THE NATIONAL ASSEMBLY	**SOCIALIST REPUBLIC OF VIETNAM**
-------	**Independence - Freedom - Happiness**
No. 45/2019/QH14	*Hanoi, November 20, 2019*

LABOR CODE

Pursuant to the Constitution of Socialist Republic of Vietnam;
The National Assembly promulgates the Labor Code.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

The Labor Code sets forth labor standards; rights, obligations and responsibilities of employees, employers, internal representative organizations of employees, representative organizations of employers in labor relations and other relations directly related to labor relations; and state management of labor.

Article 2. Regulated entities

1. Employees, trainees, apprentices and other workers without labor relations.
2. Employers.
3. Foreign employees who work in Vietnam.
4. Other organizations and individuals directly related to labor relations.

Article 3. Definitions

For the purposes of this document, the terms below shall be construed as follows:

1. *"employee" means a person who works for an employee under an agreement, is paid, managed and supervised by the employer.*

The legal working age is 15, except for the cases specified in Section 1 Chapter XI of this Labor Code.

2. *"employer" means an enterprise, agency, organization, cooperative, household or individual who employs other people under agreements. An employee that is an individual shall have full legal capacity.*

3. *"representative organization of employees" means an internal organization voluntarily established by employees of an employer which protects the employees' legitimate rights and interests in labor relations through* collective bargaining or other methods prescribed by labor laws. Representative organizations of employees include internal trade unions and internal employee organizations.

4. *Representative organization of employers means a lawfully established organization which represents and protects the employers' legitimate rights and interests in labor relations.*

5. *"labor relation" means a social relation which arises in respect of the employment and salary payment between an employee and an employer, their representative organizations and competent authorities.* Labor relations include individual labor relation and collective labor relation.

6. *"worker without labor relations" means a person who works without an employment contract.*

7. *"forced labor" means to the use force or threat to use force or a similar practice to force a person to work against his/her will.*

8. *"labor discrimination"* means discrimination on the grounds of race, skin color, nationality, ethnicity, gender, age, pregnancy, marital status, religion, opinion, disability, family

responsibility, HIV infection, establishment of or participation in trade union or internal employee organization in a manner that affects the equality of opportunity of employment.
Positive discrimination on the grounds of professional requirements, the sustainment and employment protection for vulnerable employees will not be considered discrimination.
9. "sexual harassment" in the workplace means any sexual act of a person against another person in the workplace against the latter's will. "workplace" means the location when an employee works under agreement or as assigned by the employer.

Article 4. State policies on labor

1. Guarantee the legitimate rights and interests of employees and workers without labor relations; encourage agreements providing employees with conditions more favorable than those provided by the labor laws.
2. Guarantee the legitimate rights and interests of employers, to ensure lawful, democratic, fair and civilized labor management, and to promote corporate social responsibility.
3. Facilitate job creation, self-employment and occupational training and learning to improve employability; labor-intensive businesses; application of certain regulations in this Labor code to workers without labor relations.
4. Adopt policies on the development and distribution of human resources; improve productivity; provide basic and advanced occupational training, occupational skill development; assist in sustainment and change of jobs; offer incentives for skilled employees in order to meet the requirements of national industrialization and modernization.
5. Adopt policies on labor market development and diversify types of linkage between labor supply and demand.
6. Promote dialogues, collective bargaining and establishment of harmonious, stable and progressive labor relations between employees and employers.
7. Ensure gender equality; introduce labor and social policies aimed to protect female, disabled, elderly and minor employees.

Article 5. Rights and obligations of employees

1. An employee has the rights to:
a) work; freely choose an occupation, workplace or occupation; participate in basic and advanced occupational training; develop professional skills; suffer no discrimination, forced labor and sexual harassment in the workplace;
b) receive a salary commensurate with his/her occupational skills on the basis of an agreement with the employer; be provided with personal protective equipment and work in an occupationally safe and healthy environment; take statutory sick leaves, annual paid leaves and receive collective welfare benefits;
c) establish, join an representative organization of employees, occupational associations and other organizations in accordance with law; request and participate in dialogues with the employer, implementation of democracy regulations and collective bargaining with the employer; receive consultancy at the workplace to protect his/her legitimate rights and interests; participate in management activities according to the employer's regulations;
d) refuse to work if he/she finds that the work directly threatens his/her life or health;
dd) unilaterally terminate the employment contract;
e) go on strike;
g) exercise other rights prescribed by law.
2. An employee has the obligations to:

a) implement the employment contract, collective bargaining agreement and other lawful agreements;
c) obey internal labor regulations, the lawful management, administration and supervision by the employer;
c) implement regulations of laws on labor, employments, vocational education, social insurance, health insurance, unemployment insurance, occupational safety and health.

Article 6. Rights and obligations of employers

1. An employer has the rights to:
a) recruit, arrange and manage and supervise employees; give commendation and take actions against violations of internal labor regulations;
b) establish, join and operate in employer representative organization, occupational associations and other organizations in accordance with law;
c) request the representative organization of employees to negotiate the conclusion of the collective bargaining agreement; participate in settlement of labor disputes and strikes; discuss with the representative organization of employees about issues related to labor relations and improvement of the material and spiritual lives of employees;
d) temporarily close the workplace;
dd) exercise other rights prescribed by law.
2. An employer has the obligations to:
a) implement the employment contracts, collective bargaining agreement and other lawful agreements with employees; respect the honor and dignity of employees;
b) establish a mechanism for and hold dialogue with the employees and the representative organization of employees; implement the regulations on grassroots-level democracy;
c) Provide basic training and advanced training in order to help employees improve their professional skills or change their occupations;
d) implement regulations of laws on labor, employments, vocational education, social insurance, health insurance, unemployment insurance, occupational safety and health; develop and implement solutions against sexual harassment in the workplace;
dd) Participate in development of the national occupational standards, assessment and recognition of employees' professional skills.

Article 7. Development of labor relations

1. Labor relations are established through dialogue and negotiation on principles of voluntariness, good faith, equality, cooperation and mutual respect of each other's the lawful rights and interests.
2. Employers, employer representative organizations, employees and representative organizations of employees shall develop progressive, harmonious and stable labor relations with the assistance of competent authorities.
3. The trade union shall cooperate with competent authorities in assisting the development of progressive, harmonious and stable labor relations; supervising implementation of labor laws; protecting the legitimate rights and interests of employees.
4. Vietnam Chamber of Commerce and Industry, Vietnam Cooperative Association and other employer representative organizations that are lawfully established shall represent, protect the lawful rights and interests of employers, and participate in development of progressive, harmonious and stable labor relations.

Article 8. Forbidden actions

1. Labor discrimination.

2. Maltreatment of employees, forced labor.
3. Sexual harassment in the workplace.
4. Taking advantage of occupational training or apprenticeships to exploit the trainees or apprentices, or persuade or force them to act against the law.
5. Employing untrained people or people without occupational training certificates to do the jobs or works that have to be done by trained workers or holders of occupational training certificates.
6. Persuading, inciting, promising advertising or otherwise tricking employees into human trafficking, exploitation of labor or forced labor; taking advantage of employment brokerage or guest worker program to commit violations against the law.
7. Illegal employment of minors.

Chapter II

EMPLOYMENTS, RECRUITMENT AND EMPLOYEE MANAGEMENT

Article 9. Employments and creation of employments

1. Employment is any income-generating laboring activity that is not prohibited by law.
2. The State, employers and the society have the responsibility to create employment and guarantee that every person, who has the work capacity, has access to employment opportunities.

Article 10. Right to work of employees

1. An employee shall have the right to choose his employment, employer in any location that is not prohibited by law.
2. An employee may directly contact an employer or through an employment service provider in order to find a job that meets his/her expectation, capacity, occupational qualifications and health.

Article 11. Employment plan

1. Employers have the right to recruit employees directly or through employment agencies or dispatching agencies.
2. Employees shall not pay any employment cost.

Article 12. Responsibility of an employer for employee management

1. Prepare, update, manage, use the physical or electronic employee book and present it to the competent authority whenever requested.
2. Declare the employment status within 30 days from the date of commencement of operation, and report periodically on changes of employees during operation to the local labor authority under the People's Committee of the province (hereinafter referred to as "provincial labor authority") and to the social security authority.
3. The Government shall elaborate this Article.

Chapter III

EMPLOYMENT CONTRACT

Section 1. CONCLUSINO OF AN EMPLOYMENT CONTRACT

Article 13. Employment contract

1. An employment contract is an agreement between an employee and an employer on a paid job, salary, working conditions, and the rights and obligations of each party in the labor relations.
A document with a different name is also considered an employment contract if it contains the agreement on the paid job, salary, management and supervision of a party.
2. Before recruiting an employee, the employer shall enter into an employment contract with such employee.

Article 14. Forms of employment contract

1. An employment contract shall be concluded in writing and made into two copies, one of which will be kept by the employee, the other by the employer, except for the case specified in Clause 2 of this Article.
An employment contract in the form of electronic data conformable with electronic transaction laws shall have the same value as that of a physical contract.
2. Both parties may conclude an oral contract with a term of less than 01 month, except for the cases specified in Clause 2 Article 18, Point a Clause 1 Article 145 and Clause 1 Article 162 of this Labor Code.

