

**THE GOVERNMENT**

-----

No. 100/2012/ND-CP

**SOCIALIST REPUBLIC OF VIET NAM**

**Independence - Freedom - Happiness**

-----

*Hanoi, November 21, 2012*

**DECREE**

AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE GOVERNMENT'S DECREE NO. 127/2008/ND-CP, OF DECEMBER 12, 2008 DETAILING AND GUIDING IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE LAW ON SOCIAL INSURANCE REGARDING UNEMPLOYMENT INSURANCE

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

*Pursuant to the Labour Code of June 23, 1994; Law on amending and supplementing a number of articles of the Labour Code of April 02, 2002; Law on amending and supplementing a number of articles of the Labour Code of June 29, 2006;*

*Pursuant to the Law on Social insurance, of June 29, 2006;*

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

*The Government promulgates Decree amending and supplementing a number of articles of the Government's Decree No. 127/2008/ND-CP, of December 12, 2008 detailing and guiding implementation of a number of articles of the Law on social insurance regarding unemployment insurance.*

**Article 1.** To amend and supplement a number of articles of the Government's Decree No. 127/2008/ND-CP, of December 12, 2008 detailing and guiding implementation of a number of articles of the Law on social insurance regarding unemployment insurance as follows:

**1. To amend and supplement point d, clause 1 Article 2 as follows:**

“d) Working contracts of indefinite term.”

**2. To supplement clause 3 Article 2 as follows:**

“Labourers being on leave for enjoying the maternity or sickness regime for from 14 working days or more in a month, not enjoyed monthly salaries, ways at units and enjoyed social insurance allowances; labourers temperately postpone performance of concluded labour contracts or working contracts as prescribed by law, so in this duration, such labourers are not subject to participate in unemployment insurance”

**3. To amend clause 3 and supplement clause 7, clause 8, Article 8 as follows:**

“3. To keep and use social insurance books during unemployment duration.”

“7. To receive notification on not being enjoyed unemployment allowances, decisions on enjoying unemployment allowances, decisions on enjoying lump-sum allowances, decisions on supporting vocational learning, decisions on temperately stop enjoying unemployment allowances, decisions on continuing to enjoy unemployment allowances, decisions on termination of enjoying unemployment allowances as guided by the Ministry of Labour, War Invalids and Social Affairs.

8. To implement fully provisions of law on unemployment insurance and implement other provisions of law.”

**4. To amend and supplement Article 10 as follows:**

**“Article 10. Unemployment insurance-related responsibilities of employers under Article 18 of the Social Insurance Law**

1. To define subjects participating in unemployment insurance and implement procedures, orders of participation in unemployment insurance as prescribed by law.

2. To notify with labour agencies when having changes on labourers working in their units under guides of the Ministry of Labour, War Invalids and Social Affairs. For units of armed forces, the Ministry of Labour, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Public Security and the Ministry of National Defense to guide for implementation.

3. To timely, fully and properly pay unemployment insurance premiums as prescribed by law.

4. To preserve unemployment insurance dossiers of labourers and of employers during the time labourers work for them.

5. To produce documents and dossiers and supply relevant information at the request of competent state agencies upon unemployment insurance examination or inspection.

6. To supply information on payment of unemployment insurance premiums of a labourer for him/her within 02 days (calculated by working days), after being requested by him/her.

7. To supply documents as prescribed in clause 2 Article 37 of this Decree for labourers in order to complete dossiers enjoying unemployment insurance indemnities.

8. To implement other responsibilities as prescribed by law.”

**5. To amend and supplement Article 15 as follows:**

**“Article 15. Conditions for entitlement to unemployment insurance indemnities under Article 81 of the Social Insurance Law**

An unemployed person being pay unemployment insurance premiums but lost job or ended labour contracts or working contracts is entitled to enjoy unemployment insurance indemnities when having sufficiently the following conditions:

1. Having paid unemployment insurance premiums for full twelve months or more within twenty four months before losing a job or terminating a labour contract or working contract as prescribed by law.

