

ORDINANCE ON THE PUBLIC LABOR OBLIGATION

(No. 15/1999/PL-UBTVQH of September 3, 1999)

In order to mobilize part of citizens' labor resources for the construction and renovation of public-utility projects; timely prevention of and combat against natural calamities, fires and epidemics, and overcoming of the consequences thereof;

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam;

Pursuant to the Resolution of the National Assembly, the Xth Legislature, fourth session, on the law and ordinance making program of the Xth National Assembly and the 1999 law and ordinance making program;

This Ordinance prescribes the public labor obligation of citizens.

Chapter I

GENERAL PROVISIONS

Article 1.- The public labor is every citizen's obligation to contribute a number of workdays to different undertakings for the community's common interest.

Article 2.- The public labor obligation prescribed in this Ordinance includes the annual public labor obligation and the public labor obligation in emergency cases when natural disasters, fires or epidemics occur.

Article 3.- The mobilization of citizens to fulfill their public labor obligation shall be decided by the competent State agency(ies) according to the set plans, for the right purposes, ensuring the fairness, economy and practical efficiency.

Article 4.- The competent State agency shall issue written decisions to mobilize citizens to fulfill their public labor obligation. In an emergency case when a natural disaster, fire or epidemic occurs, the competent person(s) may make an oral mobilization decision, provided that within 24 hours after such mobilization, a written decision must be issued.

Article 5.- The State encourages and creates favorable conditions for citizens to participate in the public labor.

Article 6.- It is strictly prohibited to mobilize and use public obligatory labor in contravention of this Ordinance's provisions.

Chapter II

ANNUAL PUBLIC LABOR OBLIGATION

Article 7.- All Vietnamese citizens, aged from full 18 to 45 years for men, and from full 18 to 35 years for women, shall have to perform their annual public labor obligation.

Article 8.- Each citizen must contribute 10 workdays performing his/her annual public labor obligation.

Article 9.- The annual public labor shall be used to contribute to the following local undertakings:

1. Construction and renovation of traffic roads;
2. Construction and renovation of irrigation works; particularly, the construction and renovation of dikes and embankments shall comply with the provisions of the legislation on flood and storm prevention and combat;

3. Construction and renovation of health stations, crèches, pre-school education institutions and classes, general education schools and entertainment and recreation projects not for commercial purpose;
4. Construction and renovation of fallen heroes' graveyards, monuments and memorial stela houses.
5. Construction and renovation of other public-utility projects of social-welfare nature.

Article 10.- The following persons shall be exempt from the annual public labor obligation:

1. Officers and men of the People's Army and the People's Police;
2. National defense workers and employees and people's policemen working in mountainous, high-land, deep-lying and border regions and islands; national defense workers and employees of professional itinerant repair teams;
3. Demobilized servicemen who are currently registered as first-grade reserves;
4. War invalids, sick soldiers and those who are entitled to preferential policies like war invalids;
5. Parents or spouses of fallen heroes, persons who had fostered fallen heroes;
6. Career religious dignitaries;
7. Persons who suffer from mental illnesses, epilepsy or physical defects, which deprive them of their working capacity;
8. Persons who suffer from a loss of 21% or higher of their working capacity.

Article 11.- Persons subject to the annual public labor obligation who, at the time of labor mobilization, fall into one of the following cases, shall be temporarily exempt from such obligation:

1. Persons who are being under medical treatment or in convalescence; persons who are the only ones in their respective families, personally nursing their next of kin being seriously ill;
2. Parents, spouses of armymen on active service, whose families actually meet with great difficulties as certified by the People's Committees of communes, wards or district townships (hereafter collectively referred to as the commune-level People's Committees);
3. Women who are pregnant or nursing their under-36 month children;
4. Men, who have their wives passed away or divorced, and are nursing their under-36 month children;
5. Persons who are personally nursing or serving seriously wounded soldiers, seriously sick soldiers or disabled persons who suffer from a loss of 81% or higher of their working capacity;
6. Persons who constitute the hard-core of the militia and self-defense forces;
7. State officials and employees who are sent to work for a definite time in mountainous, high-land, deep-lying or border areas and islands;
8. Youth volunteers who are performing tasks assigned by the competent State agency(ies);
9. Persons who are the only bread earners in their families and personally fostering other people who are incapable of working or not up to the labor age;

10. Persons being members of family households, which are certified by the commune-level People's Committees as hungry households according to the hunger line set by the Government;
11. Heads and deputy heads of commune polices, commune police agents; chiefs of villages, hamlets or equivalent units;
12. Post-graduate students, master's degree students, probationers, students and trainees enrolled in full-time long-term courses at universities, academies, colleges, intermediate vocational schools and job-training schools in the national education system, religious training institutions; general education pupils; literacy class teachers and learners;
13. Persons who are working or studying in foreign countries.

