissal, if an employee does not commit recidivism, his/her disciplinary record be automatically written off.

2. An employee who is subject to the disciplinary measure of prolonging the wage rise period and has served half of the duration of the discipline may be considered by the employer for a reduction of such duration if showing progress.

Article 127. Prohibited acts when handling violations of labor discipline

1. Infringing upon the employees' health, honor, life, prestige and dignity.

2. Applying a fine or wage reduction instead of a disciplinary measure.

3. Disciplining an employee who has committed a violation which is not defined in the internal working regulations or not agreed upon in signed the labor contract or not prescribed in the labor code.

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Article 128. Work suspension

1. An employer may suspend an employee from working if the employer considers that the case of violation is complex and any continued performance of the work by the employee can cause difficulties to verification work. Work suspension may only be applied after having consulting the representative organization of the grassroots-level employees where the employee under consideration for suspension is a member.

2. The period of work suspension must not exceed 15 days, or 90 days in special cases. During the period of work suspension, the employee shall be entitled to 50 per cent of the wage he/she receives prior to the suspension.

Upon the expiry of the period of work suspension, the employer must receive the employee back to his/her work.

3. In case the employee is disciplined, he/she is not required to reimburse the wage advanced to him/her.

4. In case the employee is not disciplined, the employer shall pay the full wage for the period of work suspension.

Section 2

MATERIAL RESPONSIBILITIES

Article 129. Compensation for damage

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1. An employee who causes damage to tools and equipment or the assets of the employer shall pay compensation in accordance with law or the employer's internal working regulations.

In case due to negligence an employee causes a minor damage valued at no more than 10 months' regional minimum wage announced by the Government and applied at the employee's workplace, the employee shall pay compensation of no more than 03 months' wage which shall be deducted monthly from his/her wage in accordance with Clause 3, Article 102 of this Code.

2. An employee who loses tools, equipment or assets of the employer or other assets assigned to him/her by the employer, or uses supplies in excess of the permitted norms shall compensate the whole or a part of the damage at the market price; in case a contract of responsibility has been signed, the amount of compensation must comply with such contract; in case the damage is caused by a natural disaster, fire, enemy sabotage, epidemic, calamity or another objective event which is unforeseeable and irremediable and every necessary measure has been taken to full ability, no compensation is required.

Article 130. Handling of damage compensation

1. Consideration and decision on the levels of compensation must be based on the fault, the actual level of damage, the actual family conditions, personal records and property of the employee concerned.

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

Article 131. Complaints about labor discipline and material responsibilities

An employee who is handled for violation of labor discipline, suspended from work, or required to pay compensation in accordance with the regime of material responsibilities and is not satisfied with the handling decision, may file a complaint with the employer or a competent agency as stipulated by law, or request settlement of a labor dispute according to the procedures as stipulated by law.

The Government shall detail this Article.

Chapter IX

OCCUPATIONAL SAFETY AND HYGIENE

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

Employers, employees, agencies, organizations and individuals related to labor and production shall comply with the law on occupational safety and hygiene.

Article 133. Occupational safety and hygiene program

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1. The Government decides the national Program on occupational safety and sanitation.

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

Article 134. Assurance of occupational safety and hygiene at workplace

1. An employer shall assume responsibility for fully implementing measures to ensure occupational safety and hygiene at the workplace.

2. An employee shall assume responsibility for observing the regulations, internal rules, procedures and requirements on occupational safety and hygiene; complying with law and mastering the knowledge and skills of measures to ensure occupational safety and hygiene at the workplace.

Chapter X

SEPARATE PROVISIONS FOR FEMALE EMPLOYEES AND ENSURING GENDER EQUALITY

Article 135. State policies

1. Ensuring the female and male employees' rights to employment equality, taking measures to ensure gender equality, preventing and combating against sexual harassment at the workplace.

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2. Encouraging employers to create conditions for female and male employees to have regular employment, extensively implementing systems of flexible working hours, part-time work or home-based work.

3. Taking measures to create employment opportunities, improve working conditions, raise vocational qualifications and healthcare, and increase material and spiritual welfare for female employees in order to assist them in effectively bringing into play their vocational capacity and harmoniously combining their working lives with family lives.

4. Formulating policies on tax reductions for employers using many female employees in accordance with tax laws.

5. The State shall develop plans and measures to organize crèches and kindergartens in areas with large numbers of employees. Developing various forms of training which are favorable for female employees to acquire standby vocational skills suitable to their physical and physiological characteristics and their motherhood function.

6. The Government shall detail this Article.

Article 136. Responsibilities of employers

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1. Ensuring gender equality and implementing measures to promote gender equality in recruitment, employment, training, working time, rest time, wages and other policies.

2. Consulting female employees or their representatives when taking decisions on issues related to the rights and interests of women.

3. Ensuring sufficient bathrooms and appropriate toilets in the workplace.

4. Assisting and supporting in building crèches and kindergartens, or covering part of childcare expenses at crèches and kindergartens incurred by female employees.

Article 137. Protection of maternity for female employees

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

a) The employee is in her seventh month of pregnancy, or in her sixth month of pregnancy in case of working in a mountainous, remote, distant, border or island area;

b) The employee is nursing a child under 12 months of age.

2. In case a female employee is engaged in heavy, hazardous, dangerous or extremely heavy, hazardous, dangerous work or work adversely affecting the reproductive and child-rearing function during her pregnancy and notifies the employer, she shall be entitled to be transferred to a lighter and safer work or have her daily working time reduced by 01 hour without any reductions in wages, rights and interests until the end of nursing a child under 12 months of age.

3. An employer may neither dismiss a female employee nor unilaterally terminate the labor contract with a female employee for the reason of her marriage, pregnancy, maternity leave, or that she is nursing a child under 12 months of age, except the case in which the employer is an individual who dies, or is declared by a court to have lost his/her civil act capacity, or to be missing or dead, or the employer is not an individual terminating operation or is notified by a business registration agency of the provincial People's Committee that there is no legal representative, authorized person to exercise the rights and obligations of the legal representative.

In case the employment contract expires while a female employee is pregnant or nursing a child under 12 months of age, a new labor contract shall be given priority.

4. A female employee in her menstruation period shall be entitled to a 30-minute break in every working day; a female employee nursing a child under 12 months of age shall be entitled to a 60-minute break in every working day with full wage as stated in the labor contract.

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Article 138. Right of pregnant employees to unilaterally terminate or postpone labor contracts

1. In case a pregnant employee has a certificate of a competent health treatment and examination establishment which states that continued work will adversely affect her pregnancy, she may unilaterally terminate the labor contract or temporarily postpone the performance of the labor contract.

In case of unilaterally terminating the labor contract or temporarily postponing the performance of the labor contract, the employee must send to the employer a notice enclosed with the certificate of a competent health treatment and examination establishment which states that continued work will adversely affect her pregnancy

2. In case of temporarily postponing the performance of the labor contract, the period of postponement shall be agreed upon by the employee with the employer but must be at least equal to the time designated by the competent health examination and treatment establishment. In case there is no designation of the competent health examination and treatment establishment regarding the time of temporary leave, the two parties shall agree on the time of temporarily postponing the performance of the labor contract.

Article 139. Maternity leave

1. A female employee is entitled to 06 months of prenatal and postnatal leave; prenatal leave must not exceed 02 months.

In case a female employee gives birth to twin or more babies, counting from the second child upward, for each child the mother shall be entitled to an extra month of leave.

2. During the maternity leave, a female employee shall be entitled to maternity policies provided by the law on social insurance.

3. After the maternity leave period stipulated in Clause 1 of this Article, if a female employee wishes, she may take additional leave without pay after agreed upon with the employer.

4. Before the expiration of her maternity leave stipulated in Clause 1 of this Article, a female employee may return to work after having taken at leas04 months of maternity leave but she must give advance notice to the employer and agreed by her employer. She also must have a certificate from a competent health treatment and examination establishment that early resumption of work will not adversely affect her health. In this case, the female employee continues to receive the maternity allowance as provided by the law on social insurance, in addition to the wage paid by the employer for her working days.

5. For a male employee when his wife gives birth, an employee who adopts children less than 06 months of age, a female employee who is a surrogate mother

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and an employee who is a mother requesting surrogacy shall be entitled to take the maternity leave as provided by the law on social insurance

Article 140. Employment guarantee for employees after maternity leave

An employee shall be guaranteed the old employment when she returns to work after taking the maternity leave as provided in Clauses 1, 3 and 5, Article 139 of this Code without any reduction in wages, rights and interests; in case the old employment is no longer available, the employer shall arrange another employment for her with a wage not lower than that paid to her before her maternity leave.

