

## THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;  
Pursuant to the June 23, 1994 Labor Code; the April 2, 2002 Law Amending and Supplementing a Number of Articles of the Labor Code; the November 29, 2006 Law Amending and Supplementing a Number of Articles of the Labor Code; and the April 2, 2007 Law Amending and Supplementing Article 73 of the Labor Code;  
Pursuant to the July 2, 2002 Ordinance on Handling of Administrative Violations; and the April 2, 2008 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Handling of Administrative Violations (below collectively referred to as the Ordinance on Handling of Administrative Violations);  
At the proposal of the Minister of Labor, War Invalids and Social Affairs,*

### DECREES:

#### Chapter I

### GENERAL PROVISIONS

#### Article 1. Scope of regulation

1. This Decree provides administrative violations, sanctioning forms and levels, remedies, and competence and procedures for administratively sanctioning violations of the labor law.
2. The labor law referred to in this Decree includes provisions of the Labor Code and documents guiding and detailing the Labor Code.
3. This Decree does not apply to violations of the labor law in the domains of vocational training; sending employees to work overseas under contracts; and social insurance.

#### Article 2. Subjects of application

1. Violators of the labor law under this Decree-Foreign individuals and organizations that commit administrative violations of the labor law within the territory, exclusive economic zone and continental shelf of the Socialist Republic of Vietnam shall also be administratively sanctioned under this Decree, unless otherwise provided by treaties to which the Socialist Republic of Vietnam is a contracting party.
2. This Decree does not apply to cadres, civil servants and public employees of non-business agencies and units, political organizations and socio-political organizations.

#### Article 3. Principles of sanctioning violations of the labor law

1. Principles of administrative sanctioning of violations of the labor law comply with Article 3 of the Ordinance on Handling of Administrative Violations.
2. Administrative sanctioning of violations of the labor law shall be effected by competent persons defined in Articles 22, 23 and 24 of this Decree.
3. Extenuating and aggravating circumstances involved in violations of the labor law shall be considered under Articles 8 and 9 of the Ordinance on Handling of Administrative Violations.
4. Administrative sanctioning of minor violators of the labor law complies with Clause 1. Article 7 of the Ordinance on Handling of Administrative Violations.
5. Administrative handling of persons competent to administratively handle violations of the labor law complies with Article 121 of the Ordinance on Handling of Administrative Violations.

#### Article 4. Forms of sanctioning

1. For each administrative violation of the labor law, the violator is subject to one of the

following principal sanctions:

- a/ Caution;
- b/ Fine.

When fine applies, the specific fine level applicable to a violation is the average level of the corresponding fine bracket applicable to that violation set in this Decree. If the violation involves an extenuating circumstance, the fine level may be lower, but not below the lowest level of the prescribed bracket. If the violation involves an aggravating circumstance, the fine level may be higher, but not higher than the highest level of the prescribed bracket.

2. Depending on the nature and severity of their violations violators of the labor law may also be subject to the following additional sanctions:

- a/ Deprivation of the right to use professional practice licenses;
- b/ Confiscation of material evidences and means used in administrative violations.

3. In addition to the principal and additional sanctions specified in Clauses 1 and 2 of this Article, violators of the labor law may also be subject to one or more of the following remedies:

- a/ Forced compliance with the provisions of law on formation of job-loss allowance funds; implementation of employment plans; conclusion of labor contracts; registration of collective labor accords; minimum wages; principles of formulation of wage scales, wage tables, labor norms and bonus regulations; labor rules; regimes for performers of particular jobs, foreign employees, assurance of conditions for trade unions' operation, labor management measures; assurance of labor safety regimes for employees; and assurance of labor safety and hygiene;
- b/ Return of deposits and savings interests to employees;
- c/ Forced remedy and repair of machines and equipment no! up to labor safety and hygiene standards;
- d/ Forced examination and registration of machines, equipment, supplies and substances subject to strict requirements on labor safety and hygiene;
- e/ Other measures provided in Chapter II of this Decree.

4. Foreigners who commit administrative violations of the labor law may be expelled. Expulsion may be applied as principal or additional sanction on a case-by-case basis.

#### **Article 5. Statute of limitations for handling administrative violations**

1. The statute of limitations for sanctioning administrative violations of the labor law under this Decree is one year counting from the date of committing an administrative violation. Past this lime limit, sanctions shall not be imposed but remedies specified in Clause 3, Article 4 of this Decree shall still be applied.

2. The above statute of limitations is not applicable when an individual or organization commits a new administrative violation in the same labor domain he/she/it has previously committed violations, or deliberately shirks or delays the sanctioning within the time limit set in Clause 1 of this Article. In this case, the statute of limitations for sanctioning administrative violations shall be recounted from the time the new administrative violation is committed or the time the act of shirking or delaying the sanctioning terminates.

3. Individuals subject to initiation of criminal cases, prosecution or trial according to criminal procedures under decisions whose investigation or criminal cases are later terminated under decisions shall be administratively sanctioned if their acts show signs of administrative violation. Within 3 days after a decision to terminate an investigation or a criminal case is issued, the decision issuer shall send such decision to the person competent to impose sanctions. In this

case, the statute of limitations for sanctioning is three (3) months from the date the person competent to impose sanctions receives a decision on termination of investigation or a criminal case and the case file.

