

## DECREE

### GUIDELINES FOR REGULATIONS OF THE LABOR CODE ON DOMESTIC SERVANTS

*Pursuant to the Law on Government organization dated December 25, 2001;*

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

*At the request of the Minister of Labor, War Invalids and Social Affairs;*

*The government promulgates a Decree on guidelines for regulations of the Labor Code on domestic servants*

#### Chapter 1.

### GENERAL PROVISIONS

#### Article 1. Scope of regulation

This Decree deals with the rights, obligations, and responsibilities of domestic servants, their employers, the organizations and individuals involved in the performance of labor contracts, wages, social insurance, health insurance, hours of work and hours of rest, occupational safety, occupational hygiene, labor discipline, financial obligations and settlement of labor dispute according to the Labor Code.

#### Article 2. Subjects of application

1. The domestic servants defined in Clause 1 Article 179 of the Labor Code.
2. The employers of domestic servants under labor contracts.
3. The organizations and individuals involved in the implementation of this Decree.

This Decree is not applied to Vietnamese domestic servants that work overseas.

#### Article 3. Interpretation of terms

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

1. A worker means a domestic servant defined in Clause 1 Article 179 of the Labor Code, whether living or not living with the employer's family.
2. Other works in the household that are not related to commercial activities defined in Clause 1 Article 179 of the Labor Code include: cooking for family members, not for a restaurant; planting vegetables, fruits, ornamental plants, raising animals to serve the life of the family members, not for sale or exchange; cleaning the house, the garden, protecting the house and other property of the household that is not a workshop, a shop, an office, or a business location; transporting family members or stuff that is not goods or raw materials serving business; tutoring family members; washing clothing and blankets of family members that are not clothing in a laundry shop or protective clothing of the people hired by the household; other works serving everyday life of the family members that do not directly contribute to income generation of the household or the family members.
3. Regular household tasks are the tasks in the contract that recur after a certain period of time (hourly, daily, weekly, or monthly).
4. An employer may be a household or multiple households that hire the same domestic servant under a labor contract.

#### Chapter 2.

## **LABOR CONTRACT**

### **Article 4. Signatories to the labor contract**

1. The signatory on the employer's side may be:

- a) The household owner;
- b) A person authorized by the household owner(s);
- c) A person authorized by members of the household owner(s);

2. The signatory on the worker's side may be:

- a) A worker aged 18 or more;
- b) A worker aged 15 to under 18 that has a written consensus by a legal representative of the worker.

### **Article 5. Conclusion of the labor contract**

1. When the labor contract is concluded with an illiterate worker, the employer must read the whole labor contract out loud for the worker to hear and agree before it is signed. If necessary, the worker may request the employer to invite a person that is not a family member to witness before the labor contract is signed.

2. If the employer hires multiple domestic servants, each of them must have a separate labor contract.

3. The labor contract shall be made into two copies, one of which is kept by the employer and the other is kept by the worker.

4. Within 10 days from the day on which the labor contract is signed, the employer must notify the employment of a domestic servant to the People's Committee of the commune, ward or town where the worker works.

### **Article 6. Information provision prior to contract conclusion**

1. The employer must provide the worker with the following information:

- a) The information mentioned in Clause 1 Article 19 of the Labor Code.
- b) The living conditions of the worker, information about the family members and their routines.

2. The worker must provide the employer with the following information:

- a) The information mentioned in Clause 2 Article 19 of the Labor Code.
- b) ID number, date of issuer, issuer, permanent residence, family background, full name and address of the contact.

### **Article 7. Labor contract contents**

A labor contract must contain:

- 1. The information mentioned in Clause 1 Article 23 of the Labor Code;
- 2. The living conditions of the worker (if any);
- 3. The worker's travel allowance when the labor contract expires on schedule;
- 4. The time and financial support for the worker to go to school (if any);
- 5. The responsibility to pay compensation for damaging equipment or other assets of the employer;
- 6. The prohibitions applied to both parties

### **Article 8. Probation**

1. The employer and the worker may reach an agreement on the probation, the rights and obligations of both parties during and after the probation period in accordance with Article 26, Article 28, and Article 29 of the Labor Code.

2. The probation period must not exceed 06 working days.

#### **Article 9. Labor contract suspension**

1. The employer and the worker may reach an agreement on suspension of the labor contract in accordance with Clause 4 and Clause 5 Article 32 of the Labor Code.

2. When the suspension is over, the worker must be present at the workplace, unless otherwise agreed by both parties. When the suspension is over, the employer must reemploy the worker.

3. If the worker is not present when the suspension mentioned in Clause 2 of this Article is over, the employer is entitled to unilaterally terminate the labor contract.

