

THE GOVERNMENT

No. 23-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence-Freedom-Happiness

Hanoi ,April 18,1996

DECREE

PROVIDING DETAILS, AND GUIDANCE FOR THE IMPLEMENTATION OF
A NUMBER OF ARTICLES OF THE LABOR CODE ON WOMEN LABORERS

THE GOVERNMENT

Pursuant to the Law on Organization of the Government of September 30, 1992;

Proceeding from the Labor Code of June 23, 1994;

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

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- The subjects and scope of regulation of this Decree are defined as follows:

1. With regard to the women laborers:

a) The women laborers working in the enterprises of all economic sectors and all forms of ownership;

b) The women laborers in State administrative and public service agencies who are not State officials and employees; if they are State officials and employees, they must be assigned jobs which are not banned by the regulation on State employees;

- c) The women laborers who work in the people's armed forces who are not officers, non-commissioned officers and soldiers;
- d) The women laborers who work in the people's organizations and other socio-political organizations who are not full-time employees of those organizations;
- e) The women laborers who are foreigners working for Vietnamese enterprises, organizations and individuals on Vietnamese territory, except otherwise provided for by International Conventions which the Socialist Republic of Vietnam has signed or acceded to;
- f) The women laborers who work in foreign-invested enterprises licensed under the Law on Foreign Investment in Vietnam, and in enterprises in the export-processing zones, the industrial areas, the foreign agencies, organizations and individuals or international organizations based in Vietnam but who are not State officials and employees.

2. With regard to the employers of women laborers:

- a) All organizations and individuals of all economic sectors and all forms of ownership that employ women laborers, including: State enterprises, private enterprises, joint-stock companies, limited liability companies, cooperatives, production groups employing hired labor; enterprises with foreign investment under the Law on Foreign Investment in Vietnam; enterprises in the export-processing zones and industrial areas; individuals and organizations of foreign countries or international organizations based in Vietnam;
- b) The State administrative and public service agencies, the people's armed forces, the people's organizations and other socio-political organizations which employ women laborers.

Article 2.- With regard to the equality of sex in labor relations under Item 1, Article 109, of the Labor Code, the following shall apply:

- Women have the right to equality with men in the labor relations between the employers and laborers in all organizations, between all individuals and in all economic sectors, in the following areas: recruitment, employment, training, pay raise, promotion, reward, social insurance, health insurance, labor conditions and safety, and material and spiritual welfare and health care.

- The State shall ensure the equality of sex in the above areas in the labor relations, preferential treatment policies and reduction of taxes so as to create conditions for women laborers to effectively take part in social activities, well perform their maternal functions. The State shall cover part of the extra costs incurred by the employment of women laborers.

Chapter II

DETAILED PROVISIONS

Article 3.- The work regime for women laborers as provided for in Item 1, Article 109, of the Labor Code, is defined as follows:

Proceeding from the character, working conditions and nature of work of the enterprises, the employers of women laborers shall take initiative to discuss with the trade union organizations the plan to assign women laborers to flexible time tables, shorter work day, and shorter work week, and to assign them jobs that can be done at home so as to create conditions for women laborers to be employed on a regular basis, according to their legitimate aspirations.

Article 4.- The enterprises which employ women laborers have to study and determine the occupations which are not suitable for women to work till their

retirement, and to plan the training of reserve skills for women laborers as provided for in Article 11, Decree No 90-CP of December 15, 1995 of the Government which details stipulations and guidance for implementation of a number of Articles of the Labor Code on vocational training.

Article 5.- An enterprise which meets one of the following two conditions is regarded as having a high proportion of women in its work force:

1. The enterprise which regularly employs from 10 to 100 women laborers and has women laborers accounting for 50% or more of its total regular workforce;
2. The enterprise which regularly employs over 100 women laborers and has women laborers accounting for 30% or more of its regular workforce.

Article 6.- An enterprise with a high proportion of women in its workforce as provided for in Item 2, Article 110, of the Labor Code, is entitled to the following preferential treatment policies:

1. In case of special difficulty and with a decision of the Prime Minister, it is allowed to take low-interest loans from the National Fund for Employment as provided for in Point (d), Item 2, Article 6, of Decree No.72-CP of October 31, 1995 of the Government providing detailed stipulations and guidance for the implementation of a number of Articles of the Labor Code on employment;
2. In case of financial difficulty which makes it impossible for the enterprise to move its women laborers from jobs which are banned from women laborers to suitable jobs, the enterprise is allowed to set up a project to request a single budget assistance from the National Fund for Employment as provided for in Point (b), Item 2, Article 6, of Decree No.72-CP of October 31, 1995 of the Government;

3. The enterprise is given priority in using part of its total annual investment to cover the improvement of the working conditions for women laborers.