### **Article 6. Time limit for being considered not yet being handled for administrative violations**

Violators of the labor law that have been administratively sanctioned shall be regarded as not yet being sanctioned for administrative violations of the labor law if they do not relapse into a violation one year after they completely serve sanctioning decisions or one year after the statute of limitations for implementing such decisions expires.

## **Chapter II**

# **ADMINISTRATIVE VIOLATIONS OF THE LABOR LAW. SANCTIONING FORMS AND LEVELS**

## **Section I. VIOLATIONS OF REGULATIONS ON EMPLOYMENT AND LABOR RELATIONS**

### **Article 7. Violation of regulations on employment**

1. A fine of between VND 300,000 and VND 3.000.000 shall be imposed on an employer that commits any of the following acts:

a/ Failing to publicize a list of employees to be laid off under the labor law:

b/ Failing to consult the Executive or Provisional Committee of the grassroots Trade Union when laying employees off;

c/ Failing to notify a provincial-level labor agency before laying employees off;

d/ Failing to publicize in the mass media and post up at the head office a notice of recruitment at least 7 days before receiving employment application dossiers of applicants.

2. Organizations or individuals that commit any of the following acts: failing to pay or fully pay severance allowances to employees; charging employees on job recommendation higher than prescribed levels; and charging job recommendation without issuing receipts shall be fined as follows:

a/ Between VND 200,000 and VND 1.000.000 when committing violations against 1 to 10 employees;

b/ Between VND 1.000.000 and VND 5.000.000 when committing violations against 11 to 50 employees;

c/ Between VND 5.000.000 and VND 10.000.000 when committing violations against 51 to 100 employees;

d/ Between VND 10.000.000 and VND 20.000.000 when committing violations against 101 to less than 500 employees;

e/ Between VND 20.000.000 and VND 30,000.000 when committing violations against 500 employees or more.

3. A fine of between VND 5.000.000 and VND 10,000.000 shall be imposed for any of the following acts:

a/ Failing to set aside funds for job-loss allowance:

b/ Making enticement, promises or false advertisements to deceive employees or taking advantage of employment services to commit illegal acts.

4. Additional sanctions:

Deprivation of the right to use job recommendation licenses for one year, for job recommendation organizations committing administrative violations specified at Point b. Clause 3 of this Article.

5. Remedies:

a/ Forced refund of job recommendation charges which have been collected higher than prescribed levels to employees, for violations specified in Clause 2 of this Article;

b/ Forced formation of reserve funds for job loss allowance, for violations specified at Point a. Clause 3 of this Article.

**Article 8. Violation of regulations on labor contracts**

1. Caution or a fine of between VND 500,000 and VND 3.000.000 shall be imposed on employers that commit any of the following acts:

a/ Failing to hand signed labor contracts to employees:

b/ Failing to enter into contracts with those hired to work as maids in families;

c/ Failing to conclude written contracts with those hired to keep assets.

2. Employers that commit any of the following violations: failing to conclude labor contracts with employees subject to such conclusion, entering into labor contracts of improper types: labor contracts without signature of either of the two parties shall be fined as follows:

1.000.000 when committing violations against 1 to 10 employees;

b/ Between VND 1.000.000 and VND 3.000.000 when committing violations against 2 to 50 employees;

c/ Between VND 3.000.000 and VND 5.000.000 when committing violations against 51 to 100 employees;

d/ Between VND 5.000.000 and VND 7.000.000 when committing violations against 101 to less than 500 employees;

e/ Between VND 7.000.000 and VND 10.000.000 when committing violations against 500 employees or more.

3. Fines shall be imposed on employers that commit any of the following violations: applying apprenticeship period of more than 60 days to holders of job titles required of professional and technical qualifications of collegial or higher level; applying apprenticeship period of more than 30 days to holders of job titles required of intermediate-level qualifications or technical workers or professional staff; applying apprenticeship period of more than 6 days to performers of jobs without titles required of professional and technical qualifications of collegial or higher level or to holders of job titles required of intermediate-level qualifications or technical workers or professional staff; violating regulations on duration of temporary transfer of employees to other jobs: paying employees that are temporarily transferred to other jobs not at the level payable to the new jobs or at the level payable to the new jobs but lower than 70% of their previous salaries or lower than the minimum wage level prescribed by the State; paying within 30 working days employees that are temporarily transferred to other jobs at a level lower than the salary payable to their former jobs; assigning employees to jobs other than those agreed under labor contracts without their consent; and failing to pay or fully pay severance allowances plus salary allowances to regular employees that work for full 12 months or more when terminating labor contracts, at the following levels:

a/ Between VND 300.000 and VND 2.000.000 when committing violations against 1 to 10 employees;

b/ Between VND 2.000.000 and VND 5,000.000 when committing violations against 2 to 50 employees:

c/ Between VND 5.000.000 and VND 10,000,000 when committing violations against 51 to 100 employees;

d/ Between VND 10.000.000 and VND 20.000.000 when committing violations against 101 to less than 500 employees:

e/ Between VND 20,000.000 and VND 30.000.000 when committing violations against 500 employees or more.