It is permitted to calculate month paying unemployment insurance premiums of a labourer if employer and labourer paid unemployment insurance premiums, labourer implemented labour contract or working contract for at least a day in that month.

2. Having registered unemployment with a labour agency when losing a job or terminating a labour or working contract.

3. Failing to find a job within 15 days after the date of registering with a labour agency under Clause 2 of this Article.”

**6. To amend and supplement clause 2, clause 3, Article 17 as follows:**

“2. The levels of support for labourers enjoying unemployment allowance depend on levels of cost for vocational learning of each profession, levels of support for vocational learning are calculated by month on the basis of levels of cost for vocational training of each profession. Levels of support for vocational learning are specified by the Prime Minister.

3. The time of support depend on training time of each profession and each labourer, but does not exceed 6 months. The beginning time of support is calculated from the date a labourer receives monthly unemployment allowance.”

**7. To amend and supplement Article 34 as follows:**

**“Article 34. Registration of unemployment and notification on finding jobs with labour agencies**

1. Within 03 months, since losing job or ending labour contract or working contract, if labourers have not yet had job and have demand to enjoy unemployment allowances, they may implement registration of unemployment with labour agencies.

2. Monthly, persons enjoying unemployment allowances must directly come to notify with labour agencies on finding jobs.”

**8. To amend and supplement Article 37 as follows:**

**“Article 37.** A dossier for enjoyment of unemployment insurance indemnities under Article 125 of the Social Insurance Law comprises:

1. A written request for enjoyment of unemployment insurance indemnities, made according to a form set by the Ministry of Labour, War Invalids and Social Affairs;
2. A copy of the expired labour or working contract or the agreement on termination of the labour or working contract or the last employer's certification of the unilateral termination of the labour or working contract in according to guides of the Ministry of Labour, War Invalids and Social Affairs.
3. Labourers must present the social insurance book or certification of social insurance agencies on payment of unemployment insurance when submitting dossier to enjoy unemployment insurance indemnities.”

**9. To amend and supplement Article 38 as follows:**

**“Article 38. Settlement of enjoyment of unemployment insurance indemnities under Article 126 of the Social Insurance Law comprises:**

1. Within 15 days (calculated by working days), after registering for unemployment, labourers must directly file dossier of enjoyment of unemployment insurance indemnities as prescribed in Article 37 of this Decree to labour agencies where labourers registered for unemployment or labour agencies of forwarded places in order to enjoy unemployment insurance indemnities.
2. Within 20 days (calculated by working days), after receiving fully valid dossier as prescribed in Article 37 of this Decree, labour agencies shall receive, consider and solve enjoyment of unemployment insurance regimes, in case refuse for settlement, must reply in writing and clearly state reason thereof.
3. Within 15 days (calculated by working days), after receiving request for support for vocational learning of unemployed persons, labour agencies shall settle; in case refuse for settlement, they must reply in writing and clearly state reason thereof.
4. Within 5 days (calculated by working days), after receiving decision on enjoying unemployment allowances of labour agencies, the social insurance agencies shall implement payment of monthly or lump-sum unemployment allowances for labourers. In case social insurance agencies fail to implement payment properly with the defined time limit or refuse payment of unemployment insurance regimes which are not in accordance with provisions of law, social insurance agencies must have a written notification to labour agencies and labourers and clearly state reason thereof.
5. If labourers do not receive decision on enjoying unemployment allowances, decision on support for vocational learning or do not want to receive unemployment allowances, regulations of the Ministry of Labour, War Invalids and Social Affairs shall be implemented.”

**Article 2. Effectiveness and responsibility for implementation**

1. This Decree takes effect on January 15, 2013.

2. Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, the President of the People's Committee of central-affiliated cities and provinces shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Tan Dung**