The Ministry of Finance shall provide guidance for the implementation of Item 3, Article 6, of this Decree.

Article 7.- The consideration for reduction of taxes in accordance with Item 2, Article 110, of the Labor Code is provided for as follows:

1. The enterprises which meet the conditions as stipulated in Article 5 of this Decree are eligible for consideration for tax reduction;

2. The profit taxes are to be reduced; but the reduction shall not be lower than the extra expenses incurred by the high employment of women, which the enterprise is able to calculate;

3. The money yielded by the reduction of tax shall be managed and used by the enterprise to cater to women laborers.

4. As regards the enterprises which have a high proportion of women laborers and which are not profitable, the extra expenses they have to make due to the high employment of women shall be considered legitimate expenses.

The Ministry of Finance shall provide detailed guidance for the implementation of Items 2, 3 and 4 stipulated in Article 7 of this Decree.

Article 8.- The enterprises which are not qualified as having a high proportion of women laborers shall, on the basis of their actual conditions and circumstances, study the State policies on women laborers so as, together with the trade union organizations, to find measures for their implementation. The agreements between them shall be included in the collective bargains.

Article 9.- The bans imposed on the employers as specified in Article 111 of the Labor Code are provided for as follows:

1. To ban the issue of regulations which are not any useful for women laborers than the provisions of law;
2. To ban behaviors which are restraining the capabilities to absorb women laborers into employment.
3. To ban cursing, beating, etc., which encroach upon the honor and dignity of women laborers during work.

In case the employers violate the above-described bans, they shall be dealt with in accordance with law, depending on the seriousness of their violations.

Article 10.- The right of the expectant woman laborer to unilaterally terminate the labor contract in accordance with Article 112 of the Labor Code is provided for as follows:

1. The employer has to immediately move the expectant woman laborer who is working on an assignment which carries a risk to the fetus to another job which is more suitable, when there is a written certificate by a doctor of a polyclinical ward of a hospital or a consulting room of district or higher level;
2. In case the employer is not able to move the woman laborer to a suitable job, the woman laborer has the right to terminate the labor contract without having to compensate the training cost (if any).

Article 11.- The enterprise which is employing women laborers in jobs banned to women laborers as prescribed by the Ministry of Labor, War Invalids and Social Affairs and the Ministry of Health, shall have to design a plan to move the women

laborers to other jobs as provided for in Article 113 of the Labor Code, and Item 2, Article 6, of this Decree. In the course of designing this plan, the enterprise has to take the following measures:

1. With regard to especially heavy or noxious jobs, the work hours must be reduced in accordance with the provisions of law;
2. Measures to improve the working conditions must be applied;
3. The working time must be arranged appropriately so as to allow women laborers conditions to learn new trades or improve their professional skills.

Article 12.- With regard to the implementation of the policies for women laborers in accordance with Article 118 of the Labor Code:

1. The enterprises with a high proportion of women in the workforce must assign members of their Managing Commissions to monitor the implementation of policies and regimes for women laborers; and to review and recommend to the State management agencies to amend or supplement those policies and regimes;
2. The enterprises which employ women laborers must observe the regime of reporting on the implementation of regimes and policies for women laborers as required by the Ministry of Labor, War Invalids and Social Affairs;
3. At the enterprises where there are trade union organizations or provisional trade union organizations, the representative of the women laborers is the Committee for Women's Affairs.

Chapter III

IMPLEMENTATION PROVISIONS

Article 13.- This Decree takes effect on the date of its signing.

Article 14.- The Ministry of Labor, War Invalids and Social Affairs and the Ministry of Finance shall, within the sphere of their functions and tasks, be responsible for guiding the implementation of this Decree.

Article 15.- The Ministers, the Heads of the ministerial-level agencies, the Heads of the agencies attached to the Government, and the Presidents of the People's Committees of the provinces and cities directly under the Central Government are responsible for implementing this Decree.

On behalf of the Government

**FOR THE PRIME MINISTER
DEPUTY PRIME MINISTER**

Phan Van Khai