#### **Article 10. Cases of labor contract termination**

1. The labor contract expires.

2. The works under the labor contract are all finished.

3. Both parties agree to terminate the labor contract.

4. The worker dies.

5. The employer that is an individual dies.

6. The employer or the worker unilaterally terminates the labor contract.

#### **Article 11. Worker's prior notice of unilateral termination of labor contract**

1. The worker must give a prior notice 15 days before unilaterally terminating the labor contract, except for the cases in Clause 2 and Clause 3 of this Article.

2. The worker must give a prior notice 03 days before unilaterally terminating the labor contract in the following cases:

a) The works assigned or the working locations are not consistent with the labor contract;

b) Wages are not paid in full or on schedule according to the labor contract, unless otherwise agreed by both parties;

c) The worker is not provided with acceptable living conditions as stated in the labor contract;

d) The worker fails to continue working due to a disease or accident.

3. Prior notice of unilateral termination of the labor contract is not required in the following cases:

a) The worker is abused, insulted, sexually harassed, attacked, or forced to work by the employer or a family member;

b) The working conditions are dangerous or threaten the safety or health of the worker, and the employer fails to take any effective measure;

c) The worker fails to keep performing the contract due to a natural disaster, blaze, or another force majeure circumstance despite all the measures taken.

#### **Article 12. Employer's prior notice of unilateral termination of labor contract**

1. The employer must give a prior notice 15 days before unilaterally terminating the labor contract, except for the cases in Clause 2 and Clause 3 of this Article.

2. The employer must give a prior notice 03 days before unilaterally terminating the labor contract in the following cases:

a) The worker seriously violates the labor contract, except for the cases in Point a Clause 3 of this Article;

b) The worker has been treated for a disease or accident for 30 consecutive days.

3. Prior notice of unilateral termination of the labor contract is not required in the following cases:

- a) The worker commits embezzlement, gambles, attacks a family member or a co-worker, abuses drugs, or uses prostitutes;
- b) The employer or a family member is abused, insulted, sexually harassed, attacked, or forced by the worker;
- c) The employer fails to keep performing the contract due to a natural disaster, blaze, or another force majeure circumstance despite all the measures taken.

#### **Article 13. Responsibilities of the employer and worker when the labor contract is terminated**

1. When the labor contract is terminated according to Article 10 of this Decree, the employer and the worker must settle the relevant payments according to the labor contract. If necessary, payments may be delayed for up to 07 working days from termination date.
2. When the labor contract is terminated according to Clause 1, Clause 2, Clause 3, Clause 4, or Clause 5 of Article 10, or when the labor contract is unilaterally terminated according to Article 11, Clause 1, Point b Clause 2, or Point c Clause 3 Article 12 of this Decree, the employer must pay the worker a severance pay according to Article 48 of the Labor Code.
3. Within 10 days from the termination date, the employer must notify the contract termination to the People's Committee of the commune, ward or town where the worker worked.

#### **Article 14. Worker's going to school**

1. The employer must allow the worker to go to school at the worker's request.
2. The time for the worker to go to school shall be agreed by both parties and must be written in the labor contract.

### **Chapter 3.**

## **WAGES, SOCIAL INSURANCE, HEALTH INSURANCE**

#### **Article 15. Wages, method of payment, and deadline for payment**

1. The level of wage is agreed by both party and must be written in the labor contract. The wage (including the living cost if the worker lives with the family) must not fall below the minimum wages imposed by the government. The employer and the worker shall negotiate the monthly living cost, provided it does not exceed 50% of the wage in the labor contract.
2. The method of payment and deadline for payment shall be negotiated by both parties. If wages are paid to a bank account, the employee must enable the worker to open a bank account. The costs related to the opening and maintenance of the account shall be negotiated by both parties. The employer must not deduct any wiring fee from the wage.
3. If the employer requests the worker to work overtime, work during public holidays or paid leave, the employer must provide overtime pay in accordance with Article 97 of the Labor Code.

#### **Article 16. Payment upon resignation**

1. The employer must pay wages to the worker in full if the employer is accountable for the worker's resignation, unless otherwise agreed by both parties.
2. The employer is not required to pay the worker if the employee is not accountable for the worker's resignation, unless otherwise agreed by both parties.

#### **Article 17. Wage deduction**

1. The employer may only deduct the compensation for damaged equipment or loss of property from the worker's wages in accordance with the labor contract.
2. The deduction from the monthly wage shall be agreed by both parties, but must not exceed 30% of the monthly wage if the worker does not live with the family, or not exceed 60% of the remaining wage after deducting the living cost if the worker lives with the family.

3. The worker must be informed of the every deduction.

#### **Article 18. Bonus**

Every year, the employer shall pay bonus for the worker according to their performance and the financial capacity of the household.

#### **Article 19. Social insurance and health insurance**

The employer must pay the worker an additional amount that is equal to the social insurance and health insurance premiums when paying wages. The worker shall use this amount to pay insurance himself or herself.