Article 141. Allowances for leave for caring a sick child, for pregnancy checks-up and for applying contraceptive measures

When taking leaves for caring a sick child who is under 07 years of age, pregnancy check-up, miscarriage, abortion, dead or diseased fetus in womb, for applying measures of contraception and sterilization, a female employee shall be entitled to maternity allowance in accordance with the law on social insurance.

Article 142. Occupations and work adversely affecting child bearing and nursing functions

1. The Minister of Labor, War Invalids and Social Affairs shall promulgate a list of occupations and work that are harmful to child bearing and nursing functions.

2. The employer must provide sufficient information on the work's dangerous nature, risks and requirements for the employees to choose and must ensure the occupational safety and hygiene conditions for the employees in accordance with regulations when employing them for the work on the list specified in Clause 1 of this Article.

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Chapter XI

PRIVACY PROVISIONS FOR LABOR MINORS AND SOME OTHER EMPLOYEES

Section 1

MINOR EMPLOYEES

Article 143. Minor employees

1. A minor employee is an employee under 18 years of age.

2. Persons aged between full 15 and under 18 may not work or work at workplaces prescribed in Article 147 of this Code.

3. Persons aged between full 13 and under 15 may only perform light jobs according to the list promulgated by the Minister of Labor, War Invalids and Social Affairs.

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4. Persons aged under 13 may only perform the jobs specified in Clause 3, Article 145 of this Code.

Article 144. Principles of employment of minor employees

1. A minor employee may only perform jobs suitable to his/her health to ensure physical, mental and personality development.

2. An employer, when employing minor employees, shall assume the responsibility to take care of employees in terms of labor, health, and study in the labor process.

3. When employing minor employees, an employer must have the consent of their parents or guardians; make a separate monitoring book, record full name, date of birth, current job, results of periodical health checks, and shall present it at the request of a competent state agency.

4. An employer must create opportunities for minor employees to learn cultural, vocational education, train, foster and improve occupational skills qualifications.

Article 145. Use of employees aged under 15 years

1. When employing persons under 15 years of age to work, an employer must comply with the following provisions:

a) To sign a labor contract in writing with a person under 15 years of age and his/her legal representative;

b) To arrange working hours without affecting the learning time of persons under 15 years of age;

c) To have a health certificate issued by a competent health facility certifying the health of persons under 15 years of age suitable to their jobs and to organize periodical health checks at least once every 06 months;

d) To ensure working conditions, occupational safety, and sanitation suitable for ages.

2. An employer shall only recruit and employ persons aged between full 13 and under 15 to perform light jobs as prescribed in Clause 3, Article 143 of this Code.

3. Recruitment and employment of persons aged under 13 years is prohibited, except for art, physical training and sports jobs without prejudice to physical, mental and human development and must have the consent of a labor agency of the provincial-level People's Committee.

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

Article 146. Working time of minors

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1. The working time of persons under 15 years must not exceed 04 hours in 01 day and 20 hours in 01 weeks; and the employer may not employ these minors to work overtime or at night.

2. The working time of a person aged from full 15 to less than 18 must not exceed 08 hours in a day and 40 hours in a week. Persons aged between full 15 and under 18 may work overtime and work at night in a number of occupations and jobs on the list promulgated by the Minister of Labor, War Invalids and Social Affairs.

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

1. Employment of persons aged between full 15 and under 18 is prohibited in the following jobs:

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

b) Producing and trading in alcohol, wine, beer, cigarettes, substances affecting the spirit or other addictive substances;

c) Producing, using or transporting chemicals, gases, explosives;

d) Maintenance of equipment and machinery;

e) Demolition of construction works;

f) Melting, blowing, casting, rolling, molding and welding of metals;

g) Scuba diving, fishing, and offshore fishing;

h) Other jobs that are harmful the physical, mental and personality development of minors.

2. Employment of persons aged full 15 to under 18 years is prohibited in the following workplaces:

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

b) Construction site;

c) Animal slaughter facilities;

d) Casinos, bars, dance halls, karaoke parlors, hotels, hostels, saunas, massage parlors; lottery business points, electronic game services;

e) Other workplaces which are harmful to the physical, mental and personality development of minor employees.

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

Section 2

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ELDERLY EMPLOYEES

Article 148. Elderly employees

1. An elderly employee is a person who continues to work after the age prescribed in Clause 2, Article 169 of this Code.

2. Elderly employees shall be entitled to agree with employers on reducing daily working hours or applying part-time working regimes.

3. The State encourages the employment of elderly employees to work in conformity with their health to ensure labor rights and efficient use of human resources.

Article 149. Employment of elderly employees

1. When employing an elderly employee, the two parties may agree to enter into several definite-term labor contracts.

2. When the elderly employee who is enjoying the pension prescribed in the Law on Social Insurance works under a new labor contract, in addition to the benefits he/she is entitled to under the retirement regime, he/she is entitled to the salaries and other benefits in accordance with the law and labor contracts.

3. It is prohibited to employ elderly employees to perform heavy, hazardous, dangerous or extremely heavy, hazardous, dangerous jobs, which adversely affect the health of elderly employees, except for the cases that ensure safe working conditions.

4. Employers shall be responsible for taking care of the health of elderly employees at the workplace.

Section 3

VIETNAMESE EMPLOYEES WORKING ABROAD, EMPLOYEES OF FOREIGN ORGANIZATIONS AND INDIVIDUALS IN VIETNAM, FOREIGN EMPLOYEES WORKING IN VIETNAM

Article 150. Vietnamese employees working abroad, employees of foreign organizations and individuals in Vietnam

1. The State encourages enterprises, agencies, organizations, and individuals to seek and expand the labor market in order to send Vietnamese employees to work abroad.

Vietnamese employees working abroad shall comply with the laws of Vietnam and host countries, unless otherwise provided by treaties to which Vietnam is a contracting party.

2. Vietnamese citizens working for foreign organizations in Vietnam, in industrial parks, economic zones, export processing zones, hi-tech parks or working

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for individuals who are foreign citizens in Vietnam shall abide by Vietnamese laws and are protected by law.

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

Article 151. Conditions for foreign citizens to work in Vietnam

1. A foreign citizen working in Vietnam is foreign nationals and must meet the following conditions:

a) Being 18 years of age or older and having full civil act capacity;

b) Having professional qualifications, techniques, work skills, and work experience; have good health as prescribed by the Minister of Health;

c) Not being a person who is serving a penalty or has not had his/her criminal record remitted or is being examined for penal liability in accordance with foreign law or Vietnamese law;

d) Having a work permit granted by a competent Vietnamese state agency, except for the case specified in Article 154 of this Code.

2. The term of a labor contract for foreign citizens working in Vietnam must not exceed the term of the work permit. When employing foreign citizens working in Vietnam, the two parties may agree to enter into several definite-term labor contracts.

3. Foreign citizens working in Vietnam must abide by the Vietnamese labor law and are protected by Vietnamese law, unless otherwise provided by treaties to which Vietnam is a contracting party.

Article 152. Conditions for recruiting and employing foreign employees to work in Vietnam

1. Enterprises, agencies, organizations, individuals, and contractors may only recruit foreign citizens in such positions as manager, managing director, expert and technical employee which Vietnamese employees are still unable to fill to meet production and business requirements.

2. Enterprises, agencies, organizations, and individuals shall, before recruiting foreign citizens to work in the territory of Vietnam, explain their labor demands and obtain written approval of the competent state agencies.

3. Contractors shall, before recruiting and employing foreign citizens to work in the territory of Vietnam, declare in detail the job positions, professional and technical qualifications, working experience and working time that need to use foreign employees to execute the bidding package and obtain the written approval of the competent state agency.

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Article 153. Responsibilities of employers and foreign employees

1. Foreign employees must present work permits at the request of competent state agencies.

2. Foreign employees working in Vietnam without a work permit shall be forced to leave Vietnam or be deported in accordance with the law on entry, exit, transit, and residence of foreigners in Vietnam.

3. Employers who employ foreign employees to work for themselves without work permits shall be handled according to the provisions of law.

Article 154. Foreign employees working in Vietnam are not eligible for work permits

1. Being the owner or capital contributing member of a limited liability company with the value of capital contribution under the Government's regulations.

2. Being the Chairman of the Board of Directors or a member of the Board of Directors of a joint-stock company with the value of capital contribution as prescribed by the Government.

3. Being the head of a representative office or project or responsible primarily for the operation of international organizations and foreign non-governmental organizations in Vietnam.

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4. Entering Vietnam with a term of less than 03 months to conduct service offerings.

