

LAW OF THE SOCIALIST REPUBLIC
OF VIET NAM

LABOUR CODE

(Amended and supplemented in 2002)

PREAMBLE

Labour is the most important human activity creating society's material riches and spiritual values. Labour of a high level of productivity, quality and efficiency is the determining factor in national development.

Labour law lays down the rights and obligations of workers and employers, labour standards, the principles of labour utilization and administration; contributes to the uplift of production, and therefore holds an important place in social life and in the legal system of the nation.

Inheriting and developing the labour legislation enacted in our country since the August Revolution of 1945, the present Labour Code institutionalizes the policy of renovation of the Communist Party of Vietnam and provides for detailed implementation of the provisions of the 1992 Constitution of the Socialist Republic of Vietnam as regards labour, labour utilization and administration.

The Labour Code protects the right to work,; interests and other rights of workers and, at the same time, the lawful - rights and interests of employers thereby creating conditions for a harmonious and stable labour relationship. It contributes to releasing the creativeness and talent of both manual and intellectual workers, of labour managers, with the aim of achieving a high level of productivity and quality and social progress in labour, production and services, efficiency in the use and administration of labour; and contributes to the industrialization and modernization of the country, for *the objective of** prosperous people, a mighty country and a just, *democratic*, civilized society.

Chapter I

GENERAL PROVISIONS

Article 1

The present Labour Code regulates the labour relationship between the wage earning worker and his employer, and the social relationships directly connected with this labour relationship.

Article 2

This Code applies to all workers, and organizations or individuals employing workers under a labour contract in all economic sectors and all forms of ownership.

This Code also applies to trainees and apprentices, domestic helps, and other categories of workers specified in this Code.

Article 3

Vietnamese citizens who work in enterprises with foreign invested capital in Vietnam, in foreign or international bodies and organizations operating in the territory of Vietnam, and

* These articles marked with * and italic words in this Labour Code which to be amended and supplemented parts will be effective on January 1, 2003.

foreign nationals who work in Vietnamese enterprises or organizations, or for Vietnamese individuals, operating in the territory of Vietnam, shall be subject to the scope of application of this Code and other provisions of the laws of Vietnam except where the provisions of an international treaty to which the Socialist Republic of Vietnam is a signatory of participant provide otherwise.

Article 4

The labour regime which applies to civil servants and state employees, elected, appointed or assigned officials, members of units of the people's armed forces and police, members of mass organizations and other political, social organizations, and members' of cooperatives shall be governed by other relevant legislation, but a number of the provisions of this Code shall be applied to the above mentioned categories, according to each particular entity.

Article 5

1. Every person shall have the right to work, to choose freely an employment and occupation, to learn a trade, and to improve his professional skills without any discrimination in respect of sex, race, social class, beliefs or religion.
2. Maltreatment of workers and the use of forced labour in whatever form are prohibited.
3. Any activity which generates employment, self-employment, or teaches and helps to learn a skill or trade for employment, and any production or business activity employing a high number of workers shall be encouraged by the State and shall enjoy favorable conditions or assistance.

Article 6

An employee shall be a person of at least 15 years of age who is able to work and has entered into a labour contract.

An employer shall be an enterprise, body or organization, or an individual who is at least 18 years of age, that is hiring, employing and paying wages to a worker.

Article 7

1. An employee shall be paid a wage on the basis of an agreement reached with the employer, provided that the wage is not less than the minimum wage stipulated by the State, and is in accordance with the productivity, quality and efficiency of the work performed; the employee shall be entitled to labour protection and safe and hygienic working conditions; the employee shall be entitled to stipulated rest breaks and holidays annual leave with pay, and to social insurance benefits in accordance with the provisions of the law. The State shall stipulate a labour regime and a social policy aimed at protecting female workers and occupations having special characteristics.
2. An employee shall have the right to form, join and participate in union activities in accordance with the Law on Trade Union in order to protect his legal rights and benefits; he shall be entitled to collective welfare and to participation in the management of business in accordance with the internal regulations of the enterprise and the provisions of the law.

3. An employee shall have the obligation to implement the labour contract and the collective labour agreement, to comply with labour discipline, internal labour regulations and the lawful direction of the employer.

4. An employee shall have the right to strike in accordance with the provisions of the law.

Article 8

1. An employer shall have the right to recruit, assign and manage labour to suit the requirements of production and business; the right to accord praises and rewards and to sanction breaches of labour rules in accordance with the provisions of labour legislation.

2. An employer shall have the right to appoint representative to bargain and sign collective labour agreement at the enterprise or at industry level, and have the responsibility to co-operate with trade unions in discussing issues relating to labour relations and the improvement of employees' material and spiritual lives.

3. An employer shall have the obligation to implement labour contract, collective labour agreement and other agreements reached with the employees, to respect their honour and dignity, and to treat employees properly.

Article 9

The labour relationship between an employee and an employer shall be established and developed through negotiation and agreement on the principles of voluntariness, equality, co-operation, mutual respect of legal rights and benefits, and full observance of commitments of both parties.

The State shall encourage agreements providing employees with more favourable conditions than those stipulated in the labour legislation.

The employer and employee shall have the right to request the competent bodies or organizations to settle labour disputes. The State encourages the settlement of labour disputes by way of conciliation and arbitration.

Article 10*

1. The State shall uniformly manage human resources, and perform labour administration through legislation, and shall formulate policies to develop, allocate human resources, and to develop various forms of labour utilization and *job introduction*.

2. The State shall provide guidelines for employees and employers to establish harmonious and stable labour relationships and mutual co-operation for the development of enterprises.

Article 11

In order to achieve a highly efficient management of labour and production within businesses, the State shall encourage democratic, fair and civilized labour management, and all measures, including bonuses paid out of the profits of the business, which would increase worker's interest in the results of the business' activities.

The State shall formulate policies, which enable an employee to purchase shares and invest capital for the development of the business.

Article 12

Trade unions shall join State bodies and economic and social organizations in looking after and protecting the rights and interests of employees; and in inspecting and supervising of the implementation of the provisions of labour legislation.

Chapter II EMPLOYMENT

Article 13

Any labour activity generating a source of income and not prohibited by law shall be deemed to be employment.

To provide jobs and to ensure employment opportunities to every body who has capacity to work is the responsibility of the State, of enterprises, and of society as a whole.

Article 14

1. The State shall determine a target for the new job creation in both its annual and five-year social economic development plans: The State shall create the necessary conditions, provide financial assistance and loans, reduce or exempt payment of tax and apply other incentive measures to assist those who are able to work, find employment by themselves and to encourage organizations, entities and individuals in all sectors of the economy develop new occupations for the purpose of creating employment.

2. The State shall formulate policies, which provide preferential treatment in employment procurement in order to increase the employment rate of workers who come from ethnic minorities.

3. The State shall formulate policies to encourage and create favourable conditions for investment by organizations or individuals within and outside the country, including Vietnamese residing abroad, in the development of production and business to provide employment for the workers.

Article 15*

1. The Government shall establish a national employment program, and investment projects for economic and social development and migration programs for development of new economic zones in close link with employment program. The State shall establish a National Employment Fund financed by the State budget and other sources, and develop a network of *job introducing* agencies. The Government shall submit annually a national employment program and National Employment Fund to the National Assembly for decision.

2. People's Committees of provinces and cities under central authority shall establish local employment programs and funds for submission to the People's Council at the same level for decision.

3. State bodies, economic organizations, mass organizations and other 'social organizations shall, depending on their respective duties and powers, have the responsibility to take part in the implementation of employment programs and funds.

Article 16*

1. An employee shall have the right to be employed by any employer in any location not prohibited by law. A job - seeker shall have the right to approach a potential employer directly or to register with a *job introducing* agency in order to find a job which matches his aspiration, ability, qualifications and health.

2. An employer shall have the right to recruit employees directly or through *job introducing* agencies, and to increase or reduce the number of employees to suit production and business requirements and in compliance with the provisions of the law.

Article 17*

1. Where, as a result of structural or technological changes, an employee who has been regularly employed in the business for *more than 12 months* becomes unemployed, the employer shall have the responsibility to re-train him for continued employment in new jobs; if no new jobs are available and employment has to be terminated, the employer must pay an allowance for loss of work equivalent to the aggregate amount of one month's salary for each year of employment but no less than two months salary.

2. In cases where the retrenchment referred to in clause 1 of this Article has to be applied to a number of employees, the employer must publish a list of the employees to be retrenched, and on the basis of business requirements, length of service, qualification, family circumstances, and other factors of each employee after consultation and agreement with the Executive Committee of the trade union of the enterprise, in accordance with the procedure stipulated in clause 2 of Article 38 of this Code. An employer shall only be permitted to retrench workers after notifying *the local labour authority*.

3. Enterprises must establish a reserve fund for loss of work allowance as stipulates by the Government in order to ensure the timely payment of allowances to the retrenched employees

4. In order to create favourable conditions for workers to find work or be self-employed, the Government shall formulate policies and measures to provide training and retraining, production and business guideline, and low interest loans from the National Employment Fund; it shall also provide financial assistance to localities or branches which have high underemployment or unemployment rates due to structural or technological changes.

Article 18*

1. *Job introducing* agencies shall have the duty to provide consultancy services and *introduce jobs to workers*; to supply and recruit labour by *requirements of employers*; to collect and supply information on the labour market; *and to perform other duties in accordance with provisions of the law*.