Article 15. Principles for conclusion of an employment contract

1. Voluntariness, equality, good faith, cooperation and honesty.
2. Freedom to enter into an employment contract which is not contrary to the law, the collective bargaining agreement and social ethics.

Article 16. Obligations to provide information before conclusion of an employment contract

1. The employer shall provide the employee with truthful information about the job, workplace, working conditions, working hours, rest periods, occupational safety and health, wage, forms of wage payment, social insurance, health insurance, unemployment insurance, regulations on business secret, technological know-how, and other issues directly related to the conclusion of the employment contract if requested by the employee.
2. The employee shall provide the employer with truthful information about his/her full name, date of birth, gender, residence, educational level, occupational skills and qualifications, health conditions and other issues directly related to the conclusion of the employment contract which are requested by the employer.

Article 17. Prohibited acts by employers during conclusion and performance of employment contracts

1. Keeping the employee's original identity documents, diplomas and certificates.
2. Requesting the employee to make a deposit in cash or property as security for his/her performance of the employment contract.
3. Forcing the employee to keep performing the employment contract to pay debt to the employer.

Article 18. Competence to conclude employment contracts

1. Employees may directly conclude their employment contracts, except for the cases specified in Clause 2 of this Article.
2. In respect of seasonal works or certain jobs which have a duration of less than 12 months, a group of employees aged 18 or older may authorized the representative of the group to conclude the employment contract, in which case such employment contract shall be effective as if it was separately concluded by each of the employees.
The employment contract concluded by the said representative must be enclosed with a list clearly stating the full names, ages, genders, residences and signatures of all employees concerned.
3. The person who concludes the employment contract on the employer's side shall be:
a) The legal representative of the enterprise or an authorized person as prescribed by law;
b) The head of the organization that is a juridical person, or an authorized person as prescribed by law;
c) The representative of the household, artels or an organization that is not a juridical person, or an authorized person as prescribed by law;

d) The individual who directly hires the employee.
4. The person who concludes the employment contract on the employee's side shall be:
a) The employee himself/herself if he/she is 18 or older;
b) The employee aged 15 to under 18 with a written consensus by his/her legal representative;
c) The employee aged under 15 and his/her legal representative;
d) The employee lawfully authorized by the group of employees to conclude the employment contract.
5. The person who is authorized to conclude the employment contract must not authorize another person to conclude the employment contract.

Article 19. Entering into multiple employment contracts

1. An employee may enter into employment contracts with more than one employer, provided that he/she fully performs all terms and conditions contained in the concluded contracts.
2. Where an employee enters into employment contracts with more than one employer, his/her participation in social insurance, health insurance and unemployment insurance schemes shall comply with regulations of law on social insurance, health insurance, unemployment insurance, occupational safety and health.

Article 20. Types of employment contracts

1. An employment contract shall be concluded in one of the following types:
a) An indefinite-term employment contract is a contract in which the two parties neither fix the term nor the time of termination of the contract;
b) A fixed-term employment contract is a contract in which the two parties fix the term of the contract for a duration of up to 36 months from the date of its conclusion.
2. If an employee keeps working when an employment contract mentioned in Point b Clause 1 of this Article expires:
a) Within 30 days from the expiration date of the employment contract, both parties shall conclude a new employment contract. Before such a new employment contract is concluded, the parties' rights, obligations and interests specified in the old employment contract shall remain effective;
b) If a new employment contract is not concluded after the 30-day period, the existing employment contract mentioned in Point b Clause 1 of this Article shall become an employment contract of indefinite term;
c) The parties may enter into 01 more fixed-term employment contract. If the employee keeps working upon expiration of this second fixed-term employment contract, the third employment contract shall be of indefinite term, except for employment contracts with directors of state-invested enterprises and the cases specified in Clause 1 Article 149, Clause 2 Article 151 and Clause 4 Article 177 of this Labor Code.

Article 21. Contents of employment contracts

1. An employment contract shall have the following major contents:
a) The employer's name, address; full name and position of the person who concludes the contract on the employer's side;
b) Full name, date of birth, gender, residence, identity card number or passport number of the person who concludes the contract on the employee's side;
c) The job and workplace;
d) Duration of the employment contract;
dd) Job- or position-based salary, form of salary payment, due date for payment of salary, allowances and other additional payments;

e) Regimes for promotion and pay rise;
g) Working hours, rest periods;
h) Personal protective equipment for the employee;
i) Social insurance, health insurance and unemployment insurance;
k) Basic training and advanced training, occupational skill development.
2. If the employees' job is directly related to the business secret, technological know-how as prescribed by law, the employer has the rights to sign a written agreement with the employee on the content and duration of the protection of the business secret, technology know-how, and on the benefit and the compensation obligation in case of violation by the employee.
3. If the employee works in agriculture, forestry, fishery, or salt production, both parties may exclude some of the aforementioned contents and negotiate additional agreements on settlement in the case when the contract execution is affected by natural disaster, fire or weather.
4. The contents of the employment contract with an employee who is recruited to work as the director of a state-invested enterprise shall be stipulated by the Government.
5. The Minister of Labor, War Invalids and Social Affairs elaborate Clauses 1, 2 and 3 of this Article.

Article 22. Annexes to employment contract

1. An annex to an employment contract is an integral part of the employment contract and is as binding as the employment contract.
2. An annex to an employment contract may elaborate or amend certain contents of the employment contract and must not change the duration of the employment contract.
rkplace for female employees.
4. Assist in building day care facilities and kindergartens, or cover a part of the childcare expenses incurred by employees.

Article 137. Maternity protection

1. An employer must not require a female employee to work at night, work overtime or go on a long distance working trip in the following circumstances:
a) The employee reaches her seventh month of pregnancy; or her sixth month of pregnancy when working in upland, remote, border and island areas;
b) The employee is raising a child under 12 months of age, unless otherwise agreed by her.
2. Whenever an employer is informed of the pregnancy of an female employee who is doing a laborious, toxic or dangerous work, a highly laborious, toxic or dangerous work or any work that might negatively affect her maternity, the employer shall assign her to a less laborious or safer work, or reduce the working hours by 01 hour per day without reducing her salary, rights or benefits until her child reaches 12 months of age.
3. The employer must not dismiss an employee or unilaterally terminate the employment contract with an employee due to his/her marriage, pregnancy, maternity leave, or nursing a child under 12 months of age, except for cases where the employer that is a natural person dies or is declared incapacitated, missing or dead by the court, or the employer that is not a natural person ceases its business operation, declared by a provincial business registration authority that it does not have a legal representative or a person authorized to perform the legal representative's rights and obligations.
Upon expiration of the employment contract with female employee who is pregnant or nursing a child under 12 months of age, conclusion of a new employment contract shall be given priority.
4. During her menstruation period, a female employee shall be entitled to a 30 minute break in every working day; a female employee nursing a child under 12 months of age shall be entitled

to 60 minutes breaks in every working day with full salary as stipulated in the employment contract.

Article 138. The right of pregnant female employees to unilaterally terminate or suspend their employment contracts

1. Where a female employee is pregnant and obtains a confirmation from a competent health facility which states that if she continues to work, it may adversely affect her pregnancy, she shall have the right to unilaterally terminate or suspend the employment contract.

In case of unilateral termination or suspension of the employment contract, a notification enclosed with the aforementioned confirmation from the health facility shall be submitted to the employer.

2. In case of suspension of the employment contract, the suspension period shall be agreed by the employer and the employee and must not be shorter than the period specified by the health facility. If the rest period is not specified by the health facility, both parties shall negotiate the suspension period.

Article 139. Maternity leave

1. A female employee is entitled to 06 months of prenatal and postnatal leave; the prenatal leave period shall not exceed 02 months.

In case of a multiple birth, the leave shall be extended by 01 month for each child, counting from the second child.

2. During maternity leave, the female employee is entitled to maternity benefits as prescribed by social insurance laws.

3. After the maternity leave stipulated in Clause 1 of this Article expires, if so demanded, the female employee may be granted an additional unpaid leave under terms agreed upon with the employer.

4. The female employee may return to work before the expiry of her statutory maternity leave stipulated in Clause 1 of this Article after she has taken at least 04 months of leave, provided she has obtained a confirmation from a competent health facility that the early resumption of work does not adversely affect her health, the employer receives a prior notice of the early resumption and agrees to the early resumption. In this case, besides the salary of the working days, which is paid by the employer, the female employee shall continue to receive the maternity allowance in accordance with social insurance laws.

5. A male employee whose wife gives birth, an employee who adopts a child under 06 months of age, a female employee who becomes a surrogate mother shall be entitled to maternity leave in accordance with social insurance laws.

Article 140. Employment security for employees after maternity

An employee shall be reinstated to his/her previous work when he/she returns to work after the maternity leave prescribed in Clauses 1, 3 and 5 Article 139 of this Labor Code without any reduction in his/her salary, rights and benefits before the leave. In case the previous work is no longer available, the employer must assign another work to the employee with a salary not lower than the salary he/she received prior to the maternity leave.

