

THE GOVERNMENT

No. 03/2014/ND-CP

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, January 16, 2014

DECREE

DETAILING A NUMBER OF ARTICLES OF THE LABOUR CODE ON EMPLOYMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 18, 2012 Labour Code;

At the proposal of the Minister of Labour, War Invalids and Social Affairs,

The Government promulgates the Decree detailing a number of articles of the Labour Code on employment.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details a number of articles of the Labour Code on targets of newly created jobs; the National Employment Fund; local employment programme and labour recruitment and management.

Article 2. Subjects of application

1. Employees defined in Clause 1, Article 3 of the Labour Code.
2. Employers defined in Clause 2, Article 3 of the Labour Code.
3. Other agencies, enterprises, organizations and individuals related to the contents specified in Article 1 of this Decree.

Chapter II

TARGETS OF NEWLY CREATED JOBS, NATIONAL EMPLOYMENT FUND AND LOCAL EMPLOYMENT PROGRAMME

Article 3. Target of newly created jobs

1. The target of newly created jobs specified in Clause 1, Article 12 of the Labour Code is a target showing the number of newly employed labourers within a reporting period.
2. People's Committees at all levels shall formulate and realize the target of newly created jobs in programme, projects and five-year and annual socio-economic development plans.
3. The responsibility to report on results of the target of newly created jobs is as follows:
 - a/ Annually, the People's Committees of communes, wards, townships; and the People's Committees of districts, towns and provincial cities shall summarize results of the realization of the target of new jobs in localities to report to superior People's Committees;
 - b/ Annually, People's Committees of provinces and centrally cities (below referred to as provincial-level People's Committees) shall summarize results of realizing targets of newly

created jobs in their localities and report them to the Ministry of Labour, War Invalids and Social Affairs.

4. The Ministry of Labour, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, guiding, examining, and reporting to the Government on results of realizing, five-year and annual targets of newly created jobs.

Article 4. National Employment Fund

1. The National Employment Fund is formed from the following sources:

- a) The state budget;
- b) Aids from organizations and individuals in country and abroad;
- c) Other lawful aid sources.

2. The National Employment Fund is used for the following purposes:

- a/ To provide preferential loans to small- and medium-sized enterprises, cooperatives, cooperative groups, business households and employees to assist them in creating, maintaining and expanding jobs;
- b/ To support enterprises in difficult circumstances due to economic recession in order to limit the number of job losers;
- c/ To support the development of employment service organizations and labour market information system.

3. The Ministry of Labour, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with related ministries and agencies in, submitting to the Prime Minister for promulgation the mechanism for management and use of the National Employment Fund.

4. Annually, the Ministry of Labour, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment and the Ministry of Finance in, formulating plans on additional allocation of the state budget to the National Employment Fund and submit them to the Prime Minister for decision.

Article 5. Local employment programme

1. Local employment programme referred to in Clause 1, Article 13 of the Labour Code cover targets, major tasks, subjects, scope of implementation, time, and organization of implementation, mechanisms and policies for implementation.

2. Based on local socio-economic conditions in each period, provincial-level People's Committees shall formulate local employment programme and submit them to same-level People's Councils for decision; and organize the implementation of these programme and annually report implementation results to the Ministry of Labour, War Invalids and Social Affairs.

Chapter III

LABOUR RECRUITMENT AND MANAGEMENT

Article 6. Labour recruitment

The recruitment of Vietnamese labourers to work for Vietnamese employers; and to work in industrial parks, export processing zones, hi-tech zones and economic zones (below referred to as industrial zones) defined in Article 11 and Clause 2, Article 168 of the Labour Code is prescribed as follows:

1. Employers may recruit Vietnamese labourers directly or through employment service organizations or labour sub-leasing enterprises.
2. Labourers may directly contact employers or register through employment service organizations to find jobs.

Article 7. Labour recruitment procedures and order

1. At least 5 working days before receiving dossiers of registration for recruitment examination from labourers, an employer, an employment service organization or a labour sub-leasing enterprise shall publicly notify its demand for labour recruitment. A notification contains the following details:

- a/ Professions, jobs, professional qualifications and number of Labourers to be recruited;
- b/ Type of Labour contract to be signed;
- c/ Offered wage level;
- d/ Working conditions for each working position.

2. A dossier of registration for recruitment examination comprises:

- a/ The written registration for recruitment examination, made according to the form set by the Ministry of Labour, War Invalids and Social Affairs;
- b/ Copies of diplomas and certificates of professional and technical qualifications, foreign language and computing skills as required for vacant positions;
- c/ Health certificate prescribed by the Ministry of Health;
- d/ Other necessary papers prescribed by law.

3. When receiving a dossier of registration for recruitment examination, an employer, an employment service organization or labour sub-leasing enterprise shall manage such dossier and clearly notify the Labourer of the recruitment time.

4. Employers, employment service organizations or labour sub-leasing enterprises shall publicly notify results of labour recruitment within 5 working days from the date of obtaining such results.

5. For labourers who fail or do not sit in the recruitment examination, employers, employment service organizations or labour sub-leasing enterprises shall return dossiers of registration for recruitment examination to them within 5 working days upon the labourers' request.

6. Employers shall pay all expenses for the labour recruitment and may account as their production and business costs the following expenses:

- a/ Expense for the labour recruitment;
- b/ Expense for receipt and management of dossiers of registration for recruitment examination;
- c/ Expense for organization of recruitment examination;

d/ Expense for notification of recruitment results.

Employers that recruit labourers through employment service organizations shall pay employment service charges to these organizations as prescribed by law.

Article 8. Reports on use of labour

1. Within 30 days from the date of operation commencement, an employer shall declare the use of Labour to the Labour, War Invalids and Social Affairs Division or Department (for employers operating in industrial parks) of the locality where its/his/her head office, branch or representative office is located.

2. Biannually or annually, an employer shall report on labour changes to the Labour, War Invalids and Social Affairs Division or Department (for employers operating in industrial parks) of the locality where its/his/her head office, branch or representative office is located.

3. Biannually or annually, a labour sub-leasing enterprise shall report on the number of sub-leased labourers to the Labour, War Invalids and Social Affairs Department of the locality where its head office, branch or representative office is located.

4. Biannually or annually, the Labour, War Invalids and Social Affairs Division shall summarize the situation of labour use and change in labour of local enterprises and report them to the Labour, War Invalids and Social Affairs Department.

5. Biannually or annually, the Labour, War Invalids and Social Affairs Departments shall summarize the situation of Labour use and change in local enterprises to report them to the Ministry of Labour, War Invalids and Social Affairs and provincial-level People's Committees.

Article 9. Labour management book

Employers shall compile, manage and use Labour management books as prescribed by the Ministry of Labour, War Invalids and Social Affairs.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 10. Effect

1. This Decree takes effect on March 15, 2014.

2. The Government's Decree No. 39/2003/ND-CP of April 14, 2003, detailing and guiding a number of articles of the Labour Code on employment ceases to be effective on the effective date of this Decree.

Article 11. Implementation responsibility

1. The Minister of Labour, War Invalids and Social Affairs shall guide the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and related agencies, enterprises, organizations and individuals shall implement this Decree.

ON BEHALF OF THE GOVERNMENT

PRIME MINISTER

Nguyen Tan Dung