5. Entering Vietnam for less than 03 months to deal with incidents, complicated technical and technological situations that affect or threaten to affect production and business activities of Vietnamese experts and foreign experts currently in Vietnam cannot handle it.

6. Being a foreign lawyer who has been granted a law practice license in Vietnam in accordance with the Law on Lawyers.

7. The cases in accordance with the provisions of international treaties to which the Socialist Republic of Vietnam is a member.

8. Foreigners marrying Vietnamese and living in the Vietnamese territory.

9. Other cases as prescribed by the Government.

Article 155. Validity duration of work permits

The maximum validity duration of a work permit is 02 years, in case of extension, it can be extended only once for a maximum of 02 years.

Article 156. Cases of termination of validity of work permits

1. The work permit expires.

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2. The labor contract terminates.

3. The content of the labor contract is not consistent with the content of the granted work permit.

4. Working not in accordance with the contents of the issued work permit.

5. The contracts in the domains that are the basis for generating work permits which are expired or terminated.

6. There is a written notice of the foreign party quitting the appointment of a foreign employee to work in Vietnam.

7. Enterprises, organizations, partners of the Vietnamese side or foreign organizations in Vietnam employing foreign employees to terminate their operations.

8. The work permit is revoked.

Article 157. Issuance, re-issuance, extension, and revocation of work permits, certifications not subject to work permits

The Government shall stipulate the conditions, order, and procedures for the issuance, re-issuance, extension, and revocation of work permits and certifications not subject to work permits for foreign employees working in Vietnam.

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Section 4

DISABLED EMPLOYEES

Article 158. State policies for disabled employees

The State protects the rights to work and to self-employment of disabled persons, and shall formulate policies to encourage and provide incentives for employers to create jobs for and employ disabled persons in accordance with the Law on Persons with Disabilities.

Article 159. Employment of disabled persons

1. An employer shall ensure working conditions, working tools, occupational safety and hygiene, and organize periodical health checks suitable for disabled employees.

2. An employer shall consult disabled employees before deciding on matters involving their rights and interests.

Article 160. Prohibited acts in employment of disabled persons

1. Employing an employee with mild disability who has lost 51% or more of his/her working ability, an employee with severe disability or extremely severe disability to work overtime or at night, except for cases when obtaining the disabled employee’s consents.

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2. Employing a disabled employee to perform a heavy, hazardous and dangerous job on the list promulgated by the Minister of Labor, War Invalids and Social Affairs without the consent of the disabled person after the employer has provided all the information about the job.

Section 5

DOMESTIC EMPLOYEES

Article 161. Domestic employees

1. Domestic employee is a person who regularly does housework for one or more families.

Housework includes cooking, housekeeping, babysitting, caring for sick persons, caring for the elderly, driving, and gardening and other houseworks which are not related to commercial activities.

2. The Government shall prescribe regulations on domestic employees.

Article 162. Labor contracts for domestic employees

1. An employer shall engage in a written labor contract with a domestic employee.

2. The duration of a labor contract for a domestic employee may be negotiated by both parties. Either party may unilaterally terminate the labor contract with an advance notice of 15 days.

3. Both sides shall clearly specify the form of wage payment and the terms of payment, daily working hours and accommodation in the labor contract.

Article 163. Obligations of an employer employing domestic employee(s)

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

2. To pay to the domestic employee an amount of his/her social insurance and health insurance as provided by law to enable the employee to self-manage his/her insurance.

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

4. To provide a clean and hygienic accommodation for the domestic employee if so agreed.

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

6. To pay travel expenses for the domestic employee to return home at the end of his/her service, except the case in which the domestic employee terminates the labor contract ahead of time.

Article 164. Obligations of a domestic employee

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

2. To pay compensation as agreed upon or provided by law in case of damaging or losing any property of the employer.

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

4. To denounce to competent agencies if the employer commits acts of mistreating, sexually harassing or forcing labor or any other illegal acts.

Article 165. Prohibited acts of employers

1. Mistreating, sexually harassing, forcing labor and using violence against the domestic employee.

2. Assigning work to the domestic employees not in accordance with the labor contract.

3. Keeping personal documents of the domestic employee.

SECTION 6

OTHER TYPES OF EMPLOYEES

Article 166. Persons working in the fields of art, physical training, sports, maritime and aviation

Persons who work in the fields of arts, physical training, sports, maritime and aviation are entitled to some suitable regimes related to training, retraining for occupational qualification and skill improvement; labor contracts; wage and bonus; working time and rest time; and occupational safety and hygiene as stipulated by the Government.

Article 167. Employees performing home-based work

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

CHAPTER XII

SOCIAL INSURANCE, HEALTH INSURANCE AND UNEMPLOYEMENT INSURANCE

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

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

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

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2. When an employee is absent from work and is covered by social insurance, the employer is not required to pay a wage to the employee, unless otherwise agreed by both parties.

3. For an employee who is not covered by compulsory social insurance, health insurance and unemployment insurance, the employer shall concurrently pay to the employee a wage and an amount which is equivalent to the level of contribution to compulsory social insurance, compulsory health insurance and unemployment insurance in accordance with the social insurance, health insurance and unemployment insurance laws.

Article 169. Age of retirement

1. An employee, who meets the conditions on the period of payment of social insurance as prescribed by the law on social insurance, is entitled to a pension when reaching the age of retirement.

2. The age of retirement for employees in normal working conditions shall be amended in accordance with the roadmap until male employees reach full 62 years old in 2028 and female employees reach full 60 years old in 2035.

Starting from 2021, the age of retirement for employees working in normal working conditions shall be at 60 years and 03 months of age for male employees and 55 years and 04 months of age for female employees; the age of retirement shall increase by 03 months per year for male employees and by 04 months per year for female employees.

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3. An employee whose working capacity has been declined; who performs a specially heavy, hazardous or dangerous job or a heavy, hazardous or dangerous job; who works in a region facing exceptionally difficult socio-economic conditions shall be entitled to retire at a younger age, but shall not be more than 05 years earlier than the age defined in Clause 2 of this Article at the time of retirement, unless otherwise prescribed by the law.

4. An employee who has high professional and technical qualifications and other special cases may retire at an older age, but shall not be more than 05 years higher than the age specified in Clause 2 of this Article at the time of retirement, unless otherwise prescribed by the law.

5. The Government shall detail the regulations of this Article.

CHAPTER XIII

WORKERS' REPRESENTATIVE ORGANIZATIONS AT GRASSROOT LEVEL

Article 170. The right to establish, join and operate workers' representative organizations at grassroot level

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1. Employees shall have the right to establish, join and operate trade unions in accordance with the Law on Trade Union.

2. Employees of enterprises have the right to establish, join and operate the organization of employees at the enterprise as defined in Article 172, Article 173 and Article 174 of this Code.

3. Workers' representative organizations as prescribed in Clause 1 and Clause 2 of this Article shall have equal rights and obligations in representing and protecting lawful rights and legitimate interests of employees in industrial relations.

Article 171. Grassroot-level trade unions under the system of Vietnam trade unions

1. Grassroots-level trade unions under the system of Vietnam trade unions shall be established in agencies, organizations, units and enterprises.

2. The establishment, dissolution, organization and operation of grassroots-level trade unions shall be conducted in accordance with the Law on Trade Unions.

Article 172. The establishment and participation of workers' representative organization at an enterprise

1. A workers' representative organization at an enterprise shall be established and operated after a competent state agency grants it the registration.

The workers' representative organization at an enterprise shall be organized and operated in accordance with the National Constitution, laws and regulations; on the basis of voluntariness, self-management and transparency.

2. The registration of the workers' representative organization at an enterprise shall be revoked if the organization violates principles and purposes of the organization as prescribed at Point b, Clause 1, Article 174 of this Code or if the workers' representative organization at the enterprise cease to exist in cases of division, separation, consolidation, merging, or dissolution or the enterprise undergoes dissolution or bankruptcy.

3. In case that the workers' representative organization at the enterprise join the Vietnam Trade union, the organization shall conform to regulations of the Law on Trade Unions.

4. The Government shall prescribe the dossier; competence and procedure for registration, procedure for granting registration, or revoking registration; shall perform state management on the finance and assets of workers' representative organizations at enterprises; and shall prescribe the unification, mergence, separation, segregation and dissolution of such organizations.

Article 173. Board of leaders, and members of workers' representative organization at an enterprise

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1. At the time of registration, the workers' representative organization at an enterprise shall gain the minimum threshold of membership working at the enterprise as prescribed by the Government's regulations.

