

*Hanoi, June 05, 2015*

No: 21/2015/TT-BGTVT

## **Circular**

### **prescribing the working time and rest time for employees working in the special conditions of railway transportation**

*Pursuant to the Labor Code dated June 18, 2012;*

*Pursuant to the Government's Decree No. 45/2013/ND-CP dated May 10, 2013 detailing a number of articles of the Labor Code regarding working time, rest time, labor safety and labor hygiene;*

*Pursuant to the Government's Decree No. 107/2012/ND-CP dated December 20, 2012 defining the functions, tasks, entitlements and organizational structure of the Ministry of Transport;*

*At the request of Director General of Organization and Personnel Department and Director General of Vietnam Railway Administration;*

*The Minister of Transport promulgates the Circular regulating work and rest time for employees performing jobs of special condition in railway transport.*

### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1. Scope of adjustment**

This Circular prescribes the working time and rest time for employees working in the special conditions of railway transportation; this Circular shall be applied accordingly depending on actual production and business.

##### **Article 2. Subject of application**

This Circular applies to organizations, individuals related to jobs of special condition in railway transportation.

##### **Article 3. Interpretation of terms**

1. Shift work means the work schedules in which employees change or rotate shifts across all 24 hours each day of the week (24/7) throughout a year to perform the duties as required by railway transport to ensure employees have sufficient rest time according to the Law on Labor.

2. On-shift means a prescribed period of time during which employees are present at the working place and perform their duties including preparation,

working, on-the-spot resting and finishing their duties according to regulations of railway transport technology.

3. Off-shift means a prescribed period of rest time for employees between the two shifts.

4. Regime of working on train means the regime in which employees change or rotate shifts uninterrupted across all 24 hours each day of the week (24/7) to ensure train journey and sufficiency of rest time to employees according to the law on labor.

5. Train journey is the period of time a train travels from department to U-turn destination under the train travel graph and includes time for necessary tasks performed at departure terminal, U-turn terminal according to regulations of railway transport technology.

6. Time for performing necessary tasks in a day (24 consecutive hours) is the time to be determined on the basis of tasks, quantity of work, labor norms including the time for preparation and completion of tasks, not including on-the-spot rest time during the on-shift.

## **Chapter II**

### **REGULATIONS ON WORKING TIME AND REST TIME**

#### **Article 4. Working time and rest time for railway employees working by shift**

1. Titles of railway employees working by shift

a) Train dispatcher from regional Rail Transport Management Center;

b) Management staff, operating personnel, service staff, staff working at the points up and down the board, place of receipt and delivery, or operation of locomotives, carriages;

b) Management staff, operating personnel, service staff, and staff working at stations, service stations for passenger and freight train journey;

d) Staff guarding, patrolling and protecting railway infrastructure (roads, bridges, tunnels, railroad crossing, and terminals);

dd) Dispatchers, signalmen, personnel in charge of power at stations, railway crossings, supply sources, telephone exchanges;

## 2. Working time, rest time

a) Staff involved in the tasks particularly hard, harmful, dangerous, across all 24 hours: The time required for performing actual necessary tasks in a day is 24

hours: on-shift is from six hours and below, off-shift at least 12 hours, maximum number of shifts per month 26; or on-shift from 12 hours and below, off-shift at least 24 hours, maximum number of shifts per month is 13;

b) Staff working at places with tremendous quantity of work and continuously occupied across all 24 hours: The time required for performing actual necessary tasks in a day is 24 hours (not including the time for shift hand-over): on-shift is from eight hours and below, off-shift at least 16 hours, maximum number of shifts per month 22.5; or on-shift from 12 hours and below, off-shift at least 24 hours, maximum number of shifts per month is 15;

c) Staff working at places with tremendous quantity of work and continuously occupied across all 24 hours: The time required for performing actual necessary tasks in a day is 24 hours (not including the time for shift hand-over): on-shift is from eight hours and below, off-shift at least 16 hours, maximum number of shifts per month 26; or on-shift from 12 hours and below, off-shift at least 24 hours, maximum number of shifts per month is 17;

b) Staff working at places with quantity of work relatively tremendous but not in continuity: The time required for performing actual necessary tasks in a day is from 16 hours and below: on-shift is from 12 hours and below, off-shift at least 12 hours, maximum number of shifts per month is 21; or the employer can arrange two consecutive shifts and then off-shift (on-shift from 24 hours and below, off-shift at least 24 hours, maximum number of shifts per month is 10.5);

dd) Staff working at places with quantity of work not considerable, not in continuity: The time required for performing actual necessary tasks in a day is from 12 hours and below: on-shift is from 12 hours and below, off-shift at least 12 hours, maximum number of shifts per month is 26; or the employer can arrange two consecutive shifts and then off-shift (on-shift from 24 hours and below, off-shift at least 24 hours, maximum number of shifts per month is 13);

e) Staff working at places with low quantity of work, not in continuity: The time required for performing actual necessary tasks in a day is from eight hours and below: on-shift is from 16 hours and below, off-shift at least eight hours, maximum number of shifts per month is 26; or the employer can arrange three consecutive shifts and then off-shift (on-shift from 48 hours and below, off-shift at least 24 hours, maximum number of shifts per month is 8 – In this case, approval of the employer is required.);