4. A fine of between VND 15,000.000 and VND 30,000,000 shall be imposed on employers that commit any of the following acts:

a/ Compelling employees to pay deposits in contravention of law;

b/ Succeeding employers" failing to continue labor contracts with employees when existing employees of merged, consolidated, divided or separated enterprises can be fully employed;

c/ Succeeding employers' failing to adopt employment plans according to regulations when existing employees of merged, consolidated, divided or separated enterprises cannot be fully employed.

5. In addition to the sanctions provided in this Article, violators are subject to one of the following remedies:

a/ Handing labor contracts to employees under law, for violations specified in Clause 1 of this Article;

b/Entering into labor contracts of proper types under law; in case of absence of the signature of either party, such signature shall be added accordingly, for violations specified in Clause 2 of this Article:

c/ Refunding to employees their deposits and paying interests for those deposits at the rates announced by the State Bank of Vietnam at the time of receiving deposits, for violations specified at Point a. Clause 4 of this Article;

d/ Continuing labor contracts with employees, for violations specified at Point b. Clause 4 of this Article:

e/ Working out and implementing employment plans, for violations specified at Point c. Clause 4 of this Article.

### **Article 9. Violation of regulations on collective labor accords**

1. A fine of between VND 500,000 and VND 5,000,000 shall be imposed on employers that fail to send collective labor accords to provincial-level labor state management agencies of the localities where the employers are based or send them more than 10 days after such accords are signed.

2. A fine of between VND 2.000.000 and VND 5.0(X).(X) shall be imposed on employers or chairpersons of grassroots trade unions that commit any of the following acts:

a/ Refusing to negotiate for conclusion or amendment and supplementation of collective labor accords when receiving a request for such negotiation;

b/ Implementing collective labor accords which were declared invalid.

3. Remedies:

a/ Registering collective labor accords with provincial-level labor state management agencies under law. for violations specified in Clause 1 of this Article:

b/ Entering into negotiations for conclusion or amendment or supplementation of collective labor accords when so requested, for violations specified at Point a. Clause 2 of this Article.

#### **Article 10. Violation of regulations on wages and bonuses**

1. Caution or a fine of between VND 300.000 and VND 3.000.000 shall be imposed on employers that commit any of the following acts:

a/ Failing to observe principles of formulation of wage scales, wage tables and labor norms under law:

b/ Deducting salaries of employees without discussing such with the Executive or Provisional (if any) Committee of the grassroots trade union.

2. A fine of between VND 2.000.000 and VND 10.000.000 shall be imposed on employers that commit any of the following acts:

a/ Failing to pay salaries fully and on time to employees: paying salaries late without making compensations;

b/ Failing to pay salaries to employees during the time the employees are off to receive treatment due to labor accidents or occupational diseases;

c/ Failing to register wage scales and wage tables with provincial-level labor state management agencies; failing to publicize wage scales, wage tables, labor norms and bonus regulations in enterprises.

3. Employers that commit any of the following acts: deducting salaries of employees without notifying them of the reason or deducting over 30% of monthly salaries of employees or failing to discuss with the executive committee of the grassroots trade union prior to salary deduction: failing to fully pay salaries to employees who have to stop working due to employers' faults; paying employees lower than the minimum wage level in case of work interruption not due to employees' faults and/or due to power- or water- supply incidents or force majeure circumstances; and failing to pay or fully pay salaries and salary allowances to employees during the time of work suspension shall be fined as follows:

a/ Between VND 300.000 and VND 2,000,000 when committing violations against 1 to 10 employees;

b/ Between VND 2.000.000 and VND 5,000,000 when committing violations against 2 to 50 employees;

c/ Between VND 5.000.000 and VND 15.000.000 when committing violations against 51 to 100 employees;

d/ Between VND 15.000.000 and VND 20,000,000 when committing violations against 101 to less than 500 employees;

e/ Between VND 20.000.000 and VND 30,000,000 when committing violations against 500 employees or more.

4. Employers that commit any of the following violations: paying employees lower than the minimum wage level: paying salaries equal to the minimum wage level to professionally- or technically-trained employees or failing to pay salaries based on the productivity, quality and effectiveness of employees' work: and punishing employees by cutting their salaries shall be fined as follows:

a/ Between VND 300.000 and VND 3.000,000 when committing violations against 1 to 10 employees;

b/ Between VND 3.000.000 and VND 10,000.000 when committing violations against 2 to 50 employees;

c/ Between VND 10.000.000 and VND 15.000.000 when committing violations against 51 to 100 employees;

d/ Between VND 15.000.000 and VND 20,000,000 when committing violations against 101 to less than 500 employees;

e/ Between VND 20.000.000 and VND 30.000.000 when committing violations against 500 employees or more.

5. A fine of between VND 2.000.000 and VND 10,000,000 shall be imposed on employers that fail to formulate wage scales, wage tables, labor norms, and wage and bonus payment regulations in their enterprises.

