



## **Guide to Vietnamese Labor Law for the Garment Industry**

(Fifth Edition, 2017)

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# Guide to Vietnamese Labour Law for the Garment Industry

Fifth edition, published in 2017

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# ABBREVIATIONS

- **CBA:** Collective Bargaining Agreement
- **DOLISA:** Department of Labor, Invalids and Social Affairs
- **FoL:** Federation of Labor
- **HI:** Health Insurance
- **MOLISA:** Ministry of Labor, Invalids and Social Affairs
- **MSDS:** Material Safety Data Sheet
- **OSH:** Occupational Health and Safety
- **OSH Committee:** Occupational Health and Safety Committee
- **OT:** Overtime
- **PPE:** Personal Protective Equipment
- **SI:** Social Insurance
- **SOE:** State Owned Enterprise
- **UI:** Unemployment Insurance

# 1

## MINIMUM WORKING AGE

### 1.1 DEFINITIONS

Child labor is prohibited. All employees must be at least 15 years old. There are special considerations for young employees under the age of 18.

**Note 1:** This Labor Law Guide is designed specifically for the garment industry in which the minimum working age is 15 years of age.

**Note 2:** If a person's Identification Card (ID) does not show the day and month of birth and as a result, factories are not able to confirm whether the worker reaches 15 year old, factories will require that worker to contact relevant authorities for adding the date and month of birth to the ID, pursuant with the Circular 01/2008/TT-BT. In case no such action is completed before hiring the workers, the factory should consider the default day and month of birth is December 31 of the year.

LABOR CODE, ARTICLE 3, 8 & 164

JOINT CIRCULAR 01/2011/TTLT-VKSTC-TANDTC-BCA-BTP-BLDTBXH

### 1.2 YOUNG EMPLOYEES AND PROTECTING YOUNG EMPLOYEES

- A young employee is a person who is between 15 and 18 years old
- An employer can sign a labor contract with young employees with the following conditions:

LABOR CODE, ARTICLE 161, 162, 163, 164 & 165

CIRCULAR 10/2013/TT-BLDTBXH

- Working hours do not exceed 8 hours per day and 40 hours per week;
- Annual leave of 14 days per year;
- Overtime or night shifts are not allowed (\*);
- Heavy, hazardous and dangerous jobs or the jobs negatively affecting his personality are prohibited

Workers under 18 are prohibited from:

(i) carrying and lifting heavy objects which are beyond a young worker's physical strength:

| Type  | Regular work (kg) |        | Non-regular work (kg) |        |
|---|-------------------|--------|-----------------------|--------|
|   | Male              | Female | Male                  | Female |
| From 15 years old (180 months) to under 16 years old (192 months) | ≥ 15              | ≥ 12   | ≥ 10                  | ≥ 8    |
| From 16 years old (192 months) to under 18 years old (216 months) | ≥ 30              | ≥ 25   | ≥ 20                  | ≥ 15   |

(ii) using or transporting chemicals, gasoline and explosives; (iii) performing maintenance of equipment and machines; (iv) participating in the demolition of buildings or other structures; (v) melting, blowing, casting, rolling, molding and welding metals; (vi) operating boilers; (vii) working as storekeepers or assistants in chemical or dye warehouses; (viii) working in direct contact with chemicals causing gene mutation, chemicals causing long-term harm to reproductive health, cancer-causing chemicals and poisonous chemicals; (ix) working in contact with solvents such as screen printing, (x) Operating fabric- and yarn-starching machines; (xi) Dyeing and dry-cleaning fabric and yarn.

Workers under 18 are prohibited in: (i) Working environments which are not compliant with the legal safety regulations and standards for elements such as electromagnetic fields, vibration, noise, temperature, silica dust, dust not containing silica, cotton dust and asbestos dust; (ii) underwater, underground; (iii) construction sites; (iv) working on high scaffolds or ropes hung over 3 meters higher than the working floor.

**Note:** (\*) This is the interpretation and understanding of the law from BW's point of view with guidance and consultation from the PAC.

**Example 1:** Nguyen Van A was born on September 10th, 1998. He joined Happy Clothing Factory on May 19th, 2016. On the day he joined the factory, he was only 17 years and 8 months old. Although close to being 18 years old, he was still classified as a young employee until reaching his 18th birthday.

### 1.3 DOCUMENTATION FOR YOUNG EMPLOYEES

An employer must keep a registered logbook for monitoring work conditions for young employees. Information must include:

- Full name
- Date of birth
- Working assignments
- Results of periodic health checks

Records of workers under 18 years of age should include both workers who are working at the factory premises and off-site.

LABOR CODE, ARTICLE 162  
CLAUSE 2

# 2

## TRADE UNION

A Trade Union is established to protect the lawful rights and legitimate interests of workers.

- Grassroots-level Trade Unions are Trade Unions that are established at the enterprise
- Immediate upper-level Trade Unions are Trade Unions that directly recognize and direct the operations of grassroots-level Trade Unions

The representative organization of a grassroots-level workers' collective is the executive committee of the grassroots-level Trade Union or the executive committee of the immediate upper-level Trade Union in a non-unionized enterprise.

TRADE UNION LAW, ARTICLE 1, ARTICLE 4 CLAUSE 2 & 3

LABOR CODE, ARTICLE 3 CLAUSE 4

### 2.1 ESTABLISHMENT OF A TRADE UNION

- Employees of enterprises have the right to establish Trade Unions. Immediate upper-level Trade Unions have the right and responsibility to (i) mobilize employees to join or establish grassroots-level Trade Unions at enterprises, agencies or organizations; (ii) request that employers and local labor state management agencies create favorable conditions for and support the establishment of grassroots-level Trade Unions.
- When the grassroots-level Trade Union is established in accordance with the Trade Union Law, the employer shall recognize and create favorable conditions for the activities of the grassroots-level Trade Union.
- At non-unionized workplaces, immediate upper-level Trade Unions shall perform the duties of the grassroots-level Trade Union.

TRADE UNION LAW, ARTICLE 5

LABOR CODE, ARTICLE 189

### 2.2 RIGHTS AND RESPONSIBILITIES OF A TRADE UNION

**The rights and duties of a Trade Union in the representation and protection of the legal and legitimate rights and interests of workers include:**

- Representing the workers' collective by: (i) negotiating, signing and supervising the implementation of collective bargaining agreements (CBAs); (ii) litigating in Court upon violations of the legal and legitimate rights and interests of a workers' collective; (iii) participating in labor and administration lawsuits and enterprise bankruptcy cases in order to protect the legal and legitimate rights and interests of workers' collectives and workers
- Cooperating with enterprises to formulate and monitor the implementation of wage scales and tables, and labor standards and regulations, including regulations of wage payment and bonuses
- Entering into dialogue with enterprises to settle problems related to the rights and obligations of workers, such as: Business and production situation of the employer; implementation of the employment contract, collective bargaining agreement, other commitments and agreements, as well as other regulations at the workplace; working conditions; request of employees and worker's collective to the employer; request of employer to the employees and worker's collective; other issues of concern to the two parties
- Propose issues for collective bargaining which relate to wages, bonus, allowance and wage increase; time of work and time of rest; overtime work, breaks between shifts; employment security for workers; occupational safety and health; implementation of internal work regulations; other issues of concern to the two parties
- Guiding and counseling workers on their rights and obligations upon signing and implementing labor contracts with enterprises; organizing legal counseling services for workers; encouraging and mobilizing workers to study and improve

TRADE UNION LAW, ARTICLE 10, 14 & 15

DECREE 43/2013/ND-CP

their knowledge of cultural-political issues, professional skills and qualifications, awareness of the law and the enterprise's rules and regulations

- Taking part in the settlement of labor disputes together with the competent agencies, organizations and personnel
- Organizing and leading strikes as stipulated by the law
- Offering settlement proposals to competent organizations and state agencies for consideration when the legal and legitimate rights and interests of workers' collectives and workers have been breached
- Participating and coordinating with competent state agencies to inspect, examine, and supervise the implementation of regimes, policies, and laws on labor, Trade Union, social and health insurance, the rights and obligations of workers and the investigation of labor accidents and professional diseases

### 2.3 ASSURANCES FOR TRADE UNION ACTIVITIES

Trade Union is assured the following conditions to conduct their activities:

- The part-time Trade Union representative may use time during working hours to conduct Trade Union activities:
  - The president and deputy president are provided 24 paid hours per month to do their work
  - Members of the executive committee and the chiefs and deputy-chiefs of Trade Union groups are provided 12 paid hours per month to do their work
- The part time Trade Union representative may leave work and continue to be paid a salary by their employer for days in which they participate in meetings and trainings called by the Trade Union. Transportation, accommodation and living expenses for such days shall be paid by the upper-level Trade Union.
- The fulltime Trade Union officers, who are paid a salary by their Trade Unions, are entitled to the same collective interests and benefits from the employer as other employees working for the enterprise
- The employer must provide the grassroots-level Trade Union with a meeting place, information, and working materials necessary to do their work

TRADE UNION LAW, ARTICLE 24

LABOR CODE, ARTICLE 189 & 193

### 2.4 GRASSROOTS-LEVEL TRADE UNION REPRESENTATIVES' RIGHTS

- Grassroots-level Trade Union representatives have the right to:
  - Meet with the employer to discuss and exchange ideas and negotiate on labor and employment issues
  - Visit workplaces to meet with employees whom they represent within the scope of their responsibilities
- When the labor contract of an employee who is a part-time Trade Union representative expires before the expiration of their tenure as a Trade Union representative, that labor contract must be extended until the end of the Trade Union tenure
- If an employer wishes to unilaterally terminate the labor contracts of, dismiss, retrench or transfer to another job, an employee who is a part-time Trade Union representative, the employer must:
  - Reach a written agreement with the executive committee of the grassroots-level Trade Union or the executive committee of the immediate upper-level Trade Union

LABOR CODE, ARTICLE 191 CLAUSE 1 & 2, ARTICLE 192 CLAUSE 6 & 7

TRADE UNION LAW, ARTICLE 25 CLAUSE 1 & 2

- Report to a competent agency or organization if the parties fail to reach such an agreement
- Wait 30 days after notifying the local labor management authority before making the decision to terminate or transfer the employee
- Take responsibility for the decision to terminate or transfer employee

## 2.5 EMPLOYER RESPONSIBILITIES

### The employer is required to:

- Create favorable conditions for employees to establish, join and operate Trade Unions
- Collaborate with and create favorable conditions for immediate upper-level Trade Unions to:
  - Promote, mobilize and recruit Trade Union members
  - Establish grassroots-level Trade Union
  - Place full-time Trade Union representatives at enterprises
- Ensure conditions for grassroots-level Trade Union activities are compliant with section 2.3 of this guide
- Coordinate with grassroots-level Trade Union to formulate and implement suitable democratic regulations and coordination mechanisms
- Consult the executive committee of the grassroots-level Trade Union before issuing regulations related to the rights, obligations, benefits, and policies related to employees. This includes:
  - Downsizing number of employees due to required structural and/or technological changes
  - Developing wage scales, wage tables, and labor norms
  - Determining the rules of a bonus system
  - Issuing internal labor regulations
  - Taking disciplinary action
  - Suspending temporarily employee's job
  - Developing and implementing an occupational health and safety plan
  - Dismissing and/or unilaterally terminating workers who are members of the Trade Union Executive Committee
- Extend the labor contract of an employee who is a part-time Trade Union representative and has not yet completed their tenure as a representative before their labor contract expires
- Obtain the written agreement of the executive committee of the grassroots-level Trade Union or the Executive Committee of the immediate upper-level Trade Union when unilaterally terminating the labor contract of, or transferring to another job, an employee who is a part-time Trade Union representative
  - If a written agreement is not reached, the two parties shall report the failure to reach an agreement to a competent agency or organization
  - Only 30 days after notifying the local state management agency of labor of the failure may the employer make the decision to terminate the contract of, or transfer, an employee

LABOR CODE, ARTICLE 44, 46, 93, 103, 119, 123, 129, 138 & 192

TRADE UNION LAW, ARTICLE 24 & 25

- The employer must take responsibility for their decision to terminate or transfer

**The employer is prohibited from:**

- Obstructing or making it difficult for employees to establish, join or operate a Trade Union
- Coercing employees to establish, join or operate a Trade Union
- Asking employees not to join or to withdraw from a Trade Union
- Discriminating against employees regarding wages, hours and other rights and obligations in order to obstruct employees from establishing, joining and operating a Trade Union

## 2.6 TRADE UNION FUNDS

- **Trade Union fees:** 1% monthly salary of union member wage
- **Trade Union funds:**
  - Trade Union funds paid by enterprises are equivalent to 2% of the salary funds serving as the basis for social insurance premiums for workers
  - The employer must pay Trade Union funds once per month and at the same time of paying the Social Insurance premium for workers

TRADE UNION LAW, ARTICLE 26 CLAUSE 1 & 2

TRADE UNION REGULATIONS 2013, ARTICLE 37 CLAUSE 1

DECREE 191/ND-CP, ARTICLE 5 & 6

GUIDANCE No. 1803/HD-TLĐ, Part II

DECISION 170/QĐ-TLĐ, ARTICLE 4

## 2.7 REGULATIONS ON MANAGEMENT OF UNION FUND

- The grassroots-level Trade Union is entitled to use 65% of the total collected Trade Union funds, 60% of the total collected Trade Union fees and 100% of all other Trade Union funding sources in the enterprise.
- The remaining amount, which consists of 35% of total collected Trade Union funds and 40% of total collected Trade Union fees, should be transferred to the immediate upper-level Trade Union to manage.

TRADE UNION LAW, ARTICLE 27 CLAUSE 1

DECISION 170/QĐ-TLĐ, ARTICLE 5 CLAUSE 2



# 3

## COLLECTIVE BARGAINING AGREEMENT (CBA)

### 3.1 DEFINITIONS

A CBA is a written agreement between the workers' collective and the employer concerning working and employment conditions, which have been agreed upon by each party through collective bargaining. CBAs include enterprise-level collective bargaining agreements and sectoral-level collective bargaining agreements.

LABOR CODE, ARTICLE 73  
CLAUSE 1

### 3.2 CONTENTS OF A CBA

- The contents of a CBA include agreements between the worker's collective and the employer on the working conditions which are established by the two parties through collective bargaining, such as:
  - a) Wages, bonuses, allowances and pay raises
  - b) Work and rest hours, overtime hours, and breaks between shifts
  - c) Employment security for workers
  - d) Occupational safety and health and the implementation of the internal working regulations
  - e) Other issues that concern the two parties
- The contents of a CBA must not contravene the laws of Vietnam and must be more favorable to employees than the minimum legal requirements.

LABOR CODE, ARTICLE 70 &  
ARTICLE 73 CLAUSE 2

*Example: The CBA of Super Knitwear Factory stipulated that annual leave for employees is 15 days per year compared with the legal regulation of 12 days per year.*

### 3.3 CBA REGISTRATION PROCEDURES

- Within 10 working days of signing a CBA, the employer or the employers' representative must send a copy of the collective bargaining agreement to the provincial-level state management agency of labor.
- Once the collective labor agreement is signed, the employer must inform all employees of the CBA and its contents.

LABOR CODE, ARTICLE 74  
CLAUSE 3 & ARTICLE 75

### 3.4 DURATION OF A CBA

- An enterprise-level CBA, which is signed by both parties, is valid for between 1 and 3 years. However, the first CBA signed by an enterprise may be valid for a duration of less than 1 year.
- The date the CBA goes into effect must be indicated in the CBA. If the effective date is not indicated in the agreement, the effective date is the date of the CBA's signing.
- Starting 3 months before the expiration of the CBA, the two parties may bargain to extend the duration of the CBA or enter into a new one.
- If the CBA expires during the bargaining process, it must be extended. The maximum extension possible is 60 days.

LABOR CODE, ARTICLE 76, 81  
& 85

### 3.5 EMPLOYERS' OBLIGATIONS IN NEGOTIATING CBAS

- Hold a collective bargaining meeting when requested by the Trade Union.
- At the request of the Trade Union, provide information about the enterprises production and business situation, excluding business and technology secrets, a minimum of 10 days before a collective bargaining meeting.
- Hold a collective bargaining meeting at the time and venue agreed upon by the two parties.
- Cover all expenses incurred during the processes of negotiating, signing, modifying, amending, supplementing, sending and announcing a CBA.

LABOR CODE, ARTICLE 71  
& 82

# 4

## LABOUR DISPUTES

There are two types of labor disputes – individual and collective.

LABOR CODE, ARTICLE 3  
CLAUSE 7

LABOR CODE, CHAPTER XIV,  
SECTION 1, 2 & 3

### 4.1 INDIVIDUAL LABOUR DISPUTES

An individual labor dispute is a dispute between an employee and the employer about the rights, obligations and benefits of a single employee.

LABOR CODE, ARTICLE 3,  
CLAUSE 7

LABOR CODE, CHAPTER XIV,  
SECTION 1, 2 & 3

### 4.2 COLLECTIVE LABOUR DISPUTES

A collective labor dispute is defined as a dispute between the workers' collective and the employer. There are two types of collective labor disputes:

**Right-based dispute:** A dispute arising from the interpretation and implementation of provisions of the labor law, a registered CBA, Internal Regulation, or other lawful rules and agreements.

**Interest-based dispute:** A dispute over issues that go beyond provisions of the labor law, a registered CBA, Internal Regulation, or other lawful rules and agreements.

*For further information see APPENDIX 4.*

LABOR CODE, ARTICLE 3,  
CLAUSE 7, 8 & 9

LABOR CODE, CHAPTER XIV,  
SECTION 2 & 3

### 4.3 STRIKES

#### 4.3.1 DEFINITIONS

A strike is a temporary and voluntary cessation of work organized by the workers in order to resolve a labor dispute and can only be organized if there is an interest-based collective dispute.

The law sets out steps and procedures that must be taken prior to organizing a legal strike. *For further information see APPENDIX 5.*

LABOR CODE ARTICLE 209,  
210, 211, 212 & 213

#### 4.3.2 ORGANIZING STRIKES

- A strike must be organized and led by the Trade Union Executive Committee if one has been established in the enterprise.
- If a Trade Union executive committee has not been established, strikes shall be organized and led by the upper-level Trade Union upon the request of the employees.

LABOR CODE, ARTICLE 210

#### 4.3.3 TRADE UNION'S RIGHTS

**A Trade Union is entitled to:**

- Collect the opinions of Trade Union members regarding a strike

LABOR CODE, ARTICLE 210,  
212, ARTICLE 214 CLAUSE 1  
& 2

- Organise and lead strikes
- Continue to negotiate on disputed issues or request mediation from the labor management authority, upper-level Trade Union, and the employers' representative organization
- Withdraw the decision to strike if a strike has not yet started or end a strike if it is taking place
- Request the Court to declare that a strike is lawful

#### 4.3.4 EMPLOYERS' RIGHTS

##### An employer is entitled to:

- Continue to negotiate on disputed issues or request mediation from the labor management authority, upper-level Trade Union, and the employers' representative organization
- Accept all or part of the demands made by the workers' collective but must inform the Trade Union executive committee in writing of the decision
- Temporarily close the workplace during a strike due to the lack of necessary operational capacity or to protect the enterprise's assets
- Request the Court to declare that a strike is illegal

LABOR CODE, ARTICLE 214,  
CLAUSE 1 & 3

#### 4.3.5 EMPLOYEES' RIGHTS

- Employees who are not participating in a strike, but who have to suspend work as a result of a strike, shall be paid their salary and benefits during the time they need to stop work
- Employees who are participating in a strike are not entitled to their salary or other benefits unless otherwise agreed by both of the parties

LABOR CODE, ARTICLE 218

#### 4.3.6 PROHIBITED ACTIONS (BEFORE, DURING AND AFTER A STRIKE)

- Obstructing employees in exercising their right to go on strike; inciting, inducing or forcing employees to go on strike; and preventing workers who do not take part in the strike from working
- Using violence; sabotaging machines, equipment or assets of the employer
- Violating public order and security
- Terminating employment contracts, imposing labour disciplinary measures on employees or strike leaders, or transferring employees and strike leaders to other work or workplaces on the grounds of their preparation for, or involvement in, the strike
- Retaliating, inflicting punishment against employees who take part in a strike or against strike leaders
- Taking advantage of the strike to commit illegal acts.

LABOR CODE, ARTICLE 219

### 4.3.7 ILLEGAL STRIKES

The following forms of strikes are illegal:

- Strikes that do not arise from an interest-based collective labor dispute. Strikes are not permitted if they arise from a right-based collective dispute or an individual dispute
- Strikes organized for employees who are not working for the same employer
- Strikes related to a collective labor dispute that is awaiting resolution and is already being addressed by a body or organization
- Strikes that continue after there has been a decision to stay or suspend a strike
- Strikes in special state-defined industries that are supplying public products or services which are essential to the national economy, or could threaten national defense and security or public health and safety

LABOR CODE, ARTICLE 215

DECREE 41/2013/NĐ-CP

### 4.3.8 CONSEQUENCES OF ILLEGAL STRIKES

1. Employees who do not stop striking and return to work after the Court has declared that a strike is illegal may, depending on the degree of the violation, be subject to disciplinary measures.

If a strike is illegal and causes damage to the enterprise, the Trade Union who leads the strike is required to pay the enterprise compensation for that damage.

2. Any person who commits one of the following acts will be fined or criminally charged depending on the seriousness of the violation:

- (i) Taking advantage of a strike to cause public disorder or sabotage the machinery and property of the employer
- (ii) Obstructing others from exercising their right to go on strike, provoking, inducing, or forcing employees to go on strike
- (iii) Punishing or victimizing employees participating in or leading strikes

LABOR CODE, ARTICLE 233

# 5

## DISCRIMINATION

The labor relationship between the employer and employees or workers' collective should be developed through negotiations and agreement based on principles of voluntary cooperation, equality, and respect for each other's lawful rights and interests.