2. The board of leaders shall be elected by members of the workers' representative organization at the enterprise. Members of the elected board of the workers' representative organizations at the enterprise shall be Vietnamese employees who are working at the enterprise, are not in the period of penal liability examination or executing the punishment, and are not in the period when their recorded unspent offences have not been released due to committing any crimes against national security; crimes against freedom of human beings, crimes of infringement upon citizens' democratic freedom; crimes against ownership rights in accordance with regulations prescribed in the Penal Code.

Article 174. Constitution of the workers' representative organization at an enterprise

1. Constitution of the workers' representative organization at an enterprise shall include the following main contents:

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

b) Mandate, purposes and scope of organization shall be to protect lawful rights and legitimate interests of members of the organization in industrial relations at the enterprise; to resolve issues, together with employers, related to rights, obligations and interests of employees and employers; to establish a progressive, harmonious and stable industrial relations;

c) Requirements and procedures to join and withdraw from the workers' representative organization at an enterprise.

A workers' representative organization at an enterprise shall not concurrently comprise both rank-and-file employees and employees directly involved in decision-making process of working conditions, recruitment, labor discipline, termination of employment contracts or assignment of employees to perform other jobs.

d) Organizational structure, working tenure and representatives of organization;

dd) Principles of organization and operation;

e) Procedures for the adoption of decisions of the organization;

The following contents shall be decided by the majority of members: the adoption, amendment and supplement of the organization's constitution; election and dismissal of the Head and members of the Board of leaders of the organization; the unification, mergence, separation, segregation and dissolution of organization; the participation in Vietnam General Confederation for Labor;

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g) Membership fees, source of property and finance, and its usage and management of the organization.

The financial collection and expenditure of the workers' representative organization at an enterprise must be monitored, documented and annually published to members of the organization.

h) Complaints and internal resolutions for complaints;

2. The Government shall detail regulations of this Article.

Article 175. Prohibited acts of employers related to the establishment, participation and operation of workers' representative organizations at grassroot level

1. Acts of discrimination against employees and members of workers' representative organizations for the reason of establishment, joining and operation of workers' representative organizations, including:

a) Requesting employees to join or not to join or to leave the workers' representative organization as a requirement for their recruitment, engagement or extension of labor contracts;

b) Dismissing, disciplining, unilaterally terminating employment contracts, or rejecting to extend labor contracts or transferring employees to perform other jobs;

c) Discriminating over wages, working hours and other rights and obligations in the extent of industrial relations;

d) Creating obstacles and difficulties in works in order to obstruct the operation of workers' representative organizations at grassroot level.

2. Acts of interference and manipulation in the process of establishment, election, development of work plan and implementation of activities of workers' representative organizations, including using financial support or using economic measures to undermine or weaken the functioning and performance of workers' representative organizations at grassroot level or to discriminate in favor of or against workers' representative organizations at grassroot level.

Article 176. Rights of members of the Board of leaders of workers' representative organizations at grassroot level

1. Members of the Board of leaders of workers' representative organizations at grassroot level are entitled to the following rights:

a) To meet employees at workplace when they perform tasks of workers' representative organizations. It must be ensured that the performing such tasks shall not have any effect on the normal operation of employers;

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b) To meet employers to perform tasks representing workers' representative organizations at grassroot level;

c) To allocate their working time, as prescribed in Clause 2 and Clause 3 of this Article, to perform tasks of workers' representative organizations while remaining to be paid by the employers;

d) To be provided with guarantees in industrial relations and in the implementation of their representative functions in accordance with the law.

2. The Government shall prescribe the minimum time that an employer must share allocate all members of the Board of leaders of the workers' representative organization at grass-root level to perform tasks of the organization on the basis of the number of members of this organization.

3. The workers' representative organization at grassroot level and the employer shall negotiate about the additional time compared to the minimum time specified in Clause 2 of this Article and the way to use the working time for members of the Board of leaders of the workers' representative organization at grassroot level in line with their actual conditions.

Article 177. Obligations of employers towards workers' representative organizations at grassroot level

1. To create no obstructions and difficulties when employees conduct lawful activities to establish, join a workers' representative organization and participate in the operation of this workers' representative organization at grassroot level.

2. To recognize and respect rights of legally established workers' representative organizations.

3. To reach written agreements with the Board of leaders of workers' representative organizations in case where the employers unilaterally terminate employment contracts or transfer employees to perform other jobs or apply disciplinary measure of dismissal to employees who are elected members of the Board of leaders of workers' representative organizations. If failing to reach such agreement, the two parties shall report to competent agencies on labor issues under provincial People's Committee. After 30 days from the date of reporting to competent agencies on labor issues under provincial People's Committee, employers shall be eligible for making decisions. If disagreeing with the decision of the employers, employees and the Board of leaders of workers' representative organizations have the right to request labor dispute settlement in line with the procedure and order prescribed by the law.

4. To extend the labor contracts until the end of their working tenure for employees whose labor contracts expire while they are in the incumbent Board of leaders of a workers' representative organization.

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5. To perform other obligations in accordance with the law.

Article 178. Rights and obligations of workers' representative organizations at grassroot level in industrial relations

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

2. To participate in dialogues at workplace in accordance with regulations of this Code;

3. To consult over the formation and supervision of the implementation of wage scales, wage tables, determination of labor norms, wage payment regulations, bonus regulations, internal working regulations and other relevant issues related to the rights and obligations of employees who are members of the organizations.

4. To represent employees in labor disputes and in complaint resolution upon authorization of employees;

5. To organize and lead strikes under regulations of this Code;

6. To receive technical support of legally-operated agencies and organizations in Viet Nam for the comprehension of the Labor law, of formalities and procedures of the establishment of workers' representative organizations and of performance of their representative activities in industrial relations after being granted registration.

7. To be provided by employers with a workspace, information, and to be given guarantees for necessary conditions for the operation of workers' representative organizations.

8. To be entitled to other rights and obligations in line with the law.

CHAPTER XIV

SETTLEMENT OF LABOR DISPUTES

Section 1

GENERAL PROVISIONS ON THE SETTLEMENT OF LABOR DISPUTES

Article 179. Labor disputes

1. Labor dispute is a dispute on rights, obligations and interests that arise among the parties in the process of establishing, implementing or terminating labor relations; or a dispute among worker's representative organizations; or a dispute arising from relations that are directly related to industrial relations. Labor disputes shall include the following categories:

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a) Individual labor disputes between an employer and an employee; between an employee and an enterprise or agency that sends the employee to work overseas on work contract; between a dispatched employee and a hiring party;

b) Right-based and interest-based collective labor disputes between one or several workers' representative organizations and an employer or one or more employers' organization(s);

2. A right-based collective labor dispute is a dispute between one or several workers' representative organization(s) and an employer or one or more employers' organization(s) that arises in the following cases:

a) Difference in the interpretation and the implementation of terms in collective bargaining agreements, internal working regulations, and other regulations and other lawful agreements;

b) Difference in the interpretation and the implementation of the labor law;

c) When an employer engages in an act of discrimination against employees, rank-and-file members and members of the Board of leaders of workers' representative organizations for the reason of establishing and joining workers' representative organizations and participating in workers' representative organizations activities; or when an employer engages in an act of intervention or manipulation against workers' representative organizations; or in an act of violation of the obligation to negotiate in good faith.

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3. Right-based collective labor disputes shall include:

a) Labor disputes that arise during the process of collective bargaining;

b) When one party refuses to negotiate or does not conduct negotiations within the time limit as prescribed by the law.

Article 180. Principles of settlement of labor disputes

1. To respect the self-determination right through negotiation of the parties throughout the labor dispute settlement process.

2. To attach great importance to the settlement of labor disputes through mediation and arbitration on the basis of respect for the rights and interests of both disputing parties, of respect for the common interest of the society and the compliance with the law;

3. To guarantee publicity, transparency, objectiveness, timeliness, quickness and lawfulness.

4. To ensure the participation of representative sof each party in the labor dispute settlement process.

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5. The settlement of a labor dispute shall be conducted by a competent agency, organization or person upon request from the disputing parties or upon request from competent agencies, organizations and individuals and agreed by the disputing parties.

Article 181. Responsibilities of agencies and organizations in the settlement of labor disputes

1. The state management agency of labor shall coordinate with the workers' representative organization and the employers' representative organization in providing guidance and assistance to the disputing parties during the labor dispute settlement.

2. The Ministry of Labor, War Invalids and Social Affairs shall organize training to raise professional capacity for labor conciliators and arbitrators in settling labor disputes.

3. Upon request for labor dispute settlement, competent agencies on labor under People's Committee shall be the focal point to receive the request for labor disputes settlement, shall take the responsibility for classifying, providing guidance and support to the disputing parties in the labor dispute settlement.