6. Remedies:

a/ Registering wage scales and wage tables with labor state management agencies within 20 days after receiving a sanctioning decision; publicizing wage scales, wage tables, labor norms and bonus regulations in enterprises, for violations specified at Point c. Clause 2 of this Article;

b/ Formulating wage scales, wage tables, labor norms and bonus regulations in enterprises under law. for violations specified in Clause 5 of this Article.

c/ Paying salaries and other benefits to employees under law. for violations specified in Clauses 2. 3 and 4 of this Article.

### **Article 11. Violation of regulations on work time and break time**

1. Fines shall be imposed on employers that commit any of the following violations: forcing employees to work over 8 hours a day or 48 hours a week or forcing minor or disabled employees to work over 7 hours a day or 42 hours a week; failing to reduce work time for employees doing particularly heavy, hazardous or dangerous jobs: employing female employees who are 7 or more months pregnant are nursing their under-12-month-old children for overtime or night-time work or work trips; failing to transfer performers of heavy jobs who are seven or more months pregnant to lighter jobs or failing to reduce one working hour a day for them; failing to shorten daily work time or apply the regime of incomplete daily and weekly work time to to-be-retired employees in their last year of work; failing to give employees a half-an-hour break which is regarded as work time for employees working 8 hours constantly; failing to give employees on night shift a break of at least 45 minutes in the middle of a working shift, which is regarded as work time; failing to give employees working on shift a rest of at least 12 hours before a new working shift; failing to give employees a rest of at least one day (24 consecutive hours) for each week of work or on average at least 4 days a month for special cases in which work cycles do not allow weekly rest; failing to give employees public holidays under regulations; and failing to give annual leaves or days off for personal affairs to employees having worked for 12 months at an enterprise, at the following levels:

a/ Between VND 300,000 and VND 3,000,000 when committing violations against 1 to 10 employees;

b/ Between VND 3.000.000 and VND 5,000,000 when committing violations against 2 to 50 employees;

c/ Between VND 5.000.000 and VND 10.000.000 when committing violations against 51 to 100 employees;

d/ Between VND 10.000.000 and VND 15.000.000 when committing violations against 101 to

less than 500 employees:

e/ Between VND 15,000,000 and VND 20,000,000 when committing violations against 500 employees or more.

2. Employers that employ employees to work overtime beyond prescribed limits: force employees to work overtime without agreement; employ employees for overtime work not in cases permitted by law: or fail to fully pay employees for their overtime work shall be fined as follows:

a/ Between VND 5,000,000 and VND 7,000,000 when committing violations against 1 to 50 employees;

b/ Between VND 7,000,000 and VND 10,000,000 when committing violations against 51 to 100 employees;

c/ Between VND 10,000,000 and VND 15,000,000 when committing violations against 101 to less than 500 employees:

d/ Between VND 15,000,000 and VND 20,000,000 when committing violations against 500 employees or more.

3. Remedies:

Employers are compelled to:

a/ Arrange compensative rest time for employees, for violations specified in Clause 1 of this Article;

b/ Paying employees for their overtime work or work during rest time (without receiving compensative rest time), for violations specified in Clause 2 of this Article.

### **Article 12. Violation of regulations on labor discipline and material liability**

1. Caution or a fine of between VND 200,000 and VND 500,000 shall be imposed on an employer that fails to consult the Executive Committee of the grassroots Trade Union or the Provisional Executive Committee of the Trade Union (if any) when elaborating its labor rules.

2. A fine of between VND 1,000,000 and VND 5,000,000 shall be imposed on an employer that commits any of the following acts:

a/ Failing to register its labor rules with a provincial-level labor state management agency;

b/ Elaborating labor rules which do not cover either of the following details: working time, rest time, order in the enterprise, labor safety and hygiene in workplaces, protection of assets and technological and business secrets, violations of labor disciplines, and forms of labor disciplines and material liability:

c/ Failing to publicize and post up its labor rules at necessary places in the enterprise:

d/ Suspending employees from work for over 15 days or 3 months in special cases.

3. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed on an employer that commits any of the following acts:

a/ Failing to formulate labor rules when employing 10 employees or more;

b/ Failing to prove an employee's faults when imposing labor disciplines on that employee;

c/ Infringing upon an employee's right to defend;

d/ Considering labor disciplines for an employee in the absence of that employee, involved persons and the Executive Committee of the grassroots trade union.

e/ Failing to make a written record when considering labor disciplines.

f/ Violating provisions on the order and procedures for paying compensation for damage:

g/ Forcing an employee to pay material compensations in contravention of regulations;

h/ Failing to settle benefits of an employee under law when competent agencies conclude that such employee has been wrongly disciplined.

#### 4. Remedies:

a/ Forced compensation of damage to employees when violating Point d. Clause 2: and Point h. Clause 3 of this Article and return of compensation amounts paid in excess of the level set at Point g. Clause 3 of this Article:

b/ Registering labor rules with provincial-level labor agencies under law. for violations specified at Point a. Clause 2 of this Article;

c/ Publicizing and posting up labor rules in enterprises, for violations specified at Point c. Clause 2 of this Article;

d/ Formulating labor rules in strict accordance with law. for violations specified of at Point b. Clause 2 and Point a. Clause 3 of this Article.