LABOR CODE, ARTICLE 7  
CLAUSE 1

### 5.1 RACE, RELIGION AND POLITICAL OPINIONS

Employees have the right to work and to freely choose the type of work or job they do. They may also freely choose the training they participate in and have the right to improve their professional skills. All of this must take place without any discrimination in respect of gender, race, social status, creed, beliefs religion, union membership or participation in union activities.

LABOR CODE, ARTICLE 5  
CLAUSE 1 POINT A & ARTICLE  
8 CLAUSE 1

### 5.2 GENDER AND MARITAL STATUS

The labor law prohibits discrimination based on gender or marital status. Employers must observe and implement the principle of equality between men and women for recruitment, employment, advancement in wage grades, and remuneration. Male and female employees whose work is of equal value to the enterprise must receive equal salary payments.

LABOR CODE, ARTICLE 8  
CLAUSE 1, ARTICLE 90 CLAUSE  
3, ARTICLE 154 CLAUSE 1  
  
GENDER EQUALITY LAW,  
ARTICLE 13 CLAUSE 1

***Illegal Practice 1:** While recruiting employees for an additional sewing line, Fashion World Factory interviewed 60 women. The workers were asked to take a pregnancy test and those who were not pregnant were hired. This is a discriminatory practice.*

***Illegal Practice 2:** Dragon Design Factory issues a notice stating that it will recruit 100 female employees. This announcement discriminates on gender..*

### 5.3 DISABILITIES

- Enterprises are strictly prohibited from discriminating against, maltreating, undermining or harassing employees with disabilities
- A disability is an impairment which results in difficulties working, living and studying
- Employers must create favorable conditions for people with disabilities to work, which includes adapting vehicles, safety devices, and equipment and appropriately laying out machinery. Disabled employees must receive regular healthcare checks
- Employers must consult employees with disabilities on matters relating to their rights and interests

DISABILITY LAW, ARTICLE  
14 CLAUSE 1 & 2, ARTICLE 2  
CLAUSE 1

LABOR CODE, ARTICLE 8  
CLAUSE 1, ARTICLE 177

### 5.4 HIV/AIDS

It is prohibited to discriminate against someone with HIV/AIDS. Employers must observe and implement principles of equality towards people in respect of recruitment and/or employment.

#### Employers are prohibited from:

- Testing for HIV when recruiting employees
- Disqualifying individuals with HIV/AIDS in recruitment or forcing them to do another job while they are still healthy enough to perform their current job
- Neglecting salary increases or promotions for employees with HIV/AIDS and terminating an employee after being notified of their HIV/AIDS status

LABOR CODE, ARTICLE 8  
CLAUSE 1

HIV-AIDS PREVENTION LAW,  
ARTICLE 8 CLAUSE 3,  
ARTICLE 14

# 6

## FORCED LABOR

### 6.1 DEFINITIONS

The Labor law strictly forbids any form of forced labor. Forced labor is any work which is carried out in an involuntary manner and/or against the will of the employee.

LABOR CODE, ARTICLE 3  
CLAUSE 10, ARTICLE 8  
CLAUSE 3

#### **Illegal Practice: Employee Deposits**

*Nguyen Van B works on a sewing line. When he started work, the factory management asked him to deposit 500,000 VND that would be returned after 3 years of service, plus bank interest. The factory management says that as most new employees have poor skills, the factory has to train them for the first few months of employment and the deposit ensures they will stay in the role for at least 3 years. If the employee leaves the job before this time, the deposit will be seen as a training fee which will be retained by the employer. This practice is illegal.*

### 6.2 COERCION

All forms of forced labor are prohibited.

LABOR CODE, ARTICLE 8  
CLAUSE 3

### 6.3 UNDERSTANDING FORCED LABOR AND OVERTIME

Overtime must be voluntary, with agreement from both parties. Pressuring employees, in any way, is prohibited.

LABOR CODE, ARTICLE 106  
CLAUSE 2 ITEM A & ARTICLE 8  
CLAUSE 3

**Illegal Practice:** *In Best Wear Factory, all employees are requested to work overtime due to an urgent shipment. Workers who do not wish to work overtime are ordered to present a legitimate reason and fill in a leave form approved by their line leader and factory manager. Any employee who stops working when their regular shift ends without approval from their line leader and factory manager, will receive a warning letter from the employer the following day.*

CIRCULAR 15/2003/TT-  
BLĐTBXH, SECTION 2 ARTICLE  
1 CLAUSE 1.2 ITEM A

# 7

## WAGE AND BENEFITS

### 7.1 WAGES

- A wage is the amount of money paid to an employee to performed the work agreed upon by both parties, according to the employee's productivity, quantity and quality of work.
- A Wage is to be mentioned on the labor contracts, including wage level, wage-based allowances and other extra payments.

#### In which:

- 1) Wage level must be at least the regional minimum wage regulated by the law;
- 2) Wage-based allowances:
  - 2a) Allowances for compensating for working conditions, complexity of jobs, living conditions, or introducing the factory to new workers for recruitment which are not included or incompletely included in work- and position-based salary, such as position allowance; responsibility allowance; hazardous allowance; seniority allowance; area allowance; mobility allowance; attraction allowance; other allowances of same kind;
  - 2b) Allowances with variable amounts depending on the working progress and output of the employee;
- 3) Other extra payments:
  - a) Extra payments with specific amounts that are be paid regularly in each period of salary payment;
  - b) Extra payments with unspecific amounts that are paid regularly or irregularly in each period of salary payment, depending on the working progress and output of the employee.

The wage as the basis for determination of overtime pay, severance pay, work stoppages, annual leave, holiday, paid personal leave is the sum of the wage level (1), wage-based allowance (2a) and other extra payments (3a) as above mentioned.

From 01 Jan 2016 to 31 Dec 2017, the wage for paying mandatory social insurance premium is the sum of the wage level (1) and wage-based allowance (2a) as above mentioned. From 01 Jan 2018, the wage for paying mandatory social insurance premium is the sum of the wage level (1), wage-based allowance (2a) and other extra payments (3a) as above mentioned.

Non-wage benefits shall be specified in a separate item in the labor contract and shall include: bonuses prescribed in Article 103 of the Labor Code, initiative bonuses; food expenses between shifts; subsidies on petrol, telephone, transportation, housing, child care, raising children; allowances for death of employee's relative(s), marriage of relatives, employees' birthday, benefits for employees facing difficulties due to labor accidents and occupational diseases and other.

LABOR CODE, ARTICLE 90  
CLAUSE 1 & 2

DECREE 05/2015/ND-CP,  
ARTICLE 21

CIRCULAR 23/2015/TT-BLDT-  
BXH, ARTICLE 3

CIRCULAR 47/2015/TT-BLDT-  
BXH, ARTICLE 4

## 7.2 MINIMUM WAGES

The minimum wage is the lowest legal payment for an employee who performs the simplest work under normal working conditions during normal hours of work. The minimum wage must ensure the minimum living needs of the employee and their family.

The minimum wage shall be determined on monthly, daily and hourly basis, and by regions and sectors.

The minimum wage determined by regions (hereinafter called as “regional wages”) is applied for all enterprises to develop a salary scale and wage table and to calculate benefits paid for employees.

The monthly wage paid to an employee who performs the simplest work under normal working conditions, being ensured sufficient the normal working duration in month and finished the work norms or the agreed work must not be lower than the regional minimum wage.

**The current minimum wages (applied from 1 January 2017) are as follows:**

| Region | Regional minimum wages (VND/month) |
|--------|------------------------------------|
| I      | 3,750,000                          |
| II     | 3,320,000                          |
| III    | 2,900,000                          |
| IV     | 2,580,000                          |

The Government encourages enterprises to apply minimum wages that are higher than those levels stipulated by the Government. For further information including which provinces are in each region see APPENDIX 1.

LABOR CODE, ARTICLE 91  
CLAUSE 1  
DECREE 153/2016/ND-CP

## 7.3 WAGE SCALES AND TABLES

**When wage scales are established or adjusted the employer is required to:**

- Consult with the grassroots-level Trade Union (or the Executive Board of immediate upper-level Trade Union if a grassroots-level Trade Union has not yet been established at the enterprise)
- Send the wage scale and wage table to the state labour management authority at the district level where the employer’s office is located
- Make the wage scales and wage tables publicly available at the employees’ workplace before implementation

**Wage scales and tables are to be used as the basis for:**

- Recruitment and employment
- Negotiation of wages in labor contracts
- Payment of wages to workers

**Principles for formulating wage scales:**

- The lowest wage level of the simplest work or title in normal working conditions shall be not lower than the region-based minimum wage level
- The incremental difference between each wage level must be at least 5%

LABOR CODE, ARTICLE 93,  
ARTICLE 3 CLAUSE 4  
DECREE 49/2013/NĐ-CP,  
ARTICLE 3 CLAUSE 3 & 6



- The lowest wage for skilled and trained employees must be at least 7% higher than the regionally based minimum wage
- Wage scales for hazardous or dangerous work must be at least 5% higher than those of other positions in the normal working conditions in the enterprise

## 7.4 METHODS OF PAYMENT

The employer can choose to pay employees on either a piece rate basis or on an hourly basis and must stick to this method for a certain period. In case of changing payment method, the employer has to notify to employees at least 10 days in advance. There are three methods of payment:

- **Piece rate wages:** Applies to individuals or a group of employees, based on the volume of and quality of products produced against the assigned norms
  - Assigned labor norms must be the advanced average norm, which ensure that the majority of laborers can attain it without prolonging the regular working time.
  - In case where during the standard working time, the actual performance calculated in productivity is lower 5% or higher 10% than the assigned norm, OR the actual performance calculated in time is higher 5% or lower 10% than the assigned norm, then the labor norm must be adjusted.
  - Labor norms must be applied experimentally (not more than 3 months) and assessed before being officially promulgated.
- **Time-based wages (monthly, weekly, daily and hourly wages):** Applies to employees receiving time-based salary, based on their actual working time during a month, week, day, or hour, and is detailed as follows:
  - Monthly salary is paid for one working month which is based on the contractual salary;
  - Weekly salary is paid for one working week which is based on the monthly salary multiplied by 12 months and divided by 52 weeks;
  - Daily salary is paid for one working day which is based on the monthly salary divided by the regular working days in a month in accordance with the law as selected by the enterprise, provided that it does not exceed 26 days;
  - Actual hourly wage on a normal working day equals the actual wage for the current job of the month in which the employee works overtime divided by actual number of working hours in the month (not exceeding 208 hours for jobs with normal labor and environment conditions and exclusive of overtime hours).
- **Job wages:** Applies to individuals or a group of employees, based on the number and quality of work to be completed and the deadlines for completion.

LABOR CODE, ARTICLE 94  
CLAUSE 1

DECEE 49/2013/ND-CP,  
ARTICLE 8

CIRCULAR 23/2015/TT-  
BLĐTBXH, ARTICLE 4

CIRCULAR 47/2015/TT-BLDT-  
BXH, ARTICLE 14 CLAUSE 4

DECREE 05/2015/ND-CP,  
ARTICLE 22

**Example:** Ms. A is working in a garment factory in Binh Duong Province with the 48 working hours per week. Sunday is the weekly rest day. The workers receive time-based salary per month, with the agreed monthly wage of 4,200,000 VND. In February 2016, she has two (02) unpaid leave days. Her monthly wage for ordinary working time is as calculated as follows:

**Way 1:** The factory chooses a variable number of ordinary working days in certain month, but not exceeding 26. Therefore in Feb 2016, this number is 25 days.  
Actual wage =  $4,200,000 - ((4,200,000/25)*2) = 3,864,000$  VND

**Way 2:** The factory chooses a fixed number of ordinary working days applicable for all the months in a year.  
Actual wage =  $4,200,000 - ((4,200,000/26)*2) = 3,877,000$  VND

## 7.5 WAGE DELIVERY

Wages shall be paid:

- Directly to employees, in full and at the time as agreed in the labor contract
- In cash or through the employee's individual account opened at the bank. Where the payment made through bank account, the employer must agree with the employee on the various fees related to opening and maintaining the account.
- In case natural disaster, conflagration or other force majeure events take place, and employers have sought all remedial measures but can not make payment on time as agreed in the employment contract, the payment shall be made within 01 month. The employer shall make additional payment to the employee due to their late payment in the following cases:
  - If such late payment is made within less than 15 days, additional payments are not required;
  - If the late payment is made for 15 days or more, an extra amount shall be at least equal to the arrears of salary multiplied by the ceiling of interest rate for 1-month deposits announced by the State bank of Vietnam at the time when the payment is made. If the State Bank of Vietnam does not specify the ceiling interest rate, 1-month deposit interest rate of commercial banks, where businesses and agencies open trading accounts at the time of payment, shall be applied.

LABOR CODE, ARTICLE 94  
CLAUSE 2

DECREE 05/2015/ND-CP,  
ARTICLE 24

## 7.6 WAGE DEDUCTIONS

- Employers are only permitted to deduct employees' wages for damage caused by the employees to company machinery and equipment (For details see section 8.8.6)
- Employers must inform employees and provide a clear explanation regarding any deduction in wages
- Total deductions cannot exceed 30% of the employees' wages in any given month (after deduction of Social Insurance (SI), Health Insurance (HI), Unemployment Insurance (UI) and income tax)

LABOR CODE, ARTICLE 101

## 7.7 PROBATION, APPRENTICE AND TEMPORARY WORKER WAGES

- **Probationary wages:** Employers may agree with employees to pay a probation salary equal to at least 85% of the normal wage
- **Apprentice wages:** If an apprentice directly or indirectly produces products for sale, the apprentice and the enterprise must agree upon wages
- **Temporary worker wages:** Temporary workers are entitled to the same wage as other workers, plus any additional benefits (For details see section 8.5.1)

LABOR CODE, ARTICLE 28,  
ARTICLE 61 CLAUSE 2

*Example: The wages of a regular employee on a sewing line in Fortune Factory are 3,200,000 VND per month. Mr. Phuong joins the factory and starts as a probationary worker. He should earn at least the following:*

*Probationary salary = 3,200,000 x 85% = 2,720,000 VND*

## 7.8 PAYMENT FOR DOWNTIME

Work stoppage (downtime) is defined as the cessation of work during working hours caused by the employer, employee, or by force majeure such as the interruption of power or water supplies, natural disasters, fires, dangerous epidemiologic situations, acts of war, authority requested relocation or for economic reasons.

In such situations:

- If the interruption is the fault of the employer, the employer must pay employees in full
- If an employee causes the work stoppage, the employee will not be paid for the hours they were not working. Other employees who must stop work as a result of the actions of a co-worker will continue to be paid at a rate agreed by the two parties. This rate must not be less than the minimum wage
- If stoppages are caused by other reasons, wages should be paid based on agreement between both parties. Again, this must not be less than the minimum wage

LABOR CODE, ARTICLE 98

## 7.9 OVERTIME WAGES AND NIGHT WORK ALLOWANCES

Overtime (OT) wages must be paid as follows:

| Type of OT  | Overtime payment must be at least equal to   |
|---|--|
| OT on regular days  | 150%   |
| OT on rest days   | 200%   |
| OT on public holidays or paid leave                                   | 300%   |
| Night work allowance (where 'regular' hours are during night hours)   | 130%   |
| OT on night work (For the definition of night work, see Section 10.4) | 150% + 30% + (20% x 100% or 150%) for regular days<br>200% + 30% + (20% x 200%) for rest days<br>300% + 30% + (20% x 300%) for public holidays or paid leave |

LABOR CODE, ARTICLE 97

CIRCULAR 23/2015/TT-BLDT-BXH, ARTICLE 6 & 8

**Note:** Employees who receive time-based wages or piece rate wages shall receive 300% their regular wages for hours worked in addition to one full day of regular wages.

### 7.9.1 CALCULATING OVERTIME

**Overtime calculation for day work: time-based wages**

|               |   |                      |   |                      |   |                          |
|---------------|---|----------------------|---|----------------------|---|--------------------------|
| Overtime wage | = | Actual wage per hour | x | 150% or 200% or 300% | x | Number of overtime hours |
|---------------|---|----------------------|---|----------------------|---|--------------------------|

LABOR CODE, ARTICLE 97  
CLAUSE 1 & 3

CIRCULAR 23/2015/TT-BLDTBXH, ARTICLE 6

**Overtime calculation for day work: piece-rate wages**

|               |   |                            |   |  |   |                      |
|---------------|---|----------------------------|---|--|---|----------------------|
| Overtime wage | = | Rate per unit of day shift | x | Quantity of units made in overtime hours | x | 150% or 200% or 300% |
|---------------|---|----------------------------|---|--|---|----------------------|

**Example 1: Overtime calculation for hourly wages**

Mr. Thuan’s monthly wage includes: wage level 3,120,000 VND (working in normal condition with a 25 days working per month), responsibility allowance of 200,000/month. Mr. Thuan worked all normal hours and 30 hours of overtime for day work and no overtime for night work after 10 pm. Therefore, his wages for that month should be calculated as follows:

\* Actual wage per hour:  $(3,120,000 \text{ VND} + 200,000 \text{ VND}) / 25 / 8 = 16,600 \text{ VND}$

\* Wages for 30 hours of normal overtime area calculated as follows:  $16,600 \text{ VND} \times 150\% \times 30 \text{ hours} = 747,000 \text{ VND}$

\* Total wage for the month =  $3,120,000 + 200,000 + 747,000 = 4,067,000 \text{ VND}$

**Example 2: Overtime calculation for a piece-rate wage**

Ms. Nga works on a sewing line. Last month she made 2,000 units at the unit rate of 2000 VND per unit. In there, 1,600 units were made during the regular working hours and 400 units, which are the quantity beyond the agreed labor norm produced during overtime hours. Her wage should therefore be calculated as follows:

Piece-rate wage for regular working hours =  $1,600 \text{ units} \times 2,000 \text{ VND} = 3,200,000 \text{ VND}$

Piece-rate wage for overtime hours =  $2,000 \text{ VND} \times 400 \text{ units} \times 150\% = 1,200,000 \text{ VND}$

Total salary for the month =  $3,200,000 + 1,200,000 = 4,400,000 \text{ VND}$

**7.9.2 NIGHT WORK ALLOWANCES**

Night work is defined as work between 10pm to 6am.

**Hourly wages**

- Night work allowance for time-based wages should be at least:

|                      |   |                           |   |      |   |                                   |
|----------------------|---|---------------------------|---|------|---|-----------------------------------|
| Wages for night work | = | Actual wage rate per hour | x | 130% | x | Numbers of hours working at night |
|----------------------|---|---------------------------|---|------|---|-----------------------------------|

- Overtime rate for night work: In case employees do not work overtime during the day before working overtime at night should be at least:

|                        |   |                           |   |                       |   |     |   |     |   |                       |   |   |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|---|
| Overtime wage at night | = | Actual wage rate per hour | x | [150% or 200% or 300% | + | 30% | + | 20% | x | 100% or 200% or 300%] | x | Numbers of overtime hours worked at night |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|---|

- Overtime rate for night work: In case employees work overtime during the day before working overtime at night should be at least:

|                        |   |                           |   |                       |   |     |   |     |   |                       |   |   |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|---|
| Overtime wage at night | = | Actual wage rate per hour | x | [150% or 200% or 300% | + | 30% | + | 20% | x | 150% or 200% or 300%] | x | Numbers of overtime hours worked at night |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|---|

**Note:** Please see example below for further explanation.

**LABOR CODE, ARTICLE 97  
CLAUSE 2 & 3**

**CIRCULAR 23/2015/TT-BLDT-  
BXH, ARTICLE 8**

### Piece-rate wages

- Night work allowance for piece-rate wages should be at least:

|                                |   |                           |   |      |   |   |
|--------------------------------|---|---------------------------|---|------|---|---|
| Piece-rate wage for night work | = | Rate per unit of day work | x | 130% | x | Number of overtime hours working at night |
|--------------------------------|---|---------------------------|---|------|---|---|

- Overtime rate for night work: In case employees have not worked overtime during day time before working overtime at night should be at least:

|                        |   |                           |   |                       |   |     |   |     |   |                       |   |  |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|--|
| Overtime wage at night | = | Rate per unit of day work | x | [150% or 200% or 300% | + | 30% | + | 20% | x | 100% or 200% or 300%] | x | Numbers of products made during overtime hours worked at night |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|--|

- Overtime rate for night work: In case employees work overtime during day time before working overtime at night should be at least:

|                        |   |                           |   |                       |   |     |   |     |   |                       |   |  |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|--|
| Overtime wage at night | = | Rate per unit of day work | x | [150% or 200% or 300% | + | 30% | + | 20% | x | 150% or 200% or 300%] | x | Numbers of products made during overtime hours worked at night |
|------------------------|---|---------------------------|---|-----------------------|---|-----|---|-----|---|-----------------------|---|--|

#### Example: Overtime calculation for night work hourly wages

Mr Thuan's monthly salary is paid 3,500,000 VND/month, including a wage level of 3,100,000 VND and a position allowance of 400,000 VND (with 26 actual working days per month). On 3rd, Mr. Thuan worked on shift 2 (01:00 pm - 09:00 pm) and 2.5 hours of overtime (until 11:30 pm). On 20th, Mr. Thuan worked on shift 2 (01:00 pm - 09:00 pm) and went home, then he came back that same day to work overtime from 10:00 pm to 12:00 am. Overtime wage of Mr. Thuan is calculated as follows:

- Overtime salary during day time on 3rd:  $3,500,000 \text{ VND} / 26 / 8 \times 150\% \times 1 = 25,240 \text{ VND}$
  - Overtime salary at night time on 3rd:  $3,500,000 \text{ VND} / 26 / 8 \times (150\% + 30\% + 20\% \times 150\%) \times 1.5 = 53,005 \text{ VND}$
  - Overtime salary at night time on 20th:  $3,500,000 \text{ VND} / 26 / 8 \times (150\% + 30\% + 20\% \times 100\%) \times 2 = 67,308 \text{ VND}$
- Total overtime wage of Mr. Thuan:  $25,240 \text{ VND} + 53,005 \text{ VND} + 67,308 \text{ VND} = 145,553 \text{ VND}$

## 7.10 BONUSES

- Bonuses are the amount of money that an employer rewards employees based on the overall annual production rate of the enterprise and employee productivity
- After consultation with the grassroots-level Trade Union, the bonus levels chosen by the employer will be publicized in the work place

LABOR CODE, ARTICLE 103

## 7.11 ALLOWANCES, WAGE GRADES AND SALARY INCREASES

Employers must coordinate with the Trade Union Executive Committee to review and evaluate wage scale increases every year.