#### **Article 20. Responsibilities of the employer when the worker is sick**

1. When the worker that lives with the family is sick, the employer must enable to the worker to rest and treat their sickness. The medical cost shall be covered by the worker, unless otherwise agreed by both parties.
2. The employer is not required to pay the worker for the days the worker is off sick>

#### **Chapter 4.**

### **HOURS OF WORK AND REST**

#### **Article 21. Hours of work and hours of rest of workers that live with the family**

1. The hours of work and hours of rest shall be agreed by both parties, provided the worker has at least 8 hours of rest, including 6 consecutive hours of rest in during a 24-hour period.
2. The working time workers aged 15 to under 18 is prescribed in Clause 2 Article 163 of the Labor Code.

#### **Article 22. Weekly rest time**

The worker must have at least 24 hours of rest every week. Otherwise, the employer must allow the worker to rest at least 04 days a month on average. The time of rest shall be negotiated by both parties.

#### **Article 23. Annual leave and public holidays**

1. If the worker has worked for 12 months for an employee, he or she is entitled for 12-day leave in the year. The time of rest shall be negotiated by both parties. The worker may negotiate with the employer for taking leave many times a year or only one time during a period of not more than 3 years.
2. The worker is entitled to rest and get paid in full during public holidays according to Article 115 of the Labor Code.
3. When taking annual leave, the worker shall receive an advance payment that equals at least the payment for the days off.

#### **Chapter 5.**

### **OCCUPATIONAL SAFETY AND OCCUPATIONAL HYGIENE**

#### **Article 24. Occupational safety and occupational hygiene**

1. The employer must instruct the worker to use the equipment and appliances related to their works, provide instructions on fire safety, and provide personal safety equipment for the worker while they are working.
2. The worker must follow the instructions provided by the employer; ensure the sanitation of the households and the residential area.
3. Every year, the employee must enable the worker to undergo a health check. If necessary, the employer shall request the worker to undergo a health check. The health check cost shall be covered by the employer, unless otherwise agreed by both parties.

#### **Article 25. Responsibilities of the employer when the worker has an occupational accident**

1. When the worker has an occupational accident, the employer must:
  - a) Provide emergency treatment in a timely and careful manner;
  - b) Notify the worker's family;
  - c) Fulfill the employer's obligations in Article 144 of the Labor Code;
  - d) Report the case to and cooperate with a competent authority in investigating the occupational accident as prescribed by law.
2. The employer must not unilaterally terminate the labor contract with the worker that has the occupational accident during the treatment, except for the case in Point b Clause 2 Article 12 of this Decree.

#### **Chapter 6.**

### **LABOR DISCIPLINE, FINANCIAL OBLIGATIONS, AND SETTLEMENT OF LABOR DISPUTE**

#### **Article 26. Labor discipline and financial obligations**

1. When the employee commits the breaches of the contract other than those mentioned in Clause 2 and Clause 3 Article 12 of this Decree, the employer is entitled to give a reprimand. If the breach occurs, the employee may terminate the labor contract in accordance with Clause 1 and Article 12 of this Decree depending on the seriousness of the breach.
2. The worker that damages the equipment or other property of the employee must pay compensation for the damage in accordance with Article 130 of the Labor Code, unless otherwise agreed by both parties.

#### **Article 27. Settlement of labor dispute**

When a dispute between the employer and the worker or a family member arises, the employer and the worker must negotiate towards an amicable settlement. If an amicable settlement cannot be reached, the case may be settled by a conciliator or at court in accordance with Article 201 of the Labor Code.

#### **Chapter 7.**

### **IMPLEMENTATION**

#### **Article 28. Effect**

1. This Decree takes effect on May 25, 2014.
2. The Labor Code and other guiding documents shall apply to the issues that are not mentioned in this Decree.
3. Any employer that hires a domestic servant before this Circular takes effect must cooperate with the worker in adjust the labor contract to this Decree or signing a new labor contract that is conformable with this Decree, and notify the People's Committee of the commune, ward, or town where the worker works.

#### **Article 29. Responsibilities for implementation**

1. Minister of Labor, War Invalids and Social Affairs is responsible for providing instructions on the implementation of this Decree.
2. The People's Committees of communes, wards and towns shall receive notifications of employment of domestic servants and terminations of their labor contracts, assist in settling disputes between domestic servants and their employers; receive and consider workers' reports of their employers' abuse, sexual harassment, coercion, or other violations of law; summarize and report the adherence to labor laws of local domestic servants.
3. Other Ministers, heads of ministerial agencies, head of Governmental agencies, Presidents of the People's Committees of central-affiliated cities and provinces, relevant organizations and individuals are responsible for the implementation of this Decree./.

**FOR THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Tan Dung**