The Government shall stipulate conditions and procedures for the establishment and operation of job introducing agencies.

2. The *job introducing* agencies shall permitted to charge fees, be considered for tax reduction or exemption, and to organize trade training classes in accordance with the provisions of Chapter III of this Code.

3. The Ministry of Labour, Invalids and Social Affairs *shall carry out* the State administration of the activities of *job introducing* agencies.

Article 19

Any conduct of enticement, false promises and advertisements to deceive workers or to use the employment service as a means to achieve unlawful purposes, is prohibited.

Chapter III

VOCATIONAL TRAINING

Article 20

1. Any person shall have the right to choose freely an occupation and a place to learn that occupation in accordance with his employment requirements.
 2. An enterprise, organization or individual satisfying the conditions stipulated by law shall be permitted to set up training facilities.
- The Government shall promulgate regulations on the establishment of training facilities.

Article 21

1. A training establishment must be registered and operated in accordance with regulations on vocational training. It shall be permitted to collect fees and must pay tax in accordance with the provisions of the law.
2. Training establishments which cater for war invalids, injured military personnel, the disabled and ethnic minorities or are located in areas with high rate of underemployment or unemployment, traditional vocation centre and tutoring in factories or at home shall be considered for tax reduction and exemption.

Article 22

Trainees in training establishments must be at least 13 years of age except in the case of trades in respect of which the Ministry of Labour, Invalids and Social Affairs determines otherwise. Trainees must be in good health so as to meet the requirements of the trade concerned.

Article 23

1. An enterprise is responsible for carrying out programs to improve the occupational skills of its employees and for re-training employees before transferring them to other jobs within the enterprise.
2. An enterprise, which recruits trainees or apprentices for subsequent employment in the enterprise for a period, specified in the training or apprenticeship contract shall not be required to register but shall not be allowed to collect fees for such training. The training or apprenticeship period shall be counted as a period of service with the enterprise. Where a trainee or an apprentice directly engages or participates in production during the training or apprenticeship period, he shall be paid a wage at a rate agreed between the two parties.

Article 24*

1. All vocational training must be accompanied by a written or oral contract entered into between the trainee and the trainer or person representing the training establishment. Where the contract is in writing, it must be done in duplicate, one for each party.
2. The main content, of a trade training contract must include the objectives and place of training, the amount of fees, the period of training and the amount of compensation for breach of contract.
3. Where an enterprise recruits trainees for subsequent employment, the training contract must include a commitment on the term of subsequent employment and must guarantee the signing of a labour contract upon the completion of training. If, after the completion of training, the trainee refuses to work for the enterprise as stipulated in the contract, he must pay compensation for the *training costs*.
4. Where the training contract is terminated before the expiration date due to reasons of force majeure, neither party shall be liable for payment of compensation.

Article 25

All enterprises, organizations and individuals are strictly prohibited from making use of apprenticeship and training for profit and for the exploitation of labour, or to entice or compel trainees and apprentices to engage in unlawful activities.

Chapter IV

LABOUR CONTRACT

Article 26

A labour contract is an agreement between the employee and the employer specifying remunerated employment, conditions of work and the rights and obligations of each party in the labour relationship.

Article 27*

1. A labour contract shall be concluded in any one of the following forms:

a) A contract with an indefinite term.

A contract with an indefinite term is the one in which both parties did not define a time limit or a date to terminate the effect of the contract;

b) A contract with a definite term.

A contract with a definite term is the one in which both parties defined a time limit or a date to terminate the effect of the contract within the duration from full 12 months to 36 months;

c) A contract for seasonal work or a specific task with a term of *less than 12 months*.

2. *When a labour contract as indicated in sub clauses b and c of clause 1 of this Article is expired and the worker continues to work, both parties shall have to conclude a new contract within 30 days from the date of the contract expiration; if there is no conclusion of a new labour contract, the signed contract shall become a contract with indefinite term. Where both parties conclude new contract, which is a contract with a definite term, they shall only be permitted to conclude for such one more time limit, after that if the worker still continues his /her work, a labour contract with indefinite term must be signed.*

3. Parties are prohibited from signing labour contracts for seasonal work or a specific task with a term of *less than 12 months* to carry out work of a regular nature for *more than 12 months*, except in the case of the temporary replacement of a worker who is called up for military service, are on maternity leave or on other temporary leave.

Article 28

A labour contract shall be entered into in writing and must be made in duplicate with each party retaining one copy. An oral agreement may be entered into in respect of certain temporary works, which have duration of less than three months, and in the case of domestic helps. In the case of an oral agreement, the parties are deemed to abide by the provisions of labour laws.

Article 29*

1. A labour contract must include the following main provisions: the nature of work, time of work, time of rest, the amount of pay, the place of work, the duration of the contract, conditions regarding occupational safety and hygienic and social insurance for the employee.

2. When a labour contract provides for conditions that in the whole or partly less favourable than those stipulated by the labour legislation and the collective labour agreements or by the existing work rules of the enterprise concerned or when it restricts other rights of the employees, the whole contract or the relevant part must be amended or supplemented accordingly.

3. When a contract containing terms such as referred to in clause 2 of this Article comes to light, the labour inspector shall provide guideline *and require* parties to amend or supplement the contract. Where the parties refuse to amend or supplement the contract, the labour inspector has the right to compel the deletion of such terms in the labour contract; *the rights, obligations and interests of the parties thereafter shall be settled in accordance with the provisions of the laws.*

Article 30

1. The labour contract shall be entered into directly between the employee and the employer.

2. A labour contract may be signed between the employer and a person duly authorized to represent a group of workers. In this case, the contract shall carry effect as if it were entered directly with each employee

3. An employee may enter into one or several labour contracts with one or several employers on condition that he is able to perform fully into the contracts entered.

4. The work stipulated in the labour contract must be carried out directly by the contracting worker who shall not assign such work to another person without the consent of the employer.

Article 31*

In cases where an enterprise mergers, *unifies, divides, separates* or transfers the ownership, the right to management, or to the use of property of the enterprise, the new employer shall be responsible for the continued implementation of the contract entered into with the employees. *In the case of insufficient employment for all existing employees, there shall be a proposal on appropriate measures for the utilization of the labour force in accordance with the provisions of the law.*

The worker who had to terminate the labour contract as pursuant to the stipulations of this Article shall be entitled to the allowance for loss of work in accordance with the provisions of clause 1 of Article 17 of this Code.

Article 32

The employer and the employee shall agree on probation work, the duration of the probation period, and the rights and obligations of the parties thereof. The wage of the worker during such probation period must be at least equal to 70 per cent of the normal wage for the work in question. The probation period shall not exceed 60 days in respect of highly specialized technical work, or 30 days in respect of other work.

During a probation period, each party shall be entitled to terminate the probation work agreement without giving advance notice and shall not be obliged to pay compensation if

the work performed does not meet the agreed requirements. If the work performed meets the agreed requirements, the employer must accept the worker for regular employment as previously agreed.

Article 33*

1. The labour contract takes effect upon the date of its conclusion or, the date agreed upon by the contracting parties *or the date the worker started his/her job.*
2. During the time of implementing the labour contract, any party who wishes to modify the contents thereof shall give notice of its intention to the other party at least three days in advance. The modification of the labour contract may be effected by way of amendments to the existing labour contract or by the conclusion of a new labour contract. *Where both parties fail to agree on the amendments to existing labour contract or to the conclusion of a new labour contract, they shall have to continue to implement the concluded labour contract or they shall terminate the contract in accordance with the provisions of clause 3 of Article 36 of this Code.*

Article 34

1. In cases of force majeure or due to business production demand, an employer has the right to temporarily transfer an employee to another work different from the latter's occupation provided that the period of assignment does not exceed 60 days in one year.
2. When temporarily transferring a employee to work different from the latter's occupation, an employer must give the employee at least three days notice and indicate the duration of the temporary transfer, and must assign temporary work that is suitable to the health and gender of the employee.
3. While being transferred temporarily to another work as stipulated in clause 1 of this Article, an employee shall be paid a wage at a rate appropriate to the new work. If the wage for the new work is less than the former wage the employee shall be entitled to keep the previous wage for a period of 30 working days. The new wage shall be equal to at least 70 per cent of the previous wage but not less than the minimum wage stipulated by the State.

Article 35

1. The labour contract shall be temporarily suspended in the following cases:
 - a) The employee is called up for military service or for other civic obligations as stipulated by the law;
 - b) The employee is under temporary arrest or detainment;
 - c) Other circumstances agreed upon by both sides.
2. Where a labour contract is temporarily suspended in the cases stipulated in sub-clauses a and c of clause 1 of this Article, the employer must re-employ the employee at the end of that suspension period.
3. Where a labour contract is suspended due to the employee being temporarily arrested or detained, the re-employment of the employee at the end of the suspension period shall be determined by the Government.

Article 36

A labour contract shall be terminated in the following circumstances:

1. The contract expires;
2. The tasks stated in the contract have been completed;
3. Both parties agree to terminate the contract;
4. The employee is sentenced to imprisonment or is prohibited from resuming the former employment in accordance with a decision of the Court;
5. The employee dies or is declared missing by the Court.