LABOR CODE, ARTICLE 102

The allowances, subsidies, incentives, and wage grade and salary increases for workers must be agreed upon and clearly indicated in the labor contracts, CBAs or Internal Regulation.

## 7.12 SOCIAL, HEALTH, AND UNEMPLOYMENT INSURANCE

Employees who have signed a labor contract for 3 months or more are required to contribute to mandatory social insurance and health insurance. Employees who have signed a labor contract for 12 months or more are required to contribute to additional unemployment insurance. The insurance contributions are calculated against the wages in their contracts as follows:

| Type                        | Total | Employer Contribution | Employee Contribution | Notes  |
|-----------------------------|-------|-----------------------|-----------------------|--|
| Social Insurance (SI)       | 26%   | 18%                   | 8%                    | Maximum declared wage is 20 months' wage at the general minimum wage. Applies only to Vietnamese employees.  |
| Health Insurance (HI)       | 4.5%  | 3%                    | 1.5%                  | Maximum declared wage is 20 months' wage at the general minimum wage. Applies for Vietnamese and foreign employees.  |
| Unemployment Insurance (UI) | 2%    | 1%                    | 1%                    | UI applies to contracts of 1 year or more. UI applies to enterprises with 10 or more employees. Applies only to Vietnamese employees. Maximum declared wage is 20 months' wage at the regional minimum wage. |

**SOCIAL INSURANCE LAW NO. 58/2014/QH13, ARTICLE 2, ARTICLE 5 CLAUSE 2, ARTICLE 85 & 86**

**HEALTH INSURANCE LAW, ARTICLE 14**

**DECREE 62/2009/NĐ-CP, ARTICLE 3**

**CIRCULAR 59/2015/TT-BLDT-BXH, ARTICLE 30**

**DECREE 127/2008/NĐ-CP**

**DECREE 115/2015/NĐ-CP**

### Example 1: SI - HI - UI for Vietnamese employees

Ms. Thu signed a labor contract with a salary of 4,200,000 VND/month (including a wage level of 4,000,000 VND and an attraction allowance of 200,000 VND). Each month she must pay Social, Health and Unemployment Insurance as follows:

Employee pays:  $4,200,000 \text{ VND} \times (8\% + 1.5\% + 1\%) = 441,000 \text{ VND}$

Employer pays:  $4,200,000 \text{ VND} \times (18\% + 3\% + 1\%) = 924,000 \text{ VND}$

### Example 2: Health Insurance for foreign workers

A foreign worker signed a contract directly with the enterprise with a salary of 20,000,000 VND/month. The foreigner must pay monthly health insurance payments as follows:

Employee pays:  $20,000,000 \text{ VND} \times 1.5\% = 300,000 \text{ VND}$

Employer pays:  $20,000,000 \text{ VND} \times 3\% = 600,000 \text{ VND}$

## 7.13 PAID LEAVE

### 7.13.1 PUBLIC HOLIDAYS

Employees are entitled to all of the following public holidays with with pay, based on the wage mentioned in the labor contract:

- 1 day for the Solar New Year (January 1)
- 5 days for the Lunar New Year (the last day of the end of the old lunar year and the first four days of the lunar new year or the last two days of the end of the old lunar year and the first three days of the lunar new year)
- 1 day for King Hung Vuong's Anniversary (March 10 on the lunar calendar)
- 1 day for Victory Day (April 30)
- 1 day for International Labor Day (May 1)
- 1 day for National Day (September 2)

If the public holiday falls on a regular weekly day off, the employee will be entitled to a day off the following day. Foreign employees, in addition to the above holidays, are entitled to 1 day for traditional New Year and 1 day for the National Day of their country.

LABOR CODE, ARTICLE 115

### 7.13.2 ANNUAL LEAVE

Employees who work 12 months will have the following minimum annual leave entitlements with full pay, based on the wage mentioned in the labor contract:

|  |         |
|--|---------|
| Worker in normal working conditions  | 12 days |
| Workers doing heavy or dangerous work (*)<br>Young workers under 18 years old<br>Workers with disabilities | 14 days |
| Workers doing extremely heavy or hazardous work (*)  | 16 days |

- Employees are entitled to one additional day of annual leave for every five years of employment within the enterprise
- Leave for employees who work either for less than a year or stop working part of the way through the year will be calculated on a pro-rata basis in proportion to the length of their period of employment. The annual leave days will be calculated as follows:

***(Number of annual leave days + additional annual leave days based on long term contract (if any) / 12 months) x number of actual working months of the year.***

If the result contains a fraction greater than or equal to 0.5 then the number of days is rounded up by 1.

- If employees do not use or do not entirely use their annual leave they will receive monetary compensation
- The employer has the right to arrange a timetable for annual leave in advance and to notify employees of this after consulting with the employees

LABOR CODE, ARTICLE 111 & 112

DECREE 45/2013/NĐ-CP, ARTICLE 7

DECISION 1152/2003/QĐ-BLĐTBXH

DECISION 1629/1996/QĐ-BLĐTBXH

**Notes:** (\*) works in garment factories are considered as heavy and dangerous works. For detailed list of extremely heavy or hazardous work see APPENDIX 9 & 10.

### 7.13.3 PAY FOR UNUSED ANNUAL LEAVE

- If an annual leave plan is prepared by the employer but the employee works voluntarily on leave days, the employer is required to pay the worker their full contractual wage (100%) in addition to full pay for unused annual leave (100%) for those working days.
- If the employer does not arrange annual leave in advance, the employee must be paid at least 300% of the contractual wage for the unused annual leave days, not including 100% of wage paid in the monthly salaries for the used annual leave days.
- if the employer has already fixed and informed workers of the annual leave dates, but then asks the employee to work on those days, the workers must be paid at the rate of 300% for the hours of worked on those annual leave days, and 100% of the contractual salary for the unused annual leave days.
- Before taking annual leave, employees are allowed to ask for and receive an advance payment, which is at least equal to the amount they would receive in salary for those days of annual leave.

LABOR CODE, ARTICLE 114,  
ARTICLE 113 CLAUSE 1, ARTI-  
CLE 97 CLAUSE 1 POINT c

OFFICIAL LETTER 392/  
LĐT BXH-TL

**Example:** Ms. Hoa has been working for 2 years in BBB factory with a monthly wage of 3,120,000 VND (as stated in a labor contract, including a wage level of 3,000,000 VND and a position allowance of 120,000 VND ). The employee is entitled to 14 days annual leave every year. In 2016, the employer did not make a plan for annual leave for employees. The employee used 5 annual leave days and was unable to take the remaining 9 days due to production requirements.

Therefore, the employee must be paid 300% of the contractual salary for unused annual leave days, not including 100% of the contractual salary for the used 5 annual leave days already paid in her monthly salaries:

- Number of unused annual leave days = 14 – 5 = 9 days
- 300% will be paid by the end of 2016 = 9 x 300% x (3,120,000/26) = 3,240,000 VND
- This does not include 100% of the contractual salary for the used 5 annual leave days already paid in her monthly salaries.

**Note:** (\*) This is interpretation and understanding of the law from BW's point of view with PAC's guidance and consultation.

### 7.13.4 PERSONAL LEAVE WITH PAY

The employee may take time off with full pay as follows:

- 3 days for marriage
- 1 day for children's marriage
- 3 days in the event of a death within their immediate family, including parents, spouse's parents, husband, wife, son or daughter

LABOR CODE, ARTICLE 116  
CLAUSE 1



### 7.13.5 SICK LEAVE

Employees who contribute to mandatory insurance and who take sick leave (with written confirmation from a doctor) should be compensated by the Social Insurance Agency. The maximum rate of compensation is 75% of the employee's wage declared to Social Insurance. Maximum days for sick leave allowance are as follows:

**SOCIAL INSURANCE LAW 2014  
ARTICLE 25-29, 33, 39 & 41**  
**CIRCULAR 59/2015/TT-BLDT-  
BXH ARTICLE 4-7**

| Type of Employment   | <b>SICK LEAVE ALLOWANCES</b><br><i>(based on working days and not on holidays, paid leave days or weekly rest days; based on the amount of years employee has contributed to the insurance agency)</i>                  |
|--|---|
| Working in normal conditions   | <ul style="list-style-type: none"> <li>• Less than 15 years: 30 days;</li> <li>• 15 to 30 years: 40 days;</li> <li>• 30 years or more: 60 days</li> </ul>   |
| Working in heavy or hazardous occupations or jobs  | <ul style="list-style-type: none"> <li>• Less than 15 years: 40 days;</li> <li>• 15 to 30 years: 50 days;</li> <li>• 30 years or more: 70 days</li> </ul>   |
| Employees who suffer from a disease that requires extended treatment<br><br>See APPENDIX 2 | <ul style="list-style-type: none"> <li>• Maximum of 180 days in a year, including public holidays;</li> <li>• If the illness continues after these 180 days the employee will be compensated at a lower rate</li> </ul> |

### 7.14 UNPAID PERSONAL LEAVE

Employees are entitled to 1 day of unpaid leave for the following reasons:

**LABOR CODE, ARTICLE 116  
CLAUSE 2 & 3**

- Death of a grandparent or sibling (brother or sister)
- Marriage of father, mother, or sibling (brother or sister)

Employees must inform the employer before taking unpaid leave. Employees can negotiate and make an agreement with the employer regarding other unpaid personal leave.



# CONTRACTS AND HUMAN RESOURCES

## 8.1 RECRUITMENT

- Enterprises must make job announcements available to the public on mass media or posting them at the enterprise office at least 5 days before the application deadline
- Recruitment notices must include details pertaining to the job title, job requirements, working conditions, salary, working time, and any required documents employees need for applications
- Employers must issue receipts to all applicants acknowledging each application
- Candidates must be able to provide the employer with the following documents:
  - Completed job application
  - Resume or copy of personal labor file
  - Copies of certificates
  - Health check-up reports
  - Other documents as requested by the employer

LABOR CODE, ARTICLE 11

DECREE 03/2014/ND-CP, CHAPTER 2, ARTICLE 6, 7

CIRCULAR 23/2014/TT-BLDT-BXH, CHAPTER III, ARTICLE 5

## 8.2 PROBATIONARY PERIODS

An employer and employee can negotiate a probationary contract, which must include the rights and responsibilities of both parties during the probationary period. Contents of the probationary contract shall include: (i) Name and address of the employer or of the legal representative of the employer; (ii) full name, date of birth, sex, residence address, identity card number or other legal documents of the employee; (iii) work and the place of work; (iv) duration of employment contract; (v) wage, mode of payment, due date of payment, allowances and other additional payments; (vi) processes for promotion, wage increase; (vii) working time and rest periods.

The probationary period cannot be extended and each position in the enterprise can only have one probationary period. The length of the probationary period is based on the complexity and skill required to do the work and the maximum length for probationary periods are the following:

|   |                        |
|---|------------------------|
| Work requiring a technical college diploma or above   | Maximum 60 days        |
| Work requiring a secondary vocational certificate, secondary professional qualification or specialized worker | Maximum 30 days        |
| Other work  | Maximum 6 working days |
| Employees working under a temporary labor contract  | not required           |

Within 03 days before the end of the probation period for the employee whose probation period is stipulated in Clauses 1 and 2 of Article 27 of the Labor Code, the employer must notify the employee of the probation results; if the results meet the requirements, the employer shall immediately conclude the employment contract with the employee at the end of the probation period. In case of workers having the probationary period regulated in the Clause 3 of Article 27 of the Labor Code, the employer will notify the employee at the end of the probationary period.

DECREE 05/2015/ND-CP, ARTICLE 7

**Illegal Practice:** Ms. Hue is an HR staff working at Star Factory. After one month of probation the factory told her it would be another two months until she would sign a labor contract or be eligible for benefits. This example does not comply with the Labor Law. The probation period should not be longer than 30 days for this type of employee.

## 8.3 APPRENTICES

• When recruiting apprentices to work at the enterprise, employers are not required to register vocational training activities and cannot charge fees for the training. A written contract must be signed between the employer and the employee and each party receives a signed copy of the contract. The apprentice contract must contain the following contents:

- Training occupation
  - Location of training
  - Duration of training
  - Cost of training
  - Period that employees commit to work for employer after training
  - Responsibilities for compensation of training costs
  - Employer responsibilities
- During the apprenticeship, if trainees or apprentices directly produce or assist in the production of products that comply with required specifications the employer must pay the trainees or apprentices based on their mutual agreement
- At the expiration of the apprenticeship or training and after all legal requirements have been satisfied, both parties must new sign labor contracts
- The employer is required to facilitate apprentice participation in skills assessments for the national certification of vocational skills
- The employer must report the results of the training, such as improved abilities and technical skills, to the provisional labor management authority in its annual labor report

VOCATIONAL TRAINING LAW,  
ARTICLE 35 CLAUSE 2

LABOR CODE, ARTICLE 60, 61  
& 62

## 8.4 LEASED WORKERS

Employers in the garment industry can use leased workers for the following jobs:

- Security guards
- Cleaners
- Drivers

A leased worker can only work in a factory for up to maximum 12 months. The employers are forbidden to collect a fee or lease them to other employers.

LABOR CODE, ARTICLE 53-58

DECREE 55/2013/ND-CP,  
ARTICLE 4 CLAUSE 2, ARTICLE  
25 CLAUSE 1 & ARTICLE 26,  
ANNEX V

## 8.5 EMPLOYMENT CONTRACTS

- There are 3 types of labor contracts:
  - Indefinite term contract: A contract in which the two Parties do not determine the term and the time at which the contract terminates
  - Definite term contracts: A contract in which the two parties agree to fix the term of the contract for a duration of 12 to 36 months
  - A contract for seasonal work or a specific task which has a term of less than 12 months
- Employment contracts must be made in writing with two originals, one for each party. The contract must include:

LABOR CODE, ARTICLE 16, 22  
& 23

- Name and address of the employer or legal representative of the employer;
  - Full name, date of birth, ID or passport number, residence address, title of the employer's authorized signatory at businesses;
  - Work and the place of work;
  - Duration of the employment contract;
  - Wage, mode of payment, due date of payment, allowances and other additional payments;
  - Regimes for promotion, wage increase
  - Working time and rest periods;
  - Personal protective equipment for the employee;
  - Social insurance and health insurance;
  - Training, occupational skill improvement
  - Other issues relating to both parties' compliance with contractual terms and conditions, such as non-wage subsidy for housing, telephone, travel, etc.
- For temporary work of less than 3 months, the two parties can conclude a verbal contract
  - An employer cannot sign a temporary contract for a seasonal job of under 12 months for regular work that would normally require 12 months or more of work, except in the following cases: (i) the temporary substitution of employees called up for military service, (ii) the temporary substitution of employees taking maternity leave, sick leave, occupational accident or other temporary leave
  - At the expiration of an employee's second definite term contract, the employer and employee must sign an indefinite term contract

### 8.5.1 TEMPORARY LABOR

- Temporary workers have the same rights as regular workers
- A person who performs a job lasting less than 3 months will not contribute to mandatory insurance schemes and therefore shall be paid directly by the employer for the following pay:
  - Social insurance: 18%
  - Health insurance: 3%
  - Unemployment insurance: 1%
  - Annual leave allowance for contractual salary for workers performing non-hazardous work: 4% (\*)
  - Annual leave allowance contractual salary for workers performing hazardous work: 4.5% (\*)

LABOR CODE, ARTICLE 186  
CLAUSE 3

*Note: (\*) This is the interpretation and understanding of the law from BW's point of view with guidance and consultation from the PAC.*

**Example:** Mr. Bao signed a temporary contract as sewing worker with a salary of 3,100,000 VND/month. The monthly salary which the employee receives includes the additional allowances as follows:  $Wage = 3,100,000 \text{ VND} \times (18\% + 3\% + 1\% + 4.5\%) + 3,100,000 \text{ VND} = 3,921,500 \text{ VND}$

## 8.5.2 EXTENDED EMPLOYMENT CONTRACTS

If an employee continues to work after the expiration of their contract both parties must sign a new labor contract within 30 days. If a new labor contract is not signed:

- A definite term contract will become an indefinite term contract
- A temporary contract with duration of less than 12 months will become a 24-month definite term contract
- The terms of the employment contract shall be amended only once in the employment contract Appendix, except in the case of elderly employees and part-time unionists when they are extended as specified in Clause 6 of Article 192 of the Labor Code, when more than one amendment can be made. Changes to terms made in the contract Appendix cannot entail a change to the contract type.

DECREE 05/2015/ND-CP,  
ARTICLE 5

## 8.5.3 TEMPORARY JOB TRANSFER

- Employers can temporarily transfer employees to another job due to unexpected difficulties such as natural disasters, fire, epidemic, the implementation of preventive and remedial measures for occupational accidents or diseases, electricity and water supply malfunctions, or for reasons of business and production demands, but the transfer must not exceed 60 working days in 1 year unless agreed upon by the employee and the employee must be given at least 3 days notice
- If the wage of the new position is lower than the wage of the former position, the wage of the former position must be maintained for 30 working days. The wage of the new job must be at least equal to 85% of the former job wage and not lower than the minimum wage

LABOR CODE, ARTICLE 31

## 8.6 TERMINATION OF EMPLOYMENT CONTRACTS

### 8.6.1 CASES OF TERMINATION

- The contract expires unless the labor contract of an employee who serves as a part-time TU representative expires before the expiration of his/her tenure as a TU official, that labor contract must be extended until the end of the TU tenure
- The tasks stated in the contract have been completed
- Both parties agree to terminate the contract
- The employee or employer is dead, declared missing or incapable of civil acts by the Court
- The employee is dismissed
- The employee is sentenced to imprisonment or is subject to a Court order
- The employee or employer unilaterally terminates the contract
- The employee is qualified for pension benefits from Social Insurance and reaches the retirement age
- The enterprise must cease operations or must terminate workers due to structural or technical changes or for economic reasons, merger, acquisition, or separation

LABOR CODE, ARTICLE 36

## 8.6.2 UNILATERAL TERMINATION

### 8.6.2.1 LAWFUL UNILATERAL TERMINATION

LABOR CODE, ARTICLE 37,  
ARTICLE 38 CLAUSE 1,  
ARTICLE 85

| <b>A. Employees with definite contracts have the right to terminate employment in the following situations:</b>   | <b>B. Employers have the right to terminate employment in the following situations:</b>  |
|---|--|
| <ul style="list-style-type: none"><li>a. If they are not assigned to the agreed occupation or workplace or are not provided with the working conditions as agreed to in the contract;</li><li>b. If they are not paid in full or within the time agreed, the wage stipulated in the labor contract;</li><li>c. If they are subject to maltreatment, sexual harassment, or coercive labor;</li><li>d. If they cannot carry out the contract due to personal or family difficulties;</li><li>e. If they are elected or appointed to full-time work in a public office or in the state apparatus;</li><li>f. If they are pregnant and must stop working by doctor's orders;</li><li>g. If they fall ill or are victim to an accident and are unable to return to work following treatment.</li></ul> | <ul style="list-style-type: none"><li>a. If the employee regularly fails to fulfill the tasks assigned by contract;</li><li>b. If the employee is ill and does not recover after 12 consecutive months if employee has an indefinite contract; 6 months for a fixed-term labor contract; or more than half of the contract term for a temporary contract less than 12 months; When the employee recovers, the employer may consider to continue the contract;</li><li>c. In cases of natural calamity, fire, or force majeure where the employer has made every effort to overcome difficulties but is nevertheless compelled to make cuts in production and workforce;</li><li>d. The employee fails to be present at the workplace when a contract suspension has been lifted;</li></ul> |

### 8.6.2.2 PRIOR NOTICE

Prior notice is usually required for ending contracts and determined as follows:

LABOR CODE, ARTICLE 37  
CLAUSE 2, ARTICLE 38  
CLAUSE 2

|              | Length of prior notice required | Type of contract  |
|--------------|---------------------------------|---|
| For employer | 45 days                         | Indefinite term contract  |
|              | 30 days                         | Definite term contract  |
|              | 3 working days                  | Cases mentioned in (b) of 8.6.2.1 (column B) or temporary contract of less than 12 months |
| For employee | 3 working days                  | (a), (b), (c), (g) of 8.6.2.1 (column A) and temporary contract of less than 12 months    |
|              | 30 days                         | Definite term contract  |
|              | 45 days                         | Indefinite term contract  |
|              | Determined by doctor            | (f) of 8.6.2.1 (column A)   |

### 8.6.2.3 EMPLOYER PROCEDURES FOR CONTRACT NON-RENEWAL OR TERMINATION

In case where there is continued disagreement with the decision of the employer, the employee shall have the right to request the settlement of a labor dispute through the Labor Mediators or in the Court. See **APPENDIX 3** for more details.

LABOR CODE, ARTICLE 47  
& 201

**Employers are required to:**

- Provide employees with written notice of non-renewal a minimum of 15 days prior to the date of expiration of the definite-term contract
- Settle all payments a minimum of 7 working days after the non-renewal or termination. In special cases this period may be extended to a maximum of 30 days
- Return social insurance books and other documents to employees

### 8.6.2.4 UNLAWFUL UNILATERAL TERMINATION

Unilateral termination of a labor contract is not permitted when the employee is:

LABOR CODE, ARTICLE 39,  
ARTICLE 155 CLAUSE 3

- Under treatment for illness, a work accident or an occupational disease
- On annual leave, personal leave, or any other type of leave permitted by the employer
- A female worker who is absent for her marriage, pregnancy, maternity leave, or who is nursing a child under 12 months of age

However, employers are permitted to refuse to renew a labor contract in the event that the contract is completed or has expired in such circumstances.