Article 141. Allowances for during period of care for sick children, pregnancy and implementation of contraceptive methods

When an employee takes leave to take care of a sick child aged under 07, have prenatal care check-up, due to miscarriage, abortion, stillbirth, therapeutic abortion, implementation of contraceptive methods or sterilization, the employee shall receive allowance for the leave period in accordance with social insurance laws.

Article 142. Jobs and works that are harmful to child-bearing and parenting functions

1. The Minister of Labor, War Invalids and Social Affairs shall promulgate the list of jobs and works that are harmful to child-bearing and parenting functions.

2. Employers must provide adequate information to their employees on the hazards and requirements of the works to before the employees make their decisions; ensure occupational safety and health of the employees when assign them any of the works on the list mentioned in Clause 1 of this Article.

Chapter XI

EXCLUSIVE PROVISIONS CONCERNING MINOR EMPLOYEES AND CERTAIN TYPES OF EMPLOYEES

Section 1. MINOR EMPLOYEES

Article 143. Minor employees

1. A minor employee is an employee under 18 years of age.

2. A person aged 15 to under 18 must not be assigned any of the works or to any of the workplaces mentioned in Article 147 of this Labor Code.

3. A person aged 13 to under 15 may only do the light works on the list promulgated by the Minister of Labor, War Invalids and Social Affairs.

4. A person under 13 may only do the works specified in Clause 3 Article 145 of this Labor Code.

Article 144. Rules for employment of minors

1. Minor employees may only do works that are suitable for their health in order to ensure their physical health, mental health and personality development.

2. The employer who has minor employees has the responsibility to take care of their work, health and education in the course of their employment.

3. When an employer hires a minor employee, the employer must have the consent of his/her parent or guardian; prepare a separate record which writes in full of his/her name, date of birth, the work assigned, results of periodical health check-ups, and shall be presented at the request of the competent authority.

4. Employers shall enable minor employees to have educational and vocational training.

Article 167. Employment of employees under 15

1. When employing a person under 15, the employer shall:

a) Conclude a written contract with the employee and his/her legal representative;

b) Arrange the working hours so as not to affect the employee’s study hours;

c) Obtain the health certificate from a competent health facility which certifies that the employee’s health is suitable for the work assigned, and provide periodic health check-up for the employee at least once every 06 months;

d) Ensure that the working conditions, occupational safety and health are suitable for the employee’s age;

2. An employer is only entitled to assign employees aged 13 to under 15 to do the light works specified in Clause 3 Article 143 of this Labor Code.

3. Employers must not hire people under 13 to do works other than sports and arts, provided they do not affect their development of their physical health, mental health and personality, and the employment is accepted by the provincial labor authority.

4. The Minister of Labor, War Invalids and Social Affairs shall elaborate this Article.

Article 146. Working hours of minors employees

1. The working hours of minor employees under 15 shall not exceed 04 hours per day and 20 hours per week. Employers must not request minor employees to work overtime or at night.
2. The working hours of employees aged 15 to under 18 shall not exceed 08 hours per day and 40 hours per week. Employees aged 15 to under 18 may work overtime or at night in certain works and jobs listed by the Minister of Labor, War Invalids and Social Affairs.

Article 147. Prohibited works and workplaces for employees aged 15 to under 18

1. A person aged 15 to under 18 must not be assigned to the following works:
a) Carrying and lifting of heavy things which are beyond his/her the physical capacity;
b) Production, sale of alcohol, tobacco and neuro-stimulants and other narcotic substances;
c) Production, use or transport of chemicals, gas or explosives;
d) Maintaining equipment or machinery;
dd) Demolition;
e) Melting, blowing, casting, rolling, pressing, welding metals;
g) Marine diving, offshore fishing;
h) Other works that are harmful to the development of his/her physical health, mental health or personality.
2. A person aged 15 to under 18 must not be assigned to the following locations:
a) Underwater, underground, in caves, in tunnels;
b) Construction sites;
c) Slaughter houses;
d) Casinos, bars, discotheques, karaoke rooms, hotels, hostels, saunas, massage rooms; lottery agents, gaming centers;
dd) Any other workplace that is harmful to the development of his/her physical health, mental health or personality.
3. The Ministry of Labor- Invalids and Social Affairs shall promulgate the lists mentioned in Point h Clause 1 and Point dd Clause 2 of this Article.

Section 2. ELDERLY EMPLOYEES

Article 148. Elderly employees

1. An elderly employee is a person who continues working after the age stipulated in Clause 2 Article 169 of this Labor Code.
2. Elderly employees are entitled to negotiate with their employer on reduction of reduce their daily working hours or to work on a part-time basis.
3. Employers are encouraged by the State to assign works that are suitable for elderly employees in order to uphold their right to work and ensure efficient utilization of human resources.

Article 149. Employment of elderly people

1. When an elderly person is employed, both parties may agree on conclusion of multiple fixed-term employment contracts.
2. In case a person who is receiving retirement pension under the Law on Social Insurance enters into a new employment contract, he/she shall receive salary and other benefits prescribed by law and the employment contract in addition to the benefits to which they are entitled under the pension scheme.
3. Employer must not assign elderly employees to do laborious, toxic or dangerous works, or highly laborious, toxic or dangerous works that are harmful to their health, unless safety is ensured.
4. Employers are responsible for taking care of the health of elderly employees at the workplace.

Section 3. VIETNAMESE EMPLOYEES WORKING OVERSEAS, EMPLOYEES OF FOREIGN ORGANIZATIONS AND INDIVIDUALS IN VIETNAM AND FOREIGN EMPLOYEES WORKING IN VIETNAM

Article 150. Vietnamese employees working overseas, employees of foreign organizations and individuals in Vietnam

1. The State shall encourage enterprises, agencies, organizations, and individuals to seek and expand the labor market for Vietnamese employees to work overseas.

Vietnamese employees working overseas must comply with the law of Vietnam and the law of the host country except where an international convention to which Socialist Republic of Vietnam is a signatory contains different provisions.

2. Vietnamese citizens working in foreign organizations in Vietnam, in industrial zones, economic zones, export-processing zones, hi-tech zones, or working for individuals who are foreign citizens in Vietnam shall comply with the law of Vietnam and shall be protected by law.

3. The Government shall provide for the recruitment and management of Vietnamese employees working for foreign entities in Vietnam.

Article 151. Requirements for foreigners to work in Vietnam.

1. A foreign employee means a person who has a foreign nationality and:

a) is at last 18 years of age and has full legal capacity;

b) has qualifications, occupational skills, practical experience and adequate health as prescribed by the Minister of Health;

c) is not serving a sentence; does not have an unspent conviction; is not undergoing criminal prosecution under his/her home country's law or Vietnam's law;

d) has a work permit granted by a competent authority of Vietnam, except in the cases stipulated in Article 154 of this Labor Code.

2. The duration of a foreign employee's employment contract must not exceed that of the work permit. When a foreign employee in Vietnam is recruited, both parties may negotiate conclusion of multiple fixed-term labor contracts.

3. Foreign employees working in Vietnam shall comply with and shall be protected by the labor law of Vietnam, unless otherwise prescribed by treaties to which Vietnam is a signatory.

Article 152. Requirements for employment of foreigners in Vietnam.

1. Enterprises, organizations, individuals and contractors shall only employ foreigners to hold positions of managers, executive directors, specialists and technical workers the professional requirements for which cannot be met by Vietnamese workers.

2. Recruitment of foreign employees in Vietnam shall be explained and subject to written approval by competent authorities.

3. Before recruiting foreign employees in Vietnam, a contractor shall list the positions, necessary qualifications, skills, experience and employment period of the contract, and obtain a written approval from a competent authority.

Article 153. Responsibilities of employers and foreign employees

1. Foreign employees shall present their work permits whenever requested by competent authorities.

2. Any foreign employee working in Vietnam without a work permit shall be deported or forced to leave Vietnam in accordance with immigration laws.

3. An employer who hires a foreign employee without a work permit shall be liable to penalties as regulated by the law.

Article 154. Work permit exemption for foreign employees in Vietnam

A foreign employee is not required to have the work permit if he/she:
1. Is the owner or capital contributor of a limited liability company with a capital contribution value conformable with regulations of the Government.
2. Is the Chairperson or a member of the Board of Directors of a joint-stock company a capital contribution value conformable with regulations of the Government.
3. Is the manager of a representative office, project or the person in charge of the operation of an international organizations or a foreign non-governmental organization in Vietnam.
4. Enters Vietnam for a period of less than 03 months to do marketing of a service.
5. Enters Vietnam for a period of less than 03 months to a resolve complicated technical or technological issue which (i) affects or threatens to affect business operation and (ii) cannot be resolved by Vietnamese experts or any other foreign experts currently in Vietnam.
6. Is a foreign lawyer who has been granted a lawyer's practising certificate in Vietnam in accordance with the Law on Lawyers.
7. In one of the cases specified in an international treaty to which the Socialist Republic of Vietnam is a signatory.
8. Gets married with a Vietnamese citizen and wishes to reside in Vietnam.
9. Other circumstances specified by the Government.

Article 155. Duration of work permit

The maximum duration of a work permit is 02 years. A work permit may be extended once for up to 02 more years.