Article 37*

1. An employee employed under a labour contract with a definite term of full *12 months to 36 months*, or a contract for seasonal work or a specific task of *less than 12 months*, shall be entitled to unilaterally terminate the contract prior to expiry in any one of the following circumstances:

- a) The employee is not assigned to the work or workplace or is not provided with the work conditions agreed to in the contract;
- b) The employee is not paid in full or in time *agreed* the wage due pursuant to the contract;
- c) The employee is subject to maltreatment or to forced labour;
- d) The employee can not carry out the contract further due to averred personal or family difficulties;
- e) The employee is elected to full-time function in a representative public office or is appointed to an office in the State apparatus;
- f) A female employee is pregnant and must stop working by doctor's orders;
- g) *The employee is ill or is victim of an accident and no recovery of working ability after having received treatment for 3 consecutive months in respect of a labour contract with a definite term of full 12 months to 36 months, or for a quarter of the term of the contract in respect of a contract for seasonal work or a specific task of less than 12 months.*

2. Where a labour contract is unilaterally terminated in accordance with the provisions of clause 1 of this Article, the employee must give notice to the employer:

- a) In the cases stipulated in sub-clauses a, b, c *and g*: at least three days notice;
- b) In the cases stipulated in sub-clauses d and e: at least 30 days in respect of a contract with a definite term of *full 12 months to 36 months*; at least three days in respect of a contract for seasonal work or a specific task of *less than 12 months*;
- c) In the case stipulated in sub-clause f: a period of notice as stipulated in Article 112 of this Code.

3. An employee who works under a labour contract with an indefinite term, shall have the right to unilaterally terminate the contract, provided that he gives the employer at least 45 days notice; *the employee is ill or victim of an accident and having received treatment for 6 consecutive months must give at least three day notice.*

Article 38*

1. The employer has the right to unilaterally terminate the labour contract in any of the following circumstances:

- a) The employee regularly fails to fulfill the task assigned by contract;
- b) An employee is disciplined and dismissed according to the provisions of Article 85 of this Code;

c) An employee is ill and no recovery of working ability is in sight after having received treatment for 12 consecutive months in respect of a labour contract with an indefinite term, or for 6 consecutive months in respect of a contract with a definite term of full *12 months to 36 months*, or for more than half the duration of the contract in respect of a *contract for seasonal work or a specific task of less than 12 months*. Upon the recovery of the employee, the consideration shall be given to resuming the labour contract;

d) In case of natural disasters, fire or other cases of force majeure *defined by the Government*, when the employer has made every effort to overcome difficulties but is nevertheless compelled to make cuts in production and workforce;

e) The enterprise, body or organization ceases activities.

2. Prior to the unilateral termination of a labour contract in accordance with sub-clauses a, b and c of clause I of this Article, the employer must discuss and reach an agreement with the Executive Committee of the enterprise trade union. In case of disagreement, both parties must submit a report to the competent body or organization. Only after a period of 30 days as from the date of giving notice to *the local labour authority*, the employer shall have the right to make a decision and be responsible for such a decision. In case of continued disagreement with the decision of the employer, both the Executive Committee of the enterprise trade union and the employee shall have the right to request the settlement of a labour dispute in accordance with the procedure stipulated by the law.

3. When unilaterally terminating a labour contract, with the exception of the case stipulated in sub-clause b of clause 1 of this Article, the employer must give notice to the employee:

a) At least 45 days in respect of a labour contract with an indefinite term;

b) At least 30 days in respect of a labour contract with a definite term of full *12 months to 36 months*;

c) At least 3 days in respect of a labour contract for seasonal work or a specific task *of less than 12 months*.

Article 39

The employer shall not unilaterally terminate a labour contract in the following cases:

1. The employee is under treatment or care as prescribed by doctors for sickness, work accident or occupational disease, except the cases stipulated in sub clause c and e of clause I of Article 38 of this Code;

2. The employee is on annual leave, personal leave of absence, or any other type of leave permitted by the employer;

3. The female employee in cases referred to in clause 3 Article 111 of this Code.

Article 40

Each party may renounce its intention of unilateral termination of a labour contract before the notice period has expired. Upon the expiration of the notice period, either party shall have the right to terminate the contract.

Article 41*

1. When unilaterally terminating a labour contract in infringement of the law, the employer must re-employ the employee to the work *as agreed upon in the contract* and pay a

compensation equal to the amount of wage *and additional payment to wage (if any)*, corresponding to the period the worker was not allowed to work, and *an addition of at least two month wages plus allowances, (if any)*.

A worker not wishing to return to work shall receive, in addition to such compensation *stipulated in the first section of this paragraph*, a severance allowance in accordance with the provisions of clause 1 of Article 42 of this Code.

In the case the employer does not want to re-employ the employee and the employee also agrees with such a decision, both parties can negotiate upon the additional compensation apart from sums indicated in the first section of this clause as well as in the provisions of Article 42 of this Code in order to terminate the labour contract.

2. When unilaterally terminating a labour contract in infringement of the law, the worker is not entitled to the above mentioned severance allowance *and shall pay the employer a compensation equal to the amount of a half of his/her monthly wage rate plus salary allowance, if any.*

3. When unilaterally terminating a labour contract, the employee shall be liable to payment of compensation for costs *of training, if any*, in accordance with Government regulations.

4. Any party unilaterally terminating a labour contract and not observing the provisions on giving notice must pay the other party a compensation equal to the amount of wage corresponding to the days of notice not given.

Article 42*

1. When terminating the labour contract of an employee who has been regularly employed in an enterprise, office or organization for *full and more than 12 months*, the employer must pay such employee a severance allowance at the rate of half a month's salary plus salary allowance, if any, for each year of service.

2. When a labour contract is terminated as provided for sub-clauses a and b, clause 1 of Article 85 of this Code, the employee shall not be entitled to any severance allowance.

Article 43

Within seven days from the date of termination of the labour contract, the two parties are responsible for settling all questions relating to the rights and interests of each party. In exceptional circumstances, this period may be extended but is not exceed 30 days.

In the case of bankruptcy of the enterprise, questions relating to the rights and interests of the employees shall be settled in accordance with the provisions of the Law on Business Bankruptcy.

The employer shall state in writing the reasons for the termination of the labour contract in the worker's labour book and shall be responsible for returning the labour book to the employee. Except what is stipulated in the labour book, the employer shall not make any additional remark detrimental to the worker in finding new employment.

Chapter V

COLLECTIVE LABOUR AGREEMENT

Article 44

1. A collective labour agreement (hereinafter referred to in short as collective agreement) is a written agreement concluded between the workers' collective and the employer

concerning conditions of work and employment, and the rights and interests of each party to the labour relationship.

A collective agreement is negotiated and signed by the representative of the worker collective and the employer on the principles of voluntariness, equality and publicity.

2. The terms and conditions of the collective agreement shall not be contrary to the provisions of labour laws, and other laws. ,

The State encourages the conclusion of collective agreements laying down provisions more favourable to the workers than those stipulated in labour laws.

Article 45*

1. The representatives of the parties to the collective bargaining shall be:

a) The Executive Committee of the enterprises trade union or a *provisional trade union Executive Committee*, on the side of the labour collective;

b) On the employer side, the Director of the enterprise, or a person so authorized by the enterprise works rules or by the Director of the enterprise, in writing.

The number of representatives of each party to the collective bargaining shall be determined by mutual agreement.

2. The representative who signs the collective agreement on behalf of the worker collective shall be the Chairman of the Executive Committee of the trade union of the enterprise or a person so authorized in writing by the Executive Committee. The representative who signs on behalf of the employer shall be the Director of the enterprise or a person so authorized by him in writing.

3. A collective agreement shall only be signed if the negotiated contents of such agreement are approved by more than 50 per cent of the members of the labour collective in the enterprise.

Article 46

1. Each party shall have the right to request the signing of a collective agreement and propose its terms and conditions. No later than 20 days after receiving the request, the receiving party must accept to bargain and agree on a date to start bargaining.

2. The main provisions of the collective agreement shall include commitments in respect of employment and guarantee of employment; time of work and time of rest; wages, bonuses and allowances; working norms; occupational safety and hygienic; and social insurance for the employees.

Article 47*

1. The signed collective agreement must be made in four copies:

a) One for the employer;

b) One for the Executive Committee of the trade union of the enterprise;

c) One to be sent to the upper echelon trade union by the Executive Committee of the enterprise's trade union;

d) One to be sent by the employer *for registration to the labour authority of the province or the city coming directly under the central administration where the enterprise's head office is located*, within 10 days from the date of signing.

2. The collective agreement shall become effective as from *the agreed date specified in collective agreement, or from the date of signing of the agreement if there is no specification by both parties.*

Article 48*

1. The collective agreement shall be partially void if one or a number of provisions in the agreement are *in infringement of the laws.*

2. The collective agreement shall be void in its entirety in the following circumstances:

a) The terms and conditions of the agreement are contrary to the laws;

b) The person signing the agreement is not duly authorized;

c) The proper procedure is not strictly observed.

3. *The labour authority of the province or the city coming directly under the central administration shall have the right to declare a collective agreement partially or wholly void as stipulated in clause 1 and 2 of this Article. In respect of collective agreements stipulated in sub-clause b and c of clause 2 of this Article, and where the terms of the agreement are beneficial to the workers, the labour authority of the province or the city coming directly under the central administration shall instruct the parties to proceed again in conformity with legal requirements within 10 days from the date of being instructed; or shall declare the agreement null and void if the parties fail to carry out such instructions. As such, the rights, obligations and interests of the parties shall be settled hereafter in accordance with the provisions of the laws.*

Article 49

1. On taking effect, the collective agreement must be brought by the employer to the notice of all workers in the enterprise. All personnel including persons engaged after the agreement was concluded shall be responsible for the full implementation of the agreement.