### **Article 13. Violation of regulations on particular labor**

1.A fine of between VND 300.000 and VND 3.000,000 shall be imposed on organizations or individuals that commit any of the following acts:

a/ Failing to build locker rooms, bathrooms and toilets for female employees;

b/Failing to consult representatives of female employees when deciding on matters related to the rights and interests of women and children in enterprises;

c/ Employing female employees, who are seven or more months pregnant or who are nursing their under- 12-month-old children, for overtime work, night-time work or working trips, or failing to transfer female employees doing heavy jobs to lighter one or to reduce their working time by one hour while paying them full salaries;

d/ Failing to give female employees 30 minutes off each day during their menstrual period or 60 minutes off each day when they are nursing their under-12- month-old children;

e/ Discriminating against female employees:

f/ Employing female, elderly or disabled employees for heavy and/or hazardous jobs or jobs in contact with toxic substances not on the lists promulgated by the Ministry of Labor. War Invalids and Social Affairs and the Ministry of Health;

g/ Employing female employees for jobs in contact with toxic substances which adversely affect reproductive and child nursing function or for frequent work in mines or under water:

h/ Employing elderly employees for heavy, hazardous or dangerous jobs or jobs in contact with toxic substances which adversely affect their health;

i/ Employing disabled persons for heavy, hazardous or dangerous jobs or jobs in contact with toxic substances on the lists promulgated by the Ministry of Labor. War Invalids and Social Affairs and the Ministry of Health:

j/ Failing to open books to monitor employees' health and give them periodical medical check-ups; abusing the labor of minor employees: failing to produce books to monitor minor employees when so requested by labor inspectors:

employees when so requested by labor inspectors,

k/ Employing minor or disabled employees to work for more than 7 hours a day or 42 hours a week:

1/ Employing disabled employees whose working capacity has reduced by 51% or higher for overtime work or night-time work.

2. A fine of between VND 5,000,000 and VND 10,000,000 shall be imposed on employers that commit any of the following acts:

a/ Sacking or unilaterally terminating labor contracts with female employees due to their marriage, pregnancy, maternity leave, nursing of under 12-month-old children unless enterprises terminate their operation:

b/ Employing minor employees for heavy or dangerous jobs or jobs in contact with toxic substances, or for jobs or at workplaces adversely affecting their personality, which are on the lists promulgated by the Ministry of Labor, War Invalids and Social Affairs and the Ministry of Health;

c/ Refusing to recruit disabled employees according to prescribed rates, failing to make deposits into funds for their failure to recruit disabled employees according to prescribed rates.

#### **Article 14. Violation of regulations on foreign employees working in Vietnam**

1. A fine of between VND 15,000,000 and VND 20,000,000 shall be imposed for any of the following violations:

a/ Employing foreign employees under labor contracts when:

- Foreign employees are under 18 years old;

- Foreign employees' health does not meet job requirements;

- Foreign employees are not managers, chief executive officers or specialists:

- Foreign employees who are private medical or pharmaceutical practitioners and directly provide medical examination and treatment in Vietnam or work in the domain of education and vocational training fail to satisfy conditions prescribed by the law on private medical and pharmaceutical practice or the law on education and vocational training;

- Foreign employees have previous convictions of national security infringement; are being examined for penal liability or are serving criminal sentences under Vietnamese law or foreign law;

- Foreign employees fail to possess a work permit granted by a competent Vietnamese labor state management agency, except cases in which work permits are not required.

b/ Recruiting foreign employees beyond the prescribed rates:

c/ Employing in Vietnam foreign employees who do not possess a work permit granted by a competent Vietnamese labor state management agency;

d/ Failing to carry out procedures to extend work permits under regulations;

e/ Failing to carry out procedures to re-obtain work permits under regulations:

f/ Failing to adopt plans to train Vietnamese employees to substitute foreign employees working in Vietnam for hi-tech or managerial jobs whose requirements are not met by Vietnamese employees under regulations.

2. A fine of between VND 20,000,000 and VND 30,000,000 shall be imposed on employers that

recruit foreign employees to work in enterprises without publicizing employment notices and reporting on recruitment and management of foreign employees working in Vietnam to provincial- level Labor, War Invalids and Social Affairs Departments.

3. Foreign employees shall be expelled when:

a/ They work in Vietnam for full three months or more without a work permit; or

b/ They use an expired work permit.

Foreign employees shall be expelled in accordance with the Government's Decree No. 97/2006 /ND-CP on the sanction of expulsion according to administrative procedures, and the Government's Decree No. 15/2009/ND-CP amending and supplementing a number of articles of the Government's Decree No. 97/ 2006/ND-CP on the sanction of expulsion according to administrative procedures.

4. Remedies:

a/ Employing foreign employees at the proper rates, for violations specified at Point a. Clause 1 of this Article:

b/ Working out plans to train Vietnamese to substitute foreign employees, for violations specified at Point e. Clause I of this Article.

#### **Article 15. Violation of regulations on settlement of labor disputes and strikes**

1. Caution or a fine of between VND 300,000 and VND 2.000.000 shall be imposed on an employee who commits any of the following acts:

a/ Going on strike after the Prime Minister has issued a decision to postpone or stop the strike;

b/ Causing damage to machines, equipment or assets of the enterprise or disrupting public order and security while on strike, taking advantage of a strike to commit illegal acts.