Article 156. Cases in which a work permit is invalid

1. The work permit expires.
2. The employment contract is terminated.
3. The contents of the employment contract are inconsistent with the contents of the work permit granted.
4. The work performed is not conformable with the contents of the work permit granted.
5. The contract that is the basis for issuance of the work permit expires or is terminated.
6. The foreign party issues a written notice which terminates the dispatch of the foreign employee to Vietnam.
7. The Vietnamese party or foreign organization that hires the foreign employee ceases its operation.
8. The work permit is revoked.

Article 157. Issuance, re-issuance and revocation of work permits; notice of rejection of work permit issuance

The Government shall specify the conditions and procedures for issuing, re-issuing, revoking the work permit and issuance of the notice of rejection of work permit issuance.

Section 4. DISABLED EMPLOYEES

Article 158. State policies on disabled employees

The State shall protect the rights to work and to self-employment of disabled people; adopt policies to encourage and provide incentives for employers to create work for and to employ disabled people in accordance with regulations of law on People with Disabilities.

Article 159. Employment of disabled people

1. Employers shall provide reasonable accommodation with respect to working conditions, working tools, and occupational safety and health measures that are suitable for disabled employees and organize periodic health check-up for disabled employees.

2. Employers must consult with disabled employees before deciding on matters of relevance to the rights and interests of disabled employees.

Article 160. Prohibited acts regarding employment of disabled people

1. Assign employees with work capacity reduction of at least 51%, serious or very serious disabilities to work overtime or work at night, unless otherwise agreed by the employees/

2. Assign disabled employees to laborious, toxic or dangerous works on the list promulgated by the Minister of Labor, War Invalids and Social Affairs without their consent after they are properly informed of the works.

Section 5. DOMESTIC WORKERS

Article 161. Domestic workers

1. A domestic worker is a worker who regularly carries out domestic work for one or more than one households.

Domestic work includes cooking, housekeeping, babysitting, nursing, caring for elders, driving, gardening, and other work for a household which is not related to commercial activities.

2. The Government shall provide for employment of domestic workers.

Article 162. Employment contracts with domestic workers

1. The employer shall enter into a written employment contract with the domestic worker.

2. The duration of the employment contract for the domestic worker is negotiated by both parties. Either party has the right to terminate the employment contract at any time provided that an advance notice of 15 days is given.

3. The employment contract shall specify the salary payment method, period, working hours, accommodation.

Article 163. Obligations of the employer

1. Fully implement the agreement as indicated in the employment contract.

2. Pay the domestic worker an amount of his/her social insurance and health insurance premiums in accordance with the law for the domestic worker to manage insurance by themselves.

3. Respect the domestic worker's honor and dignity.

4. Provide clean and hygienic accommodation and dining place for the domestic worker, where there is such an agreement.

5. Create opportunities for the domestic worker to participate in educational and occupational training.

6. Cover the cost of the travel expenses for the domestic worker to return to their place of residence at the end of his/her service, except in cases where the domestic worker terminates the employment contract before its expiry date.

Article 164. Obligations of the domestic worker

1. Fully implement the agreement as indicated in the employment contract.

2. Pay compensation in accordance with the agreement or in accordance with the law in cases of loss of or damage to the employer's assets and property.

3. Promptly notify the employer about risks of accident, dangers to health, life and property of the employer's family and himself/herself.

4. Report to the competent authority if the employer commits acts of mistreating, sexual harassment, extracting forced labor or any other acts against the law.

Article 165. Prohibited acts by the employer

1. Mistreating, sexually harassing, extracting forced labor, and using force or violence against the domestic worker.

2. Assigning works to the domestic worker against the employment contract.

3. Keeping personal papers of the domestic worker.

Section 6. OTHER TYPES OF WORKERS

Article 166. Workers in the fields of arts, sports, maritime, air transport

Workers in the fields of arts, sports, maritime, air transport shall have appropriate basic and advanced training, occupational skill development training, employment contracts, salaries, bonuses; working hours, rest periods, occupational safety and health as prescribed by the Government.

Article 167. Working at home

An employee may negotiate with his/her employer to perform certain works at home.

Chapter XII

SOCIAL INSURANCE, HEALTH INSURANCE AND UNEMPLOYMENT INSURANCE

Article 168. Participation in social insurance, health insurance and unemployment insurance

1. Employers and employees shall participate in compulsory social insurance, compulsory health insurance and unemployment insurance and enjoy the benefits in accordance with provisions of the law on social insurance, health insurance and unemployment insurance.

Employers and employees are encouraged to obtain other kinds of insurance for employees.

2. The employer shall not be required to pay salary for an employee when the employee is on leave and receiving social insurance benefits, unless otherwise agreed by both parties.

3. Where an employee is not covered by compulsory social insurance, compulsory health insurance or unemployment insurance, the employer shall, in addition to and at the same time with salary payment, pay the employee an amount equal to the compulsory social insurance, compulsory health insurance, unemployment insurance premiums payable by the employer in accordance with regulations of law on social insurance, health insurance and unemployment insurance.

Article 169. Retirement ages

1. An employee who has paid social insurance for an adequate period of time as prescribed by social insurance laws shall receive retirement pension when he/she reaches the retirement age.

2. Retirement ages of employees in normal working conditions shall be gradually increased to 62 for males by 2028 and 60 for females in 2035.

From 2021, the retirement ages of employees in normal working conditions shall be 60 yeas 03 months for males and 55 years 04 months for females, and shall increase by 03 months for males and 04 months for females after every year.

3. The retirement ages of employees who suffer from work capacity reduction; doing laborious, toxic or dangerous works; working in highly disadvantaged areas may be younger by up to 05 years than the retirement ages specified in Clause 2 of this Article, unless otherwise prescribed by law.

4. Retirement ages of skilled employees and employees in certain special cases may be older by up to 05 years than the retirement ages specified in Clause 2 of this Article, unless otherwise prescribed by law.

5. The Government shall elaborate this Article.

Chapter XIII

REPRESENTATIVE ORGANIZATIONS OF EMPLOYEES

Article 170. The right to establish, join and participate in representative organizations of employees

1. Every employee has the right to establish, join and participate in activities of trade union in accordance with the Trade Union Law.
2. Employees of enterprises are entitled to establish, join and participate in activities of internal employee organizations in accordance with Articles 172, 173 and 174 of this Labor Code.
3. The representative organizations of employers mentioned in Clause 1 and Clause 2 of this Article shall have equal rights and obligations in protection of the legitimate rights and interests of employees in labor relations.

Article 171. Internal trade unions in Vietnam's trade union system

1. Internal trade unions in Vietnam's trade union system shall be established in organizations, units and enterprises.
2. The establishment, dissolution, organization and operation of internal trade unions shall comply with the Trade Union Law.

Article 172. Establishment, participation and operation of internal employee organizations

1. The internal employee organization in an enterprise shall be established after registration is granted by a competent authority. The organizational structure and operation of internal employee organizations shall comply with the Constitution, law and internal regulations, adhere to the principles of autonomy, democracy and transparency.
2. Registration of an internal employee organization shall be cancelled if it acts against its objectives and principles as prescribed in Point b Clause 1 Article 174 of this Labor Code, or the organization is undergoing division, amalgamation, merger, or the enterprise is undergoing dissolution or bankruptcy.
3. When an internal employee organization wishes to join the trade union, the Trade Union Law shall apply
4. The Government shall provide for documents and procedures for registration; the competence to grant and cancel registration, state management of finance and assets of internal employee organizations; division, amalgamation, merger, dissolution thereof; the right to association of employees in enterprises.

Article 173. Management board and members of internal employee organizations

1. When applying for registration, the number of members the internal employee organization that are employees of the enterprise shall reach the minimum number prescribed by the Government.
2. The management board shall be elected by members of the internal employee organization. Members of the management board shall be Vietnamese employees of the enterprise who are not serving a sentence, do not have an unspent conviction and are not undergoing criminal prosecution for breach of national security, violations against freedom and democracy, infringement of ownership defined in Criminal Code.

Article 174. Charter of internal employee organization

1. The charter of an internal employee organization shall contain:
a) Name, address and logo (if any) of the organization;
b) The objectives of protecting the lawful rights and interests of the members in labor relations in the enterprise; cooperating with the employer in resolving issues relevant to the rights, obligations and interest of the employer and employees; develop progressive, harmonious and stable labor relation;
c) Requirements and procedures for joining and leaving the organization.
The internal employee organization of an enterprise shall not simultaneously have members that are ordinary employees and members that participate in the process of making decisions relevant

to working conditions, recruitment, labor discipline, employment contract termination or employee reassignment;
d) Organizational structure, tenure and representative of the organization;
dd) Rules for organization and operation;
e) Methods for ratifying decisions of the organization.
The following issues shall be voted by the members under the majority rule: ratification, revisions of the organization's charter; election, dismissal of the chief and members of the management board of the organization; division, consolidation, merger, renaming, dissolution, association of the organization; joining the trade union.
g) Membership fees, sources of assets and finance, and the management thereof.
Revenues and expenses of the internal employee organization shall be monitored, archived and made available to its members.
h) Members' proposals and responses thereto.
2. The Government shall elaborate this Article.