2. Where rights and interests of the employees as stipulated in labour contracts are less favourable to the employees than provided for in the collective agreement, the corresponding provisions of the collective agreement must be implemented. All provisions of the work rule must be amended in accordance with the provisions of the collective agreement.

3. When a party considers that the other party fails to fully implement, or breaches the provisions of the collective agreement, it shall have the right to demand full compliance with the agreement and both parties must together examine and settle the matter. If no settlement is reached, each party shall have the right to apply for settlement of the collective labour dispute under the procedure stipulated by the law.

Article 50

A signed collective agreement shall be for duration of one to three years. Where a collective agreement is concluded for the first time in an enterprise, it may be concluded for duration of less than one year.

Each party shall be entitled to ask for an amendment and supplementation to the collective agreement only after three months of implementation as from the date of its taking effect, in

respect of a collective agreement concluded for a period of less than one year, and after six months of implementation in respect of an agreement concluded for a period of one to three years. The procedure for amendment and supplementation to the collective agreement shall be the same as for its conclusion.

Article 51

Prior to the expiry of a collective agreement, both parties may bargain for the extension of the duration of the agreement or for a new agreement. Where the collective agreement expires during the bargaining process, it shall nevertheless continue to be effective and binding. If the bargaining remains inconclusive three months after the expiration of the agreement, it shall tacitly cease effect.

Article 52*

1. In the case of a merger, *unification, division or separation* of the enterprise, of a transfer of ownership, of the right to management, or to the use of property of the enterprise, the new employer *and the Executive Committee of the trade union shall consider the possibility of continuing to implement the collective agreement, of amending, modifying it or of concluding a new collective agreement, on the basis of the proposal on appropriate measures for the utilization of the labour force.*

2. In case the collective agreement becomes void due to the enterprise ceasing its activities, the workers' rights and interests shall be settled according to Article 66 of this Code.

Article 53

Any expenses incurred in bargaining and in signing, registering, amending and supplementing to, as well as publishing collective agreements shall be borne by the employer.

The representatives of the workers' collective who are employed by the enterprise shall be entitled to payment of wage during the time of their participation in negotiating and signing of the collective agreement.

Article 54

The provisions of this Chapter shall govern to the bargaining for and signing of collective agreements at the industry level.

Chapter VI

WAGES

Article 55

The wage of an employee shall be agreed upon between the parties in the labour contract and paid according to the productivity, quality and efficiency of the work performed.

The wage of an employee must not be lower than the minimum wage rates stipulated by the State.

Article 56

The minimum wage is fixed on the basis of the cost of living to ensure that an employee performing the most elementary work in normal working conditions recuperates his/her basic work capacity and partly accumulates reserves for regenerating enhanced capacity. The minimum wage serves as a reference for calculation of the wage rates for other categories of work.

The Government shall decide and promulgate for each period a general minimum wage rate, minimum wage rates for different areas and for various branches of trades, after having sought the views of the Vietnam General Confederation of Labour and of representatives of employers.

When the cost of living index increases, entailing a reduction in the workers' real wages, the Government shall readjust the minimum wage rates accordingly to safeguard the workers' real wages.

Article 57*

After consultation with Vietnam General Confederation of Labour and the representatives of the employers, the Government shall stipulate the principles for developing wage scales, wage tables and labour norms for employers to use in developing and applying them suitably to production and business conditions of enterprises; the Government shall determine wage scales and wage tables for state-owned enterprises.

When developing wage scales, wage tables, and labour norms, the employers have to consult the Executives Committees of enterprise trade union; the wage scales and wage tables shall have to be registered with the labour authority of the province or the city coming directly under the central administration where the employer's head office is located, and shall be made public in the enterprise.

Article 58

1. The employer shall have the right to select the method of payment: on a time basis (hourly, daily, weekly, or monthly), on a piece-work basis, or by the job, provided that the method of payment adopted is regularly maintained over a given period and must be notified to the employee.
2. An employee whose wage is calculated by reference to hours, days, or weeks shall be paid right after completion of the hour, day, or week of work in question or be paid accumulated wages as agreed by the parties, but at least once every 15 days.
3. An employee whose wage is calculated by reference to months shall be paid monthly or half-monthly.
4. An employee whose wage is calculated on the basis of products produced shall be paid as agreed by the two parties; if the work extends over several months, the advance shall be paid each month to the employee corresponding to the volume of work completed within the month.

Article 59

1. Wages shall be paid to employee directly, in full, at the due time and at the workplace. In special case where payment of wage has to be delayed, such delay must not exceed one month, and the employer must pay to the workers compensation at least equal to the interest accruing from the amount due by application of the interest rate for saving deposits announced by the State Bank at the time when the wage was due.
2. Wages shall be paid in cash. The employer and the employee may agree on payment of wage partly by cheque or money order issued by the State, provided that no losses or inconveniences are incurred for the worker.

Article 60

1. An employee shall have the right to be informed of the reason for any deduction from his/her wage. Before making any deduction, the employer must consult with the Executive Committee of the trade union of the enterprise. The total of deduction is not allowed to exceed 30% of the employees' wages in any month.

2. The employer shall not impose penalties by way of deduction from employee's wages.

Article 61*

1. Workers performing overtime work shall be paid wages *basing on the per labour unit wage or the current wage rates applied to their work*, as follows:

- a) On normal work days, an amount at least equal to 150 percent;
- b) On weekly rest days, an amount at least equal to 200 percent;
- c) *On public holidays and holidays with payment, an amount at least equal to 300 percent.*

If overtime work is performed at night, the employee is moreover entitled to additional pay for night work in accordance with the provisions of clause 2 of this Article.

If the employee is granted compensatory rest for the additional hours worked, the employer shall only be required to pay the amount of additional wage beyond *the wage calculated on the basis of the per labour unit wage or the current wage rate paid to the employee* in normal working day.

2. Employees performing night work as stipulated in Article 70 of this Code will be paid an additional wage at least equal to 30 percent of the *wage calculated on the basis of the per labour unit wage or the current wage rate paid to the worker* for day work.

Article 62

In case of forced work stoppage, the employee shall be paid as follows:

1. If stoppage is due to the fault of the employer, the employee shall be paid wage in full.
2. If stoppage is due to the employee's fault, the latter shall receive no wage; other employees in the same unit who have to stop work thereof shall be paid at a rate agreed upon by the two parties, but not less than the minimum wage rate.
3. In case of breakdowns in electricity or water supply not due to the fault of the employer, or in case of force majeure, the wage shall be paid as agreed between the parties, but shall not be less than the minimum wage rate.

Article 63

Systems of allowances, bonuses, advancement in wage grades and other systems of labour incentives may be agreed upon in labour contracts, collective agreements or established in the work rules.

Article 64*

The employer, basing on the annual results in production and business activities of the enterprise and the workers' working performance, shall grant bonuses to workers employed at the enterprise.

The employer shall determine the rules of bonus system after consulting with the Executive Committee of the enterprise trade union.

Article 65

1. In case of employment through a subcontractor or any similar intermediary, the principal employer must keep a list of the names and addresses of such persons accompanied by a list of workers employed by them, and must ensure that they comply with the provisions of the law on remuneration, occupational safety and hygienic.

2. In case the subcontractor or any similar intermediary does not pay in full or fails to pay the wages and to ensure other rights and interests of the employees, the principal employer must be responsible for the full payment of wages to the workers and for ensuring their other rights and interests. In this case, the principal employer shall have the right to demand compensation from the respective subcontractor or the intermediary, or request the competent authorities to settle the dispute in accordance with the laws.

Article 66*

In the case of a merger, *unification, division or separation* of the enterprise, of a transfer of ownership, of the right to management, or to the use of property of the enterprise, the new employer is responsible for the payment of wages and other benefits to the employees *transferred from the previous enterprise*. In the case of the employer's bankruptcy, the wage, severance allowance, social security benefits and other rights and interests of the employees as stipulated in the collective agreement and labour contracts shall be treated as a privileged debt and must be settled as the first priority.

Article 67

1. When the employee or his/her family faces financial difficulties, the employee shall be entitled to a wage advance under terms and conditions agreed by both parties.
2. The employer shall grant a wages advance to an employee who is temporarily absent from work to perform civil obligations.
3. The Government shall determine wage advance to employee who is under temporary arrest or detainment.

Chapter VII

TIME OF WORK, TIME OF REST

Section I

TIME OF WORK

Article 68

1. The normal working hours shall not exceed 8 hours per day or 48 hours per week. An employer shall have the right to determine the working hours on a daily or a weekly basis provided that the employees are notified in advance.
2. The daily working hours shall be reduced by one to two hours for workers engaged in extremely heavy, toxic or dangerous works as stipulated in a list issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

Article 69*

An employer and an employee may agree on additional working hours, provided that the number of additional hours worked shall not exceed four hours a day, or 200 hours a year, *with the exception of some special cases stipulated by the Government, after consultation with the Vietnam General Confederation of Labour and the representatives of employers, in which the number of additional hours worked shall not exceed 300 hours a year.*

Article 70

Night shift hours are from 10.00 p.m to 6.00 a.m or from 9.00 p.m to 5.00 a.m, depending on climatic regions as determined by the Government.