2. A fine of between VND 15,000,000 and VND 30,000,000 shall be imposed on those committing any of the following violations:

a/ Obstructing the exercise of the right to strike or inciting, drawing in or forcing others to go on strike:

b/ Obstructing employees not going on strike to work;

c/ Terminating labor contracts or disciplining employees on strike or strike leaders or assigning employees or strike leaders to other jobs or other workplaces due to their strike preparation or participation;

d/ Persecuting or retaliating employees on strike or strike leaders;

e/ Terminating operation of enterprises to light strikes.

#### **Article 16. Violation of regulations on organization of trade union activities**

1. A fine of between VND 1.000.000 and VND 5.000,000 shall be imposed on employers that commit any of the following acts:

a/ Failing to ensure necessary working means for trade unions;

b/ Failing to arrange time during working hours for part-time trade union workers to carry out trade union activities or failing to pay part-time trade union workers for the time they spend on trade union activities;

c/ Failing to closely collaborate with and facilitate trade unions in their activities:

d/ Failing to give full-time trade union workers benefits and collective welfare like other employees in enterprises;

e/ Discriminating against employees who set up and join trade unions or participate in trade union activities: taking financial measures or commit other acts to intervene in the organization and operation of trade unions:

2. A fine of between VND 5.000.000 and VND 10.000.000 shall be imposed on employers that commit any of the following acts:

a/ Sacking or unilaterally terminating labor contracts with members of the Executive Committee of the grassroots trade union without reaching agreement with this Committee or with the chairperson of this Committee without reaching agreement with the superior trade union organization:

b/ Obstructing the establishment of trade union organizations at enterprises or obstructing activities of trade union organizations.

3. Remedies:

a/ Ensuring necessary working conditions for trade union organizations, arranging time for trade union workers, for violations specified at Point a. Clause 1 of this Article;

b/ Reinstating employees, for violations specified at Point a. Clause 2 of this Article.

#### **Article 17. Violation of other regulations**

1. A fine of between VND 300.000 and VND 1.000.000 shall be imposed on employers that commit any of the following acts:

a/ Failing to declare the employment; failing to report on changes in their labor force; failing to report on termination of employment when terminating their operation;

b/ Failing to open labor books, salary books and insurance books under regulations;

c/ Failing to return labor books to employees within 7 working days after terminating labor contracts.

2. A fine of between VND 5.000.000 and VND 15.000.000 shall be imposed on those beating employees or hurling their honor and dignity but not to the level of penal liability examination under law or ill-treating or forcing employees against the labor law.

3. Remedies:

a/ Declaring the employment: reporting on changes in labor forces; reporting on termination of employment when enterprises terminate their operation, for violations specified at Point a. Clause 1 of this Article;

b/ Opening labor books, salary books and social insurance books, for violations specified at Point b. Clause 1 of this Article;

c/ Returning labor books to employees, for violations specified at Point c. Clause 1 of this Article.

d/ Compensating expenses for medical examination and treatment to recover employees' health, for violations specified in Clause 2 of this Article.

### **Section II. VIOLATION OF REGULATIONS ON LABOR SAFETY AND HYGIENE**

#### **Article 18. Violation of regulations on labor safety and hygiene equipment and facilities for employees**

1. A fine of between VND 300.000 and VND 1.000.000 shall be imposed on employers that

1. Caution or a fine of between VND 200,000 and VND 1.000.000 shall be imposed on employees that fail to use or use for improper purposes labor protection devices provided by employers.
2. A fine of between VND 1.000.000 and VND 5.000.000 shall be imposed on employers that fail to fully provide employees with labor protection devices.
3. A fine of between VND 5.000.000 and VND 10.000.000 shall be imposed on employers that commit any of the following acts:
  - a/ Failing to shield machine or equipment parts which likely cause danger; failing to post up under regulations labor safety instructions at workplaces, places where machines and equipment are installed, and places where exist dangerous or hazardous elements;
  - b/ Failing to fully equip technical and medical means and appropriate labor safety devices in order to guarantee timely rescue upon occurrence of incidents or accidents at workplaces with dangerous or hazardous elements vulnerable to labor accidents;
  - c/ Failing to fully provide personal protection equipment to performers of jobs involving dangerous or hazardous elements or providing them with equipment which fail to meet quality standards.
4. Remedies: Employers shall be compelled to provide technical and medical facilities and personal protection devices to employees when they commit violations specified in Clauses 2 and 3 of this Article.