Within 05 working days, agencies in charge of receiving requests for labor disputes settlement shall send these requests to labor conciliators in case that these labor disputes must go through the labor conciliation; or shall send these requests to the Labor Arbitration Council upon request or shall provide guidance to send these requests to the People's Court for settlement.

Article 182. Rights and obligations of the two disputing parties in labor dispute settlement

1. During the labor dispute settlement, the two parties have the following rights:

a) To participate directly or through a representative in the settlement process;

b) To withdraw or change the content of their written request;

c) To request change of the person in charge of settling the labor dispute if they have grounds to believe that such person may not be impartial or objective.

2. During the labor dispute settlement, the two disputing parties shall have the following obligations:

a) To promptly and fully provide all documents and evidence to prove their request;

b) To abide by the reached agreement, the judgment of the Board of Labor Conciliators or the ruling of People's Court which has taken legal effect.

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Article 183. Powers of competent agencies, organizations and individuals in the settlement of labor disputes

Agencies, organizations and persons competent to settle labor disputes may, within the scope of their tasks and powers, shall request the two disputing parties and relevant agencies, organizations and individuals to provide documents and evidence, solicit assessment and invite witnesses and other related people.

Article 184. Labor conciliators

1. Labor conciliators are appointed by the Chairperson of a provincial People's Committee to conciliate labor disputes, and disputes over vocational training contracts; and to support the development of industrial relations.

2. The Government shall prescribe the criteria, procedures and formalities for the appointment of conciliators; working conditions and management of labor conciliators; and competence, procedures and formalities for sending labor conciliators.

Article 185. Labor Arbitration Council

1. The chairperson of a provincial-level People's Committee shall decide to establish the Labor Arbitration Council and to appoint its Chairperson, a secretary and labor arbitrators of the Labor Arbitration Council. The working term of the Labor Arbitration Council shall be 5 years.

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2. The number of arbitrators of the Labor Arbitration Council shall be decided by the Chairperson of the provincial People's Committee, consisting of at least 15 members, including equal proportions nominated by each party, specifically:

a) At least 05 members nominated by the competent agency on labor under the provincial People's Committee, of which the Chairperson of the Council is the representative leader from this agency and the Council secretary is an official of this agency.

b) At least 05 members nominated by the provincial federation of labor;

c) At least 05 members nominated by employers' representative organizations in the province.

3. Criteria and working regime of labor arbitrators shall be prescribed as follows:

a) Labor arbitrators must have knowledge of laws, experiences in industrial relations, and must be creditable and impartial;

b) When nominating labor arbitrators under regulations in Clause 2 of this Article, the competent agency on labor under the provincial People's Committee, the provincial federation of labor, and employers' representative organizations may

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nominate their officials and other people meeting the criteria of labor arbitrators under legal regulations;

c) The Secretary of the Labor Arbitration Council shall work full-time at the Labor Arbitration Council. Labor arbitrators may work on full-time or part-time basis.

4. Upon a request to settle labor disputes under regulations in Article 189, Article 193 and Article 197 of this Code, the Labor Arbitration Council shall establish an Arbitration Panel to settle labor disputes as follows:

a) Representative of each disputing party shall select one arbitrator in the list of labor arbitrators.

b) Labor arbitrators selected by disputing parties as prescribed at Point a of this Clause shall nominate 01 other labor arbitrator to be the Head of the Arbitration Panel;

c) In case all disputing parties select the same arbitrator to settle labor disputes, the Arbitration Panel shall include only 01 arbitrator;

5. The Arbitration Panel shall operate on the principle of collectivism and the rule of majority, except for cases specified at Point c, Clause 4 of this Article;

6. The Government shall prescribe in details for the criteria, procedures, and formalities for the appointment and dismissal of arbitrators, working conditions for labor arbitrators and the Labor Arbitration Council; the establishment and operation of the Labor Arbitration Council; and the organization and operation of the Arbitration Panel as defined at this Article.

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Article 186. Prohibition of unilateral acts pending settlement of labor disputes

None of the disputing parties are allowed to take unilateral actions against the other party pending the settlement of their labor disputes by a competent agency, organization or individual in the time limit as prescribed by this Code.

SECTION 2

COMPETENCE AND PROCEDURES FOR THE SETTLEMENT OF INDIVIDUAL LABOR DISPUTES

Article 187. Competence for the settlement of individual labor disputes

Agencies, organizations and individuals who are competent to resolve individual labor disputes shall include:

1. The Labor conciliator;

2. The Labor Arbitration Council;

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3. The People's Court.

Article 188. Procedures for the settlement of individual labor disputes by labor conciliators

1. Individual labor disputes must go through the conciliation conducted by labor conciliators before going to the Labour Arbitration Council or the People's court for settlement, except the following labor disputes:

a) Disputes over disciplinary measures of dismissal or unilateral termination of labor contracts;

b) Disputes over compensation for damage and allowance upon termination of labor contracts;

c) Disputes between a domestic employee and his/her employer;

d) Disputes over social insurance in accordance with the law on social insurance, disputes over health insurance in accordance with the law on health insurance, disputes over unemployment insurance in accordance with the law on employment, disputes over insurance against work accident or occupational disease in accordance with the law on occupational safety and hygiene;

dd) Disputes over compensation between employees and enterprises or agencies sending employees to work abroad under contracts.

e) Disputes between dispatched employees and their employers;

2. Within 05 working days from the date of receiving a conciliation request from disputing parties or from competent agencies as defined in Clause 3, Article 181 of this Code, the labor conciliator shall complete the conciliation.

3. Both disputing parties must be present at the conciliation meeting. The disputing parties may authorize their representatives to attend the conciliation meeting.

4. The labor conciliator shall instruct and support the disputing parties to negotiate and settle disputes.

In case the two parties can reach an agreement, the labor conciliator shall prepare a record of successful conciliation. The record of successful conciliation must be signed by disputing parties and the labor conciliator.

In case the two parties cannot reach any agreement, the labor conciliator shall recommend a solution to the parties for consideration. In case the two parties agree with the recommended solution, the labor conciliator shall prepare a record of successful conciliation. The record of successful conciliation must be signed by disputing parties and the labor conciliator.

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In case the parties do not agree with the recommended solution or one of the disputing parties is absent without a plausible reason after having been duly summoned for two times, the labor conciliator shall prepare a record of unsuccessful conciliation. The record of unsuccessful conciliation must be signed by disputing parties and the labor conciliator.

5. Copies of the record of successful or unsuccessful conciliation must be sent to all disputing parties within 01 working day from the date the record is made.

6. In case either party does not implement the agreement written in the record of successful conciliation, the other disputing party has the right to request settlement by the Labor Arbitration Council or a court.

7. In case where conciliation is not required as specified at Clause 1 of this Article or where the labor conciliator fails to resolve the disputes within the time limits as prescribed in Clause 2 of this Article or in case of unsuccessful conciliation as specified in Clause 4 of this Article, the disputing parties shall have the right to choose one of the following methods to settle labor disputes:

a) To request the Arbitration Council for settlement as prescribed in Article 189 of this Code;

b) To request the Court for settlement.

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Article 189. Settlement of individual labor disputes by the Labor Arbitration Council

1. On the basis of mutual agreement, the disputing parties may request dispute settlement by a Labor Arbitration Council in cases as prescribed in Clause 7, Article 188 of this Code. When the parties have requested the Labor Arbitration Council to resolve the dispute, they are not allowed to request for dispute settlement by the Court during the duration that the Labor Arbitration Council is resolving the dispute, except for the cases specified in Clause 4 of this Article.

2. Within 07 working days after receiving the request for dispute settlement as specified in Clause 1 of this Article, an Arbitration panel shall be established for dispute settlement.

3. Within 30 working days after the Arbitration Panel is established, this panel must issue a judgement on the dispute settlement and send this judgement to the disputing parties.

4. In case where the Arbitration Panel is not established within the time limit as prescribed in Clause 2 of this Article or the Arbitration Panel fails to resolve the dispute within the time limit as prescribed at Clause 3 of this Article, the parties shall have the right to request for the dispute settlement by the People's Court.

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5. In case where one of the disputing parties does not comply with the judgement on the dispute settlement of the Arbitration Panel, other parties have the right to request for the dispute settlement by the Court.

Article 190. Time limit for requesting the settlement of individual labor disputes

1. The time limit to request a labor conciliator to settle an individual labor dispute is 06 months from the date on which the act, which a party claims has caused the infringement of the lawful rights or interests, is detected.