Section II **TIME OF REST**

Article 71

1. An employee who works 8 consecutive hours shall be entitled to a break of at least half an hour which shall be included in the number of hours worked.
2. An employee who works night shift shall be entitled to a break of at least 45 minutes, which shall be included in the number of hours worked.
3. An employee who works in shifts shall be entitled to a break of at least 12 hours between shifts.

Article 72

1. Each employee shall be entitled to a break of at least one day (24 consecutive hours) per week.
2. An employer may arrange for the weekly day off to fall on a Sunday or other specified day of the week.
3. In special cases where the work cycle does not allow a weekly rest to be taken, the employer must ensure that the employees have on average at least four days off in a month.

Article 73

An employee shall be entitled to have fully paid days off during the following public holidays:

- Solar New Year Holiday: one day (January 1);
- Lunar New Year Holidays: four days (the last day of the old year and the first three days of the new lunar year);
- Victory Day: one day (April 30);
- International Labour Day: one day (May 1);
- National Day: one day (September 2).

Where the public holidays referred to above coincide with a weekly day off, the employee shall be entitled to take the following day off in compensation thereof.

Article 74

1. An employee shall be entitled to annual leave with full pay, after 12 months of employment in the same enterprise or with the same employer, as follows:
 - a) 12 working days, for employees working in normal working conditions;
 - b) 14 working days, for employees working in heavy, toxic or dangerous jobs, or employees working in areas with harsh living conditions, and for persons under 18 years of age;
 - c) 16 working days for employee working in extremely heavy, toxic or dangerous job and persons engaged in heavy, toxic or dangerous jobs in areas with harsh living conditions.
2. The Government shall determine traveling time, which is not included in the annual leave.

Article 75

The number of days of annual leave shall be increased according to the length of employment in the same enterprise or with the same employer by one additional day for every five years of employment.

Article 76

1. An employer shall have the right to determine a timetable of annual leave after consultation with the Executive Committee of the trade union of the enterprise and must notify in advance all personnel in the enterprise.
2. An employee may agree with the employer on taking annual leave in several times. Persons working in distant and remote places may, if so required, accumulate two annual years' leaves together where three annual leaves are to be taken at one time, the approval of the employer must be obtained.
3. An employee, for reason of termination of employment or for other reasons, who has not used up part or whole of his annual leave, shall be paid the normal wage in lieu for those days not taken

Article 77

1. When taking annual leave, an employee shall be paid in advance an amount at least the wages for the days of leave being taken. Travel expenses and wages paid for the days in travel shall be agreed upon by the parties. I
- 2, An employee with less than 12 months of employment shall be entitled to annual leave calculated in proportion to the length of employment and may be compensated by cash.

Section III

LEAVE FOR PERSONAL PURPOSES AND UNPAID LEAVE

Article 78

An employee may take leave of absence for personal purposes with full pay in the following cases:

1. Marriage: for three days;
2. Marriage his children: for one day;
3. Death of a parents (including the spouse's parents); death of husband, wife, son or daughter: for three days.

Article 79

An employee and the employer may agree on unpaid leave of absence

Section IV

TIME OF WORK AND TIME OF REST OF PERSONS ENGAGED IN JOBS OF SPECIAL NATURE

Article 80

The hours of work and rest of workers working offshore, in mines and of persons engaged in other jobs of special nature shall be determined by the Government.

Article 81

The hours of work and rest of persons working on a casual basic (incomplete days or weeks) and persons doing contract on piecework shall be determined by an agreement between the worker and the employer.

Chapter VIII

LABOUR DISCIPLINE, MATERIAL LIABILITY

Article 82*

1. Labour discipline consists of provisions governing compliance with time, technology and production and business management, as laid down in internal labour regulations.

Internal labour regulations shall not be contrary to labour legislation and other laws.

Enterprises employing ten or more workers are required to have internal labour regulations in writing.

2. Prior to proclaiming the internal labour regulations, the employer must consult with the Executive Committee of the trade union of the enterprise.

3. An employer must register the internal labour regulations with *the local labour authority of provinces, cities coming directly under the central administration*. The internal labour regulations take effect as from the date of registration. No later than 10 days after the receipt of the internal labour regulation text, *the local labour authority of provinces, cities coming directly under the central administration* must notify the registration thereof. After the expiry of the period referred above, if no notification has been made, the internal labour regulations shall become effective.

Article 83

1. Internal labour regulations must include the following main provisions governing:

a) Hours of work and of rest;

b) Order in the enterprise;

c) Occupational safety and hygienic at the workplace;

d) The protection of the property, and technological and business secrets of the enterprise;

e) Acts and conduct in breach of labour discipline, disciplinary measures and measures concerning material liability.

2. The internal labour regulations must be notified to each employee and the main rules must be posted at the required places within the enterprise.

Article 84*

1. Persons contravening labour discipline, depending on the degree of contravention, shall be sanctioned by one of the following disciplinary measures:

a) Blame;

b) *Prolonging the time for promotion in wage* or transferring to lower paid job for a period *not exceeding six months*, or *removing* from the present position;

c) Dismissal.

2. Multiple disciplinary measures shall not be applied to one contravention.

Article 85*

1. Dismissal shall be applied as a disciplinary measure only in the following circumstances:

a) An employee who commits an act of theft, embezzlement, disclosure of technological and business secrets or other acts causing severe losses to the property and interests of the enterprise;

b) An employee *whose time for promotion in wage has been prolonged* or who has been transferred to another job as a disciplinary measure and who again commits the same breach of labour discipline while the discipline measure has not been repealed or is *a recidivist while being removed from the position*;

c) An employee who has been absent for a *total of five days per month or 20 days per year* without legitimate reasons.

2. After dismissing a worker, the employer must notify *the local labour authority of the province or the city coming directly under the central administration*.

Article 86

Disciplinary measures shall be applied within a period not exceeding three months as from the date of contravention. For special cases this period shall not exceed six months.

Article 87

1. When proceeding with disciplinary action, the employer must be able to prove that the breach was committed by the employee.

2. An employee shall have the right to present his/her own case or to ask the assistance of a lawyer, a people's defense counsel or some other person for his/her defense.

3. The examination of disciplinary action must be carried out in the presence of the person concerned and with the participation of a representative of the Executive Committee of the trade union of the enterprise.

4. A record on the proceedings concerning disciplinary action shall be made.

Article 88*

1. Three months after a blame and six months *after the postponement of promotion in wage* or the transfer to another job, if the same breach of labour discipline has not been repeated during that period by the persons concerned, the disciplinary measures in question shall be automatically repealed.

2. A person *whose promotion in wage has been postponed* or who is transferred to another job as a disciplinary measure, after completing half of the sanction period and having amended and made progress, shall be considered by the employer for a reduction of the remaining period.

Article 89

An employee who damages tools and equipment or whose conduct causes damage to the assets of the enterprise shall be liable to compensation in accordance with the provisions of the law for the damages caused. If the damage is caused through negligence and is not serious in nature, the maximum compensation shall not exceed three months of the worker's wages and shall be deducted gradually from wages as regulated in Article 60 of this Code.

Article 90

An employee who loses tools, equipment, or other property entrusted to him/her by the enterprise, or utilizes materials beyond the permitted norms shall be liable, as the case may be, to compensation in part or in full for the losses at market prices. In cases where a liability contract has been signed by the parties, compensation shall be paid according to the contract. In cases of force majeure, no compensation is required.

Article 91

The order and procedures for and dealing with compensation for damages stipulated to in Articles 89 and 90 shall be governed by the provisions of Articles 86 and 87 of this Code.

Article 92

1. When a misconduct involves great complexity and it is considered that the continued presence at work of the worker concerned may cause difficulties to the investigation and determination of the case, an employer shall have the right to temporarily suspend the work of that employee, after consulting the Executive Committee of the trade union of the enterprise.

2. The period of temporary suspension shall not exceed 15 days and even in special cases shall not exceed three months. During that period, the employee concerned shall be entitled to an advance equal to 50 per cent of the wage paid before suspension.

Upon the expiry of the suspension period the employee concerned must be allowed to resume his/her work.

3. Where the employee is found guilty and subjected to disciplinary measure, he shall not be required to return the amount of wage temporarily paid to him.

4. Where the employee is found not guilty, the employer must pay in full the wage and allowances for the period of temporary suspension.

Article 93

The person who is subjected to disciplinary measures or suspension from work, or ordered to pay compensation in accordance with the regime on material liability is not satisfied with the employer's decision, he shall have the right to appeal to the employer against the decision or to appeal to the competent authorities, or to request for settlement of this labour dispute under the procedures stipulated by the laws.

Article 94

When the competent authority concludes that the decision made against an employee is wrong, the employer must withdraw such decision, apologize publicly and restore the honor as well as material rights and benefits of the employee.

Chapter IX

OCCUPATIONAL SAFETY AND HYGIENIC

Article 95

1. An employer shall be responsible for providing adequate means of protection to the employees, ensuring occupational safety and hygienic, and improving the working conditions for the employees. The employee must comply with regulations on occupational safety and hygienic and comply with the internal labour regulations of the enterprise. Any organization or individual concerned with labour and production must comply with the laws and regulations on occupational safety and hygienic and on environment protection.

2. The Government shall establish a national program on labour protection, occupational safety and hygiene, in its social economic development plans and budget; it shall invest in scientific research and shall assist establishments engaged in the production of instruments and equipments for occupational Safety and hygiene, and personal protective devices; and it shall promulgate standards, procedures and regulations for occupational safety and hygiene.