Article 12.- The period of time when the members of second-grade reserves and militia and self-defense forces are called up for training, exercise drills, maneuvers, combat readiness and service shall be counted into the time for performing their annual public labor obligation.

Article 13.- The commune-level People's Committees shall open books to monitor the performance of the annual public labor obligation by citizens residing in their respective localities according to the unified form set by the Ministry of Labor, War Invalids and Social Affairs, and report the situation to the People's Committees of rural districts, urban districts, provincial capitals or provincial towns (hereinafter referred to as the district-level People's Committees). The district-level People's Committees shall check, sum up and report the situation to the People's Committees of the provinces and centrally-run cities (hereinafter referred to as the provincial-level People's Committees) for the whole province's sum-up review which shall serve as basis for directing, inspecting and planning the use of the locality's public labor workday fund.

The reporting time limit shall be decided by the presidents of the People's Committees of the provinces and centrally-run cities.

Article 14.- All people who personally perform the annual public labor obligation shall have to fulfill the labor norms or work volumes assigned by the public labor using units. If they fulfill such assigned norms or volumes ahead of time, they shall be prematurely released from their obligation.

Article 15.- Any person, who is mobilized to perform his/her annual public labor obligation but does not personally render his/her labor, shall have to get his/her obligation performed by another person or pay a sum of money therefor.

Persons who perform the annual public obligation on other people's behalf must be aged full 18 to 60 years for men, or from full 18 to 55 years for women, and in good health to fulfill the assigned labor norms or work volumes.

The amount of money paid for each workday shall be set by the People's Council of the province or centrally-run city, suited to the actual conditions of each area in its locality, but must not exceed 120% of the minimum daily wage level set by the State.

Article 16.- Persons subject to the annual public labor obligation who voluntarily pay money instead of personally performing their obligation shall have to remit such money to the People's Committees of the communes where they reside. Upon receiving the money, the commune-level People's Committees shall have to hand receipts to the payers.

Article 17.- A maximum of 10% of the annual public labor resources shall be distributed to the provincial level, a maximum of 20% to the district level and remainder to the commune level.

Article 18.-

1. The People's Committees of all levels may set up their respective public labor workday funds from the annual public labor resources.

2. All public labor workday funds must be reflected into the local budgets of all levels.

The proceeds from the performance of the annual public labor obligation in form of money payment of a certain level shall be remitted into such level's own account opened at the State Treasury.

3. The public labor workday funds shall be managed and used for right purposes and in a democratic and transparent manner.

The Government shall specify the management and use of the public labor workday funds.

Article 19.- The commune level's annual public labor resources shall be used for public-utility undertakings of the concerned communes, wards or district townships.

The annual public labor resources of the provincial and district levels shall be used in support of public-utility projects managed by the lower level or used in service of projects under their own management.

Article 20.- The presidents of the People's Committees of communes, wards and district townships (hereinafter commonly referred to as the presidents of commune-level People's Committees) shall base themselves on plans for use of annual public labor already decided by the People's Councils of the same level or requests of the People's Committees of the higher levels to issue decisions to mobilize citizens residing in their respective localities.

Mobilization decisions of the presidents of the commune-level People's Committees must be notified to the mobilized people or their families within 7 days before the performance of the public labor obligation.

Article 21.- The mobilization of the annual public labor must be made on the basis of clearly determining the work volume, labor demand, construction tempo and relevant factors, and at the same time minimizing such mobilization's adverse impact on the production, working and studying activities of the concerned agencies, organizations, units and citizens.

Article 22.- The funds for organizing the mobilization and management of annual public labor workday funds shall be allocated by the local budgets according to provisions of law.