### 8.6.3 PAID/UNPAID ALLOWANCES AND COMPENSATION FOR TERMINATING CONTRACTS

| Type                | Conditions  | Payment by   |  |
|---------------------|---|--|--|
|                     |   | Employer   | Employee   |
| Severance allowance | Cases of termination as mentioned in Section 8.6.1. If the last labor contract is terminated because the employee unilaterally and unlawfully terminates labor contract or the employee is be disciplined in the form of dismissal, the working time of the last labor contract shall not be included in the total working time as the basis for determination of severance pay | ½ month contractual salary plus allowance for each year of service   |  |
| Job-loss allowance  | Termination due to structural or technical changes or for economic reasons, merger, acquisition, or separation  | 1 month salary for each year of service, but a minimum of two months' salary   |  |
| Compensation        | Violation of points mentioned in Section 8.6.2.1 (Lawful Termination)   | <ul style="list-style-type: none"> <li>- Salary and social and health insurance for the period during which the employee was not able to work;</li> <li>- At least 2 months salary;</li> <li>- If the employer unlawfully terminates the contract, then does not want to hire worker back, compensation will be negotiated between the employer and employee;</li> <li>- Compensation for any days notice was not given in case of breaking prior notice requirements mentioned at 8.6.2.2.</li> </ul> | <ul style="list-style-type: none"> <li>- ½ month's salary;</li> <li>- Cost for training if any;</li> <li>- Compensation for any days notice not given in case of breaking prior notice requirements mentioned at 8.6.2.2.</li> </ul> |

LABOR CODE, ARTICLE 42  
CLAUSE 5, ARTICLE 43 CLAUSE  
2, ARTICLE 44, 45, 48 & 49

EMPLOYMENT LAW 30/2013/  
QH13, ARTICLE 45.3

DECREE 128/2015/ND-CP,  
ARTICLE 39 CLAUSE 2 & 3

CIRCULAR 47/2015/TT-BLDT-  
BXH, ARTICLE 8, CLAUSE 2

#### Example: Severance allowance

*Ms. Hong started working in the factory on January 1st 2007 and continued to work until July 1st 2014. During this time she had an average salary over 6 consecutive months of 2,700,000 VND. In this example the severance allowance will be calculated as follows:*

*The time calculation for the factory allowance is from January 1st 2007 to December 31st 2008 is equal to 2 years. Severance allowance is paid at a ½ month salary for each year of service.*

**Severance allowance:**  
2,700,000 VND x ½ monthly wage x 2 years = 2,700,000 VND

*From January 1st 2009 to July 1st 2014, she contributed to the unemployment insurance scheme without any interruption, so, she will receive the unemployment insurance for this period of employment according to the unemployment insurance regulations, instead of the severance allowance.*

**Note:** If the employee receives a job-loss allowance they are not entitled to a severance allowance.



### 8.6.4 SEVERANCE ALLOWANCE AND JOB LOSS ALLOWANCE

The calculation of severance allowance and job loss allowance is based on the total time the employee has actually worked for the employer minus the period for which the employee has contributed unemployment insurance and the period that the employer paid severance allowance. Therefore:

- The employer must pay severance allowance and job loss allowance for the number of years the employee has worked up to 31 December, 2008
- From 01 January 2009: The employer must pay severance allowance, job loss allowance for the period that an employee has not participated in the UI scheme: probation period, internship and apprenticeship that take place at the employer's enterprise; time employee is sent on courses by the employer; paid leaves of an employee as mentioned in the provision of the Law on Social Insurance; weekly days off; fully paid leaves; time an employee does not work due to TU activities in accordance with the Law on Trade Unions; time an employee is prevented from working beyond his/her fault; time an employee has been temporarily suspended, detailed or jailed, while it was concluded that the employee was not guilty and is allowed to return to his/her job;

Severance allowance is equivalent to the average wage received by the employee during the 6 months prior to termination

LABOR CODE, ARTICLE 48  
CLAUSE 2, ARTICLE 49 CLAUSE 2

DECREE 05/2015/ND-CP,  
ARTICLE 14 CLAUSE 3

### 8.7 INTERNAL REGULATION

- Before issuing an internal regulation, the employer must consult with the representative organization of a grassroots-level workers' collective. Internal labor regulations cannot contravene the Laws of Vietnam and must be registered with the provincial labor department where the enterprise has to register its business
- Enterprises that employ ten or more employees are required to have written Internal Regulation
- Enterprises must inform employees about Internal Regulation and post them in the workplace
- If the internal regulations are amended or supplemented, the employer must consult with the organizations representing the labor collective at the enterprise and re-register the internal regulations.

LABOR CODE, ARTICLE 119  
& 120

DECREE 05/2015/ND-CP,  
ARTICLE 28

### 8.8 DISCIPLINE

When the employer takes disciplinary measures, they must adhere to the Labor Law, the CBA and the Internal Regulation.

LABOR CODE, ARTICLE 19  
CLAUSE 2

#### 8.8.1 TYPES OF DISCIPLINE

|                              |  |   |
|------------------------------|--|---|
| Type of disciplinary measure | Verbal or written reprimand  | Stipulated in the Internal Regulation of each enterprise            |
|                              | <ul style="list-style-type: none"> <li>• Delay in increasing wage for no longer than 6 months</li> <li>• Demotion of the employee</li> </ul> |   |
|                              | Immediate Dismissal  | Applies to an employee who commits any offence referred to in 8.8.2 |

LABOR CODE, ARTICLE 125  
& 126

## 8.8.2 CONDITIONS FOR DISMISSAL

Dismissing employees is permitted in the following situations:

- The employee commits theft, embezzlement, gambles or uses drugs in the workplace, intentionally causes injury, discloses technological or business secrets, infringes on the intellectual property rights of the employer, causes serious damage or threatens to cause extremely serious damage to the property and interests of the enterprise (Note: the employer must define such situations requiring dismissal in the Internal Regulation)
- The employee, who was initially disciplined through a deferment of wage increases or a demotion and whose performance has not improved, commits the same breach that required the initial disciplinary action
- The employee is absent for five (05) accumulating working days within 30 days since the 1st absent day or twenty (20) accumulating working days within 365 days since the 1st absent day without legitimate reasons. The employee is absent with a legitimate reason in the following cases:
  - Natural disasters, conflagration;
  - Illness of employee or their mother, father, adoptive mother, adoptive father, mother-in-law, father-in-law, husband, wife, children or adopted children with certification by a health facility founded and operated as prescribed in law
  - Other cases defined in the labor regulations.

LABOR CODE, ARTICLE 126

DECREE 05/2015/ND-CP,  
ARTICLE 31

## 8.8.3 REGULATIONS FOR DISCIPLINARY ACTION

- Every violating act is given only one form of punishment. In cases of simultaneous violations, there should be only one form of punishment corresponding to the most serious violation
- All actions that encroach upon human dignity are prohibited
- All forms of financial punishment, such as failure to pay salary, are prohibited
- Disciplinary measures must be applied within six months after violation (maximum of 12 months in special cases)

LABOR CODE, ARTICLE 123  
CLAUSE 2 & 3, ARTICLE 124  
CLAUSE 1 & ARTICLE 128

## 8.8.4 CIRCUMSTANCES EXCLUDING DISCIPLINARY PROCEDURES

It is prohibited to apply disciplinary procedures to employees during following period of time:

- The employee is suffering from a mental illness or another disease which impedes self-awareness or the ability to control behaviour
- The employee takes days off for illness or recovery with the consent of the employer
- The employee is subject to temporary detention or custody
- The employee is waiting for investigation results from the authorities
- A female employee is pregnant, takes maternity leave or is nursing a child under 12 months of age

LABOR CODE, ARTICLE 123  
CLAUSE 4 & ARTICLE 124  
CLAUSE 2

*Example: On 1 November 2013 after a meeting between the Executive Board of the Trade Union and Ms. Thao, the Factory decided to take disciplinary action. The action chosen was to prolong the waiting time for any wage increase. However, this action must be delayed and applied after 1st May 2014 because she is currently nursing her child who is under 6 months old. In this case the disciplinary measure must be delayed until after her child is more than 12 months of age.*

### 8.8.5 SETTling DISCIPLINARY ISSUES

LABOR CODE, ARTICLE 123

DECREE 05/2015/ND-CP,  
ARTICLE 30

- The employer must be able to provide proof regarding employee violations
- The employee, a Trade Union representative (or if there is no TU at grassroots level a TU representative of the TU upper level) and the parents or legal representatives of an employee under 18 years of age must be present. If one of the participants is absent, while the employer has noticed the participants in writing 3 times (Each written notice must be sent at least 5 working days prior to the meeting), the employer shall conduct the meeting, unless the employee is absent with a valid reason, e.g. maternity leave, long sick leave, taking leave with the permission of the employer, being in custody or detention, etc.
- The employee must respond to the accusation or ask somebody to respond on their behalf
- Settlement of disciplinary issues must be made in writing stating the decision and signed by both the employer and the employee, as well as a Trade Union representative
- Disciplinary procedures must be recorded on paper and signed by all concerned (including Trade Union representatives)

### 8.8.6 MATERIAL LIABILITY

LABOR CODE, ARTICLE 130

DECREE 05/2015/ND-CP,  
ARTICLE 32

- Employees who damage tools, equipment, or other property of the enterprise may be held liable for the damages and be required to compensate the enterprise. In case the value of the damages does not exceed the sum of 10 months regional minimum wage, the maximum liability is 3 months salary. This sum is based on the monthly salary which was applicable in the month preceding the month in which the damage was caused and will be gradually deducted from the employee's monthly salary. The total deduction cannot exceed 30% of the employee's wages after deduction of the SI payment, UI payment and income taxes in any month. (For details see section 7.6)
- Employees who damage or lose tools, equipment or other property of the enterprise or use materials beyond allowed standards must fully or partly compensate the employer for the loss at market prices if the value of the damages exceeds the sum of 10 months regional minimum wage. If the employee has signed a liability contract, the terms of repayment will be according to the contract. In cases of force majeure, the employee will not be held liable for any damage and will not be required to compensate the enterprise

## 8.9 IMPLEMENTING GRASSROOTS DEMOCRACY AT THE WORKPLACE

Grassroots democracy at the workplace is a mechanism to ensure information sharing, and employee participation and engagement in decision-making through the implementation of democratic regulations at the workplace. Employees, the employer and the Trade Union shall be responsible for establishing democratic regulations at the enterprise.

### 8.9.1 ISSUES UNDER DEMOCRACY

#### Issues to be communicated to employees include:

- The production plan and situation
- Internal Regulation and policies
- Collective Bargaining Agreements (CBA)
- Wage tables and salary increase regimes
- The bonus and incentives policy
- Information on professional training
- Information on social, health and unemployment insurance premiums

#### Issues employees must be consulted on include:

- Developments and adjustments of internal rules, policies and CBAs
- Cost efficiency solutions
- Enhancements in productivity and safety
- Disciplinary procedures
- Resolutions on Labor Conferences
- Contents relating to rights and obligations of employees

#### Issues to be decided on by employees include:

- Conclusion, adjustment and termination of labor contracts
- CBA contents
- Whether to join the Trade Union and/or to go on strike
- Adopting Resolutions on Labor Conferences

#### Issues to be monitored by employees include:

- The execution of production plans, internal rules, policies and CBAs which have been published at the workplace
- The implementation of labor conference resolutions
- Discipline and reward policies
- Grievance handling procedures
- The establishment and use of the rewarding fund, welfare fund and funds contributed by employee, deduction and remittance of the Trade Union's funding, payment of social insurance, medical insurance and Unemployment Insurance

LABOR CODE ARTICLE 63, 64  
& 65

DECREE 60/2013/NĐ-CP

## 8.9.2 DEMOCRATIC PLATFORMS

**The labor conference** is held once per year, with participation from the employer, Trade Union executive members and a pre-defined number of elected employee members. The conference discusses issues that require the engagement of employees and votes for which employee members will participate in the social dialogue meetings the following year. The conference must adopt a final resolution and publish it at the workplace.

**Social dialogue** is a meeting that is conducted every 3 months or sooner upon the request of either the employer or the workers' collective. It requires 3 members from each party. Topics for social dialogue include the production situation, implementation of labor contracts, CBAs, internal rules and policies, working conditions, requests either party have for the other, or other topics that both parties want to discuss.

Other platforms include meetings, notice boards, verbal and/or written communications, suggestion boxes, surveys of employees' opinions and grievances.

LABOR CODE ARTICLE 63, 64  
& 65

DECREE 60/2013/NĐ-CP

# 9

# OCCUPATIONAL SAFETY AND HEALTH (OSH)

## 9.1 GENERAL OSH

- Employers have responsibilities to ensure the rights of employees to have safe and hygienic working conditions; implement all measures for occupational safety and hygiene during the course of work; give priority to measures for prevention, elimination and control of dangerous or harmful factors during the performance of work.
- Employers have to consult with trade unions, employer representatives, Councils of occupational safety and hygiene about development and implementation of policies, law, programs and plans for occupational safety and hygiene.

LABOR CODE, ARTICLE 137  
 CLAUSE 1, ARTICLE 138  
 CLAUSE 1

## 9.2 OSH TRAINING

### 9.2.1 REQUIRED PARTICIPANTS, CONTENTS AND GENERAL REQUIREMENTS IN TRAINING

DECREE 44/2016/ND-CP

| Required Participants   | Requirements   |
|---|--|
| <p><b>Group I:</b> The person who manages and is in charge of occupational safety and sanitation include:</p> <ul style="list-style-type: none"> <li>- The heads of business and production units and establishments, departments and subordinate branches; the persons in charge of production, business and techniques; supervisor of workshops and the equivalent</li> <li>- The deputy of the heads specified under Point a, Paragraph 1 of this Article are assigned to be in charge of occupational safety and sanitation.</li> </ul> | <ul style="list-style-type: none"> <li>- <b>Contents:</b> System of law and policies on OSH; Organizing the apparatus, management and compliance with regulations on OSH at the establishment; defining responsibility and assigning accountability on OSH; basic knowledge about harmful and dangerous factors, preventive measures, improvement of working conditions and safety culture in production and business.</li> <li>- <b>Duration and frequency:</b> minimum 16 hours for the 1st training session; every 2 years for periodical sessions or upon change of job, equipment, or technology, and after returning from leave lasting 6 months or more, for a duration of at least 50% of that of the 1st training</li> <li>- Training certificate valid for 2 years</li> </ul>  |
| <p><b>Group II:</b> The person performing occupational safety and sanitation duties includes:</p> <ul style="list-style-type: none"> <li>- Persons working full time or part time on occupational safety and sanitation of their establishments;</li> <li>- Persons directly monitoring the occupational safety and sanitation at their workplace.</li> </ul>   | <ul style="list-style-type: none"> <li>- <b>Contents:</b></li> <li>+ General knowledge: same as group I</li> <li>+ Professional activities of OSH: same as group I; developing the rules, regulations, procedures and measures to ensure OSH; analyzing and evaluating risks and developing the emergency rescue plan; developing the management system of OSH; self-inspection and investigation of occupational accidents; requirements for inspection, training and observation of working environment; management of machines, equipment, materials with strict requirements on OSH, information, propagation and training of OSH; first aid and emergency of occupational accidents, prevention of occupational disease for employees; Recognition and Discipline, discipline, statistics and report on OSH.</li> <li>+ Specialized training content: General knowledge about machines, equipment, materials and substances generating dangerous and harmful</li> </ul> |

| Required Participants   | Requirements   |
|---|--|
|   | <p>factors; procedures for safe work with machines, equipment, materials and substances with strict requirements on OSH.</p> <ul style="list-style-type: none"> <li>- <b>Duration and frequency:</b> minimum 48 hours for the 1st training session; every 2 years for periodical sessions or upon change of job, equipment, or technology, and after returning from leave lasting 6 months or more, for a duration at least 50% of that of the 1st training.</li> <li>- Training certificate valid for 5 years</li> </ul>  |
| <p><b>Group III:</b><br/>Employees performing work with strict requirements on occupational safety and sanitation</p>   | <ul style="list-style-type: none"> <li>- <b>Contents:</b></li> <li>+ General knowledge: same as group I</li> <li>+ Professional activities of occupational safety and sanitation: Policies and regulations on OSH for the employees; basic knowledge about dangerous and harmful factors at workplace and method for improvement of working conditions; functions and duties of the safety network, sanitation employees; safety culture in production and business; rules of OSH, signs and signposts of OSH and use of safety equipment, means of personal protection; techniques and skills of first aid of occupational accidents and prevention of occupational diseases;</li> <li>+ Specialized training content: General knowledge about machines, equipment, materials and substances generating dangerous and harmful factors and the method for analysis, evaluation and management of risks related to the work with strict requirements on OSH which the trainees are performing; procedures for safe work, occupational sanitation; safety techniques and occupational sanitation related to the work of employees</li> <li>- <b>Duration and frequency:</b> minimum 24 hours for the 1st training session; every 2 years for periodical sessions or upon change of job, equipment, technology and after returning from leave lasting 6 months or more, for a duration at least 50% of that of the 1st training.</li> <li>- Safety certificate valid for 2 years</li> </ul> |
| <p><b>Group IV:</b><br/>Employees who do not belong to the groups of 1, 2, 3 and 5, including the apprentices, probationary employees who shall work for the employers.</p> | <ul style="list-style-type: none"> <li>- <b>Contents:</b></li> <li>+ Basic knowledge about OSH: Rights and obligations of the employers, the employees, regulations on OSH for the employees; basic knowledge about dangerous and harmful factors at workplace and method for improvement of working conditions; functions and duties of the safety network, sanitation employees; safety culture in production and business; rules of OSH, signs and signposts of occupational safety and sanitation and use of safety equipment, means of personal protection; techniques and skills of first aid of occupational accidents and prevention of occupational diseases;</li> <li>+ On-site training: Working procedures and specific requirements on OSH at workplace.</li> <li>- <b>Duration and frequency:</b> minimum 16 hours for the 1st training session; every year for periodical sessions or upon change of job, equipment, technology and after returning from leave lasting 6 months or more, for a duration at least 50% of that of the 1st training.</li> <li>- Recorded in the training logbook</li> </ul>  |

| Required Participants   | Requirements   |
|---|--|
| <p><b>Group V:</b><br/>Persons who perform health care work</p> | <ul style="list-style-type: none"> <li>- <b>Contents:</b></li> <li>+ General knowledge: same as group I</li> <li>+ Professional activities of OSH: Organizing the apparatus, management and compliance with regulations on OSH at the establishments; defining responsibility and assigning power on OSH; basic knowledge about dangerous and harmful factors, measures to prevent and improve working conditions; safety culture in production and business;</li> <li>+ Training for issue of Certificate of professional occupational health: Harmful factors at workplace; observing the working environment to evaluate the harmful factors; preparation of dossier of occupational sanitation at workplace; common occupational diseases and prevention measures; ways to organize the examination of occupational diseases, examination for work placement, preparation of dossier for inspection of occupational disease; organization and skills of first aid and emergency; prevention of disease at workplace; food safety; procedure for taking and storing food samples; supply of objects and nutrition to employees; health improvement at workplace; prevention of non-infectious disease at workplace; knowledge, skills and methods of making plan, scheme, equipment and necessary conditions to carry out work of occupational sanitation; method of educational communication on occupational sanitation, prevention of occupational diseases; setup and management of information on occupational sanitation and occupational diseases at workplace; setup and management of health dossier of employees and persons with occupational diseases; coordination with the persons performing work of OSH or management department of OSH for implementation of relevant duties on OSH.</li> <li>- Duration and frequency: at least 56 hours for the 1st training session, including the testing time in which the training time for issue of Certificate of professional occupational health of at least 40 hours; the content of training for issue of Certificate of OSH is at least 16 hours; every 2 years for periodical sessions or upon change of job, equipment, or technology, and after returning from leave lasting 6 months or more, for a duration at least 50% of that of the 1st training</li> <li>- Training certificate valid for 2 years and certificate of labor health care valid for 5 years</li> </ul> |
| <p><b>Group VI:</b> OSH collaborator network</p>                | <ul style="list-style-type: none"> <li>- <b>Contents:</b> The employees participating in the OSH collaborator network, in addition to the prescribed contents of training of OSH, they are also provided with additional skills and methods of safety and sanitation employees.</li> <li>- <b>Duration and frequency:</b> minimum 20 hours for the 1st training session, including 16 hours for the training of OSH and 4 hours for training on OSH collaborator network; every 2 years for periodical sessions or upon change of job, equipment, technology and after returning from leave lasting 6 months or more, for a duration at least 50% of that of the 1st training.</li> <li>- Training certificate valid for 2 years</li> </ul>  |



## 9.2.2 OSH TRAINER

DECREE 44/2016/ND-CP

- **Training of OSH laws**
  - i. Having university degree or higher
  - ii. Having at least 5 years working as the developer of policies, laws, management and inspection over OSH at the bodies having functions and duties directly related to OSH
- **Training of professional content of OSH and basic knowledge about OSH**
  - i. Having university degree or higher educational level of engineering specialty; and
  - ii. Having at least 5 years working as the developer of policies, laws, management and inspection over OSH at the bodies having functions and duties directly related to OSH; or
  - iii. Having at least 7 years performing work of OSH at state agencies and enterprises and must participate in the course of profession and techniques of training.
- **Specialized theory training**
  - i. Having university degree or higher educational level in line with the training specialty; and
  - ii. Having at least 5 years working as the developer of policies, laws, management and inspection over OSH at the bodies having functions and duties directly related to OSH; or
  - iii. Having at least 5 years performing work with strict requirements on OSH and must participate in the course of profession and techniques of training.
- **Practice training**
  - i. Group 2 practice training: having college degree or higher educational level in line with the training specialty and having proficiency with machines, equipment, chemical and work with practical application based on the training frame program
  - ii. Group 3 practice training: having intermediate level or higher educational level in line with the training specialty; have at least 5 years performing work with strict requirements on OSH or work related to the OSH at the establishments in line with the training work.
  - iii. Group 4 practice training: having technical intermediate level or higher educational level in line with the training specialty or have the time of actual working time of at least 5 years
  - iv. First aid training: having college degree of medicine specialty or higher educational level and have at least 03 years of experience directly participating in first aid and emergency or have doctor level;
  - v. Except the requirement (i), (ii) and (iii), the practice trainer must participate in the OSH training and have at least 5 years working as the developer of policies, laws, management and inspection over OSH at the bodies having functions and duties directly related to OSH.
- **Training of specialized content of labor health care**
  - i. Having doctor degree or higher educational level
  - ii. Having at least 5 years working as the developer of policies, laws, management and inspection over OSH at the bodies having functions and duties directly related to OSH.
  - iii. Having at least 5 years working in the field related to the occupational disease, occupational sanitation, first aid and emergency, nutrition, disease prevention and food safety and sanitation.
- Every 2 years, the trainer must participate at least one time in the training course to update knowledge, information, policies, laws, science and technologies on OSH except for trainers of occupational sanitation, occupational health, first aid and emergency of occupational accident and diseases.