3. The Vietnam General Confederation of Labour shall join the Government in development of the national program on labour protection, occupational safety and hygiene, scientific research programs, and laws on labour protection and occupational safety and hygiene.

Article 96*

1. Where an enterprise wishes to construct a new establishment, expand or renovate an existing establishment for the production, use, maintenance, storage and stockpiling of different kinds of machinery, equipment, materials and substances having strict requirements for occupational safety and hygiene, it must prepare a feasibility study outlining all measures to ensure occupational safety and hygiene at the workplace and for the surrounding environment in accordance with the law.

The list of machinery, equipment, materials, and substances having strict requirements for occupational safety and hygiene shall be determined by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

2. The production, usage, storage, transportation of machinery, equipment, materials, energy, electricity, chemicals, *vegetation protecting substances*, and the replacement of technology and importation of new technology must be carried out in accordance with occupational safety and hygiene standards. Machinery, equipment, materials and substances having strict requirements for occupational safety and *hygiene must be registered and inspected in accordance with the stipulations determined by the Government.*

Article 97

An employer must ensure that the workplace meets the standards on space, ventilation, lighting, and the health standards permitted in respect of dust, steam, toxic gas, radioactivity, electromagnetic field, heat, humidity, noise, vibration, and other harmful factors. Such factors must be periodically checked and measured.

Article 98

1. The employer must ensure that machinery, equipment, workshops and storehouses are checked and repaired periodically in accordance with occupational safety and hygiene standards.

2. The employer shall provide adequate protective devices for all dangerous parts of machinery and equipment within the enterprise; the workplace, machine sites and equipment installations, and places holding dangerous and harmful factors within the enterprise must have arrangements to prevent risks of accidents, and signboards carrying instructions on occupational safety and hygiene must be posted at places where they can easily noticed and read.

Article 99

1. In case there is a risk of employment accidents or occupational diseases arising at the workplace or from machinery and equipment, the employer must immediately take

measures to overcome such risk or order stoppage of activities at the workplace, of the operation of the machinery and equipment involved, until the risk is overcome.

2. An employee shall have the right to refuse performing the work or to leave the workplace that clearly presents an imminent and serious threat to life or health, and has the obligation to report immediately to the persons directly in charge. The employer must not require the worker to continue working or return to the workplace if the danger is not eliminated.

Article 100

At workplaces, which contain dangerous and toxic elements and have a high risk of accidents, the employer must provide appropriate technical and medical facilities, and protective equipment to ensure prompt rescue in case of emergencies or accidents.

Article 101

An employee engaged in dangerous and toxic jobs must be provided with protective clothing and personal protective devices.

The employer must ensure that personal protective devices and protective clothing meet the standards of quality and design stipulated by the laws.

Article 102

When recruiting or placing the employees, the employer must base on health standards stipulated for each type of work, and provide the workers with training, guidance, and information on regulations and measures relating to occupational safety and hygiene, and on the possible accidents which may occur for each particular job for arising from the work of each worker and measures for its prevention.

An employee must have a medical examination at the time of recruitment and subsequent periodical examinations as stipulated by the relevant regulations. The expenses for medical examination of workers shall be borne by the employer.

Article 103

Enterprises are responsible for providing health care to the employees and for giving first aid and emergency aid to the employees, when required.

Article 104

Persons working in dangerous and toxic conditions shall receive allowances in kind, and enjoy preferential treatment in respect of hours of work and of rest, in accordance with the laws.

An employer must ensure that employees working at places exposed to risks of intoxication and infection shall, after work-hours, be provided with intoxication and infection measures and other personal hygiene measures.

Article 105

Work accidents mean accidents causing death or injury in whatever part of the worker body and occurring during the process of working and in connection with the execution of the work or task assigned.

Victims of work accidents must receive prompt emergency first aid and adequate treatment and care. The employer must be responsible in accordance with laws for work accidents occurred by his/her fault.

Article 106

Occupational diseases are diseases caused by the effect of harmful conditions of work on the employee. A list of occupational diseases is jointly issued by the Ministry of Health and the Ministry of Labour, Invalids and Social Affairs, after consultation with the Vietnam General Confederation of Labour and representatives of employers.

A person suffering from occupational diseases must be given adequate treatment and care, undergo periodical medical examinations and have a special medical record.

Article 107*

1. Persons who become disabled as the result of work accidents or occupational diseases shall undergo a medical assessment to determine their relevant degree of disability and the degree of reduction in their ability to work, and shall receive treatment for vocational rehabilitation. In case of continuation of employment, they shall be assigned to a job, which is appropriate to their health basing on the recommendations of the Labour Medical Assessment Board.

2. The employer must bear all medical expenses incurred from the time of emergency first aid to that of completion of the medical treatment for the victims of work accidents and occupational diseases. The employee shall be entitled to social insurance benefits for work accidents and occupational diseases. If the enterprise is not yet covered by the compulsory scheme of social insurance, the employer shall pay the employee an amount equal to the amount provided for in the Social Insurance Regulations.

3. The employer shall pay compensation at least equal to 30 months' *wages and additional payment to wage, (if any)*, to any employee whose ability to work has been reduced by 81 per cent or more, or to the relatives of the worker who has died as a result of work accident or occupational disease which is not caused by the fault of the employee. Where the work accident or occupational disease is due to his/her fault, the worker or his/her relatives shall still be granted an allowance at least equal to 12 months' *wages and additional payment to wage, (if any)*.

The Government determines the employer's responsibilities and the rate of compensation to the worker whose ability to work has been reduced by from 5 per cent to below 81 per cent due to work accident or occupational disease.

Article 108

All cases of work accidents and occupational diseases must be declared, investigated, recorded, included in the relevant statistics, and reported periodically as stipulated by the laws.

All action to cover up, falsely declare or report on work accidents and occupational diseases is strictly prohibited.

Chapter X

SEPARATE PROVISIONS CONCERNING FEMALE EMPLOYEES

Article 109

1. The State shall ensure the women's right to work on a basis of equality in any respect with men; formulates policies to encourage employers to create conditions for providing female employees with regular employment, and to apply widely in their respect, the regime of employment with flexible timetable, part-time work or home based work.
2. The State shall formulate policies and measures to gradually expand employment opportunities, improve working conditions, raise skills levels and healthcare, and strengthen the material and spiritual welfare of female employee with the aim to assist them in developing effectively their occupational capacity and to combine harmoniously professional life with family life.

Article 110

1. The State bodies shall be responsible for the development of various forms of training in favor of female employees in order to enable them to acquire additional skills beyond their current occupation and to facilitate their employment in conditions that are suited to their physical and physiological characteristic and their motherhood functions.
2. The State shall formulate policies on preferential treatment and shall consider reduction of taxes for enterprises, which employ a high number of female employees.

Article 111*

1. All acts by an employer to discriminate against female workers or offend their dignity and honor are strictly prohibited.
The employer must implement the principle of equality between men and women in respect of recruitment, employment, and advancement in wage grades and remuneration.
2. The employer shall give preference to a woman when she meets the recruitment criteria for a vacant position suitable to both men and women that needs to be filled in the enterprise.
3. The employer shall be prohibited from dismissing in a female worker or unilaterally terminating the labour contract of a female employee for the reason of her marriage, pregnancy, maternity leave, or that she is nursing a child under 12 months of age, except in the case where the enterprise ceases its activities.

During the time of pregnancy, maternity leave, or nursing a child under 12 months of age, the female employee shall be temporarily exempt from unilateral termination of her labour contract and shall enjoy the postponement of the period within which labour disciplinary measures shall be applied, except in the case where the enterprise ceases its activities.

Article 112

Where there is a doctor's certificate which states that continued employment would adversely affect her womb, the pregnant employee shall have the right to unilaterally terminate the labour contract without being liable to compensation stipulated in Article 41 of this Code. In such case, the period of notice that the female employee must give to the employer shall depend on the period determined by the doctor.

Article 113

1. An employer must not assign female employee to heavy, dangerous work, or work exposed to toxic substances that are harmful to their child bearing and rearing functions, as specified in the list of works issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

Enterprises which are employing female employees in work referred to above must draw up a plan to train and gradually transfer those female employees to other suitable work,

to intensify measures to protect the health of female employees, to improve their working conditions, or to reduce the number of working hours.

2. An employer must not employ a female employee of any age in regular underground work in mines or work immersed in water.

Article 114

1. A female employee shall be entitled to prenatal and postnatal leaves, which are from four to six months in total as regulated by the Government accordingly to working conditions and the hard, harmful nature of the work or its remote location. In case the employee gives birth to more than one child at one time, she shall be entitled to 30 additional days of leave for each child counted from the second one. The rights and benefits of a female employee during her maternity leave shall be as stipulated in Articles 141 and 144 of this Code.

2. After the statutory maternity leave stipulated in clause 1 of this Article, if so required, a female employee may take additional leave without pay under terms agreed upon with the employer. A female employee may return to work before the expiration of her statutory maternity leave provided that she has taken at least two months of postnatal leave and a doctor's certificate confirming that early resumption of work does not affect her health and that the employer is given the advance notice. In such a case, the female employee continues to be entitled to maternity benefits, in addition to the normal wages for the days worked.

Article 115

1. Employer must not be allowed to employ a female employee as from her seventh month of pregnancy or who is nursing a child under 12 months of age to work overtime, at night, or in distant places.

2. A female employee performing heavy work, on reaching her seventh month of pregnancy, shall be transferred to a lighter work, or have her daily working time reduced by one hour but shall still receive her full wage.