Chapter III

THE PUBLIC LABOR OBLIGATION IN EMERGENCY CASES WHEN NATURAL CALAMITIES, FIRES AND EPIDEMICS OCCUR

Article 23.- In emergency cases where a natural calamity, fire or epidemic occurs (hereafter referred to as emergency cases for short), every citizen with working capacity shall have to participate in public labor in order to promptly prevent or combat it, or overcome its consequences, thus minimizing the damage.

Article 24.- The competence to decide the mobilization of the public obligatory labor in emergency cases is defined as follows:

1. The Prime Minister shall decide the mobilization in emergency cases where particularly serious incidents occur with great impacts on socio-economic activities or hazards to ecological environment in many provinces and/or centrally-run cities, or within one province or centrally-run city, which are beyond the handling capacity of the provincial level;

2. The presidents of the provincial-level People's Committees shall decide the mobilization when emergency cases occur in many districts, urban districts, provincial capitals, provincial towns or within one district, urban district, capital or provincial town, which are beyond the handling capacity of the district level;

3. The presidents of the district-level People's Committees shall decide the mobilization when emergency cases occur in many communes, wards, district townships or within one commune, ward, district township, which are beyond the handling capacity of the commune level;

4. The presidents of the commune-level People's Committees shall decide the mobilization when emergency cases occur within their respective communes, wards or district townships.

In cases where they are unable to handle such cases, the presidents of the People's Committees shall have to promptly report them to their immediate higher-level for handling.

Article 25.- The duration of each public labor mobilization for emergency case must not exceed 5 workdays, including traveling time.

Chapter IV

REGIMES TOWARD THE PEOPLE PERSONALLY PERFORMING THEIR PUBLIC LABOR OBLIGATION

Article 26.- For the people who personally perform their public labor obligation at places far from their residence places and are unable to travel the distance daily, the labor using units (in cases of the annual public labor) or the agencies that have decided the labor mobilization (in emergency cases) shall arrange lodging and traveling facilities or pay for round-trip fares.

Article 27.-

1. The people performing the public labor obligation in emergency cases shall enjoy allowances. The allowance level for one workday shall be equal to the daily wage amount of the common minimum wage level. For those working in night time (from 22 hours to 6 hours the next day), the allowance level shall be doubled. Those who work at places where exist noxious and hazardous elements shall be equipped with labor safety devices and enjoy allowance level as for laborers of the production and business sectors working in the same environment.

2. Allowances specified in Clause 1 of this Article shall be calculated according to the actual daily working hours. Each working period of from 2 to 4 hours shall be counted a half workday; each working period of from over 4 to 8 hours shall be counted a full workday. In cases of extra-time work, each extra-time working hour shall be accounted as two routine working hours.

3. Besides the allowance regime specified in this Article, the people, who perform the public labor obligation in emergency cases at places far from their residence places and are unable to travel the distance daily, shall be given meal allowances. The meal allowance level shall be set by the People's Committees of the provinces and centrally-run cities where such emergency cases occur.

Article 28.- People personally performing the public labor obligation who suffer from labor accidents shall be given the medical expenses for first-aid, emergency care and hospitalization of their injuries. In cases where a victim suffers from working incapacitation, he/she shall be considered for an allowance according to his/her labor incapacitation rate. If a victim dies, even when he/she is under the first-time treatment, the person who personally organizes the funeral shall be given a funeral allowance; such victim's family or next of kin shall be given a lump-sum allowance.

The Government shall specify the medical expenses, funeral cost and allowance regimes.

Article 29.- People who fall sick while personally performing the public labor obligation and hold medical insurance cards shall have their medical examination and treatment expenses paid according to the provisions of the Statute on Medical Insurance. Those who have not yet participated in the medical insurance shall also enjoy benefits like the medical insurance card holders, except for cases where such people fall sick while performing their annual public labor obligation at projects of communes, wards and district townships.