2. The time limit to request the settlement of an individual dispute by the Labor Arbitration Council is 09 months from the date on which the act, which a party claims has caused the infringement of the lawful rights or interests, is detected.

3. The time limit to bring an individual labor dispute to the People's Court is 01 year from the date on which the act, which a party claims has caused the infringement of the lawful rights or interests, is detected.

4. In case the requesting party can prove that due to a force majeure event, an objective obstacle or other reason prescribed by law it cannot request the settlement of an individual labor dispute within the time limit as prescribed in this Article, the time of the force majeure event or the objective obstacle or the reason shall not be included in the statute of limitations for requesting the settlement of the individual labor dispute.

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SECTION 3

COMPETENCE AND PROCEDURES FOR THE SETTLEMENT OF RIGHT-BASED COLLECTIVE LABOR DISPUTES

Article 191. Competence for the settlement of right-based collective labor disputes

1. Agencies, organizations and individuals who are competent to settle right-based collective labor disputes shall include:

a) The Labor conciliator;

b) The Labor Arbitration Council;

c) The People's Court.

2. Right-based collective labor disputes must be settled through conciliation procedures of labor conciliators before requesting for the settlement by the Labor Arbitration Council or the People's Court.

Article 192. Procedures and formalities for the settlement of right-based collective labor disputes

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1. Procedures and formalities for the settlement of right-based collective labor disputes shall be implemented under regulations in Clauses 2, 3, 4, 5 and 6 of Article 188 of this Code;

For disputes defined at Point b and Point c, Clause 2, Article 179 of this Code with violations of law detected, the labor conciliator shall prepare a record and send the dossier and documents to competent agencies for consideration and handling in accordance with the law.

2. In case of unsuccessful conciliation or in case where the labor conciliator fails to conduct conciliation within the time limit as specified in Clause 2, Article 188 of this Code, the disputing parties shall have the right to choose one of the following methods to settle labor disputes:

a) To request the Labor Arbitration Council for settlement as prescribed in Article 193 of this Code;

b) To request the Court for settlement.

Article 193. Settlement of right-based collective labor disputes by the Labor Arbitration Council

1. In case of unsuccessful conciliation; in case where the labor conciliator fails to resolve the disputes within the time limits as prescribed in Clause 2, Article 188 of this Code; or in case where either party does not implement the agreement written in the record of successful conciliation - the disputing parties, on the basis of mutual agreement, may request the dispute settlement by a Labor Arbitration Council.

2. Within 07 working days after receiving the request for dispute settlement as specified in Clause 1 of this Article, an Arbitration Panel shall be established for settling disputes.

3. Within 30 working days after the Arbitration Panel is established, on the basis of provisions of labor law, collective bargaining agreements and registered internal work rules and other lawful agreements and regulations, this Panel must issue a judgement on the dispute settlement and send this judgement to the disputing parties.

For disputes defined at Point b and Point c, Clause 2, Article 179 of this Code with violations of law, the labor conciliator shall not issue any judgement but shall prepare a record and send the dossier and documents to competent agencies for consideration and handling in accordance with the law.

4. In case the disputing parties choose to have the Labor Arbitration Council settle their disputes under regulations of this Article, during the process of dispute settlement by the Labor Arbitration Council, the disputing parties must not request for the settlement of the People's Court.

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5. In case where an Arbitration Panel is not established within the time limit as prescribed in Clause 2 of this Article or the Arbitration Panel fails to resolve the dispute within the time limit as prescribed at Clause 3 of this Article, the parties shall have the right to request for the dispute settlement by the Court.

6. In case where one of the disputing parties does not comply with the judgement on the dispute settlement of the Arbitration Panel, other parties have the right to request for the dispute settlement by the People's Court.

Article 194. Time limit for the settlement of right-based collective labor disputes

1. The time limit to request a labor conciliator to settle a right-based collective labor dispute is 06 months from the date on which the act, which a party claims has caused the infringement of the lawful rights or interests, is detected.

2. The time limit to request the settlement of a right-based collective labor dispute by the Labor Arbitration Council is 09 months from the date on which the act, which a party claims has caused the infringement of the lawful rights or interests, is detected.

3. The time limit to bring a right-based collective labor dispute to the People's Court is 01 year from the date on which the act, which a party claims has caused the infringement of the lawful rights or interests, is detected.

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SECTION 4

COMPETENCE AND PROCEDURES FOR THE SETTLEMENT OF RIGHT-BASED LABOR DISPUTES

Article 195. Competence for the settlement of interest-based collective labor disputes

1. Agencies, organizations and individuals who are competent to settle interest-based collective labor disputes shall include:

a) The Labor conciliator;

b) The Labor Arbitration Council;

2. Interest-based collective labor disputes must be settled through conciliation procedures of labor conciliators before requesting for the settlement by the Labor Arbitration Council or carrying out procedures for going on strike.

Article 196. Procedures and formalities for the settlement of right-based collective labor disputes

1. Procedures and formalities for the settlement of right-based collective labor disputes shall comply with regulations in Clauses 2, 3, 4 and 5, Article 188 of this Code;

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2. In case of successful conciliation, the record of successful conciliation shall include all contents agreed upon by all disputing parties, and signatures of those parties and the labor conciliator. The record of successful conciliation shall be considered as a legal document of the enterprise's collective bargaining agreement.

3. In case of unsuccessful conciliation, in case where the labor conciliator fails to resolve the disputes within the time limits as prescribed in Clause 2, Article 188 of this Code; or in case where either party does not implement the agreement written in the record of successful conciliation, the disputing parties have the right to choose one of the following methods to settle their labor disputes:

a) To request the Arbitration Council for settlement as prescribed in Article 197 of this Code;

b) Worker's representative organizations have the right to conduct procedures for going on a strike as prescribed in Articles 200, 201, and 202 of this Code.

Article 197. Settlement of interest-based collective labor disputes by the Labor Arbitration Council

1. In case of unsuccessful conciliation; in case where the labor conciliator fails to resolve the disputes within the time limits as prescribed in Clause 2, Article 188 of this Code; or in case where either party does not implement the agreement written in the record of successful conciliation - the disputing parties, on the basis of mutual agreement, may request the dispute settlement by a Labor Arbitration Council.

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2. Within 07 working days after receiving the request for dispute settlement as specified in Clause 1 of this Article, an Arbitration Panel shall be established for dispute settlement.

3. Within 30 working days after the Arbitration panel is established, on the basis of provisions of labor law, collective bargaining agreements and registered internal work rules and other lawful agreements and regulations, this panel must issue a judgement on the dispute settlement and send this judgement to the disputing parties.

4. In case the disputing parties choose to have the Labor Arbitration Council settle their disputes under regulations of this Article, during the process of dispute settlement by the Labor Arbitration Council, the disputing parties must not carry out a strike.

In case where a Labor Arbitration Panel is not established within the time limit as prescribed in Clause 2 of this Article or the Labor Arbitration Panel fails to resolve the dispute within the time limit as prescribed at Clause 3 of this Article, or employers as a disputing party does not conform to the judgement of the Labor Arbitration Panel, the workers' representative organization as a disputing party shall

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have the right to conduct procedures as prescribed in Articles 200, 201 and 202 of this Code for going on a strike.

SECTION 5

STRIKE

Article 198. Strike

1. Strike is a temporary, voluntary and organized work stoppage of an employees' collective in order to achieve their demands in the process of labor dispute settlement. Strikes are organized and led by the workers' representative organization, who has the right to conduct collective bargaining, as a disputing party.

Article 199. Cases where employees shall have the right to strike

A workers' representative organization as a disputing party in an interest-based labor dispute shall conduct the procedures as prescribed in Articles 200, 201 and 202 of this Code to go on a strike in the following cases:

1. In case of unsuccessful conciliation or in case where the labor conciliator fails to resolve the disputes within the time limits as prescribed in Clause 2, Article 188 of this Code;

2. In case where a Labor Arbitration Panel is not established within the time limit; in case where the Labor Arbitration Panel is established but this Panel fails to resolve the dispute; or in case the employer as a disputing party does not conform to the judgement of the Labor Arbitration Panel.

Article 200. Sequence of going on strike

1. Collecting opinions on the strike as prescribed in Article 201 of this Code;

2. Issuing a decision to go on strike and a notice of strike as prescribed in Article 202 of this Code;

3. Going on strike.

Article 201. Collecting opinions on the strike

1. Before commencing a strike, the workers' representative organization which has the right to organize and lead a strike as prescribed in Article 198 of this Code shall take the responsibility for collecting opinions of all employees or members of the Board of leaders of the workers' representative organization participating in the negotiation.