#### **Article 19. Violation of regulations on assurance of health safety for employees**

1. Fines shall be imposed on employers that commit any of the following acts: failing to implement the regime of compensation in kind for performers of jobs involving dangerous or hazardous elements; failing to provide examination of occupational diseases for employees or provide periodical medical checkups for insufficient number of employees; and failing to compile separate health records for employees suffering from occupational diseases, at the following levels:
  - a/ Between VND 300.000 and VND 2,000.0(X) when committing violations against 1 to 10 employees;
  - b/ Between VND 2.000.000 and VND 5.000,000 when committing violations against 2 to 50 employees;
  - c/ Between VND 5.000.000 and VND 10.000.000 when committing violations against 51 to 100 employees;
  - d/ Between VND 10.000.000 and VND 15.000,000 when committing violations against. 101 to less than 500 employees;
  - e/ Between VND 15.000.000 and VND 20.000.000 when committing violations against 500 employees or more.
2. A fine of between VND 5.000.000 and VND 10.000.000 shall be imposed on employers for committing any of the following acts:
  - a/ Failing to provide employees with training in, guidance on or notice of labor safety regulations and measures and possible labor accidents to be warded off:
  - b/ Failing to provide periodical medical checkups and health care for employees:
  - c/ Failing to observe regulations on detoxification and disinfection measures and personal hygiene for performers of jobs involving dangerous or hazardous elements;
  - d/ Failing to measure and check the environment at workplaces with hazardous elements under regulations:

regulations,

e/ Failing to classify employees according to the lists of heavy, hazardous and dangerous occupations and jobs to give them benefits under regulations.

3. Remedies:

a/ Training in and guiding on safety measures and possible labor accidents, providing medical checkups and treatment and compiling health records for employees when committing violations specified in Clause 1 and Points a and b. Clause 2 of this Article;

b/ Paying employees money converted at current prices for prescribed compensations in kind when committing violations specified in Clause I of this Article.

**Article 20. Violation of regulations on labor safety and hygiene standards**

1. A fine of between VND 5.000.000 and VND 10,000.000 shall be imposed on employers that commit any of the following acts:

a/ Failing to periodically inspect and repair machines, equipment, workshops and storehouses by labor safety and hygiene standards;

b/ Violating labor safety regulations and standards in the manufacture, use, preservation, storage and transportation of machines, equipment, supplies and substances subject to strict requirements on labor safety and hygiene;

c/ Failing to register machines, equipment, supplies and substances subject to strict requirements on labor safety and hygiene;

d/ Failing to meet workplace standards or periodically check and measure these standards.

2. A fine of between VND 15.000.000 and VND 20.000.000 shall be imposed on employers that commit any of the following acts:

a/ Having no theoretical and factual foundations on measures to ensure labor safety when building or renovating establishments for the manufacture, use, preservation and storage of machines, equipment, supplies and substances subject to strict requirements on labor safety and hygiene;

b/ Failing to check machines, equipment, supplies and substances subject to strict requirements on labor safety and hygiene;

c/ Failing to take remedies or stop operation of workplaces, machines or equipment which likely cause labor accidents or occupational diseases.

3. Remedies:

a/ Forced application of measures to ensure labor safety and hygiene; and observance of safety regulations and standards when committing violations specified at Points b and d. Clause 1. and Point a. Clause 2 of this Article:

b/ Forced fixing and repair of machines and equipment which fail to meet labor safety standards, which are on the list promulgated by the Ministry of Labor, War Invalids and Social Affairs:

c/ Forced registration of machines, equipment and substances subject to strict requirements on labor safety and hygiene with competent agencies when committing violations specified at Point c. Clause 1 of this Article.

**Article 21. Violation of regulations on labor accidents and occupational diseases**

1. A fine of between VND 300,000 and VND 3.000,000 shall be imposed on employers that commit any of the following acts:

a/ Failing to observe regulations on settlement and arrangement of jobs suitable to the health of employees who suffer occupational diseases or labor accidents as concluded by a Medical Examination Council:

b/ Failing to pay medical expenses for first-aid, emergency and treatment for employees who suffer labor accidents or occupational diseases;

c/ Failing to pay allowances and compensations to employees who suffer labor accidents or occupational diseases in the cases prescribed in Clauses 2 and 3. Article 107 of the amended and supplemented Labor Code.

2. A fine of between VND 2.000.000 and VND 5,000,000 shall be imposed on employers that fail to survey, report and make statistical reports on labor accidents and occupational diseases or make false reports thereon; or fail to make periodical statistical reports on labor accidents and occupational diseases under regulations.

3. Remedies: Forced payment of damages to employees when committing violations specified at Points b and c. Clause 1 of this Article.

### **Chapter III**

## **ADMINISTRATIVE SANCTIONING COMPETENCE AND PROCEDURES**

### **Section I. SANCTIONING COMPETENCE**

#### **Article 22. Sanctioning competence of People's Committees of different levels**

1. Chairpersons of People's Committees of urban districts, rural districts, towns or provincial cities may:

a/ Impose caution:

b/ Impose fines of up to VND 30.000.000;

c/ Impose additional sanctions specified in Clause 2. Article 4 of this Decree:

d/ Apply remedies specified at Points a. b. c and d. Clause 3. Article 4 of this Decree.

2. Chairpersons of People's Committees of provinces or centrally run cities may:

a/ Impose caution:

b/ Impose fines of up to VND 30,000.000;

c/ Impose additional sanctions specified in Clause 2. Article 4 of this Decree;

d/ Apply remedies specified in Clause 3. Article 4 of this Decree.