3. A female employee in her menstruation period shall be entitled to 30 minutes off in every working day with full pay; a female employee nursing a child under 12 months of age shall be entitled to 60 minutes off in every working day with full pay.

Article 116

1. Places where female worker is employed must have cloakrooms, bathrooms and toilets for women.

2. Where a high number of female employees are employed, the employer shall have the responsibility to assist in making arrangement for creches and kindergartens, or in covering part of the expenses incurred by female employees having children in creches or kindergartens.

Article 117

1. When taking time off work for prenatal check-up, for various measures of family planning or for miscarriage; for caring a sick child who is under seven years of age or adopting a newly born child, a female employee shall be entitled to social insurance benefits or shall be paid an equal amount by the employer. The length of the time off work and the benefits entitlement stipulated in this clause shall be determined by the Government. In cases where another person takes care the sick child in place of the mother, the mother is still entitled to social insurance benefits.

2. After her statutory maternity leave and even also after her postnatal leave without pay, the female employee on returning to work shall be guaranteed employment.

Article 118

1. In enterprises employing a high number of female employees, a member of the management staff shall be assigned to deal with female employees' questions; when taking a decision, which affects the rights and interests of women or children, consultation with representatives of the female employees shall be ensured.
2. There shall be an appropriate proportion of female inspectors in the staff of labour inspection.

Chapter XI
SEPARATE PROVISIONS CONCERNING JUNIOR WORKERS
AND OTHER CATEGORIES OF WORKERS

Section I
JUNIOR WORKERS

Article 119

1. Junior workers are workers under 18 years of age. At places where junior workers are employed, separate records shall be kept with mention in full of the name, date of birth, work assigned, results of periodical health checks of the junior workers, and shall be presented at the request of labour inspectors.
2. It is strictly prohibited to abuse labour capacity of junior persons.

Article 120

The admission to work of children under 15 years of age shall be prohibited, except in certain categories of occupations and works as determined by the Ministry of Labour, Invalids and Social Affairs.

In occupations and works where the admission of children less than 15 years of age for work, vocational training or apprenticeship is permitted, the agreement and supervision of their parent or guardian are required.

Article 121*

An employer shall only be permitted to employ junior worker in work suitable to the health of the junior workers so as to ensure their physical, spiritual and personal development, and is required to take care junior workers on their work, wages, health and training in the course of their employment.

The employment of junior workers is prohibited in heavy, dangerous work, in work exposed to toxic substances or *in work and workplace which may give bad influence to their personality*, as determined in a list issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

Article 122

1. The hours of work of junior workers shall not exceed 7 hours per day or 42 hours per week.
2. An employer shall only be permitted to employ junior workers to work overtime or work at night in certain categories of occupations and works determined by the Ministry of Labour, Invalids and Social Affairs.

Section II
ELDERLY EMPLOYEES

Article 123

Elderly workers are male workers over 60 years of age and female workers over 55 years of age.

During the last year prior to retirement, elderly workers shall be entitled to reduced daily working hours or part-time work in accordance with regulations issued by the Government.

Article 124

1. Where necessary, an elderly employee may reach an agreement with the employer on the extension of the labour contract or the conclusion of a new labour contract in accordance with the provisions of Chapter IV of this Code.
2. If after retirement the elderly employee is employed under a new labour contract, he/she shall be entitled to the rights and interests agreed upon in the labour contract, in addition to the rights and benefits under the retirement scheme.
3. The employer shall be responsible for the health of the elderly employees and is prohibited from employing them in hard, dangerous work and work exposed to toxic substances adversely affecting their health.

Section III

EMPLOYMENT OF THE DISABLED

Article 125

1. The State protects the right to work of disabled persons and encourages their admission to work and the development of suitable employment for them. Each year the State shall set aside funds in the budget in order to assist the disabled in their medical, vocational rehabilitation and vocational training; it formulates policies on granting low interest loans to the disabled to enable them to be self-employed and stabilize life of their own.
2. Establishments which admit disabled persons for training or apprenticeship are entitled to be considered for tax reduction, granted low interest loans and other preferential treatment for the purposes of facilitating vocational training of the disabled.
3. The Government shall determine an employment quota of disabled workers, which must be met by enterprises for certain, types of works and occupations. Enterprises which fail to implement this quota shall be required to contribute a sum of money as determined by the Government to the employment fund established for the purpose create jobs for the disabled. Enterprises, which over fulfilled the stipulated quota, are entitled to State grants or to low interest loans for creating suitable working conditions for the disabled.
4. The hours of work of the disabled shall not exceed seven hours per day or 42 hours per week.

Article 126

Vocational training establishments and production or business establishments which are specially reserved for disabled persons shall get assistance for their initial infrastructure development as regards workshops, schools, classrooms, equipment, furniture and is entitled to tax exemption and low interest loans.

Article 127

1. Establishments providing vocational training for or employing disabled persons in, production or business shall observe relevant provisions regarding working conditions, working tools and equipment, and occupational safety and hygiene, and shall take constant care of their health.
2. The employment of disabled persons being deprived of 51 per cent or more of their labour capacity to work overtime or at night shall be prohibited.

3. The employer shall be prohibited from assigning disabled persons to heavy, dangerous work, or work exposed to toxic substances as determined in a list issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

Article 128

In addition to the rights and interests provided for in this Section of the Code; employees who are injured or disabled ex-soldiers shall be entitled to preferential treatment reserved for them by the State.

Section IV

WORKERS WITH HIGHLY SPECIALIZED SKILLS AND TECHNICAL QUALIFICATIONS

Article 129*

1. A worker with highly specialized skills and technical qualifications shall have the right to work concurrently several jobs or positions provided that he/she can ensure full execution of several labour contracts concluded with several employers and must notify the employers thereof.
2. *A worker shall have all the rights, benefits and obligations relating to inventions, useful solutions, industrial designs and other objects of industrial ownership that they have created or taken part in the creation while implementing the labour contract, in accordance with laws on industrial ownership and in conformity with concluded contracts.*
3. A worker with highly specialized skills and technical qualifications shall have the right to take long-term, unpaid or partially paid leave for scientific research purposes or for higher studies and still maintain his/her current job or position, pursuant to an agreement reached with the employer.
4. A worker with highly specialized skills and technical qualifications shall be given priority in the application of the provisions of clauses 1 and 2, Article 124 of this Code.
5. An worker with highly specialized skills and technical qualifications who discloses technological or business secrets pertaining to the workplace, shall, in addition to being subject to disciplinary measures as stipulated in Article 85 of this Code, be liable for payment of compensation for incurred damages in accordance with the provisions of Articles 89 and 90 of this Code.

Article 130

1. An employer shall have the right to conclude a labour contract with any person with highly specialized skills and technical qualifications including civil servants or public employees for work that is not prohibited by the Civil Servant's Regulation.
2. Workers with highly specialized skills and technical qualifications shall enjoy preferential treatment by the State and by employers, and shall enjoy favourable conditions for the continuous development of their talents to the benefits of both the enterprise and the country. The preferential treatment reserved for workers with highly specialized skills and technical qualifications shall not be deemed discrimination in employment.
3. The State shall encourage and formulate preferential policies for workers with highly specialized skills and technical qualifications to work in mountainous areas, border regions, on islands, and in difficult regions.

Section V*

WORK FOR FOREIGN ORGANIZATIONS AND INDIVIDUALS IN VIETNAM,

FOREIGNERS WORKING IN VIETNAM

Article 131

Vietnamese citizens working in enterprises established in accordance with the Law on Foreign Investment in Vietnam, enterprises in processing zones, for foreign or international bodies and organizations operating in Vietnam, or for foreign individuals living in Vietnam, and foreign nationals working in Vietnam shall abide by the labour legislation of Vietnam and shall be subject to and protected by the labour laws of Vietnam.

Article 132*

1. Foreign investment enterprises may recruit Vietnamese workers directly or through job introducing agencies, and have to notify the local labour authority the list of recruited workers.

In the case of work requiring high technical or managerial skills, *which can not yet be met by Vietnamese workers*, the enterprises shall be permitted to recruit a *proportion of foreign workers* for a fixed period of employment, but training plans and programs shall be established *to enable Vietnamese workers to rapidly qualify for*, and replace foreign workers in accordance with *provisions issued by the Government*.

2. The foreign or international bodies and organizations operating in Vietnam or foreign individuals living in Vietnam shall be permitted to recruit Vietnamese and foreign employees in accordance with provisions issued by the Government.

3. The minimum wages, which applies to Vietnamese workers, employed in the cases referred to in Article 131 of the present Code shall be determined and published by the Government after consultation with the Vietnam General Confederation of Labour and the representatives of employers.

4. The hours of work and rest, occupational safety and hygienic, social security, and settlement of labour dispute in the enterprises and organizations and other cases stipulated in Article 131 of the present Code shall be implemented in accordance with provisions of *this Code and other related regulations*.

Article 133*

1. Foreign nationals working for *more than three months* for enterprises, organizations or individuals in Vietnam must obtain a work permit issued by *the authority on labour of the province or the city coming directly under the central administration; the term of validity of the work permit is according to the labour contract, but does not exceed 36 months and may be extended upon an application thereof from the employer*.

2. Foreign nationals working in Vietnam shall be entitled to the rights and benefits, and must carry out the obligations, stipulated by the laws of Vietnam, except where an international treaty to which the Socialist Republic of Vietnam is a signatory or participant provides otherwise.