2. Issues to be put up for opinions on going on a strike include:

a) Approval or disapproval of the strike;

b) The option suggested by the workers' representative organization on the contents specified at Points b, c and d, Clause 2, Article 202 of this Code;

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3. Opinions may be collected by ballot or signatures or other prescribed methods.

4. The time, venue and method of collecting opinions on going on a strike must be determined by the workers' representative organization and must be notified to the employer at least 01 day in advance. The solicitation of opinion must not leave adverse impacts on the normal business and manufacturing operation of the employer. The employer must not create any obstructions, difficulties or intervention in the solicitation of opinions on the strike conducted by the workers' representative organization.

Article 202. Decision of going on a strike and notification of the starting time of a strike

1. When over 50% of the consulted employees agree with the matters of strike putting forward for opinions as prescribed in Clause 2, Article 201 of this Code, the workers' representative organization shall issue a written decision to go on strike.

2. A decision to go on strike must include:

a) The outcome of the collection of opinions on going on strike;

b) The starting time and venue for the strike;

c) Scope of the strike;

d) Demands of the employees;

e) Full name and address of the representative of the workers' representative organization organizing and leading the strike.

3. At least 05 working days prior to the starting date of the strike, the workers' representative organization organizing and leading the strike shall send the decision to go on strike to the employer, district-level People's Committee and the competent agency on labor under provincial People's Committee.

4. By the starting time of the strike, if the employer does not accept the demands of the employees, the workers' representative organization may organize and lead the strike.

Article 203. Rights of the parties prior to and during a strike

1. To continue negotiating to settle the collective labor dispute or jointly request a labor conciliator or the Labor Arbitration Council to settle labor disputes.

2. The workers' representative organization organizing and leading a strike as prescribed in Article 198 of this Code shall have the following rights:

a) To withdraw the decision to go on strike if the strike has not happened yet or to stop the strike if it is happening;

b) To request the Court to declare the strike is legal.

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3. The employer shall have the following rights:

a) To accept the demand entirely or in parts, and send a written notice of his/her acceptance to the workers' representative organization that organizes and leads the strike;

b) To temporarily close the workplace during the strike due to shortage of conditions to maintain normal operations or to protect the assets;

c) To request the Court to declare the strike is illegal.

Article 204. Cases in which a strike is illegal

1. The strike does not fall into any cases prescribed in Article 199 of this Code.

2. The strike is not organized and led by a workers' representative organization which have the right to organize and lead a strike.

3. The strike violates regulations on procedures and formalities to go on strikes in accordance with this Code;

4. When the labor dispute is being settled by competent agencies, organizations and individuals under provisions of this Code;

5. The strike is conducted in case where a strike is prohibited as prescribed in Article 209 of this Code;

6. The strike occurs when the decision to postpone or cancel the strike has been issued by competent agencies in accordance with provisions in Article 210 of this Code;

Article 205. Notice of the decision on temporary closure of the workplace

At least 03 working days before the date of temporary closure of the workplace, the decision on temporary closure must be publicly posted up at the workplace and notified by the employer to the following agencies and organizations:

1. The workers' representative organization that is organizing and leading the strike;

2. The provincial-level People's Committee of the locality where the workplace is located;

3. The district-level People's Committee of the locality where the work place is located.

Article 206. Prohibited cases of temporary closure of the workplace

1. 12 hours prior to the starting time of the strike notified in the decision to go on strike.

2. After the employees stop striking.

Article 207. Wages and other lawful interests of employees during a strike

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1. Employees who do not take part in a strike but have to stop working because of the strike shall be paid with a work suspension allowance under Clause 2, Article 99 of this Code and other benefits prescribed in the labor law.

2. Employees taking part in a strike may not be paid with wages or other benefits as prescribed by the law, unless otherwise agreed by both parties.

Article 208. Prohibited acts before, during and after a strike

1. Obstructing employees to exercise their rights to go on strike or instigating, dragging or forcing employees to go on strike, and preventing non-strikers from going to work.

2. Using violence; sabotaging machines, equipment and assets of the employer.

3. Violating public order and security.

4. Terminating the labor contracts with, or imposing labor disciplinary measures on employees and strike leaders or transferring employees and strike leaders to other jobs or other locations due to their preparation for or their involvement in the strike.

5. Taking revenge actions on employees who are on strike or leaders of the strike.

6. Taking advantage of the strike to commit other illegal acts.

Article 209. Workplaces where strikes are prohibited

1. Strike is prohibited in working places where strikes can threaten the national defense, public security, social order and human health.

2. The Government shall detail the list of workplaces where strikes are prohibited and the settlement of labor disputes in workplaces where strikes are prohibited as specified in Clause 1 of this Article.

Article 210. Decisions to postpone or cancel strikes

1. When considering that a strike may cause serious damage to the national economy and public interests or may threaten national defense, public security, social order and human health, the Chairperson of the provincial-level People's Committee shall decide to postpone or cancel such strike.

2. The Government shall detail regulations on the postponement and cancellation of strikes and the settlement of interests of the employees.

Article 211. Handling of strikes that do not follow the prescribed sequence and procedures

Within 12 hours after receiving the notification of a strike that does not comply with regulations in Articles 200, 201 and 202 of this Code, the Chairperson of the

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district-level People's Committee shall assume the prime responsibility for, guide the competent agency on labor, and collaborate with the trade union at the same level and other relevant agencies and organizations in, holding a meeting directly with the employer and the representatives of the grassroots-level workers' representative organization to consult and support the parties to find solutions to the case and resume normal production and business operations.

In case of detecting acts of law violation, make a record, handle or propose competent agencies to handle individuals and organizations that have committed acts of law violation according to law provisions.

With regard to the content of a labor dispute, depending on the type of dispute, to guide and assist the parties to conduct labor dispute settlement procedures in accordance with this Code.

CHAPTER XV

STATE MANAGEMENT OF LABOR

Article 212. Contents of state management of labor

1. Promulgating and implementing legal documents on labor.

2. Monitoring, making statistics and providing information on labor supply and demand and fluctuations of labor supply and demand; making decision on policies, master plans and plans on human resources, distribution and utilization of labor in the whole society, vocational training, development of vocational skills; formulating the national vocational qualification framework and the national qualification framework for levels of vocational training. Issuing a list of jobs that require employees who have been vocationally trained or possess national vocational skills certificates;

3. Organizing and conducting scientific research on labor; collecting statistics and information on labor and the labor market and on the living standards, wages and income level of employees; managing the labor quality, quantity and labor fluctuation.

4. Building mechanisms and institutions to support the development of harmonious, stable and progressive industrial relations; promote the implementation of the regulations of this Code towards employees without industrial relations; conducting the registration and management of the operation of workers' representative organizations at enterprises.

5. Inspecting, examining, settling complaints and denunciations and handling violations of the labor law; and settling labor disputes in accordance with the law.

6. International cooperation in the field of labor.

Article 213. Competence of state management of labor

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1. The Government shall uniformly perform the state management of labor nationwide.

2. The Ministry of Labor, War Invalids and Social Affairs shall take responsibility before the Government for performing the state management of labor.

3. Ministries and ministerial-level agencies shall, within the ambit of their tasks and powers, perform and coordinate with the Ministry of Labor, War Invalids and Social Affairs in performing the state management of labor**.**

4. People's Committees at all levels shall perform the state management of labor within their respective localities.

CHAPTER XVI

LABOR INSPECTION, HANDLING OF VIOLATIONS OF LABOR LAW

Article 214. Contents of labor inspection

1. To inspect the compliance with the labor law;

2. To investigate labor accidents and violations of occupational safety and hygiene;

3. To guide the application of the system of standards and technical regulations on working conditions and occupational safety and hygiene;

4. To settle labor-related complaints and denunciations in accordance with law;

5. To handle violations of labor law within the ambit of their competence.

Article 215. Labor inspection

1. The specialized inspection of labor shall be conducted in accordance with the Law on Inspection.

2. The inspection of occupational safety and hygiene shall be conducted in accordance with the Law on Occupational Safety and Hygiene.

Article 216. Rights of labor inspectors

Labor inspectors shall have the right to inspect and investigate workplaces within the scope of the assigned subject and the scope of inspection in accordance with the inspection decision.

Any unexpected inspection in accordance with the decision issued by a competent person - in case of emergency which might threaten the safety, life, health, honor and dignity of the employees at workplace – might be conducted without prior notice.

Article 217. Handling of violations

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1. Any person violating the provisions of this Code shall, depending on the seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability; and, if causing any damage, shall pay compensations in accordance with law.