### 9.2.3 ENTERPRISES ORGANIZING OSH TRAINING BY THEMSELVES

- **The employers must organize the training and take responsibility for the training quality for their employees of group 4 according to one of the following forms:**
  - Organizing the training themselves if ensuring the conditions about the trainer as stipulated in the point 9.2.2
  - Hiring an training organization
- **Registration process of enterprises which organize OSH training by themselves**
  - Preparing a dossier to evidence their eligibility for operation and send it to the provincial DOLISA
  - Within 30 days after receiving all valid dossier, the provincial DOLISA shall review and inform the enterprises of unsatisfactory conditions according to regulations. If the time limit of 30 days is exceeded with no announcement from the authorities, the enterprise is permitted to carry out the training within the requested scope.
  - After 5 years from the date of assessment of eligibility for self-training, the enterprise shall send the dossier to the competent authorities for review and assessment again of operational conditions if it needs further self-training.

DECREE 44/2016/ND-CP  
ARTICLE 29

## 9.3 MEASURES TO ENSURE OSH AT THE WORKPLACE

### 9.3.1 CONTROL OF DANGEROUS OR HARMFUL FACTORS AT THE WORKPLACE

The employer must:

- Regularly monitoring and supervising the dangerous and harmful factors at workplace;
- There must be procedure for control over dangerous and harmful factors at workplace;
- Assigning person or department to take responsibility for control over dangerous and harmful factors at workplace; for business and production establishments, the control over dangerous and harmful factors must be stipulated to each group, team and workshop;
- Retaining records of control measures over dangerous and harmful factors
- Publicizing the result of control over dangerous and harmful factors to the employees for information;
- Carrying out measures for elimination or control of dangerous or harmful factors at the workplace to ensure occupational safety and hygiene and healthcare for employee;
- Organizing inspection and assessment of dangerous and harmful factors at workplace at least once per year.

LAW ON OCCUPATIONAL  
SAFETY AND HYGIEN ARTICLE  
18

DECREE 39/2016/ND-CP  
ARTICLE 3

#### 9.3.1.1 OCCUPATIONAL ENVIRONMENT MONITORING

- **The employer shall organize occupational environment monitoring to assess those harmful factors at least once a year, including:**
  - The microclimate factors, including temperature, humidity, wind speed and thermal radiation
  - The physical factors: light, noise, vibration frequency, radiation, electromagnetic field, ultraviolet radiation
  - The factors of occupational exposure: microorganism, allergy, sensitivity and solvent
  - The occupational burden and some ergonomic psychophysiological indicators: assessing the physical occupational burden, psychological stress; ergonomic occupational position
  - The minimum chemical elements SO<sub>x</sub>, NO<sub>x</sub>, CO, CO<sub>2</sub>, organic solvents (benzene and homologues - toluene, xylene), mercury, arsenic, TNT, nicotine and pesticide.

OSH LAW ARTICLE 18 CLAUSE  
2

DECREE 44/2016/ND-CP  
ARTICLE 33 CLAUSE 3 AND  
ARTICLE 37 CLAUSE 4

- **Where the result of working environment observation does not meet legal standards, the labor establishment shall:**

- Take measures to improve the working conditions and minimize the harmful factors and prevention of occupational diseases
- Organize health checkup to early detect occupational diseases and occupation-related diseases for employees working in unsafe working environment
- Provide compensation in kind for employees in accordance with regulations of law on labor.

### 9.3.1.2 CONTENTS OF CONTROL OVER DANGEROUS AND HARMFUL FACTORS AT WORKPLACE

- **Identifying and assessing dangerous and harmful factors.:**

- Analyzing the relevant labor characteristics and conditions and working procedures and result of inspection at workplace.
- Survey the employees about the factors which can cause injury, or diseases impairing their health at their workplace.
- In case of failure to identify and assess completely and correctly perceptibly, use appropriate machines or equipment to measure or test the dangerous and harmful factors; set up a dossier of labor environment sanitation for harmful factors and occupational disease prevention and control under the specified form.

- **Determining the objectives and measures to prevent and control dangerous and harmful factors in following priority:**

- Eliminating the dangerous and harmful factors right from the phase of workshop design, choice of technology, equipment and raw materials.
- Preventing, limiting exposure and minimizing the damaging effects of dangerous and harmful factors by the use of technical measures and application of administrative and organizational measures (information, communication and education, training of safety, occupational sanitation, formulation of rules and procedures for safe work, occupational sanitation, labor protection regulation, health care for workers; management of machines, equipment, supplies and substances with strict requirements on occupational safety and sanitation).
- Determining the time, location and resources to achieve the objectives and take measures to prevent and control the dangerous and harmful factors.

- **Implement and assess the effectiveness of measures to prevent and control the dangerous and harmful factors:**

- Instructing their employees on the measures to prevent and control dangerous and harmful factors at their workplace.
- Making plan and organize the inspection and assessment of effectiveness of measures to prevent and control the dangerous and harmful factors at least 01 time/year; for the business and production establishments, the inspection and assessment must be done to the level of group, team and workshop.
- The inspection of measures to prevent and control the dangerous and harmful factors at workplace comprises of the following contents:
  - + Condition of occupational safety and sanitation of machines, equipment, workshop, warehouse and workplace;
  - + Use and maintenance of personal protection equipment, equipment of fire prevention and fighting, essential medications and first-aid facilities in place;
  - + Use and management of machines, equipment, materials and substances with strict requirements on occupational safety and sanitation;
  - + Employees' knowledge and ability in urgent incident response and handling;
  - + Implementation of regulations on occupational protection and health care for the employees;
  - + Implementation of recommendations of inspection teams over occupational safety and sanitation and investigation of occupational accident.
- The assessment of effectiveness of measures to prevent and control the dangerous and harmful factors at workplace comprises of the following contents:
  - + The implementation of measures to prevent and control the dangerous and harmful factors at workplace;
  - + Result of occupational condition improvement.

DECREE 39/2016/NĐ-CP  
ARTICLE 4, 5, 6 & 7

### 9.3.2 MACHINE SAFETY

- **Responsibilities of employer:**
  - Carry out periodic checks and repairs of machinery, equipment, workshops and storehouses
  - Provide adequate protective devices for all dangerous machinery and equipment within the enterprise
  - Take all necessary measures to prevent accidents. Signboards with instructions on occupational health and safety must be posted in the workplace where they can be easily seen and read. Key places for signs and notices are at machinesites and equipment installation locations, and in other places where there is a heightened risk of danger
  - Take immediate action to stop or remove any risk that is found, including stopping work or switching off relevant machinery until the risk is under control
  - The list of machines with strict safety requirements is outlined in the law
- **Machines having strict safety and hygiene requirements:**
  - All types of machinery, equipment, materials or substances having strict safety and hygiene requirements must be inspected before put them into operation and inspected periodically during their operation by an organization specialized in occupational safety inspection.
  - When types of machinery, equipment, materials or substances having strict safety and hygiene requirements are put into operation or discarded, the organizations or individuals in charge shall submit a report to the provincial specialized authorities where they are used.
  - When the machinery, equipment, materials or substances having strict safety and hygiene requirements are used, the organizations or individuals must have them inspected and maintained periodically, and prepare and archive documents on safety engineering for them according to the respective National technical regulation.

LABOR CODE, ARTICLE 138 & 147

CIRCULAR 05/2014/TT-BLDTBXH

CIRCULAR 06/2014/TT-BLDTBXH

OSH LAW ARTICLE 30 & 31

### 9.3.3 DEALING WITH SERIOUS SAFETY THREAT INCIDENTS ON OSH

- Employer must develop plans to deal with serious safety threat incidents with following contents:
  - Enterprise's task force teams in charge of on-the-spot immediate handling and duties of each participant; supporting forces from the surrounding business and production establishments;
  - Technical equipment is required according to regulations of specialized law; necessary measurement equipment used in incident handling (such equipment must be tested and calibrated under the current regulation of law on measurement);
  - Mode and procedure to handle incidents.
- Organizing the periodical drills of plans to deal with incidents as required by law.
- Providing technical and medical equipment to ensure rescue and first aid when a serious safety threat incident or an occupational accident occurs.
- Promptly informing the local government upon occurrence of technical incidents causing serious occupational unsafety and insanitation.

OSH LAW ARTICLE 19

DECREE 39/2016/NĐ-CP  
ARTICLE 8

### 9.3.4 PERSONAL PROTECTIVE EQUIPMENT

Employees engaged in potentially dangerous and/or harmful work must have sufficient protective clothing and protective devices.

LABOR CODE, ARTICLE 149

#### 9.3.4.1 TASKS REQUIRING PPE

The following categories are used to describe types of hazards where employees are required to have PPE provided by the employer:

- Temperature, light, and noise: Employees who are exposed to excessively high or low temperatures or pressures, excessive noise, glare, radiation, electrical power, or other light or noise risks
- Dust, harmful and hazardous substances: Employees who are exposed to harmful substances such as chemicals, toxic gasses and fumes, airborne dust and compounds containing toxic substances such as lead, mercury, manganese, or harmful chemicals
- Contact with potentially harmful biological elements
- Machine users and operators: Employees working with machinery, equipment, tools, or in positions where there is a high risk of occupational accidents such as working at heights

LABOR CODE, ARTICLE 149

CIRCULAR 04/2014/TT-  
BLDTBXH

#### 9.3.4.2 RULES TO PROVIDE PPE

- Providing PPE in conformity with their types, to relevant persons, quantity, quality assurance according to national technical regulations and standards;
- Do not give money in lieu of providing personal protective equipment; do not compel employees to self-buy or collect money from employees to buy personal protective equipment;
- Giving instructions and observe employees using personal protective equipment;
- Carrying out measures for decontaminating, sterilizing, radioactive decontaminating to used personal protective equipment in places prone to be contaminated, infected or affected by radioactivity.

OSH LAW ARTICLE 23  
CLAUSE 3

#### 9.3.4.3 PPE FOR GARMENT INDUSTRY

| Type of work   | Required equipment   |
|--|--|
| Fabric cleaning, laundry, dyeing, fabric screen printing                             | Uniform, fabric cap, rubber gloves, dust mask or carbon masks if exposing to hazardous chemicals, goggles, rubber boots, soap. |
| Folding fabric, cutting fabric, ironing, operating sewing machines, quality checking | Fabric cap, uniform, dust masks, fabric shoes, soap.   |
| Boiler operator, machinery maintenance and repairing                                 | Uniform, fabric cap, gloves, goggles, carbon masks and protective shoes  |
| Electrician  | Uniform, protective hat, insulated gloves and shoes  |
| Welding worker   | Uniform, gloves, insulated shoes, welding masks/ goggles   |

THÔNG TƯ 04/2014/  
TTBLDTBXH

## 9.4 HEALTH CARE

### 9.4.1 HEALTH EXAMINATION AND OCCUPATIONAL DISEASE EXAMINATION

- Annually, employer shall organize health check-ups at least once a year for employees, including apprentice workers; and health check-ups at least every 6 months for employees doing heavy and harmful jobs or especially heavy and harmful jobs, disabled, underage and elderly employees.
- Employer shall organize gynecology checks for female employees, and occupational disease checks for employees who work in conditions with hazards of occupational diseases.
- Before an employee is assigned works or taken another work that is more heavy, harmful or dangerous, or after a victim recovers from occupational accident or occupational disease and returns to work, the employer shall arrange health check-ups for these employees, unless they have undergone decreased work capacity examinations conducted by a Medical Examination Council.
- Employer shall organize health check-ups or occupational disease check-ups for employees at health care facilities meeting professional and technical conditions.
- Employer shall send the employee who is diagnosed to have an occupational disease to a health care facility meeting professional and technical conditions according to the treatment regimen of occupational diseases prescribed by the Minister of Health.
- Costs of health check-ups, occupational disease check-ups, and treatment for occupational diseases for employees paid by employer.

OSH LAW ARTICLE 21

### 9.4.2 HEALTH REHABILITATION SERVICES

Annually, every employer is encouraged to provide health rehabilitation services for employees performing heavy, harmful or dangerous jobs, employees performing extremely heavy, harmful or dangerous jobs and employees with poor health.

OSH LAW ARTICLE 26

### 9.4.3 MANAGEMENT OF EMPLOYEE'S HEALTH

- Employer shall give work assignments to its employees according to health standards prescribed for each type of occupation and the results of employees' health check-ups;
- Employer shall prepare and manage health documents of employees, occupational disease patients; send notifications of results of health check-ups and occupational disease check-ups to employees.
- Employer shall send reports on management of employee's health to healthcare authorities annually.

OSH LAW ARTICLE 27

### 9.4.4 FIRST AID KIT

Each floor shall be provided with a first aid kit with following types:

CIRCULAR 19/2016/TT-BYT  
APPENDIX 4

| Number of employees | Requirements                    |
|---------------------|---------------------------------|
| Less than 25        | At least 1, type A (small one)  |
| From 26 – 50        | At least 1, type B (medium one) |
| From 51 – 150       | At least 1, type C (big one)    |

Note: 1 type B is equal to 2 type A and 1 type C is equal to 2 type B

Items included in one first aid kit:

| No | Items                                     | Type A | Type B | Type C |
|----|---|--------|--------|--------|
| 1  | Adhesive tape (roll)                      | 02     | 02     | 04     |
| 2  | Adhesive tape 5 x 200 cm (roll)           | 02     | 04     | 06     |
| 3  | Adhesive tape 10 x 200 cm (roll)          | 02     | 04     | 06     |
| 4  | Adhesive tape 15 x 200 cm (roll)          | 01     | 02     | 04     |
| 5  | Triangular bandage (unit)                 | 04     | 04     | 06     |
| 6  | Elastic bandage                           | 04     | 04     | 06     |
| 7  | Absorbent gauze (10 pads/pack)            | 01     | 02     | 04     |
| 8  | Absorbent cotton (pack)                   | 05     | 07     | 10     |
| 9  | Esmarch bandage 6 x 100 cm (unit)         | 02     | 02     | 04     |
| 10 | Esmarch bandage 4 x 100 cm (unit)         | 02     | 02     | 04     |
| 11 | Bandage scissors                          | 01     | 01     | 01     |
| 12 | Medical pincer, straight, size 16 - 18 cm | 02     | 02     | 02     |
| 13 | Medical pincer, bent, size 16- - 18 cm    | 02     | 02     | 02     |
| 14 | Medical gloves (pairs)                    | 05     | 10     | 20     |
| 15 | Proper surgical masks                     | 01     | 01     | 02     |
| 16 | Saline NaCl 9 ‰ ( 500ml bottle)           | 01     | 03     | 06     |
| 17 | Antiseptic (bottle)                       |        |        |        |
|    | - Surgical spirit 70°                     | 01     | 01     | 02     |
|    | - Betadine                                | 01     | 01     | 02     |
| 18 | Safety pins (all size)                    | 10     | 20     | 30     |
| 19 | Waterproof nylon pads                     | 02     | 04     | 06     |
| 20 | First aid treatment regimen               | 01     | 01     | 01     |
| 21 | Safety goggles                            | 02     | 04     | 06     |
| 22 | List of items in the first aid kit        | 01     | 01     | 01     |
| 23 | Neck Splints (unit)                       | 01     | 01     | 02     |
| 24 | Arm splints (pairs)                       | 01     | 01     | 01     |
| 25 | Forearm splints (pairs)                   | 01     | 01     | 01     |
| 26 | Thigh splints (pairs)                     | 01     | 01     | 02     |
| 27 | Shin splints (pairs)                      | 01     | 01     | 02     |

### 9.4.5 FIRST AID TEAM

- Employer arranges the first aid team as follows:

| Number of employees | Requirements                      |
|---------------------|-----------------------------------|
| Less than 200       | At least 01 first aid team member |
| Additional 150      | At least 01 more member           |

- Employees (except for those obtaining the certificate of completion of OSH training) and first aid team members must be provided the first aid training for the 1st time and annual training.

CIRCULAR 19/2016/TT-BYT  
ARTICLE 7 CLAUSE 3

## 9.5 LABOR ACCIDENT AND OCCUPATIONAL DISEASE

- Accidents are considered to be labor accidents when they:
  - Are related to work and occur during working hours and/or rest hours during working hours;
  - Occur while travelling to or from the place of work. This regulation is applied for person under the probationary and apprentice period.
- Occupational diseases are caused by harmful working conditions. Persons who have occupational diseases must be treated well, provided with periodical health checks and have separate health documentation.

LABOR CODE ARTICLE 142  
DECREE 45/2013/ND-CP  
ARTICLE 12

### 9.5.1 DOCUMENTATION OF LABOR ACCIDENT

- Employer must prepare the labor accident documentation. The dossier comprises of the following documents:
  - Record of scene examination (if any)
  - Scene outline
  - Photos of scene and victim
  - Record of autopsy or injury examination, except for missing case as declared by the Court
  - Record of technical inspection, forensic examination and conclusion of judicial expertise (if any)
  - Record of testimony of the victim, the person who knows the facts or person concerned
  - Record of labor accident investigation
  - Minutes of meeting to announce the Record of occupational accident investigation
  - Certificate of injury of the medical facility which has treated the victim's injury (if any)
  - Certificate of discharge of the medical facility which has treated the victim's injury (if any)
- In a case of occupational accident, if there are many persons having occupational accident, each person shall have a separate documentation.

DECREE 39/2016/ND-CP  
ARTICLE 16

### 9.5.2 EMPLOYER'S RESPONSIBILITY

- Promptly giving first aid and emergency aid to the employee and advance payment for first aid, emergency aid, and treatment for the employee having occupational accident or disease;
- Paying for first aid, emergency aid, and treatment for the employee until such time as their health is stable, including co-payment and costs not covered by health

OSH LAW ARTICLE 38  
CIRCULAR 04/2015/TT-  
BLDTBXH



insurance for the employee if the employee has health insurance; payment for medical assessment of decreased work capacity if the employee's working capacity decreases by less than 5% as concluded by the Medical Examination Council and full payment for treatment for the employee if the employee has not health insurance.

- Paying full salary for the employee if he/she is absent from work during the treatment and health rehabilitation period;
- Paying compensation for the employee suffering from occupational accident that is not entirely his/her fault and paying subsidy for the employee suffering from occupational accident that is caused by his/her fault;
- Recommending the employee for medical assessment of decreased work capacity, treatment, convalescence and health rehabilitation as prescribed;
- Pay compensation or subsidy for the victim within 5 days from the date on which the conclusion on working capacity rate is made by Medical Examination Council or from the date on which the report of the investigation into the occupational accident is published by the investigation group in relation to occupational accidents causing deaths. Levels of payment are as follows:

| Reduction in working ability | Compensation   | Subsidies   | Requirements  |
|------------------------------|--|---|---|
| 5% - 10%                     | 1,5 months salary                                      | 0,6 months salary                                       | - Compensation and subsidy paid for each occurring accident<br><br>- Occupational diseases must be confirmed by forensic agencies |
| Over 10% and below 81%       | 1,5 months plus 0,4 month salary for every 1% increase | 0,6 months plus 0,16 month salary for every 1% increase |   |
| 81% and over or death        | 30 months salary                                       | 12 months salary  |   |

- Assigning works appropriate for the employee's health according to the conclusion of Medical Examination Council after treatment and health rehabilitation if the employee keeps working;
- Filing a claim for the insurance benefits from the Insurance fund;
- The salary used as the basis for compensation, benefits, or salaries paid for employees absent from work due to their occupational accidents or occupational diseases are the contractual wage.