Article 175. Prohibited acts by the employer regarding the establishment, operation of and participation in representative organizations of employees

1. Any act of discrimination against employees or members of the management board of the representative organization of employees due to the establishment, operation or participation in the representative organization of employees, including:
a) Requesting a person to participate, not to participate or to leave the representative organization of employees in order to be recruited, have the employment contract signed or renewed;
b) Disciplining or unilaterally terminating an employment contract; refuses to conclude or renew an employment contract; reassigning an employee;
c) Discrimination by salary, working hours, other rights and obligations in the labor relation;
d) Obstructing, disrupting or otherwise impairing the operation of the representative organization of employees.
2. Interfering, influencing the establishment, election, planning and operation of the representative organization of employees, including financial support or other economic measures aimed to neutralize or weaken the functions of the representative organization of employees, or discriminate between the representative organizations of employees.

Article 176. Rights of members of the management board of a representative organization of employees

1. Members of the management board of a representative organization of employees have the rights to:
a) Approach employees at the workplace during the performance of the organization's duties, provided it does not affect the employer's normal operation.
b) Approach the employer to perform the duties of the employees' representative organization;
c) Be fully paid by the employer for performance of the duties of the representative organization of employees during the working time in accordance with Clause 2 and Clause 3 of this Article;
d) Other guarantees in labor relation and performance of the representative's duties as prescribed by law.
2. The Government shall specify the minimum period of time the employer has to allow all members of the management board of the representative organization of employees to perform its duties according to the number of its members.

3. The representative organization of employees and the employer may negotiate the extra time and how the management board uses the working time to perform their duties in a practical manner.

Article 177. Obligations of the employer to the representative organization of employees

1. Do not obstruct the employees from lawfully establishing, joining and participate in activities of the representative organization of employees.
2. Recognize and respect the rights of the lawfully established representative organization of employees.
3. Enter into a written agreement with the management board of the representative organization of employees when unilaterally terminating the employment contract with, reassigning or dismissing for disciplinary reasons an employee who is a member of the management board. In case such an agreement cannot be reached, both parties shall send a notice to the provincial labor authority. After 30 days from the day on which such a notice is sent to the labor authority in the locality, the employer shall have the right to make the decision. In case of disagreement with the employer's decision, the employee and management board may request labor dispute settlement in accordance with the procedures prescribed by law.
4. In case the employment contract with a member of the management board expires before the end of his/her term of office, the contract shall be extended until the end of the term of office.
5. Other obligations prescribed by law.

Article 178. Rights and obligations of the representative organization of employees in labor relations

1. Enter into collective bargaining with the employer in accordance with this Labor Code.
2. Hold dialogues at work in accordance with this Labor Code.
3. Comment on the establishment; supervise the implementation of the pay scale, payroll, labor rates, regulations on salary payment, rewards, internal labor regulations, and other issue relevant to rights and interests of employees that are members of the organization.
4. Represent the employee during labor dispute settlement when authorized by the employee.
5. Organize and lead strikes in accordance with this Labor Code.
6. Provide technical assistance for legally registered organizations in Vietnam to improve their knowledge about labor laws, procedures for establishment of the representative organization of employees and performance of representative activities in labor relation after registration is granted.
7. Be provided a working location, information and other necessary facilities for operation of the representative organization of employees by the employer.
8. Other rights and obligations prescribed by law.

Chapter XIV

SETTLEMENT OF LABOR DISPUTES

Section 1. GENERAL PROVISIONS FOR SETTLEMENT OF LABOR DISPUTES

Article 179. Labor disputes

1. A labor dispute means a dispute over rights, obligations and interests among the parties during the establishment, execution or termination of labor relation; a dispute between the representative organizations of employees; a dispute over a relationship that is directly relevant to the labor relation. Types of labor disputes:

a) Labor disputes between the employee and the employer; between the employee and the organization that sends the employee to work overseas under a contract; between the dispatched employee and the client enterprise.

b) Right-based or interest-based collective labor disputes between one or several representative organizations of employees and the employer or one or several representative organizations of employees.
2. A right-based collective labor dispute of rights means a dispute between one or several representative organizations of employees and the employer or one or several representative organizations of employees in case of:
a) Discrepancies in interpretation and implementation of the collective bargaining agreement, internal labor regulations and other lawful agreements;
b) Discrepancies in interpretation and implementation of labor laws; or
c) The employer's discrimination against the employees or members of the management board of the representative organization of employees for reasons of establishment, operation or participation in the organization; the employer's interference or influencing the representative organization of employees; the employer' violations against amicable negotiation.
3. a) Interest-based collective labor disputes include:
a) Labor disputes that arise during the process of collective bargaining;
a) A party refuses to participate in the collective bargaining or the collective bargaining is not held within the time limit prescribed by law.

Article 180. Labor dispute settlement principles

1. Respect the parties' autonomy through negotiation throughout the process of labor dispute settlement.
2. Prioritize labor dispute settlement through mediation and arbitration on the basis of respect for the rights and interests of the two disputing parties, and respect for the public interest of the society and conformity with the law.
3. The labor dispute shall be settled publicly, transparently, objectively, promptly, and lawfully.
4. Ensure the participation of the representatives of each party in the labor dispute settlement process.
5. Labor dispute settlement shall be initiated by a competent authority or person after it is requested by a disputing party or by another competent authority or person and is agreed by the disputing parties.

Article 181. Responsibilities of organizations and individuals during labor dispute settlement

1. The labor authority shall cooperate with the representative organization of employees and representative organization of employees in giving instructions and assisting the parties during the process of labor dispute settlement.
2. The Ministry of Labor, Invalids and Social Affairs shall organize training to improve the professional capacity of labor mediators and arbitrators for labor dispute settlement.
3. The provincial labor authority, when requested, shall receive and classify the request for labor dispute settlement, provide instructions and assists the parties during the process of labor dispute settlement.
Within 05 working days, the receiving authority shall transfer the request to the labor mediators if mediation is mandatory; to the arbitral tribunal if the dispute has to be settled by arbitration, or instruct the parties to file the petition to the court.

Article 182. Rights and obligations of the two parties in labor dispute settlement

1. During the labor dispute settlement process, the two disputing parties have the rights to:
a) Participate directly or through a representative in the labor dispute settlement process;
b) Withdraw or change the contents of the request;

c) Request for a change of the person in charge of labor dispute settlement where there reasonable grounds for believing that the said person may not be impartial or objective.
2. During the labor dispute settlement process, the two parties have the responsibility to:
a) Promptly and adequately provide documents and evidence to support his/her request;
b) Abide by the agreement reached, decision of the arbitral tribunal, court judgment or decision which when it comes into effect.

Article 183. Rights of competent labor dispute settlement authorities and persons

Competent labor dispute settlement authorities and persons shall, within their mandates, have the rights to request the disputing parties, relevant organizations and individuals to provide documents and evidence; request verification; and invite witnesses and other relevant persons.

Article 184. Labor mediators

1. Labor mediators shall be assigned by the provincial labor authority to mediate labor disputes and disputes over vocational training contracts; assist in development of labor relation.
2. The Government shall provide for the standards, procedures for assignments, benefits, working conditions and management of labor mediators; power and procedures for dispatching labor mediators.

Article 185. Labor Arbitration Council

1. The President of the People's Committee of the province shall issue the decision to establish the Labor Arbitration Council, designate its chairperson, secretary and labor arbitrators. The tenure of a Labor Arbitration Council is 05 years.
2. The President of the People's Committee of the province shall decide the number of labor arbitrators which is at least 15. The number of labor arbitrators nominated by each party shall be equal. To be specific:
a) At least 05 labor arbitrators shall be nominated by the provincial labor authority. The chairperson and secretary shall be officials of the provincial labor authority;
b) At least 05 labor arbitrators shall be nominated by the provincial trade union;
c) At least 05 arbitrators shall be nominated the representative organizations of employees in the province.
3. Standards and working conditions of labor arbitrators:
a) A labor arbitrator shall conversant with law, experienced in labor relations, reputable and objective;
b) When nominating labor arbitrators as prescribed in Clause 2 of this Article, the provincial labor authority, provincial trade union and representative organizations of employees may nominate their people or other people that fully satisfy the standards for labor arbitrators.
c) The secretary of the Labor Arbitration Council shall perform its regular duties. Labor arbitrators may work on a full-time or part-time basis.
4. Whenever a request for labor dispute settlement is received as prescribed in Article 189, 193 and 197 of this Labor Code, the Labor Arbitration Council shall establish an arbitral tribunal as follows:
a) The representative of each disputing party shall choose 01 labor arbitrator from the list of labor arbitrators;
b) The labor arbitrators chosen by the parties as prescribed in Point a of this Clause shall choose 01 other labor arbitrator as the chief of the arbitral tribunal;
c) In case a labor arbitrator is selected by more than one disputing party, the arbitral tribunal shall appoint 01 of the chosen arbitrators.

5. The arbitral tribunal shall work on the principle of collectives and make decision under the majority rule, except for the cases specified in Point c Clause 4 of this Article.
6. The Government shall provide for the procedures, requirements, procedures for designation, dismissal, benefits and working conditions of labor arbitrators and Labor Arbitration Councils; organization and operation of Labor Arbitration Councils; establishment and operation of the arbitral tribunals mentioned in this Article.