#### **Article 5. Working time and rest time for railway employees working on train**

##### 1. Titles of railway employees working on train

- a) Train drivers, train driver assistants;
- b) Train master;
- c) Railway staff working on passenger or freight trains;

##### 2. Working time, rest time

a) For titles as prescribed in Point a, Clause 1 of this Article, working time is from nine hours and below per day and from 156 hours and below per month. Working time is calculated between the point of on-shift and the point of off-shift. For staff working as shutters in a fixed station, apply working time, rest time as prescribed in Point a, Clause 2, Article 4 hereof;

b) For titles as prescribed in Points b, c, Clause 1 of this Article, working time is from 12 hours and below per day and from 208 hours and below per month. In case a train journey is longer than 12 hours, apply working regime as follows: on-shift is eight hours and on-the-spot rest time is eight hours. At bustling stations, staffs that

have on-the-spot rest time shall be responsible for cooperating with on-shift staff in welcoming and giving send-off to passengers;

3. Principles of organizing working time, rest time for railway employees working on train:

a) Rest time between the two train journeys is at least 12 hours. If required by the train travel graph, rest time between the two train journeys may be shorter but at least equal to working time of immediately previous shift;

b) Rest time between the two train journeys on train or on waiting for tasks, moving to other locations shall not be considered as working time;

c) At short railway sections (train journey from eight hours and below) and rotation of shifts (break between the two train journeys) occurs on train, the employer can apply working regime as prescribed in Clause 2, Article 4 hereof;

d) In case problems occur to the train, staff working on train shall be responsible for bringing the train to its designated place and take off-shift only when hand-over of the train is completed. These overtime hours shall be not included in the total overtime hours in a year but shall be paid for along with other benefits related to overtime work according to applicable regulations.

#### **Article 6. Regulations on weekly, annual, Tet and other holiday leave**

Staff working by shift and on train as prescribed in Articles 4 and 5 hereof shall be allowed paid weekly, annual, Tet and other holiday leave according to the Labor Code and documents guiding the implementation of the Labor Code.

#### **Article 7. Other regulations**

1. For some jobs that require permanent presence of staff, the employer must arrange meals and rest to employees on the spot to ensure smooth flow of work.

2. The employer must make arrangements to ensure staff charged with permanent positions can have meals and rest at the working place or on the train.

3. In such emergency events as natural disaster, conflagration, enemy-inflicted destruction, traffic incident, the employer is allowed to mobilize employees to remedy consequences and quickly restore traffic.

4. In some circumstances that employees cannot be arranged holiday leave due to urgent requirements of railway transport, the employer must make arrangements for

employees to have leave later in compensation according to the Labor Code and documents guiding the implementation of the Labor Code.

5. Working overtime, at night, overtime at night shall be instructed by general regulations of the Law on Labor. For staff involved in the tasks particularly hard, harmful, dangerous, overtime hours shall not exceed 22.5 hours per month and total overtime hours shall not exceed 150 hours per year.

### **Article 8. Responsibilities of employers from railway transport production, business and service organizations and enterprises**

1. Based on nature and quantity of the job, the employer must determine the time required for performing actual necessary work in a day to make appropriate arrangements of working time and rest time for each specific job title as prescribed hereof and must consult with union organization before implementation.

2. Make direct notification to employees, enter into an employment contract, collective bargaining agreement the regime of working time, rest time as prescribed hereof, and stipulate graph of working time, rest time in the enterprise' labor regulations.

## **Chapter III**

### **IMPLEMENTARY PROVISIONS**

#### **Article 9. Implementation effect**

1. This Circular takes effect on August 01, 2015.

2. This Circular replaces the Minister of Transport's Circular No. 23/1998/TT-BGTVT dated February 07, 1998 promulgating regulations on working time and rest time for employees performing jobs of special condition in railway transport.

#### **Article 10. Implementation organization**

1. Chief of the Ministry Office, Chief Inspector, Director General of Vietnam Railway Administration, heads of relevant agencies, organizations and individuals shall implement this Circular.

2. Any difficulties arising in the course of implementation of this Circular should be reported (by relevant agencies, organizations, and individuals) to the Ministry of Transport for handling./.

*The Minister of Transport*

*Dinh La Thang*