**Example:** Mr. Ha has been working at Golden Factory with a salary of 3,500,000 VND/ month since January 2016. In June 2016, he was in an accident while operating a machine. The factory's records relating to Mr. Ha's work accident showed that the factory was responsible and that compensation would need to be paid to Mr. Ha as they let him run the machine without proper instruction and training. According to the Circular 04/2015/ TT-BLDTBXH stipulating on formulars and compensation levels, the allowances paid to Mr. Ha when his working ability had been reduced 21% are as follows:

**Compensation:**  
Based on the information in this table, the correct time frame for compensation in this case should be:  
 $1.5 \text{ months} + (0.4 \text{ month} \times 11) = 5.9 \text{ months}.$   
Therefore payment is as follows  $= 5.9 \times 3,500,000 \text{ VND} = 20,650,000 \text{ VND}$

### 9.5.3 INSURANCE REGIME FOR LABOR ACCIDENT AND OCCUPATIONAL DISEASE

**SOCIAL INSURANCE LAW  
2014, SECTION 3**

| Payment Type               | Rate for payment<br>(General Minimum Salary)  | Requirements                               |
|----------------------------|---|--|
| One off                    | <ul style="list-style-type: none"> <li>Equivalent to 5 months wages when an employee has a 5% decrease in working capacity</li> <li>For each additional 1% decrease in working capacity, the equivalent of 0.5% of the monthly wage will be added</li> <li>Seniority allowances are included in social insurance contributions</li> </ul> | Decreasing work capacity from 5% to 30%    |
|                            | <ul style="list-style-type: none"> <li>Equivalent to 36 months' wages</li> </ul>  | Death                                      |
| Monthly                    | <ul style="list-style-type: none"> <li>30% of wage</li> <li>For each additional 1% decrease in working capacity the equivalent of 2% of monthly wages will be added</li> <li>Seniority allowances are included in social insurance contribution</li> </ul>  | Decreasing work capacity from 31% and over |
| Attendance pension         | <ul style="list-style-type: none"> <li>1 month</li> </ul>   | Decreasing work capacity from 81% and over |
| Recovery and convalescence | <ul style="list-style-type: none"> <li>25 to 40% compensation</li> </ul>  | Continued need for recuperation            |

## 9.6 OSH MANAGEMENT SYSTEM

### 9.6.1 OSH UNIT

- Employer must assign OSH officers or establish OSH unit based on labor size and characteristics, hazards of occupational accidents or occupational diseases and working conditions.
- If the enterprise entity fails to assign persons in charge of occupational safety and hygiene or occupational safety and hygiene unit as prescribed in Clause 1 and Clause 4 of this Article, it must hire a qualified organization as prescribed to carry out occupational safety and hygiene responsibilities.

**OSH LAW ARTICLE 72  
DECREE 39/2016/ND-CP  
ARTICLE 36 CLAUSE 2**

| Requirement   | Size                         | Requirements for OSH officers  |
|---|------------------------------|--|
| One part-time officer in charge of OSH  | Below 300 employees          | <ul style="list-style-type: none"> <li>- Having university level of technical specialties; or</li> <li>- Having college level of technical specialties; have at least 1 year of experience working in the field of business and production of the establishment; or</li> <li>- Having intermediate level of engineering specialties or directly perform technical work; have 3 years of experience working in the field of business and production of the establishment.</li> </ul>  |
| One full-time officer in charge of OSH  | 300 and below 1000 employees | <ul style="list-style-type: none"> <li>- Having university level of engineering specialties; have at least 1 year of experience working in the field of business and production of the establishment; or</li> <li>- Having college level of engineering specialties; have at least 3 years of experience working in the field of business and production of the establishment; or</li> <li>- Having intermediate level of engineering specialties or directly perform technical work; have at least 5 years of experience working in the field of business and production of the establishment.</li> </ul> |
| At least 2 full-time officers in charge of OSH or setting up a OSH unit or department | Above 1000 employees         | <ul style="list-style-type: none"> <li>- Having university level of engineering specialties; have at least 1 year of experience working in the field of business and production of the establishment; or</li> <li>- Having college level of engineering specialties; have at least 3 years of experience working in the field of business and production of the establishment; or</li> <li>- Having intermediate level of engineering specialties or directly perform technical work; have at least 5 years of experience working in the field of business and production of the establishment.</li> </ul> |

### 9.6.2 HEALTH CARE UNIT

**OSH LAW ARTICLE 73**  
**DECREE 39/2016/ND-CP**  
**ARTICLE 3**

- Employer must assign medical staff or establish health care unit based on labor size and characteristics, hazards of occupational accidents or occupational diseases and working conditions.

| Requirement   | Size of enterprise |
|---|--------------------|
| 1 person to carry out the medical activities with intermediate educational level  | Below 300          |
| At least 1 doctor/physician and 01 person to carry out the medical activities with intermediate educational level           | 300 – below 500    |
| At least 1 doctor and each shift must have 1 person to carry out the medical activities with intermediate educational level | 500 – below 1000   |
| Establishing the medical facility   | Above 1000         |

- Where the establishment does not arrange the medical staff or set up its medical unit, the enterprise must sign contract with a qualified medical facility in accordance with the following regulations:
  - Providing a sufficient number of medical staff same as requirement for the enterprise size
  - Promptly be present at the business and production establishment upon the occurrence of emergency within 30 minutes for plains, towns, and cities and 60 minutes for mountainous and remote areas.

### 9.6.3 OSH COLLABORATOR NETWORK

**OSH LAW ARTICLE 74**

- Employer with the consent of their Union Executive Committee shall make an establishment decision and promulgate operation regulation of the OSH collaborator network
- Each OSH collaborator network member is a direct employee
- OSH collaborator network works under management and instruction of Union Executive Committee
- OSH collaborator network has obligations to expedite, remind and give instructions for members in groups, teams, workshops, including group leaders, team leaders, supervisors to strictly follow the OSH regulations, maintain equipment and PPE
- OSH collaborator network members are paid the responsible allowance which is jointly agreed by the employer and Union Executive Committee and mentioned in the operation regulation of the network

### 9.6.4 OSH COMMITTEE

**OSH LAW ARTICLE 38**  
**DECREE 39/2016/ND-CP**

- Garment enterprises with 1000 employees or more must establish an OSH Committee
- OSH Committee is responsible for consulting and cooperating with the employer in formulation of internal regulations, process, plans and measures for assurance of occupational safety and hygiene at the business entity
- OSH Committee consists of:
  - Employer’s representative to be the president
  - Union Executive Committee’s representative to be the vice president
  - OSH officer to be the standing member-cum-secretary
  - Medical staff
  - Other related members

## 9.7 OSH PLAN

### OSH LAW ARTICLE 76

- Every year, the employer must develop and implement the OSH plan, including following contents:
  - i. Technical measures for occupational safety and fire safety;
  - ii. Technical measures for occupational hygiene and prevention of harmful factors and improvement of working conditions;
  - iii. Provision of personal protective equipment for employees;
  - iv. Healthcare for employees;
  - v. Propagation and training in occupational safety and hygiene.
- The plan is developed in consultation with the Union Executive Committee and according to following bases:
  - Risk assessment of occupational safety and hygiene at the workplace; control of dangerous or harmful factors and plans for emergency rescue plan;
  - Risk assessment of occupational safety and hygiene at the workplace; control of dangerous or harmful factors and plans for emergency rescue plan;
  - Tasks and orientation of business plan and personnel of the planned year;
  - Requests of employees, the trade union and the Inspectorate.
- If there is any additional work arising in the planned year, they must be added to the OSH plan.

## 9.8 RISK ASSESSMENT

### OSH LAW ARTICLE 77

### CIRCULAR 07/2016/TT-BLDTBXH

Employer must conduct and instruct employees to conduct the risk assessment on OSH before working, during working or when necessary.

- **Risk assessment is carried out:**
  - At the commencement of production or business operation
  - Once per year
  - In case of alteration to materials, technologies, production, occurrence of occupational accidents and technical emergencies that cause severe consequences.
- **Preparation of risk assessment plan:**
  - Identifying risks, scope, date and objectives of risk assessment.
  - Selecting methods of hazards identification, analysis and risk impact.
  - Assigning tasks related to occupational health and safety risk assessment to production departments, workshops, production teams (if any) and workers.
  - Estimating funding for risk assessment.
- **Conducting the risk assessment:**
  - Identifying dangerous and hazardous hazards by:
    - » Analyzing working environment and involved working practices;
    - » Carrying out on-site inspections;
    - » Conducting surveys on factors that may be harmful for workers' injuries or prone to injuries;
    - » Examining documents and records of occupational health and safety such as occupational accident investigation records, technical emergency records, working environment monitoring indices, periodic health examination, records of occupational health and safety inspections and self-inspections.
  - Analyzing risk frequency and potential consequences of identified hazards.
- **Risk assessment summary:**
  - Ranking occupational health and safety risks by severity according to identified hazards.

- Estimating acceptable risks and propose mitigation measures.
- Summarizing risk assessment results; propose measures for preventing occupational accidents and diseases, and improving working environment according to the reality.

• **Instruction of self-assessment of occupational health and safety risks for workers:**

- Identification of risks and hazards at workplaces;
- Application of risk and hazards preventive measures at workplaces;
- Prompt notification to competent persons in charge of technical emergencies that cause damage, occupational accidents or diseases.

## 9.9 EMERGENCY RESCUE PLAN

According to the hazards of occupational accidents or occupational diseases at the workplace and regulations of law, the employer must develop a plan for emergency rescue at the workplace, including following contents:

- Plan for evacuation of employees from the dangerous area;
- Measures for first aid and emergency aid for victims;
- Measures for mitigation and remediation of consequences with consequence caused by the emergency incidents;
- Equipment used for rescue;
- Internal rescue forces; plan for cooperation between internal and external rescue forces, drill plan.

OSH LAW ARTICLE 78

## 9.10 FACILITY REQUIREMENTS

**Number of facilities :**

| Facility                       | Required facilities<br>(By working shift)  | Size of enterprise  |
|--------------------------------|--|---|
| Toilets                        | Max of 10 persons per toilet<br>Max of 20 persons per toilet<br>Max of 30 persons per toilet | 1 - 100 persons<br>101 - 500 persons<br>Above 500 persons |
| Female changing rooms          | Max of 30 women per changing room<br>Above 30 women per changing room                        | 1 - 300 persons<br>Above 300 persons                      |
| Hand washing taps              | Max 20 persons per tap<br>Max 30 persons per tap<br>Above 30 persons per tap                 | 1 - 100 persons<br>101 - 500 persons<br>Above 500 persons |
| Clean water taps for first aid | Max 200 persons per tap<br>Above 200 persons per tap   | 1 - 1,000 persons<br>Above 1,000 persons                  |

DECISION 3733/2002/QĐ-BYT, PART I

## 9.11 FIRE SAFETY

The employer must:

1. Have Internal Regulation for preventing and fighting fires
2. Develop a plan for preventing and fighting fires and have an approved firefighting scheme
3. Keep documents related to firefighting and prevention including certificates for qualified firefighting and prevention (if available)
4. Obtain rating documentation classifying the establishment in terms of firefighting and prevention
5. Identify suitable personnel and make a plan prior to setting up a fire fighting team
6. Obtain written records of fire safety inspections and records of any fire safety violations
7. Keep appropriate records of training for the firefighting team, fire safety communications, and firefighting equipment maintenance
8. Maintain statistics on fires, reports of any action taken to fight fires and any fire records (if applicable)
9. The firefighting team should receive certificates after training on fire prevention and firefighting by the Fire Police and should be retrained annually

CIRCULAR 11/2014/TT-BCA,  
ARTICLE 3 CLAUSE 1

### 9.11.1 FIRE TRAINING, DRILLS AND EVACUATION

The enterprise's fire prevention and firefighting team must be professionally trained and conduct practice drills in coordination with the fire department at least once a year. The enterprise should ensure that its fire prevention and firefighting team obtains certification to demonstrate that they participated in the training. This certification is valid for 2 years. After 2 years, the fire prevention and firefighting team must participate in the training again in order to receive new certification.

There should be at least one fire drill per calendar year involving the local Police or Fire Department. Each drill shall cover one or more situations as described in the fire fighting plan, but it must be ensured that all situations described in the plan are practiced during different drills.

LAW ON FIRE PREVENTION  
AND FIGHTING 27/2001/  
QH10, ARTICLE 4

CIRCULAR 11/2014/TT-BCA,  
ARTICLE 3 CLAUSE 4 AND  
ARTICLE 17 CLAUSE 6

### 9.11.2 INTERNAL REGULATION ON PREVENTING AND FIGHTING FIRES

The enterprise's Internal Regulation on preventing and fighting fires should include the following regulations: (i) management and use of flame sources, heat sources, inflammable materials as well as flame or heat generating equipment and instruments; (ii) prohibited acts and procedures to prevent fires and explosions; (iii) systems maintenance, use of prevention and firefighting systems, and required equipment; (iv) procedures to be carried out in the event of fires or explosions.

CIRCULAR 11/2014/TT-BCA,  
ARTICLE 5 CLAUSE 1

### 9.11.3 EVACUATION MAPS

Instructional diagrams for evacuation and fighting fires must indicate key steps, internal passage systems, exits, water sources and devices for fighting fires. Depending on the nature and characteristics of specific activities, these can be divided into separate instructional diagrams expressing one, or a number, of the above-mentioned items.

CIRCULAR 11/2014/TT-BCA,  
ARTICLE 5 CLAUSE 2

#### 9.11.4 SIGNBOARDS AND INSTRUCTION BOARDS

- There should be 'No-Fire' and 'No-Smoking' notices alongside notices banning obstructions in passages and stairwells, and those prohibiting the use of water for putting out fires
- Notice boards should be located in areas with high risk of fires or explosions or where inflammable materials are used and/or stored
- Instruction boards should specify means of escape, exit directions, exits doors and places where there are emergency telephones, fire extinguishers, surface hydrants, pit hydrants and other fire-fighting equipment

CIRCULAR 66/2014/TT-BCA,  
ARTICLE 5

#### 9.11.5 EMERGENCY EXITS

- Exits must be easy to find and exit paths clearly marked with instructions
- Each site must have a minimum of two fire exits at different locations
- The minimum total width of exits or escape routes must take into account the highest allowable number of people working on any building floor (except ground floor) and must be at least:
  - 0.8m for every 100 persons for building having 1 to 2 floors
  - 1m for every 100 persons for building having 3 floors or above

The minimum allowable widths for an emergency exit is:

- Paths: 1m
- Corridors: 1,4m
- Doors: 0,8m
- Escape routes must be safe and convenient to use, without any risk of obstruction during evacuation
- Escape routes must be easily accessible and have clear directions with visible signage
- Doors located in emergency exits must never be obstructed in any way and should remain closed when not in use. Fire doors should always open outwards of the building (away from the building)
- Door height must be at least 2m

CIRCULAR 07/2010/TT-BXD

TCVN: 2622 – 1995

VIETNAM STANDARD TCVN  
TCVN: 439/BXD-CSXD

#### 9.11.6 REQUIREMENT FOR EXIT SIGNS

Exit signs must be posted on all exit doors and in necessary areas, unobstructed, easy to see, read and understand, and provide clear directions to safe areas. They must be visible and readable even when the main lighting system is switched off and/or disabled.

VIETNAM STANDARD OF  
CONSTRUCTION 439/1997/  
BXD-CSXD

#### 9.11.7 EMERGENCY LIGHTS

Emergency lighting in evacuation routes must be at least 1 lux in strength and at least 1.5 times the level necessary to enable people to escape the premises to a designated safe meeting area. An emergency light must be fixed above all exits, that is visible and with the word "EXIT" clear from a distance of at least 30m.

VIETNAM STANDARD OF  
CONSTRUCTION 439/1997/  
BXD-CSXD

### 9.11.8 FIRE HOSES

- **Fire hoses must be installed at following areas:**
  - Out-door for all production houses, for warehouses with an area of above 50m<sup>2</sup>
  - In-door for production houses and warehouses with an area of 500m<sup>2</sup> and above, or a volume of 2,500m<sup>3</sup> and above.
- **Inspection and maintenance of fire hose system:**
  - Water retention tank must be checked and water pumps (both main and back-up) must be operated every week
  - Fire hoses must be checked (tight connection of joints, functioning valve, testing 1/3 of fire hoses) at least every 6 months
  - All fire hoses must be tested and cleaned every year
  - Fire hoses must be maintained as instructed by manufacturers but at least once per year.

VIETNAM STANDARD TCVN  
2622 – 1995

### 9.11.9 FIRE ALARM SYSTEMS

#### The fire alarm system must be installed in:

- Production house that contains inflammable substances or materials and has from 5,000m<sup>3</sup> in volume
- Material warehouses of potential fire hazards and has from 1,000m<sup>3</sup> in volume

#### The fire alarm system must:

- Be inspected at least twice a year
- Undergo a complete scheduled maintenance service every 2 years
- Have fire alarms that have a different sound from other alarms
- Have a power supply for the fire alarm from 2 independent sources:
  - 220V source
  - Battery backup system, designed to last at least 12 hours in standby mode and 1 hour in operation mode

#### Alarm buttons must be:

- Installed inside and outside the building and mounted on the walls between 0.8 m to 1.5 m in height from the floor
- Installed on all exit routes, and on stair landings in easily visible locations
- Distances between each fire alarm button:
  - Building interior: no more than 50 meters
  - Building exterior: no more than 150 meters and indicated with signs
- Fire alarm buttons can be installed under independent separate circuits or installed with other (independently powered) fire detector devices

VIETNAM STANDARD TCVN  
3890-2009; TCVN 5738 – 2000

### 9.11.10 FIRE EXTINGUISHERS

#### Fire extinguishers must be:

- Fully loaded and placed in defined locations at all times
- Installed in easy to find locations, where they are accessible and ready for immediate use in the event of a fire
- Placed on stands or in designated fire boxes with the exception of portable trolley fire extinguishers
- Free from all obstructions
- Accompanied with easily visible directions and guidance in Vietnamese
- Inspected and certified on a monthly basis

VIETNAM STANDARD 7435-1  
& 2:2004 PCCC

VIETNAM STANDARD  
7890:2009 PCCC



**Arrangement of fire extinguisher:**

- All areas in the factory that have risk of fire, including areas equipped with mobile fire fighting equipments
- Regulations for installing and arranging fire extinguishers must meet the following requirements:

| Level of fire risk | Equipped norm                             | Max distance between fire extinguisher and fire hazard location |                  |
|--------------------|---|---|------------------|
|                    |   | For solid fires   | For liquid fires |
| Low                | 1 fire extinguisher/<br>150m <sup>2</sup> | 20 m  | 15 m             |
| Medium             | 1 fire extinguisher/<br>75m <sup>2</sup>  | 20 m  | 15 m             |
| High               | 1 fire extinguisher/<br>50m <sup>2</sup>  | 15 m  | 15 m             |

- The levels of fire risk are classified as follows (according to the Vietnam Standard no. 7435 - 2:2004)

| Parameter                                      | Level of fire risk |                   |           |
|--|--------------------|-------------------|-----------|
|  | Low                | Medium            | High      |
| Height of the building (m)                     | Up to 25           | No regulation     | Over 25   |
| Quantity of persons                            | Less than 15       | From 15 to 250    | Over 250  |
| Square of building's surface (m <sup>2</sup> ) | Less than 300      | From 300 to 3000  | Over 3000 |
| Inflammable gas (liter)                        | Less than 500      | From 500 to 3000  | Over 3000 |
| Inflammable liquid (liter)                     | Less than 250      | From 250 to 1000  | Over 1000 |
| Accelerant liquid (liter)                      | Less than 500      | From 1000 to 2000 | Over 2000 |

- On the same floor, if the surface is separated into different areas by a wall, fence or other obstructed objects without an entrance, fire extinguishers should be equipped separately and in compliance with the above table
- For ease of replacement, fire extinguisher stocks should be at a minimum of 10% of the total required in the enterprise

**Classification of fire-fighting materials:**

- Type A fire: involving solid (normally organic materials)
- Type B fire: involving liquid or liquefied gas
- Type C fire: involving gas
- Type D fire: involving metals

Factories must be equipped with fire-fighting materials that are appropriate with the nature and danger level of the fire.

## 9.12 ELECTRICAL SAFETY

- Electrical contacts should not be exposed and should be properly grounded.
- Electrical equipment, electrical systems, lightning systems must be checked upon official acceptance, periodically and abnormally according to the electrical safe technical norm and standards. Systems' layouts must be same with the actual and kept together with checking minutes during operation.
- Electrical wires must be installed to ensure the clear space and prevent mechanical and chemical impacts which can cause damages wires.
- At the areas containing flammable and explosible substances, electrical system must be installed in accordance with the fire safety regulation.
- Electrical system must be inspected annually.
- Broken electrical equipment which is not in use should be removed from the system.
- It is prohibited to install electrical panels in the chemical storage or wet areas such as underneath or inside toilets, bath room, kitchen, cleaning or washing areas.
- Electrical switches/ breakers should be labelled to indicate their purpose, electrical contacts should not be exposed.

**ELECTRICAL LAW NO. 28/2001/QH11, ARTICLE 54 & 57**

**VIETNAM CONSTRUCTION STANDARDS, TCVN 439/BXD-CSXD, CLAUSE 3.3.2 ARTICLE 3.2 AND ITEM 4.1.5.1 CLAUSE 4.1.5 ARTICLE 4.1**

**VIETNAMESE STANDARD, TCVN 9208:2012 CLAUSE 4.2 ARTICLE 4**

## 9.13 CHEMICAL SAFETY

### 9.13.1 DEFINITION

Chemicals are chemical elements and/or compounds existing in either natural forms or through production by man-made and/or other chemical reactions.

**CHEMICALS LAW, ARTICLE 30**

### 9.13.2 REQUIREMENTS FOR ENTERPRISES

- Conform to the official rules governing chemical safety
- Have qualified staff trained appropriately to manage the volumes and particularities of the chemicals
- Periodically organize trainings on chemical safety for workers
- Provide timely, accurate and relevant information and instructions on chemical safety to workers and managers
- Establish plans and measures to prevent and deal with chemical problems
- Update and keep archived records on all chemical usage

**CHEMICALS LAW, ARTICLE 30**

### 9.13.3 RESPONSIBILITIES FOR ENSURING CHEMICAL SAFETY

- Train top managers, heads of sections where chemicals are used and employees directly working with hazardous chemicals on the safety requirements and the storage and transportation procedures for hazardous chemicals
- Comply with all legal and regulatory requirements relating to chemical management, firefighting and safety and chemical-related emergency procedures
- Trainees should be granted a training certificate upon passing post-training exams

**DECREE 26/2011/NĐ-CP, ARTICLE 1 CLAUSE 5**

## 9.14 HAZARDOUS CHEMICALS

### 9.14.1 DEFINITION

Hazardous chemicals are chemicals that may be flammable, cause explosions, emit toxic or noxious vapors or gasses, or be powerfully erosive thus endangering human health and/or representing a danger to the environment.