Article 186. Prohibition of unilateral actions during the process of labor dispute settlement

None of the disputing parties shall take unilateral actions against the other party while the labor dispute is being settled by a competent authority or person within the time limit specified in this Labor Code.

Section 2. COMPETENCE AND PROCEDURES FOR SETTLEMENT OF INDIVIDUAL LABOR DISPUTES

Article 187. Competence to settle individual labor disputes

The following agencies, organizations and individuals have the competence to settle individual labor disputes:
1. Labor mediators;
2. Labor Arbitration Councils;
3. The People's Court.

Article 188. Procedures for the settlement of individual labor disputes by labor mediators

1. Individual labor disputes shall be settled through mediation by labor mediators before being brought to the Labor Arbitration Council or the Court, except for the following labor disputes for which mediation is not mandatory:
a) Disputes over dismissal for disciplinary reasons; unilateral termination of employment contracts;
b) Disputes over damages and allowances upon termination of employment contracts;
c) Disputes between a domestic worker and his/her employer;
d) Disputes over social insurance in accordance with social insurance laws; disputes over health insurance in accordance with health insurance laws ; disputes over unemployment insurance in accordance with employment laws; disputes over insurance for occupational accidents and occupational disease in accordance with occupational safety and health laws;
dd) Disputes over damages between an employee and organization that dispatches the employee to work overseas under a contract;
e) Disputes between the dispatched employee and the client enterprise.
2. The Labor Arbitration Council shall complete the mediation process within 05 working days from the receipt of the request from the disputing parties or the authority mentioned in Clause 3 Article 181 of this Labor Code.
3. Both disputing parties must be present at the mediation meeting. The disputing parties may authorize another person to attend the mediation meeting.
4. The labor mediator shall instruct and assist the parties to negotiate with each other.
In case the two parties reach an agreement, the labor mediator shall prepare a written record of successful mediation which bears the signatures of the disputing parties and the labor mediator.
In case the two parties do not reach an agreement, the labor mediator shall recommend a mediation option for the disputing parties to consider. In case the parties agree with the recommended mediation option, the labor mediator shall prepare a written record of successful mediation which bears the signatures of the disputing parties and the labor mediator.

Where the two parties do not agree with the recommended mediation option or where one of the disputing parties is absent for the second time without a valid reason after having been legitimately summoned, the labor mediator shall prepare a record of unsuccessful mediation which bears the signatures of the present disputing parties and the labor mediator.
5. Copies of the record of successful mediation or unsuccessful mediation shall be sent to the disputing parties within 01 working day from the date on which it is prepared.
6. In case a disputing party fails to adhere to the agreements specified in the record of successful mediation, the other party may request a Labor Arbitration Council or the Court to settle the case.
7. In case mediation is not mandatory as prescribed in Clause 1 of this Article, the labor mediator fails to initiate the mediation by the deadline specified in Clause 2 of this Article, or the mediation is unsuccessful as prescribed in Clause 4 of this Article, the disputing parties may:
a) request the Labor Arbitration Council to settle the dispute in accordance with Article 189 of this Labor Code; or
b) Request the Court to settle the dispute.

Article 189. Settlement of individual labor disputes by Labor Arbitration Council

1. The parties are entitled to, by consensus, request the Labor Arbitration Council to settle the dispute in any of the cases specified in Clause 7 Article 188 of this Labor Code. After the Labor Arbitration Council has been requested to settle a dispute, the parties must not simultaneously request the Court to settle the same dispute, except for the cases specified in Clause 4 of this Article.
2. Within 07 working days from the receipt of the request mentioned in Clause 1 of this Article, an arbitral tribunal shall be established.
3. Within 30 working days from the establishment of the arbitral tribunal, it shall issue a decision on the settlement of the labor dispute and send it to the disputing parties.
4. In case an arbitral tribunal is not established by the deadline specified in Clause 2 of this Article, or a decision on the settlement of the labor dispute is not issued by the arbitral tribunal by the deadline specified in Clause 3 of this Article, the parties are entitled to bring the case to Court.
5. In case a disputing party fails to comply with the decision of the arbitral tribunal, the parties are entitled to bring the case to court.

Article 190. Time limits for requesting settlement of individual labor disputes

1. The time limit to request a labor mediator to settle an individual labor dispute is 06 months from the date on which a party discovers the act of infringement of their lawful rights and interests.
2. The time limit to request a Labor Arbitration Council to settle an individual labor dispute is 09 months from the date on which a party discovers the act of infringement of their lawful rights and interests.
3. The time limit to bring an individual labor dispute to the Court is 01 year from the day on which a party discovers the act of infringement of their lawful rights and interests.
4. In case the requester is able to prove that the aforementioned time limits cannot be complied with due to a force majeure event or unfortunate event, the duration of such event shall not be included in the time limit for requesting settlement of individual labor dispute.

Section 3. COMPETENCE AND PROCEDURES FOR THE SETTLEMENT OF RIGHT-BASED COLLECTIVE LABOR DISPUTES

Article 191. Competence to settle right-based collective labor disputes

1. The following agencies, organizations and individuals have the competence to settle right-based collective labor disputes:
a) Labor mediators;
b) Labor Arbitration Councils;
c) The People's Court.
2. Right-based labor disputes shall be settled through mediation by labor mediators before being brought to the Labor Arbitration Council or the Court.

Article 192. Procedures for settlement of right-based collective labor disputes

1. Procedures for the mediation of collective labor disputes are the same as the procedures specified in Clauses 2, 3, 4, 5 and 6 Article 188 of this Labor Code.
If violations of law is found during settlement of the disputes mentioned in Point b and Point c Clause 2 Article 179 of this Labor Code, the labor mediator shall prepare a record and transfer the documents to a competent authority for settlement as prescribed by law.
2. In case the mediation is unsuccessful or the labor mediator fails to initiate the mediation by the deadline specified in Clause 2 Article 188 of this Labor Code, the disputing parties may:
a) request the Labor Arbitration Council to settle the dispute in accordance with Article 193 of this Labor Code; or
b) Request the Court to settle the dispute.

Article 193. Settlement of right-based collective labor disputes by Labor Arbitration Council

1. In case the mediation is unsuccessful, the labor mediator fails to initiate the mediation by the deadline specified in Clause 2 Article 188 of this Labor Code, or a party fails to adhere to the agreements in the successful mediation record, the disputing parties are entitled to, by consensus, request the Labor Arbitration Council to settle the dispute.
2. Within 07 working days from the receipt of the request mentioned in Clause 1 of this Article, an arbitral tribunal shall be established.
3. Within 30 working days from the establishment of the arbitral tribunal, in accordance with labor laws, the registered internal labor regulations and collective bargaining agreement, other lawful agreement and regulations, the arbitral tribunal shall issue a decision on dispute settlement and send it to the disputing parties.
If violations of law is found during settlement of the disputes mentioned in Point b and Point c Clause 2 Article 179 of this Labor Code, the arbitral tribunal shall, instead of making a settlement decision, issue a record and transfer the documents to a competent authority for settlement as prescribed by law.
4. While the Labor Arbitration Council is settling a dispute at the request of the parties as prescribed in this Article, the parties must not bring the same dispute to Court.
5. In case an arbitral tribunal is not established by the deadline specified in Clause 2 of this Article, or a decision on the settlement of the labor dispute is not issued by the arbitral tribunal by the deadline specified in Clause 3 of this Article, the parties are entitled to bring the dispute to Court.
6. In case a disputing party fails to comply with the decision of the arbitral tribunal, the parties are entitled to bring the case to court.

Article 194. Time limits for requesting settlement of right-based collective labor disputes

1. The time limit to request a labor mediator to settle a right-based collective labor dispute is 06 months from the date on which a party discovers the act of infringement of their lawful rights.

2. The time limit to request a Labor Arbitration Council to settle a right-based collective labor dispute is 09 months from the date on which a party discovers the act of infringement of their lawful rights.
3. The time limit to bring a right-based collective labor dispute to the Court is 01 year from the day on which a party discovers the act of infringement of their lawful rights.

Section 4. COMPETENCE AND PROCEDURES FOR THE SETTLEMENT OF INTEREST-BASED COLLECTIVE LABOR DISPUTES

Article 195. Competence to settle interest-based collective labor disputes

1. Agencies, organizations and individuals who have the competence to settle interest-based collective labor disputes include:
a) Labor mediators;
b) Labor Arbitration Councils.
2. An interest-based collective labor dispute shall be settled through mediation by labor mediators before it is brought to the Labor Arbitration Council or a strike is organized.

Article 196. Procedures for settlement of interest-based collective labor disputes

1. Procedures for the mediation of interest-based collective labor disputes are the same as the procedures specified in Clauses 2, 3, 4 and 5 Article 188 of this Labor Code.
2. In case of successful mediation, the labor mediator shall prepare a written record of successful mediation which contains the agreements between the parties and bears the signatures of the disputing parties and the labor mediator. The record of successful mediation shall be as legally binding as the enterprise's collective bargaining agreement.
3. In case the mediation is unsuccessful, the labor mediator fails to initiate the mediation by the deadline specified in Clause 2 Article 188 of this Labor Code, or a party fails to adhere to the agreements in the successful mediation record:
a)The disputing parties are entitled to, by consensus, request the Labor Arbitration Council to settle the dispute in accordance with Article 197 of this Labor Code; or
b) The representative organization of employees is entitled to organize a strike following the procedures specified in Articles 200, 201 and 202 of this Labor Code.