2. When the Court issues the ruling that the strike is illegal, the employees on strike shall immediately stop going on strike and return to work; in case the employees still continue to go on strike and do not return to work, depending on the seriousness of their violation, they may be subject to disciplinary measures in accordance with the labor law.

In case an illegal strike causes damage to the employer, the damage must be compensated in accordance with law by the workers' representative organization that organizes and leads the strike.

3. Those who take advantage of a strike to cause public disorder, sabotage machines and assets of the employer; those who prevent or instigate, drag or force employees to go on strike; those who take revenge on strikers and leaders of the strike, shall, depending on the seriousness of their violations, be administratively sanctioned or examined for penal liability; and, if causing any damage, shall pay compensations in accordance with law.

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CHAPTER XVII

IMPLEMENTATION PROVISIONS

Article 218. Exemption and reduction of procedures in cases of employing under 10 employees

Employer who employ under 10 employees shall comply with this Code but a number of procedures shall be exempted or reduced as prescribed by the Government.

Article 219. Amendment ad supplement to a number of articles related to labor

1. To amend and supplement a number of articles in the Law on Insurance No. 58/2014/QH13 amended and supplemented in accordance with the Law No. 84/2015/QH13 and the Law No. 35/2018/QH14:

a) To amend and supplement Article 54 as follows:

"**Article 54. Conditions for pension enjoyment**

1. Employees defined at Points a, b, c, d, g, h and i, Clause 1, Article 2 of this Law, except those defined in Clause 3 of this Article, who have paid social insurance premiums for at least full 20 years are entitled to pension when falling in one of the following cases:

a) Reaching the age as prescribed in Clause 2, Article 169 of the Labor Code;

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b) Reaching the age as prescribed in Clause 3, Article 169 of the Labor Code and having full 15 years doing heavy, hazardous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs as defined in the list issued by the Ministry of Labor, War Invalids and Social Affairs, or having full 15 years working in areas with exceptionally difficult socio-economic conditions including time working in a region-based allowance coefficient of 0.7 or higher before January 01, 2021.

c) Employees who are at most 10 years younger than the prescribed age for retirement as prescribed in Clause 2, Article 169 of the Labor Code and have spent full 15 years working in coal mines;

d) Employees who are infected with HIV/AIDS due to occupational risks when working on an assigned task.

2. Employees defined at Point dd and Point e, Clause 1, Article 2 of this Law, who cease working after having paid social insurance premiums for at least full 20 years, are entitled to pension when falling in one of the following cases: a) Being at most 05 years younger than the prescribed age for retirement as prescribed in Clause 2, Article 169 of the Labor Code, except otherwise prescribed in the Law on Vietnam People's Army officers, the Law on People's Security Forces, the Law on Cipher, the Law on Professional Army Men and Defense Workers and Employees;

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b) Being at most 05 years younger than the prescribed age for retirement as prescribed in Clause 3, Article 169 of the Labor Code and having full 15 years doing heavy, hazardous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs as defined in the list issued by the Ministry of Labor, War Invalids and Social Affairs, or having full 15 years working in areas with exceptionally difficult socio-economic conditions including time working in a region-based allowance coefficient of 0.7 or higher before January 01, 2021.

c) Employees who are infected with HIV/AIDS due to occupational risks when working on an assigned task.

3. Female employees, who are full-time or part-time staffs in communes, wards or townships, cease working after having paid social insurance premiums for between full 15 years and under 20 years, and have reached the age for retirement as prescribed in Clause 2, Article 169 of the Labor Code – shall be entitled to pension.

4. The Government shall stipulate the conditions on retirement ages for pension enjoyment in special cases.";

b) To amend and supplement Article 55 as follows:

"**Article 55. Conditions for employees to enjoy pension when suffering from working capacity decrease**

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1. Employees defined at Points a, b, c, d, g, h, and i, Clause 1, Article 2 of this Law, who cease working after having paid social insurance premiums for at least full 20 years, are entitled to pension lower than that applicable to persons who fully satisfy the conditions for pension enjoyment as specified at Points a, b and c, Clause 1, Article 54 of this Law when falling in one of the following cases:

a) Being at most 05 years younger than the prescribed age for retirement as prescribed in Clause 2, Article 169 of the Labor Code and suffering a working capacity decrease from 61% to under 81%;

b) Being at most 10 years younger than the prescribed age for retirement as prescribed in Clause 2, Article 169 of the Labor Code and suffering a working capacity decrease of above 81%;

c) Having full 15 years doing heavy, hazardous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs as defined in the list issued by the Ministry of Labor, War Invalids and Social Affairs and suffering a working capacity decrease of above 61%;

2. Employees defined at Points dd and e, Clause 1, Article 2 of this Law, who cease working after having paid social insurance premiums for at least full 20 years, and suffer a working capacity decrease of 61% or more, are entitled to pension lower than that applicable to persons who fully satisfy the conditions for pension enjoyment as specified at Points a and b, Clause 2, Article 54 of this Law when falling in either of the following cases:

a) Being at most 10 years younger than the prescribed age for retirement as prescribed in Clause 2, Article 169 of the Labor Code;

b) Having at least full 15 years doing extremely heavy, hazardous or dangerous occupations or jobs in the list jointly issued by the Ministry of Labor, War Invalids.";

c) To amend and supplement Clause 1, Article 73 as follows:

" 1. Employees are entitled to pension when fully satisfying the following conditions:

a) Reaching the age for retirement as prescribed in Clause 2, Article 169 of the Labor Code;

b) Having paid social insurance premiums for at least full 20 years;".

2. To amend and supplement Article 32 of the Civil Procedure Code No. 92/2015/QH13 as follows:

a) To amend and supplement the title of the Article and Clause 1; to add Clause 1a, 1b and 1c after Clause 1 as follows:

Article 32. Labor disputes and other labor-related disputes within the jurisdiction of the Court

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1. Individual labor disputes between an employee and an employer, which have been successfully conciliated by labor conciliators but the parties fail to comply or fail to properly comply with the conciliation results, or which cannot be conciliated, or which are not conciliated within the time limit as prescribed by Law, except the following labor disputes which are not required to be conciliated:

a) Disputes over labor discipline in the form of dismissal or over cases of unilateral termination of a labor contract;

b) Disputes over compensation for damages or over allowance upon termination of a labor contract;

c) Disputes between a domestic employee and his/her employer;

d) Disputes over social insurance in accordance with the social insurance law; over health insurance in accordance with the health insurance law; over unemployment insurance in accordance with the employment law; or over occupational accident or disease insurance in accordance with the occupational safety and health law;

dd) Disputes over compensation for damages between a worker and an enterprise or a non-business unit that sends the worker to work overseas under a contract;

e) Disputes between a dispatched employee and his/her employer;

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1a. In case where individual labor disputes are agreed by the disputing parties to be settled by the Labor Arbitration Council but the Labor Arbitration Panel fails to be established within the time limit as prescribed by the labor law or the Labor Arbitration Panel is established but this Panel fails to resolve the dispute; or in case the employer as a disputing party does not conform to the judgement of the Labor Arbitration Panel – the disputing parties shall have the right to request the settlement of the Court.

1b. In case where right-based collective labor disputes which have been though the conciliation procedure of a labor conciliator but the labor conciliator fails to settle these disputes or the labor conciliator fails to conduct conciliation within the time limit as prescribed by the labor law, the disputing parties shall have the right to request the settlement of the Court.

1c. In case where interest-based collective labor disputes are agreed by the disputing parties to be settled by the Labor Arbitration Council but the Labor Arbitration Panel fails to be established within the time limit as prescribed by the labor law or the Labor Arbitration Panel is established but this Panel fails to resolve the dispute; or in case the employer as a disputing party does not conform to the judgement of the Labor Arbitration Panel – the disputing parties shall have the right to request the settlement of the Court.";

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b) To annul Clause 2 of Article 32.

Article 220. Effect

1. This Code takes effect from January 01, 2021.

The Labor Code No.10/2012/QH13 shall be annulled from the date on which this Code takes effect.

2. From the date on which this Code takes effect, labor contracts, collective labor bargaining and other legitimate agreements whose contents are not against the law or whose contents ensure employees to have more favorable rights and conditions than those prescribed in this Code shall continue to be implemented, except cases where concerned parties reach an agreement on the amendment and supplement to comply with and to implement regulation of this Code;

3. Labor policies for cadres, civil servants, public employees, members of the People's Army and People's Public Security forces and other social organizations, members of cooperatives and employees with no industrial relation shall be prescribed by other legal documents, but depending on each category, some provisions of this Code may be applied.

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

Chairwoman of the National Assembly

Nguyen Thi Kim Ngan

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