Article 30.- The funds for paying allowance regimes and covering medical examination and treatment expenses for people who have not yet participated in the medical insurance as specified in Articles 26, 27, 28 and 29 of this Ordinance are stipulated as follows:

1. Spending amounts for the annual public labor obligation shall be deducted from the annual public labor resource in cash of the project managing levels. If such source is insufficient, it shall be supplemented by the local budget of the same level;
2. Spending amounts for the public labor obligation in emergency cases shall be deducted from the budget of the level that has issued the mobilization decision. Particularly for emergency cases of storms and/or floods, the storm and flood prevention and combat fund shall be used.

Article 31.- Persons who bravely save others' lives, salvage properties of the State and/or people, or combat crimes while performing the public labor obligation shall be considered for preferential policies applicable to war invalids if they get injuries that render them a labor incapacitation rate of 21% or higher, or shall be recognized as fallen heroes if they die.

Article 32.- Persons who perform the annual public labor obligation on others' behalf according to Article 15 of this Ordinance shall have responsibilities and enjoy benefits like those who personally perform their own public labor obligation.

Chapter V

THE RESPONSIBILITIES OF THE STATE AGENCIES AND ORGANIZATIONS IN THE MANAGEMENT AND USE OF THE OBLIGATORY PUBLIC LABOR

Article 33.-

1. The Government shall perform the unified State management over the public labor obligation throughout the country.
2. The Ministry of Labor, War Invalids and Social Affairs shall be answerable to the Government for performing the State management over the public labor obligation.
3. The ministries, ministerial-level agencies and agencies attached to the Government shall, within their respective tasks and powers, coordinate with the Ministry of Labor, War Invalids and Social Affairs in performing the State management over the public labor obligation.
4. The People's Committees of all levels shall, within their respective tasks and powers, have to perform the State management over the public labor obligation in their respective localities.

Article 34.- The State agencies, the Committees of the Vietnam Fatherland Front and its member organizations, other social organizations, economic organizations, people's armed forces units, schools and families shall, within their respective responsibilities, have to supervise, inspect, encourage, educate and create conditions for the people subject to the public labor obligation to perform such obligation.

Article 35.- Annually, the People's Councils of all levels shall decide public-utility projects and funds of public labor workdays to be used for each project under their respective

management; as well as the levels of support for projects managed by the lower-level People's Committees, suited to specific conditions of each locality.

Article 36.-

1. The People's Committees of all levels shall work out plans for use of funds of annual public labor workdays, then submit them to the People's Councils of the same levels for decision; decide the mobilization, management and use of the funds of public labor workdays; and report the performance results to the People's Councils of the same levels and the People's Committees of the immediate higher level.

2. The presidents of the People's Committees of all levels shall decide the mobilization of public labor in emergency cases according to the competence defined in Clauses 2, 3 and 4, Article 24 of this Ordinance and report the result thereof to the immediate higher level after each mobilization.

3. Annually, the provincial-level People's Committees shall report to the Government on the performance of the public labor obligation in their respective localities.

Article 37.- Agencies and organizations that use the public labor shall have to well prepare the necessary conditions and means, and organize and use the public labor in an efficient manner; devise measures to prevent accidents; conduct the pre-acceptance inspection of projects, make accurate and prompt payment and final settlement; and apply all the prescribed regimes and policies toward the public labor obligation performers.

Chapter VI

COMMENDATION, REWARDS AND HANDLING OF VIOLATIONS

Article 38.- Persons who have recorded achievements in the performance of public labor obligation shall be commended and/or rewarded according to the State's regulations.

Article 39.- Persons with competence to mobilize or with responsibilities to manage and use the public labor, who commit acts of violating this Ordinance's provisions shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability.

Article 40.- Persons who act against or hinder the mobilization or shirk the performance of the public labor obligation; cause damage to or loss of materials, equipment and means in service of the public labor or other acts violating this Ordinance's provisions shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability. If damage is caused, compensation therefor must be made.

Article 41.- Citizens may lodge complaints and/or denunciations, organizations may lodge complaints about acts of violating this Ordinance's provisions according to provisions of law.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 42.- This Ordinance shall take effect from January 1st, 2000.

Article 43.- This Ordinance replaces the November 10, 1988 Ordinance on the Public Labor Obligation.

The previous regulations which are contrary to this Ordinance are now annulled.

Article 44.- The Government shall detail and guide the implementation of this Ordinance.

On behalf of the National Assembly Standing Committee

Chairman

NONG DUC MANH