Article 197. Settlement of interest-based collective labor disputes by Labor Arbitration Council

1. In case the mediation is unsuccessful, the labor mediator fails to initiate the mediation by the deadline specified in Clause 2 Article 188 of this Labor Code, or a party fails to adhere to the agreements in the successful mediation record, the disputing parties are entitled to, by consensus, request the Labor Arbitration Council to settle the dispute.
2. Within 07 working days from the receipt of the request mentioned in Clause 1 of this Article, an arbitral tribunal shall be established.
3. Within 30 working days from the establishment of the arbitral tribunal, in accordance with labor laws, the registered internal labor regulations and collective bargaining agreement, other lawful agreement and regulations, the arbitral tribunal shall issue a decision on dispute settlement and send it to the disputing parties.
4. While the Labor Arbitration Council is settling a dispute at the request of the parties as prescribed in this Article, the representative organization of employees must not call a strike.
In case an arbitral tribunal is not established by the deadline specified in Clause 2 of this Article, or a decision on the settlement of the labor dispute is not issued by the arbitral tribunal by the deadline specified in Clause 3 of this Article, or the employer that is a disputing party fails to implement the settlement decision issued by the arbitral tribunal, the representative organization

of employees that is a disputing party is entitled to call a strike following the procedures specified in Articles 200, 201 and 202 of this Labor Code.

Section 5. STRIKES

Article 198. Strikes

A strike is a temporary, voluntary and organized stoppage of work by the employees in order to press demands in the process of the labor dispute settlement. A strike shall be organized and lead by the representative organization of employees that has the right to request collective bargaining and is a disputing party.

Article 199. Cases in which employees are entitled to strike

The representative organization of employees that is a disputing party to an interest-based collective labor dispute is entitled to call a strike following the procedures specified in Articles 200, 201 and 202 in the following cases:

1. The mediation is unsuccessful or the labor mediator fails to initiate the mediation by the deadline specified in Clause 2 Article 188 of this Labor Code;

2. An arbitral tribunal is not established or fails to issue a decision on the settlement of the labor dispute; the employer that is a disputing party fails to implement the settlement decision issued by the arbitral tribunal.

Article 200. Procedures for going on strike

1. Conduct a survey on the strike in accordance with Article 201 of this Labor Code.
2. Issue a strike decision and strike notice in accordance with Article 202 of this Labor Code.
3. Go on strike.

Article 201. Survey on strike

1. Before going on strike, the representative organization of employees that has the right to call the strike as prescribed in Article 198 of this Labor Code shall survey all employees or members of the management board of the representative organization of employees.

2. The survey involves:

a) Whether the employee agrees or disagrees about the strike;

b) The plan of the representative organization of employees according to Point b, c and d Clause 2 Article 202 of this Labor Code.

3. The survey shall be carried out by collecting votes, signatures or in another manner.

4. The time and method of survey shall be decided by the representative organization of employees and notified to the employer at least 01 day in advance. The survey must not affect the employer's normal business operation. The employers must not obstruct or interfere with the survey conducted by the representative organization of employees.

Article 202. Strike decision and notice of starting time of a strike

1. When over 50% of the surveyed people agree to carry out a strike as prescribed in Clause 2 Article 201 of this Labor Code, the representative organization of employees shall issue a written strike decision.

2. The strike decision shall contain:

a) The survey result;

b) The starting time and the venue for the strike;

c) The scope of the strike;

d) The demands of the employees;

dd) Full name and address of the representative of the representative organization of employees that organizes and leads the strike.

3. At least 05 working days prior to the starting date of the strike, the representative organization of employees shall send the strike decision to the employer, the People's Committee of the district and the provincial labor authority.
4. At the starting time of the strike, if the employer does not accept the demands of the employees, the strike may take place.

Article 203. Rights of parties prior to and during a strike

1. The parties have the right to continue negotiating settlement of the collective labor dispute or to jointly request settlement of the dispute by mediation or Labor Arbitration Council.
2. The representative organization of employees that is entitled to organize a strike as prescribed in Article 198 of this Labor Code has the rights to:
a) Withdraw the strike decision before the strike; end the strike during the strike.
b) Request the Court to declare the strike as lawful.
3. The employer has the rights to:
a) Accept the entire or part of the demands, and send a written notice to the representative organization of employees which organizes and leads the strike;
b) Temporarily close the workplace during the strike due to the lack of necessary conditions to maintain the normal operations or to protect the employer's assets.
c) Request the Court to declare the strike as illegal.

Article 204. Cases of illegal strike

A strike shall be considered illegal if:
1. It is not the case specified in Article 199 of this Labor Code.
2. The strike is not organized by a representative organization of employees that is entitled to organize a strike.
3. The strike is organized against the procedures in this Labor Code.
4. The collective labor dispute is being settled by a competent authority or person in accordance with this Labor Code.
5. The strike takes places in the cases in which it is not permitted according to Article 209 of this Labor Code.
6. The strike takes place after a competent authority issues a decision to postpone or cancel the strike according to Article 210 of this Labor Code.

Article 205. Notice of temporary closure the workplace

At least 03 working days before the date of temporary closure of the workplace, the employer shall publicly post the decision on temporary closure of the workplace at the workplace and notify the following organizations:
1. The representative organization of employees that organizes the strike;
2. The People's Committee of the province where the workplace is located.
3. The People's Committee of the district where the workplace is located.

Article 206. Temporary closure of the workplace is not prohibited:

1. 12 hours prior to the starting time of the strike as stated in the strike decision.
2. After the strike ends.

Article 207. Salaries and other lawful interest of employees during a strike

1. Employees who do not take part in the strike but have to temporarily stop working due to the strike are entitled to work suspension allowance in accordance with Clause 2, Article 99 of this Code as well as to other benefits as stipulated in the labor laws.
2. Employees who take part in the strike shall not receive salaries and other benefits as prescribed by law, unless agreed otherwise by both parties.

Article 208. Prohibited acts before, during and after a strike

1. Obstructing employees exercising their right to strike; inciting, inducing or forcing employees to go on strike; preventing employee who do not take part in the strike from working.
2. Use of violence; sabotaging equipment or assets of the employer.
3. Disrupting public order and security.
4. Terminating employment contracts, disciplining or reassigning employees or strike leaders to other work or location workplace due to their preparation for or involvement in the strike.
5. Retaliating, inflicting punishment against employees who take part in strike or against strike leaders.
6. Taking advantage of the strike to commit illegal acts.

Article 209. Workplaces where strike is prohibited

1. Strike is prohibited in workplaces where the strike may threaten national security, national defense, public health or public order.
2. The Government shall compile a list of workplaces where strike is prohibited as mentioned in Clause 1 of this Article, and settlements of labor disputes that arise therein.

Article 210. Decisions on postponing or cancelling a strike

1. When deemed that a strike threatens to cause serious damage to the national economy or public interest, threatens national security, national defense, public health or public order, the President of the People's Committee of the province shall issue a decision to postpone or cancel the strike.
2. The Government shall provide for postponing and cancelling strikes and settlement of employees' rights.

Article 211. Handling of unlawful strikes

Within 12 hours from the receipt of the notification that a strike is organized against the regulations of Articles 200, 201 and 202 of this Labor Code, the President of the People's Committee of the district shall request the labor authority to cooperate with the trade union at the same level and relevant organizations in meeting the employer and the representative organization of employees, assisting the parties in finding a solution and returning the normal business operation.

Any violations of law shall be dealt with or reported to a competent authority as prescribed by law.

The parties shall be assisted in following proper procedures for settling the labor dispute.

Chapter XV

STATE MANAGEMENT OF LABOR

Article 212. Areas of State management of labor

1. Promulgate and organize implementation legislative documents on labor.
2. Monitor, make statistics and provide information on the labor supply and demand, and the fluctuation thereof; make decision on salary policies; policies plans on human resources, distribution and utilization of nationwide human resources, vocational training and development; develop of a national level framework for various levels of vocational training. Compile the list of occupations that require workers who have undertaken vocational training or have obtained the national certificate.
3. Organize and conduct scientific research on labor, statistics and information on labor and the labor market, and on the living standards and incomes of workers; manage the quantity, quality or workers and labor fluctuation.

4. Establish mechanisms for supporting development of progressive, harmonious and stable labor relation; promote application of this Labor Code to workers without labor relations; organize registration and management of internal employee organizations.
5. Carry out inspections; take actions against violations of law; handle labor-related complaints; settle labor disputes as prescribed by law.
6. Seek international cooperation in the area of labor.

Article 213. State management of labor

1. The Government shall uniformly carry out the State management of labor nationwide.
2. The Ministry of Labor, Invalids and Social Affairs shall be responsible to the Government for state management of labor.
3. Other Ministries and ministerial agencies, within their respective mandates, shall be responsible for implementing and cooperating with the Ministry of Labor, Invalids and Social Affairs in the state management of labor.
4. People's Committees at all levels shall be responsible for the state management of labor within their administrative divisions.