#### **Article 23. Sanctioning competence of labor inspectors**

1. Labor inspectors on duty may:

a/ Impose caution;

b/ Impose fines of up to VND 500.000;

c/ Confiscate material evidences and means used for administrative violations, which are valued at up to VND 2,000,000;

d/ Apply remedies specified at Points a, b, c and d. Clause 3. Article 4 of this Decree.

2. Chief labor inspectors of provincial-level Labor, War Invalids and Social Affairs Departments may:

a/ Impose caution;

b/ Impose fines of up to VND 30,000.000;

c/ Impose additional sanctions specified in Clause 2, Article 4 of this Decree:

d/ Apply remedies specified at Points a. b. c and d. Clause 3. Article 4 of this Decree:

3. The chief inspector of the Ministry of Labor, War Invalids and Social Affairs may:

a/ Impose caution:

b/ Impose fines of up to VND 30,000,000;

c/ Impose additional sanctions specified in Clause 2. Article 4 of this Decree:

d/ Apply remedies specified in Clause 3. Article 4 of this Decree.

#### **Article 24. Other agencies' competence to sanction administrative violations**

In addition to the subjects specified in Articles 22 and 23 of this Decree, the following competent persons may sanction administrative violations of the labor law under this Decree in the domains and localities under their management when detecting such violations, specifically as follows:

1. Those competent to sanction administrative violations of people's police defined in Article 31 of the Ordinance on Handling of Administrative Violations may sanction security and order-related violations in the labor domain such as violations of regulations on employment or labor contracts or sanction violators that belong to employers managed by the Ministry of Public Security.

2. Those competent to inspect labor safety and hygiene in the domains specified in Clause 3. Article 191 of the Labor Code may, when conducting inspection, sanction administrative violations of the labor law corresponding to the sanctioning competence of labor inspectors defined in this Decree.

### **Section II. SANCTIONING PROCEDURES**

#### **Article 25. Principles for determining competence to sanction administrative violations of the labor law**

1. For administrative violations of the labor law which may be handled by various state management agencies, the sanctioning shall be effected in accordance with this Decree by the agency which first receives the cases.

2. The sanctioning competence of those specified in Articles 22. 23 and 24 applies to one administrative violation.

In case of fine, the sanctioning competence shall be determined based on the highest level of the fine bracket applicable to each specific violation.

3. In case of sanctioning a violator with multiple administrative violations, the sanctioning competence shall be determined on the following principles:

a/ If the sanctioning form and level applicable to every violation fall under the competence of a person, that person may sanction all violations:

b/ If the sanctioning form and/or level applicable to one of the violations fall beyond a person's

b/ If the sanctioning form and/or level applicable to one of the violations fall beyond a person's competence, such person shall transfer the case to competent sanctioning authorities:

c/ If violations may be sanctioned by persons of different agencies, the chairperson of the People's Committee with sanctioning competence of the locality where violations are committed shall sanction such violations.

#### **Article 26. Authorization of sanctioning of administrative violations**

Those competent to sanction administrative violations specified in Articles 22, 23 and 24 of this Decree may authorize their deputies to sanction administrative violations. Authorization must be made in writing. Authorized deputies shall take responsibility for their sanctioning decisions before their heads and law.

#### **Article 27. Administrative sanctioning procedures and enforcement of sanctioning decisions**

1. The procedures for sanctioning administrative violations of the labor law and enforcement of sanctioning decisions comply with Articles 54 thru 68. Chapter VI of the 2002 Ordinance on Handling of Administrative Violations, and Clauses 21. 22. 24. 25. 26 and 28. Article 1 of the 2008 Ordinance on Handling of Administrative Violations.

2. Forms of records and administrative sanctioning decisions for violations of the labor law are promulgated in the Appendix to this Decree (not printed herein).

#### **Article 28. Publicity of violations of the labor law and handling results**

1. Within 30 days after issuing a sanctioning decision, competent individuals or entities shall publicize at least once in the mass media such as central or local television stations, central radio station or radio stations of provincial, district-or commune-level People's Committees, the labor and society newspaper and the people newspaper violations of the labor law by enterprises which violate Clauses 2 and 3, Article 7; Clauses 3 and 4. Article 8: Clauses 2, 3.4 and 5. Article 10: Clauses 1 and 2. Article 11; Clause 3. Article 12; Points c. d, e, f, g. h. i, j. k and 1. Clause 1, and Points a and b. Clause 2. Article 13; Points c. d and e. Clause 2. Article 15; Clause 2. Article 16; Clause 2, Article 17; Clauses 2 and 3. Article 18; Point d. Clause 1. Article 20; and Clause 1, Article 21 and the handling of violations under law.

2. The mass media shall publicize violations of enterprises within 7 working days after being so requested by competent agencies.

### **Chapter IV**

## **IMPLEMENTATION PROVISIONS**

#### **Article 29. Effect**

This Decree takes effect on June 25. 2010.

This Decree replaces the Government's Decree No. 113/2004/ND-CP of April 16.2004. on administrative sanctioning of violations of the labor law.

#### **Article 30. Responsibilities for guidance and implementation**

The Minister of Labor. War Invalids and Social Affairs shall examine the implementation of this Decree.

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

ON BEHALF OF THE GOVERNMENT

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Tan Dung**