**CHEMICALS LAW, ARTICLE 4**

**DECREE 108/2008/NĐ-CP, ARTICLE 16**

Hazardous chemicals are classified under the following categories:

- Explosives
- Highly-oxidized
- Highly-corrosive
- Inflammable
- Acutely toxic
- Chronically toxic
- Irritants
- Carcinogenic
- With potential to cause genetic damage
- Toxic to reproduction
- Biological accumulates
- Disintegration-resistant organic pollutants
- Toxic to the environment

#### 9.14.2 CHEMICAL SAFETY SHEETS FOR DANGEROUS SUBSTANCES/ MATERIAL SAFETY DATA SHEETS (MSDS)

Producers and importers of specified chemicals need to file a chemical safety sheet when transferring the chemical to receivers. The chemical safety sheet must always be attached to the chemical consignment during its circulation. The MSDS should be in Vietnamese. The MSDS needs to be available in the workplace. This includes wherever the chemical is stored (not just in the office).

**The MSDS contains the following:**

- Identification of chemical
- Identification of hazardous properties of the chemicals
- Information on the composition of substances
- Physical and chemical properties of the chemical
- Stability and activity of the chemical
- Information on toxicity
- Ecological information
- First-aid measures
- Fire-fighting measures
- Incident prevention and response measures
- Storage requirements
- Effects on humans and requirements for personal protection devices
- Requirements on disposal of the chemical
- Requirements on transportation
- Applicable technical regulations and laws
- Other necessary information.

CHEMICALS LAW, ARTICLE 29  
CLAUSE 3

CIRCULAR 28/2010/TT-BCT,  
ARTICLE 40 CLAUSE 5

### 9.14.3 LABELING

Labels for hazardous chemicals need to follow the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). For other types of chemicals the labeling should follow the legal requirements on merchandise labeling.

CHEMICALS LAW, ARTICLE 35  
CLAUSE 3, 4 & 5

CIRCULAR 04/2012/TT-BCT

### 9.14.4 PACKAGES, BARRELS AND TANKS USED FOR HAZARDOUS CHEMICALS

Packages, barrels and tanks carrying hazardous chemicals must be sealed and have the name of the contents clearly indicated. Warning notices must be visible and state the hazardous properties of the chemical.

VIETNAM STANDARDS TCVN  
5507:2002, SECTION 4.4

DECREE 26/2011/ND-CP

### 9.14.5 STORING HAZARDOUS CHEMICALS

- Chemicals must be stored in specialized chemical storage warehouses and equipment used to work with chemicals must be managed by suitably qualified people
- Warehouses and equipment for hazardous chemicals must meet legal requirements and observe best practices on safety, fire and explosion prevention
- Notices must be posted in prominent locations listing safety regulations and providing guidance on safety measures for the staff working in storage areas. This must be in accordance with the properties of the related chemicals
- Equipment in warehouses must undergo scheduled inspections to ensure compliance with safety requirements
- Persons coming in and out of chemical storage areas must be checked and registered in a registration book
- Workshops and warehouses in establishments storing or using hazardous chemicals must be located a safe distance from residential areas, public access areas and water sources
- Work areas and storage areas must be fitted with mechanical ventilation systems
- Hazardous chemical storage areas must be kept dry and weatherproof and be fitted with lightning conductors. These safety systems must be inspected and certified in accordance with legal requirements
- Hazardous chemicals must be stored in secure storage facilities. For safety reasons, storage areas should be arranged for each category of chemical elements. Chemicals should not be stacked in adjacent areas where close proximity may cause one to react with another to create a hazard, or that may require different methods of firefighting or response in the event of an emergency
- Exteriors of workshops, storage area buildings and/or enclosures should post easily visible and readable signs to warn members of the public of the presence of potentially hazardous materials (For example: "Warning, Hazardous Chemicals! No Fires!, No Smoking!" and other notices)
- Aisles between chemicals stacked and/or shelved in storage areas should be at least 1.5m wide. Stacks and shelving should not be above 2 meters in height
- At each workshop, activities related to hazardous chemicals must have detailed guidelines containing easily readable procedures and safety operations

CHEMICAL LAW, ARTICLE 21  
& 34

VIETNAMESE STANDARD,  
TCVN 5507:2002, CLAUSE 6

### 9.14.6 DISPOSAL OF HAZARDOUS CHEMICALS

- Strict legal regulations on the destruction, elimination or treatment of hazardous chemicals, packages of hazardous chemicals, unused chemicals, spoiled or expired chemicals, and other waste chemicals must be followed

VIETNAM STANDARDS TCVN  
5507:2002, SECTION 8

- Spoiled or expired chemicals, spilled chemicals, and other waste chemicals should be collected and kept in a defined isolated area for treatment using appropriate methods as required within current legislation, avoiding risk of pollution and/or environmental damage
- Waste storage areas should be located away from production processing areas, residential areas, and the local community and water sources

### 9.14.7 TRAINING FOR WORKERS AT RISK OF EXPOSURE TO HAZARDOUS CHEMICALS

Workers at risk of exposure to hazardous chemicals must be trained and issued with safety cards covering the areas of safety, sanitation, and appropriate responses to chemical spills and other emergencies.

CIRCULAR 36/2014/TT-BCT  
 CIRCULAR 44/2016/TT-BLĐT BXH  
 VIETNAMESE STANDARD,  
 TCVN 5507:2002, CLAUSE 4.14

### 9.14.8 OBLIGATIONS OF ENTERPRISES

Establishments using, producing and/or storing chemicals must:

- Install and maintain necessary equipment for ventilation, temperature control, sunlight control, fire prevention, flame prevention, pressure reduction, hazard prevention, decontamination, neutralization, humidity prevention, lightning prevention, static electricity prevention, disinfection, and leakage prevention
- Provide adequate and well-maintained personal protective equipment. It is prohibited for workers to use worn, badly maintained or damaged equipment
- Conduct scheduled annual health check-ups for workers. Check-ups will monitor chemical levels in patients, with the aim of identifying any related health problems and enable any necessary

VIETNAM STANDARDS TCVN  
 5507:2002, POINT 4.16 & 8.3  
 DECREE 26/2011/ND-CP

## 9.15 DORMITORIES

### Minimum requirements for dormitories:

- Rooms must be at least 9m<sup>2</sup>
- Rooms must be at least 2.40m wide and 2.70m high
- Average space for each person must be at least 3m<sup>2</sup>
- Doors must be at least 0.75m wide and fitted with locks
- Windows must have secure and safe frames
- Each person must have their own bed
- Adequate lighting must be provided in all rooms

### Requirements for electrical supplies:

- Electrical wiring must be safe
- There must be exterior lighting outside all dormitory rooms at night

### Requirements for water supplies:

- Each person must have a minimum of 75 liters of fresh water available for their daily use

DECISION 17/2006/QĐ-BXD,  
 ARTICLE 4

- Water must be filtered if the supply comes from a drilled well

**Requirements on water discharge:**

- Water must be allowed to drain via secure pipe work connected to the municipal water discharge system of the area

**Requirements for fire safety:**

- Storage tanks holding sufficient volumes of water must be provided on the premises for the purpose of fighting fires
- Other firefighting equipment must also be available, as appropriate

## 9.16 DRINKING WATER

- Employers must send drinking water samples to the relevant provincial/municipal centers for testing once per month. The testing frequency of different parameters varies, some have to be tested every month, some only once per 2 years
- Employers must provide 1.5 liters of water per person for every work shift

QCVN 01/2009/BYT

## 9.17 FOOD SAFETY AND HYGIENE

- The employer must meet food safety standards in the kitchen;
- Food safety and hygiene inspection reports must be obtained from the health department every 3 months;
- Cooking staff must be appropriately trained and possess a training certificate related to food safety;
- Cooking staff must undergo medical check-ups once per year.;
- Cooking staff must use protective clothing, hats, gloves and masks while working;
- Cooking staff must practice hygienic personal procedures such as maintaining clean and well-cut nails and not smoking or spitting in food processing areas;
- The food processing area must be set up in a way that food flows in one direction from the raw materials preparation area, to the cooking area and finally to the cooked food plating area;
- Cooked foods must be covered and cannot be placed together with any raw ingredients and must be placed on tables or shelves at least 60cm off of the ground;
- The canteen must be well ventilated and furnished with enough dining tables and chairs. It must have at least 1 hand washing sink for every 50 diners and 1 toilet for every 25 diners. The toilet shall not be located in or near the food processing area;
- Food samples should be retained for 24 hours after serving for identification in the event of any cases of food poisoning.

CIRCULAR 30/2012/TT-BYT,  
ARTICLE 4

CIRCULAR 15/2012/TT-BYT,  
ARTICLE 3

JOINT CIRCULAR 13/2014/  
TTLT-BYT-BNNPTNT-BCT,  
ARTICLE 12

# 10 WORKING HOURS AND REST TIME

## 10.1 REGULAR HOURS

| Maximum hours   | Per day  | Per week                           |
|---|--|------------------------------------|
| Regular employees   | 10 hours   | 48 hours                           |
| Pregnant employees doing hazardous work reaching 7 months of pregnancy, mothers nursing children under 12 months of age, elderly during the last year before retirement | Regular working hours minus 1 hour   | Regular working hours minus 1 hour |
| Young employees   | 8 hours  | 40 hours                           |
| Elderly employees (men older than 60 and women older than 55)   | Reduce the daily working hours or allow these workers to work on a part-time basis |                                    |

LABOR CODE, ARTICLE 104, 155 & 166

DECREE 45/2013/ND-CP, ARTICLE 3 CLAUSE 10

## 10.2 REST TIME

### 10.2.1 WEEKLY REST DAYS

- Employees are entitled to have one day off per week (24 consecutive hours) on a Sunday or another specified day
- The weekly day off must be stated in Internal Regulations and in the CBA
- If an employee decides to work overtime on their weekly rest day in a particular week, then the employer must ensure that the employee has at least 4 days off during the calendar month

LABOR CODE, ARTICLE 110

### 10.2.2 PAID BREAKS

The following requirements apply to paid breaks:

| Working time or type of shift                        | Break time |
|--|------------|
| 8 consecutive hours of work                          | 30 minutes |
| More than 2 hours of overtime                        | 30 minutes |
| During night shifts with 8 or more consecutive hours | 45 minutes |

LABOR CODE, ARTICLE 108

DECREE 45/2013/ND-CP, ARTICLE 5 CLAUSE 2

**Illegal Practice:** Starlight Factory arranged for employees to work overtime from 4:30 - 8:30pm. The factory allowed for a 30 minute dinner break, but did not calculate it as part of the overtime working hours. Breaks during overtime must be paid as overtime. In this case, the 30 minute dinner break should be calculated as overtime hours with overtime pay.

## 10.3 OVERTIME

Overtime work is permitted based on agreement but must not exceed the following limits:

| Type                           | Normal condition                       | Hazardous work (including garment) |
|--------------------------------|--|------------------------------------|
| Per day                        | 50% of the daily regular working hours |                                    |
| Per weekly rest day or holiday | 12 hours                               | 12 hours                           |
| Per month                      | 30 hours                               | 30 hours                           |
| Per year                       | 200 hours                              | 300 hours                          |

LABOR CODE, ARTICLE 106

DECREE 45/2013/ND-CP, ARTICLE 4 CLAUSE 1

CIRCULAR 54/2015/TT-BLDTBXH

## 10.4 NIGHT SHIFTS

Night work is defined as work between 10pm to 6am.

LABOR CODE, ARTICLE 105

## 10.5 FEMALE EMPLOYEES

### 10.5.1 SPECIAL WORK AND REST TIME CONDITIONS

Female employees are entitled to additional paid time off as follows:

| Type   | Hazardous hours (including garment)         |
|--|---|
| During menstruation (monthly period)   | 30 minutes/day in at least 3 days per month |
| During the seventh month of pregnancy or when nursing a child under 12 months of age | 60 minutes/day                              |

LABOR CODE, ARTICLE 155

DECREE 85/2015/ND-CP,  
ARTICLE 7, CLAUSE 2

**Note:** It is forbidden for female employees who are 7 or more months pregnant or nursing a child under 12 months of age, to work at night or to work overtime, or to work in remote locations.

### 10.5.2 MATERNITY BENEFITS

| Type   | Permitted Leave   | Details   |
|--|---|---|
| Pre-natal (pregnancy) examination                  | 5 times<br>(1 time = 1 day)   |   |
| In the case of miscarriage, abortion or stillbirth | 10 – 50 days depending on the age of the fetus  |   |
| If a newborn child dies                            | - 90 days if the child is under 60 days of age<br>- 30 days if the child is 60 days or older                        | - Paid by social insurance agency based on full salary<br>- The employee and employer are not required to pay SI premiums   |
| When taking contraceptive measures                 | 7 – 15 days depending on the kind of contraceptive measures   |   |
| Infant adoption                                    | Until the child is four months old  | - Paid by social insurance agency based on full salary  |
| Normal delivery                                    | - 6 months<br>- If twins or more children: there is an additional entitlement of 1 month for each additional infant | - The employee and employer are not required to pay SI premiums during the period of maternity leave<br>- Lump-sum allowance: 2 months of general minimum salary for each child |
| Recovering or convalescent after confinement       | 5 – 15 days in a year   | 25% or 40% general minimum salary   |

LABOR CODE, ARTICLE 157

SOCIAL INSURANCE LAW  
2014, ARTICLE 31 – 38

**Note:** In case of female workers giving birth who need to take a leave during pregnancy for pregnancy care as prescribed by a competent health establishment, the period of paying social insurance premiums reduced to at least full 3 months within 12 months before childbirth.



### **Example: Maternity allowance**

Ms. Phan Thi B has worked as a regular employee in Tip Top Factory since May 2014 with a salary of 3,100,000 VND/month. On 9 June, 2015, Ms. Phan will start maternity leave and will receive the following benefits:

Duration for maternity leave is 6 months from 9 June, 2015

**One off allowance (paid by SI agency):** 1,150,000 VND (general minimum wage) x 2 months = 2,300,000 VND

**Allowance (paid by SI agency):** 3,100,000 VND (Contract wage) x 6 months = 18,600,000 VND

### **10.5.3 PATERNITY LEAVE**

**SOCIAL INSURANCE LAW  
2014, ARTICLE 34**

Within 30 days of childbirth, the father worker is entitled to paternity leave of:

- 5 working days
- 7 working days if surgical birth or birth before 32 weeks of pregnancy
- 10 working days if twin birth, and 3 more working days for each infant from the third on
- 14 working days if twin or multiple birth by surgery

# APPENDICES

## APPENDIX 1: REGION BASED MINIMUM WAGES (SECTION 7.2)

Regulations on the regions for minimum wages applied from 01/01/2017.

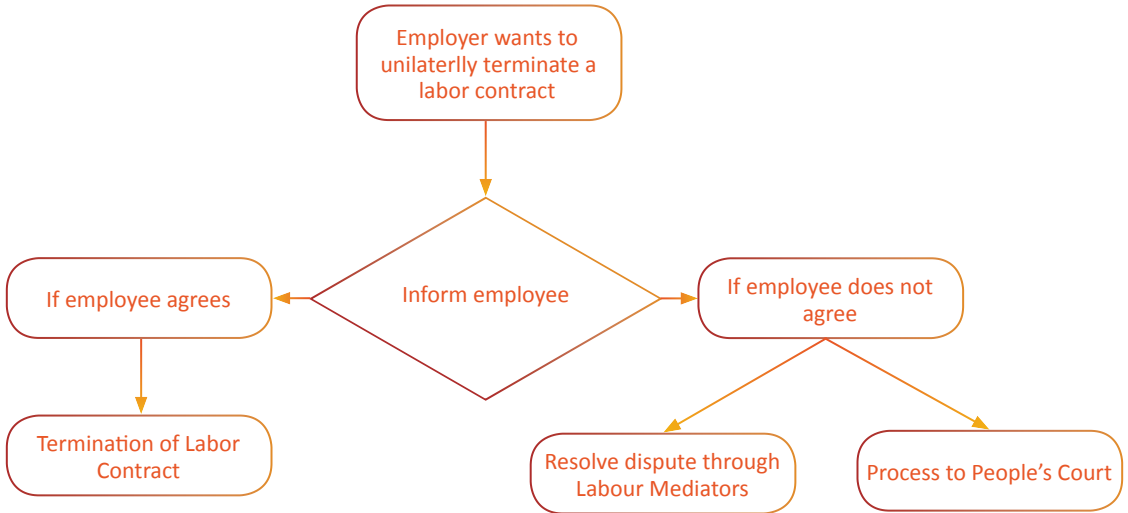
| Regions | Location  |
|---------|---|
| I       | <ul style="list-style-type: none"> <li>- Gia Lam, Dong Anh, Soc Son, Thanh Tri, Thuong Tin, Hoai Duc, Thach That, Quoc Oai, Thanh Oai, Me Linh, Chuong My district and Son Tay town of Hanoi City;</li> <li>- Thuy Nguyen, An Duong, An Lao and Vinh Bao district of Hai Phong City;</li> <li>- Cu Chi, Hoc Mon, Binh Chanh and Nha Be district of Ho Chi Minh City;</li> <li>- Bien Hoa City, Nhon Trach, Long Thanh, Vinh Cuu and Trang Bom district of Dong Nai Province;</li> <li>- Thu Dau Mot City, Thuan An, Di An, Ben Cat and Tan Uyen town, Bau Bang and Bac Tan Uyen district of Binh Duong province</li> <li>- Vung Tau City of Ba Ria – Vung Tau province.</li> </ul>  |
| II      | <ul style="list-style-type: none"> <li>- The remaining districts of Hanoi City;</li> <li>- The remaining districts of Hai Phong City;</li> <li>- Hai Duong City of Hai Duong province;</li> <li>- Hung Yen City, My Hao, Van Lam, Van Giang and Yen My district of Hung Yen province;</li> <li>- Vinh Yen City, Phuc Yen town, Binh Xuyen and Yen Lac district of Vinh Phuc province;</li> <li>- Bac Ninh City, Tu Son town, Que Vo, Tien Du, Yen Phong and Thuan Thanh district of Bac Ninh province;</li> <li>- Ha Long, Cam Pha, Uong Bi and Mong Cai city of Quang Ninh province;</li> <li>- Thai Nguyen City of Thai Nguyen province;</li> <li>- Viet Tri City of Phu Tho province;</li> <li>- Lao Cai City of Lao Cai province;</li> <li>- Nam Dinh city and My Loc district of Nam Dinh Province;</li> <li>- Ninh Binh City of Ninh Binh province;</li> <li>- Hue city of Thua Thien – Hue province;</li> <li>- Districts of Da Nang city;</li> <li>- Nha Trang and Cam Ranh city of Khanh Hoa province;</li> <li>- Da Lat and Bao Loc city of Lam Dong province;</li> <li>- Phan Thiet City of Binh Thuan Province;</li> <li>- Can Gio district of Ho Chi Minh City;</li> <li>- Tay Ninh city, Trang Bang and Go Dau district of Tay Ninh province;</li> <li>- Long Khanh town, Dinh Quan and Xuan Loc district of Dong Nai province;</li> <li>- The remaining districts of Binh Duong province;</li> <li>- Dong Xoai town and Chon Thanh district of Binh Phuoc province;</li> <li>- Ba Ria City and Tan Thanh district of Ba Ria – Vung Tau province;</li> <li>- Tan An City, Duc Hoa, Ben Luc, Can Duoc and Can Giuoc district of Long An province;</li> <li>- My Tho City of Tien Giang province;</li> <li>- Districts of Can Tho City;</li> <li>- Rach Gia City, Ha Tien town and Phu Quoc district of Kien Giang province;</li> <li>- Long Xuyen and Chau Doc City of An Giang province;</li> <li>- Ca Mau City of Ca Mau province</li> </ul> |
| III     | <ul style="list-style-type: none"> <li>- The remaining provincial cities (except those of region I and region II);</li> <li>- Chi Linh town, Cam Giang, Nam Sach, Kim Thanh, Kinh Mon, Gia Loc, Binh Giang and Tu Ky district of Hai Duong province;</li> </ul>   |

| Regions | Location   |
|---------|--|
| III     | <ul style="list-style-type: none"> <li>- Vinh Tuong, Tam Dao, Tam Duong, Lap Thach and Song Lo district of Vinh Phuc province;</li> <li>- Phu Tho town, Phu Ninh, Lam Thao, Thanh Ba and Tam Nong district of Phu Tho province;</li> <li>- Gia Binh and Luong Tai district of Bac Ninh province;</li> <li>- Viet Yen, Yen Dung, Hiep Hoa, Tan Yen and Lang Giang district of Bac Giang province;</li> <li>- Quang Yen, Dong Trieu town and Hoanh Bo district of Quang Ninh province;</li> <li>- Bao Thang and Sa Pa district of Lao Cai province;</li> <li>- The remaining districts of Hung Yen province;</li> <li>- Pho Yen town and Phu Binh, Phu Luong, Dong Hy and Dai Tu district of Thai Nguyen province;</li> <li>- The remaining districts of Nam Dinh province;</li> <li>- Duy Tien and Kim Bang district of Ha Nam province;</li> <li>- Gia Vien, Yen Khanh and Hoa Lu district of Ninh Binh province;</li> <li>- Luong Son district of Hoa Binh province;</li> <li>- Bim Son town and Tinh Gia district of Thanh Hoa province;</li> <li>- Ky Anh town of Ha Tinh;</li> <li>- Huong Thuy, Huong Tra town, Phu Loc, Phong Dien, Quang Dien and Phu Vang district of Thua Thien- Hua province;</li> <li>- Dien Ban town and Dai Loc, Duy Xuyen and Nui Thanh district of Quang Nam province;</li> <li>- Binh Son and Son Tinh district of Quang Ngai province;</li> <li>- Song Cau town and Dong Hoa district of Phu Yen province;</li> <li>- Ninh Hai and Thuan Bac district of Ninh Thuan province;</li> <li>- Ninh Hoa town, Cam Lam, Dien Khanh and Van Ninh district of Khanh Hoa province;</li> <li>- Dak Ha district of Kon Tum province;</li> <li>- Duc Trong and Di Linh district of Lam Dong province;</li> <li>- La Gi town, Ham Thuan Bac and Ham Thuan Nam district of Binh Thuan province;</li> <li>- Phuoc Long, Binh Long town, Dong Phu and Hon Quan district of Binh Phuoc province;</li> <li>- The remaining districts of Tay Ninh province;</li> <li>- The remaining districts of Dong Nai province;</li> <li>- Long Dien, Dat Do, Xuyen Moc, Chau Duc and Con Dao district of Ba Ria - Vung Tau province;</li> <li>- Kien Tuong town, Thu Thua, Duc Hue, Chau Thanh, Tan Tru and Thanh Hoa district of Long An province;</li> <li>- Go Cong and Cai Lay town and Chau Thanh and Cho Gao district of Tien Giang province;</li> <li>- Chau Thanh district of Ben Tre province;</li> <li>- Binh Minh town and Long Ho district of Vinh Long province;</li> <li>- Districts of Can Tho City;</li> <li>- Kien Luong, Phu Quoc, Kien Hai, Giang Thanh and Chau Thanh district of Kien Giang province;</li> <li>- Tan Chau town and Chau Phu, Chau Thanh and Thoai Son district of An Giang province;</li> <li>- Nga Bay town and Chau Thanh, Chau Thanh A district of Hau Giang province;</li> <li>- Gia Rai town of Bac Lieu</li> <li>- Vinh Chau and Nga Nam town of Soc Trang;</li> <li>- Nam Can, Cai Nuoc, U Minh and Tran Van Thoi district of Ca Mau province.</li> </ul> |
| IV      | Covering the remaining localities  |