Chapter XVI

LABOR INSPECTION AND ACTIONS AGAINST VIOLATIONS OF LABOR LAWS

Article 214. Contents of labor inspection

1. Inspect compliance with labor laws.
2. Investigate occupational accidents and violations against regulations on occupational safety and health.
3. Provide instructions on the application technical standards for working conditions, occupational safety and health.
4. Handle labor-related complaints and denunciation as prescribed by law.
5. Take actions and request competent authorities to take actions against violations of labor laws.

Article 215. Specialized labor inspection

1. The competence to carry out specialized labor inspection is specified in the Law on Inspection.
2. Occupational safety and health inspections shall be carried out in accordance with the Law on Occupational Safety and Health.

Article 216. Rights of labor inspectors

Labor inspectors have the right to inspect and investigate within the scope of inspection specified in the inspection decision.

A prior notice is not required for surprise inspection decided by a competent person in case of urgent threat to safety, life, health, honor, dignity of employees at the workplace.

Article 217. Actions against violations

1. Any person who violates of any provision of this Labor Code shall, depending on the nature and seriousness of the violation, be held liable to disciplinary actions, administrative penalties or criminal prosecution, and shall pay compensation for any damage caused as prescribed by law.
2. Where the Court has issued a decision which declares that a strike is illegal, any employee who fails to return to work shall be held liable to labor disciplinary measures in accordance with labor laws.

In case an illegal strike causes damage to the employer, the representative organization of employees that organizes the strike shall pay compensation as prescribed by law.

3. Any person who takes advantages of a strike to disrupt public order, sabotage the employer's assets, obstruct the execution of the right to strike, or incite, induce or force employees to go on strike; retaliate or inflict punishment on strikers and strike leaders, depending on the seriousness of the violation, shall be held liable to administrative penalties or criminal prosecution, and shall pay compensation for any damage caused in accordance with the law.

Chapter XVII

IMPLEMENTATION CLAUSES

Article 218. Exemption and reduction of procedures for employers having fewer than 10 employees

Any employer who has fewer than 10 employees shall follow regulations of this Labor Code and shall be entitled to exemption and reduction of certain procedures specified by the Government.

Article 219. Amendments to some Articles of labor-related Laws

1. Amendments to the Law on Social insurance No. 58/2014/QH13, which has been amended by the Law No. 84/2015/QH13 and the Law No. 35/2018/QH14:

a) Amendments to Article 54:

"Article 54. Conditions for receiving retirement pension

1. An employee mentioned in Points a, b, c, d, g, h and i Clause 1 Article 2 of this Law, except for the cases specified in Clause 3 of this, will receive retirement pension if he/she has paid social insurance for at least 20 years and:

a) He/she has reached the retirement age specified in Clause 2 Article 169 of the Labor Code;

b) He/she has reached the retirement age specified in Clause 3 Article 169 of the Labor Code and has at least 15 years' doing the laborious, toxic or dangerous works or highly laborious, toxic or dangerous works on the lists of the Ministry of Labor, War Invalids and Social Affairs; or has at least 15 years' working in highly disadvantaged areas, including the period he/she works in areas with the region factor of at least 0,7 before January 01, 2021;

c) His/her age is younger than the retirement age specified in Clause 2 Article 169 of the Labor Code by up to 10 years and he/she has worked in coal mines for at least 15 years; or

d) He/she contracted HIV due to an occupation accident during performance of his/her assigned duty.

2. An employee mentioned in Points dd and e Clause 1 Article 2 of this Law will receive retirement pension if he/she has paid social insurance for at least 20 years and:

a) His/her age is younger than the retirement age specified in Clause 2 Article 169 of the Labor Code by up to 05 years, unless otherwise prescribed by the Law on Military Officer of Vietnam's Army, the Law of People's Police, the Law on Cipher and the Law on professional servicemen and women, national defense workers and officials;

b) His/her age is younger than the retirement age specified in Clause 3 Article 169 of the Labor Code by up to 05 years and he/she has at least 15 years' doing the laborious, toxic or dangerous works or highly laborious, toxic or dangerous works on the lists of the Ministry of Labor, War Invalids and Social Affairs; or has at least 15 years' working in highly disadvantaged areas, including the period he/she works in areas with the region factor of at least 0,7 before January 01, 2021; or

c) He/she contracted HIV due to an occupation accident during performance of his/her assigned duty.

3. A female employee that is a commune official or a part-time worker at the commune authority and has paid social insurance for 15 to under 20 years and reaches the retirement age specified in Clause 2 Article 169 of the Labor Code will receive the retirement pension.

4. The Government shall provide for special cases of retirement age.";
b) Amendments to Article 55:
"Article 55. Conditions for receiving retirement pension in case of work capacity reduction
1. When an employee mentioned in Points a, b, c, d, g, h and i Clause 1 Article 2 of this Law resigns after having paid social insurance for at least 20 years will receive a lower retirement pension than the rate specified in Points a, b, c Clause 1 Article 54 of this Law if:
a) His/her age is younger than the retirement age specified in Clause 2 Article 169 of the Labor Code by up to 05 years and he/she suffers from 61% to under 81% work capacity reduction;
b) His/her age is younger than the retirement age specified in Clause 2 Article 169 of the Labor Code by up to 10 years and he/she suffers from at least 81% work capacity reduction; or
c) He/she has at least 15 years' doing laborious, toxic and dangerous occupations or highly laborious, toxic and dangerous occupations on the lists of the Minister of Labor, War Invalids and Social Affairs and suffers from at least 61% work capacity reduction.
2. When an employee mentioned in Points dd and e Clause 1 Article 2 of this Law resigns after having paid social insurance for at least 20 years and suffers from at least 61% work capacity reduction will receive a lower retirement pension than the rate specified in Points a and b Clause 2 Article 54 of this Law if:
a) His/her age is younger than the retirement age specified in Clause 2 Article 169 of the Labor Code by up to 10 years;
b) He/she has at least 15 years' doing highly laborious, toxic and dangerous occupations on the lists of the Minister of Labor, War Invalids and Social Affairs .";
c) Amendments to Clause 1 of Article 73:
"1. A worker will receive retirement pension when he/she:
a) reaches the retirement age specified in Clause 2 Article 169 of the Labor Code; and
b) has paid social insurance for at least 20 years.".
2. Amendments to Article 32 of the Civil Procedure Code No. 92/2015/QH13:
a) Revisions of the title and Clause 1 of Article 32; addition of Clauses 1a, 1b and 1c after Clause 1 of Article 32:
Article 32. Labor disputes and labor-related disputes within the jurisdiction of the court
1. Individual labor disputes between employees and their employers shall be settled through mediation by labor mediators, unless the mediation is unsuccessful, the parties do not adhere to the agreements specified in the successful mediation record, or the mediation is not initiated by the labor mediator by the deadline prescribed by labor laws, or the labor dispute is:
a) over a dismissal for disciplinary reasons or unilateral termination of an employment contract;
b) over compensation and allowances upon termination of an employment contract;
c) between a domestic worker and his/her employer;
d) over social insurance in accordance with social insurance laws; over health insurance in accordance with health insurance laws ; over unemployment insurance in accordance with employment laws; over insurance for occupational accidents and occupational disease in accordance with occupational safety and health laws;
dd) over damages between an employee and the organization that dispatches the employee to work overseas under a contract;
e) between the dispatched employee and the client enterprise.
1a. In case both parties agree to bring an individual labor dispute to a Labor Arbitration Council but an arbitral tribunal is not established by the deadline prescribed by labor laws, the arbitral tribunal does not issue a decision on dispute settlement or a party does not adhere to the decision

issued by the arbitral tribunal, the dispute may be brought to Court.1b. In case a right-based collective labor dispute has been undertaken by a labor mediator but the mediation is unsuccessful, a party does not adhere to the successful mediation record, or the mediation is not initiated by the labor mediator by the deadline prescribed by labor laws, the dispute may be brought to Court.

1c. In case both parties agree to bring a right-based collective labor dispute to a Labor Arbitration Council but an arbitral tribunal is not established by the deadline prescribed by labor laws, the arbitral tribunal does not issue a decision on dispute settlement or a party does not adhere to the decision issued by the arbitral tribunal, the dispute may be brought to Court.";

b) Clause 2 of Article 32 is annulled.

Article 220. Entry in force

1. This Labor Code shall enter into force as of 1st of January 2021.

The Labor Code No. 10/2012/QH13 ceases to have effect from the effective date of this Labor Code

2. From the effective date of this Labor Code, the employment contracts, collective bargaining agreements, lawful agreements that are not contrary to this Labor Code or provide for more favorable rights and conditions of employees than may continue to have effect, unless the parties agree to revise them according to this Labor Code.

3. Labor policies for officials and public employees, and persons working in the People's Army, People's Police forces, social organizations, and members of cooperatives, workers without labor relations shall be regulated by other legislative documents though certain regulations of this Labor Code may still apply.

This Labor Code is ratified by the 14th National Assembly of Socialist Republic of Vietnam during its 8th session on November 20, 2019.

PRESIDENT OF THE NATIONAL ASSEMBLY

Nguyen Thi Kim Ngan