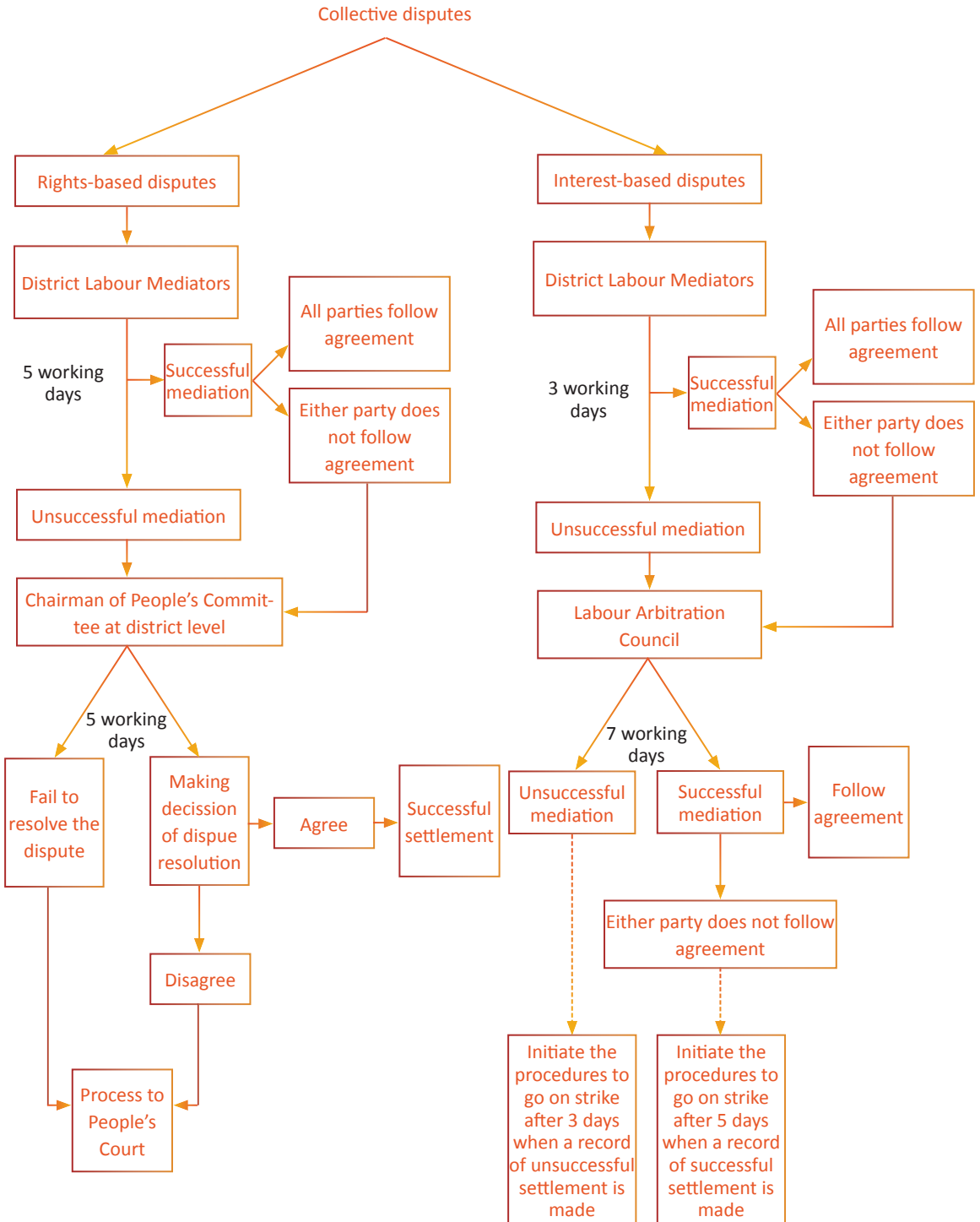
## APPENDIX 2: LIST OF DISEASES REQUIRING LONG-TERM TREATMENT (SECTION 7.13.5)

- Types of Tuberculosis
- Mental illness
- Epilepsy
- Chronic heart failure, chronic heart defects
- Leprosy
- Chronic Arthritis
- Cancer
- Other endocrine diseases.
- Cerebral Vascular accidents
- War injuries
- Specific surgical procedures

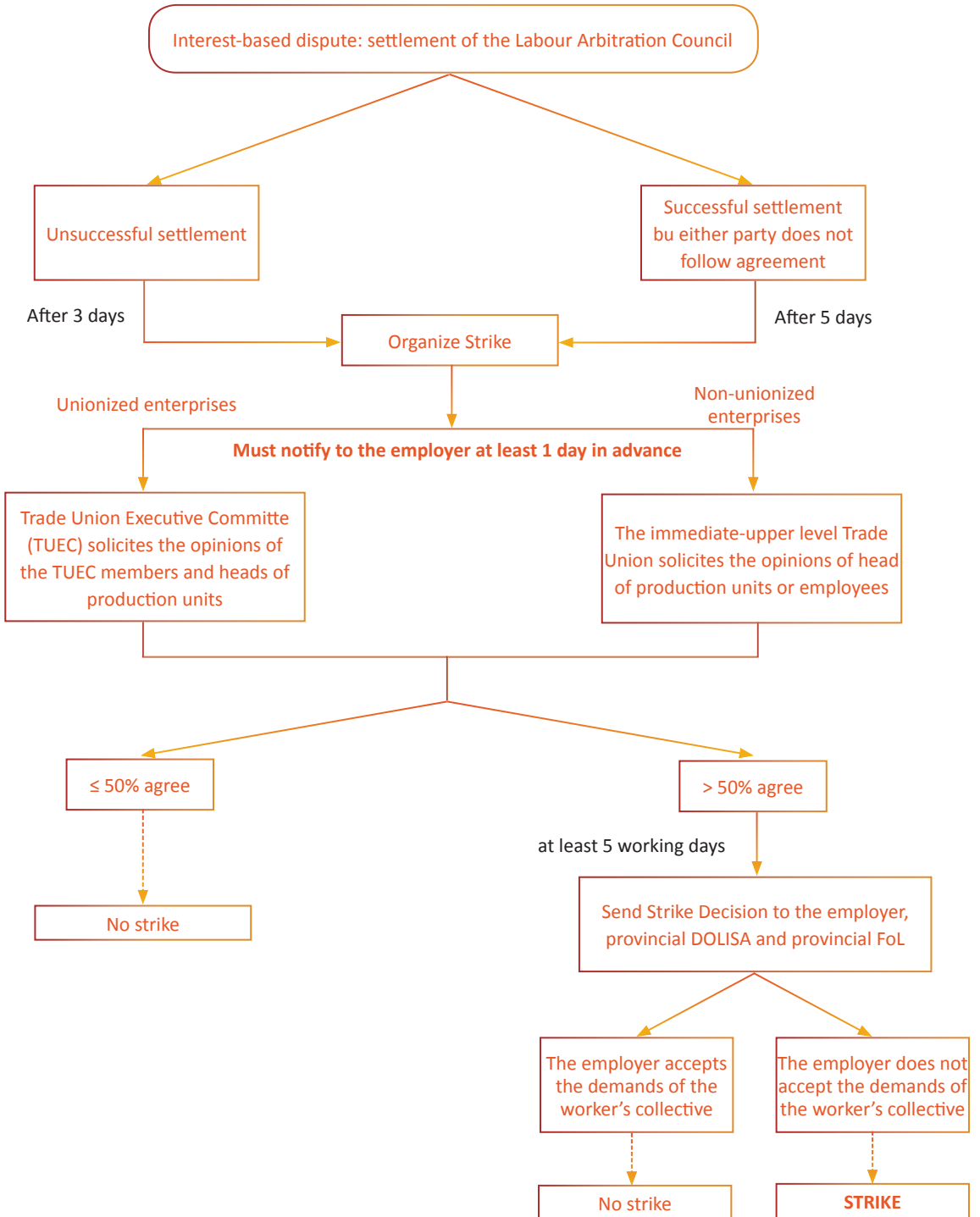
APPENDIX 3: PROCEDURES FOR UNILATERALLY TERMINATING A LABOR CONTRACT (SECTION 8.6.2.3)



APPENDIX 4: PROCEDURE FOR SETTLEMENT OF A COLLECTIVE DISPUTE (SECTION 4.2)



**APPENDIX 5: PROCEDURE FOR A LAWFUL STRIKE (SECTION 4.3)**



## APPENDIX 6: OSH GOOD PRACTICE EXAMPLES



### CHEMICALS

- Label chemicals with clear markings in Vietnamese
- Post MSDS where chemicals are used
- Conduct training for employees who work with chemicals
- Provide employees with protective clothing, gloves, glasses and/or masks, and other necessary equipment



### CANTEEN

- Keep food samples for 24 hours (for investigation in case of food poisoning)
- Ensure that food is kept clean and is carefully covered
- Ensure that food is cooked and prepared in sanitary conditions and that cooked food is not placed near raw ingredients which could cause contamination
- Train canteen staff on food hygiene and safety



### MACHINES

- Ensure that all sewing machines have needle guards
- Install pulley guards and eye guards
- Regularly check and register air compressors and boilers



### SANITATION

- Repair broken toilets and toilet doors
- Mark toilet doors for separate use of men and women
- Provide a washing facility near toilets
- Ensure adequate ventilation to reduce odors



### ELECTRICAL

- Install internal covers
- Provide insulated pads to avoid electrical shocks
- Keep electrical wiring safe
- Post safety signs on electrical switch boxes





### FIRE EXTINGUISHERS

- Clear any obstructions
- Provide visible and easily readable directions at the location of the
- Ensure that operating instructions are in Vietnamese
- Keep monthly records for inspection and ensure equipment is fully charged



### EMERGENCY EXITS

- Ensure exit paths are clearly marked and at least > 1 m in width
- Ensure all routes are unobstructed
- Ensure all floor surfaces are non-slip
- Post clear signs for exit routes
- Ensure exit doors are always unlocked, unobstructed and open outwards from the building



### EVACUATION MAPS

Provide an evacuation plan clearly displayed in visible locations, for each working area, containing the following information:

- Location of exit doors
- Location of exit paths
- Location of fire extinguishers
- Location of alarms
- Location of first aid kits
- Location relevant to this evacuation plan (i.e. 'you are here' markings)
- Exit arrows



### FIRST AID

- List first aid procedures
- Ensure first aid kits are checked and contain all necessary equipment
- Ensure kits are appropriately sized for the number of employees, clearly marked and easily accessible

## APPENDIX 7: FOREIGN EMPLOYEES

### 1. HIRING FOREIGNERS

Foreigners working in Vietnam must satisfy all of the following conditions:

- Must be at least 18 years of age
- Must be in good health to satisfy job requirements
- Must be a manager or an expert
- Must not be sentenced to imprisonment or have any criminal liability
- Must have work-permit except legally-allowed exceptions (stipulated in Article 172 of Labor Code)

LABOR CODE, ARTICLE 169 & 172

DECREE 102/2013/NĐ-CP, ARTICLE 9

### 2. APPLICATION PROCESS FOR WORK PERMITS FOR FOREIGNERS

| For employees |  |  |
|---------------|--|--|
| No.           | Items  | Remark                                     |
| 1             | Application form   | Using template issued by Ministry of Labor |
| 2             | No criminal record   | Must be legalized and notarized.           |
| 3             | Curriculum Vitae   |  |
| 4             | Copies of Passport   |  |
| 5             | Copies of Certificates of Specialization   |  |
| 6             | Letter requiring the approval of foreign employee hiring by Provincial People's Committee Chairman |  |
| 7             | Health Certificate   |  |
| 8             | 2 color photos (4x6cm)   |  |
| For employer  |  |  |
| 1             | Letter requiring the issuance of a work permit   | Using template issued by Ministry of Labor |
| 2             | Invoice for recruitment when using a labor agency  |  |

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The duration of work permit can be no longer than two (2) years.

**APPENDIX 8: TEMPORARY LIST: “Occupation, hard, toxic, dangerous works” (Working condition type IV) and “Occupation, extremely hard, toxic, dangerous works”. (Working condition type V, VI) (Enclosed the Decision no. 1629/LDTBXH-QD dated on 26th December, 1996) (Section 7.13.2)**

**XII. TEXTILE**

| No                         | Occupation or work   | Working conditions  |
|----------------------------|--|---|
| Working conditions type IV |  |   |
| 1                          | Operating cotton feeders and carding machines.                                 | Arduous works; under the impact of heat, noise, and dust.   |
| 2                          | Operating spinning line.   | Standing to walking throughout the shift; under the impact of noise, heat, and dust.                        |
| 3                          | Cleaning carding machines, thread production, weaving, and dyeing line.        | Manual works; static working posture; under the impact of heat, dust, and grease.                           |
| 4                          | Feeding thread to spinning machines.   | A lot of travel, monotonous and fast-paced works; under the impact of noise and dust.                       |
| 5                          | Operating textile sizing machines.   | Arduous and dangerous works; under the impact of heat and dust.   |
| 6                          | Operating weaving machines.  | Static working posture; under the impact of heat, dust, and noise.  |
| 7                          | Operating cloth drying machines.   | Arduous works; static working posture, under the impact of heat, noise and toxic chemicals.                 |
| 8                          | Operating singeing machines, bleaching cloth with NaOH, Cl <sub>2</sub> .      | Arduous works; static working posture, under the impact of toxic chemicals.                                 |
| 9                          | Moving packages of cotton, cloth, rolls of threads, cloth, chemicals, and dye. | Manual and very arduous works; under the impact of dust.  |
| 10                         | Operating combined washing and dyeing machines.                                | Under the impact of heat, noise, and toxic chemical.  |
| 11                         | Operating cloth printers.  | Under the impact of heat, noise, and toxic chemical.  |
| 12                         | Operating epilators.   | Static working posture; under the impact of heat, noise, and very thick dust.                               |
| 13                         | Dyeing, steaming yarn and synthetic fiber.                                     | Under the impact of heat, bleaches, and dyes.   |
| 14                         | Manually weaving yarn.   | Arduous and monotonous works; static working posture, under the impact of dust.                             |
| 15                         | Washing jeans.   | Under the impact of heat, dust, and toxic chemical.   |
| 16                         | Operating industrial sewing machines.  | Static working posture; monotonous works which cause optical strain and stress.                             |
| 17                         | Repairing thread rolling, weaving, and dyeing machines in the facility.        | Static working posture; in contact with grease; under the impact of heat, dust, noise, and toxic chemicals. |
| 18                         | Casting lead   | Static working posture; under the impact of heat and lead gas.  |
| 19                         | Grinding paper rolls.  | Static working posture; under the impact of noise and very thick dust.                                      |

**APPENDIX 9: TEMPORARY LIST: “Occupation, hard, toxic, dangerous works” (Working condition type IV) and “Occupation, extremely hard, toxic, dangerous works”. (Working condition type V, VI) (Enclosed the Decision no. 1152/2003/QĐ-LĐTBXH dated on 18th September, 2003) (Section 7.13.2)**

**E. TEXTILE**

| No.                        | Names of occupation or works  | Characteristics on working conditions of occupation or works   |
|----------------------------|---|--|
| Working conditions type IV |   |  |
| 1                          | Operating and providing materials for seed separator, cotton mill.                | Restrictive working posture; affected by noise and cotton dust beyond the permissible standards.   |
| 2                          | Packaging seeds manually.   | Hard work; affected by cotton dust, heat and noise.  |
| 3                          | Operating compressors for packaging cotton.                                       | Standing and walking throughout work shift; affected by cotton dust and noise beyond the permissible standards.  |
| 4                          | Unloading returned-cotton in the weaving line.                                    | Hard work; affected by cotton dust and noise beyond the permissible standards.   |
| 5                          | Operating quilling machine, loading quills, removing quills.                      | Standing and walking throughout the work shift, monotonous work, high labor rhythm; affected by cotton dust, heat, and noise beyond the permissible standards. |
| 6                          | Operating weaving loom, sizing machine.   | Monotonous work with high visual concentration; affected by cotton dust, heat, and noise.  |
| 7                          | Spinning wool.  | Affected by cotton dust and noise.   |
| 8                          | Trimming, repairing wool carpet.  | Meticulous work with high visual concentration; affected by dust.  |
| 9                          | Operating yarn spinning machines.   | Standing and walking a lot; affected by cotton dust and noise.   |
| 10                         | Supplying thread for the coarse machine.  | Travelling throughout the shift, monotonous work, and high labor rhythm, affected by cotton dust, heat, and high noise.  |
| 11                         | Taking yarn of the pipe threading machine.  | Standing and walking throughout shift, affected by cotton dust, heat, and high noise.  |
| 12                         | Operating air-jet weaving machine, water-jet weaving machine.                     | Standing and walking a lot; restrictive labor positions; affected by cotton dust and heat.   |
| 13                         | Operating the circular knitting machine.  | Restrictive labor posture; affected by cotton dust and heat.   |
| 14                         | Connecting, removing weaving machine’s shaft.                                     | Standing and walking throughout work shift; affected by cotton dust, heat, and high noise.   |
| 15                         | Operating warper, sizing machines, textile line.                                  | Hard work, affected by cotton dust, heat, and high noise.  |
| 16                         | Straight draft in the textile line.   | Manual monotonous work with high visual concentration; affected by cotton dust and heat.   |
| 17                         | Pouring oil into the weavers, twister, sizing machines.                           | Manual work, restrictive labor positions, exposed to grease; affected by cotton dust, heat, noise.   |
| 18                         | Cook glue in the line of textile, dyeing.   | Hard work; affected by heat, noise, humidity and chemical vapor.   |
| 19                         | Operating the machine of preventing fabric shrink (Sanfor) in the line of dyeing. | Affected by high temperatures and chemical vapor.  |

| No.                        | Names of occupation or works  | Characteristics on working conditions of occupation or works  |
|----------------------------|---|---|
| Working conditions type IV |   |   |
| 20                         | Operating cloth-polishing machine in the dyeing line.   | Work hard, restrictive labor positions, affected by temperature, chemical of dyes.  |
| 21                         | Making grid axis in the dyeing process.   | Restrictive labor posture, affected by chemical vapor and dust.   |
| 22                         | Sewing buttonholes, buttons (buttons) in the industrial garment.  | Monotonous work, visual nerve stress, and mental fatigue; affected by the heat and dust.  |
| 23                         | Operating form blower in the sewing line.   | Standing and walking throughout the work shift, affected by heat, humidity.   |
| 24                         | Cutting fabric in the sewing technology.  | Standing throughout the work shift, visual nerve stress, and mental fatigue; affected by the heat and dust of cotton.                 |
| 25                         | Transport of fabric, yarn in the raw materials storage, product storage and between the stages of the lines of spinning, weaving, dyeing, and sewing. | Hard manual work, standing, walking throughout the work shift; affected by cotton dust, heat, and high noise.                         |
| 26                         | Sewing, testing pleating in the textile line.   | Monotonous work, visual nerve stress, standing throughout the work shift; affected by heat, dust, and chemical smell.                 |
| 27                         | Packaging in the textile, weaving line.   | Work hard, restrictive labor positions; affected by cotton dust, heat and high noise.   |
| 28                         | Industrial hygiene in the factories of spinning, weaving, dyeing, garment. Cleaning the factory floors of dyeing, flower printing.                    | Manual work, restrictive labor positions, affected by noise, heat, cotton dust, grease, cleaning chemicals and industrial waste.      |
| 29                         | Sharpened leather and maintenance of leather bobbin (rubber); changing, dismantling, gluing leather.  | Frequently exposed to rubber dust and solvents, toxic chemicals.  |
| 30                         | Repairing electricity in the dyeing line.   | Restrictive labor positions, working in the hot, wet environments, hot; contacting with NH <sub>3</sub> , bleaching, dyeing chemical. |
| 31                         | Repairing and manufacturing textile machine comb.   | Affected by rust dust, hot asphalt vapor, glue, and chemicals.  |
| 32                         | Testing and analyzing chemicals, dyes.  | Frequently exposed to toxic chemicals; high temperature, humidity.  |