Section Va*

VIETNAMESE WORKERS WORKING OVERSEAS

Article 134*

1. The State encourages enterprises, bodies, organizations and individuals to seek and expand labour markets to create overseas employment for Vietnamese workers in accordance with Vietnamese laws, host country' laws and international treaties to which the Socialist Republic of Vietnam is a signatory or participant.

2. Vietnamese citizens, who are at the age of full 18 or more, capable and voluntary to work and meet other requirements and conditions in conformity with the Vietnamese laws as well as the host countries' laws and requirements, shall be permitted to work abroad.

Article 134a*

The forms of placement of Vietnamese workers to overseas employment include:

- 1. Supplying labour force under contracts concluded with the foreign party.*
- 2. Arranging placement abroad under entrepreneurial subcontract or a contract on a project in foreign countries.*
- 3. Arranging placement abroad under investment project in foreign countries.*
- 4. Other forms in accordance with the provisions of laws.*

Article 135*

1. An enterprise engaged in placement for overseas employment is required to obtain a permit issued by a competent labour authority.

2. An enterprise engaged in placement for overseas employment has the following rights and obligations:

- a) To register the overseas employment contracts with a competent labour authority;*
- b) To find markets and to conclude contracts with the foreign party*
- c) To make public the terms and conditions of recruitment, the rights, benefits and obligations of the workers;*
- d) To recruit directly, without charging recruitment fee from the workers;*
- e) To arrange orientation training and education for workers before their departure for overseas employment, in conformity with the provisions of the laws;*
- f) To conclude overseas employment contracts with workers; to arrange the dispatch of the workers and their return to the country in strict conformity with concluded contracts and provisions of the laws;*
- g) To collect directly the service fee for placement abroad and to pay contribution to the Overseas Employment Support Fund according to the regulations issued by the Government;*
- h) To ensure due management and to protect the worker's rights and interests during the time they are working under employment contract abroad, in accordance with the provisions of Vietnamese and host countries laws;*

i) To pay the workers compensation for damages caused by any violation of the contract on the part of the enterprise;

k) To bring an action for compensation against the worker whose violation of the contract has damaged to enterprise;

l) To lodge complaints to competent authorities on the infringements of the law occurred in matters relating to recruitment and placement for overseas employment.

3. Enterprises engaged in placement of Vietnamese workers to overseas employment under entrepreneurial subcontract, contract on a project or investment project are required to register the contracts with a competent labour authority and shall comply with regulations stipulated in sub-clauses (c), (d), (d), (e), (h), (i), (k) and (Z) of clause 2 of this Article.

4. The Government shall give specific prescriptions on the cases of workers, who go to work abroad under the contracts not arranged by any enterprise.

Article 135a*

1. The worker who is going to work abroad has the following rights and obligations:

a) To be provided with information on policies, labour legislation, recruitment conditions, rights, benefits and obligations relating to the workers who are employed abroad;

b) To have access to orientation training and education before departure;

c) To sign and to scrupulously implement overseas employment contract;

d) To enjoy guarantee for the rights and interests secured in the concluded contract in conformity with the provisions of Vietnamese and host countries' laws;

e) To comply with Vietnamese and host country's laws, and to respect host country's culture and customs;

f) To enjoy the protection in respect of consular and judicial matters;

g) To pay service fee for job placement abroad;

h) To lodge complaints, to denounce or to bring an action before competent State authorities of Vietnam or of host countries on infringements of law and contracts from the part of enterprise of placement for overseas employment and foreign employers;

i) To pay compensation for damages caused by violation of contract.

k) To enjoy compensation paid for damages caused by violation of contract from the part of the enterprise.

2. The worker who is going to work abroad in cases referred to in clause 3 of the Article 135 shall have the rights and obligations provided for in sub-clauses (a), (b), (c), (d), (e), (A (h), (i) and (k) of clause 1 of this Article.

Article 135b*

The Government shall stipulate detailed regulations on the training of workers for overseas employment, on the organization and management of the workers employed and on the establishment and administration of the Overseas Employment Support Fund.

Article 135c*

1. The illegal recruitment and dispatch of workers abroad are strictly prohibited;

2. *Enterprises, organizations and individuals involving abuse of placement for overseas employment to recruit, train and dispatch workers abroad illegally shall be dealt in accordance with the provisions of the laws, and shall pay the workers compensation for caused damages;*

3. *The workers committing abuse of overseas employment for other purposes shall be dealt in accordance with the provisions of the laws, and shall pay compensation for caused damages.*

Section VI **OTHER CATEGORIES OF WORKERS**

Article 136

Persons who work in specific works and occupations in the artistic field shall be entitled to appropriate conditions relating to the vocational training age, retirement age, conclusion of labour contracts, time of work, time of rest, wages, allowances, bonuses, and occupational safety and hygiene in accordance with the regulations issued by the Government.

Article 137

1. An employee may agree with the employer to perform work at home on a regular basis and still enjoy their full rights and benefits enjoyed by other employees working at the enterprise.

2. A worker who works at home under the contract to provide semi products shall not be subject to the provision of this Code.

Article 138

In enterprises employing less than 10 employees, the employer shall still be required to ensure to the workers' basic rights and interests in accordance with this Code, but shall be entitled to reduction of, or exemption from, compliance with certain provisions and procedures as determined by the Government.

Article 139

1. Persons who are employed to help in households may be hired by oral or written labour contracts. Persons hired to watch over property must in all cases have a written labour contract.

2. The employer must respect the honor and dignity of domestic helps and assume responsibility for their care and treatment when they suffer from sickness or accidents.

3. Remuneration, time of work, time of rest and allowances of domestic helps are agreed by contract. The employer shall pay travel fares and expenses for them to return home at the end of their service, except in cases where the domestic helps voluntarily leave their employment before the expiration of the labour contract.

Chapter XII **SOCIAL INSURANCE**

Article 140*

1. The State shall stipulate policies on social security with an aim to gradually expand and improve the material security, *the health care and health recovering* for workers and to help them and their family to have a stable life in case of sickness, maternity,

termination of working age, death, occupational accidents and diseases, unemployment, risks and other difficulties.

The Government shall promulgate specific regulations on retraining for unemployed workers, on rates of contribution to unemployment insurance, on qualifying conditions and payable' unemployment benefit, on establishment, administration and operation of Unemployment Insurance Fund.

2. Social insurance in either compulsory or voluntary form shall apply to each of the categories of employees or enterprises in order to provide employees with the appropriate benefit of social insurance.

Article 141*

1. The compulsory social insurance scheme shall apply to enterprises, *bodies and organizations, which employ the employees under labour contract with definite term of over 3 months and labour contract with indefinite term.* In these enterprises, *bodies and organizations*, the employer and the employees shall pay contributions to social insurance funds in accordance with the provisions of Article 149 of this Code and the employees shall be entitled to social security benefits in the event of sickness, work accidents and occupational diseases, maternity, retirement and death.

2. In respect of employees who are employed under labour contract with less than three months term, social insurance contributions shall be included in the wage paid by their employer in accordance with Government decisions so as to enable the employees to participate in social insurance on a voluntary basis or to make their own insurance arrangements. When the above-mentioned labour contract is expired and the employees continue to work or a new contract is concluded, the compulsory social insurance scheme as stipulated in clause 1 of this Article shall be applied.

Article 142

1. In case of sickness, the employees shall be entitled to medical examination and treatment at health establishments under the medical insurance scheme.

2. In case of sickness certified by a doctor as requiring sickness leave for treatment at home or hospital, the employee, who is ill shall be entitled to sickness benefit paid from social insurance fund.

The amount of sickness benefit shall depend upon the working conditions and the level and period of social insurance contribution as determined by the Government.

Article 143

1. During the period in which the employees are on leave for medical treatment for injury due to work accident or occupational disease, the employer shall pay them the full wage and bear all medical costs incurred as stipulated in clause 2, Article 107 of this Code.

After the treatment, and depending on the degree of reduction in capacity to work due to the work accident or occupational disease, the employee shall be examined and his/her class of invalidity shall be determined for entitlement of a lump sum or monthly benefit paid by social insurance fund.

2. In case of death due to work accident or occupational disease, the employee's relatives shall be entitled, in addition to survivors' benefit and funeral expenses as stipulated Article 146 of this Code, to a lump sum allowance from social insurance fund equivalent to 24 months of the minimum wage as determined by the Government.

Article 144*

1. During the period of maternity leave as stipulated in Article 114 of this Code, a female employee who has paid social insurance contributions shall be entitled to social security benefit equal to 100 per cent of her wage and to an additional allowance of one month's wage.
2. Other regimes governing female employee shall be applied in accordance with the provisions of Article 117 of this Code.

Article 145*

1. Employee shall be entitled to a monthly retirement pension when he fully meets the required conditions in respect of age and period of social insurance contribution as follows:
 - a) The age of 60 years in full for male, and of 55 years in full for female employees. The retirement age for those employed in heavy or toxic jobs or in highland areas, border regions, or on islands, and in other special cases shall be determined by the Government.
 - b) The qualified period of social insurance contribution is 20 years or more.
 - 1a. Female workers at the age of full 55 having full 25 years of contributions to social insurance fund and male workers at the age of full 60 having full 30 years of contributions to social insurance fund shall be entitled to the same rate of retirement maximum monthly pension stipulated by the Government.*
2. Employees who do not fully meet the conditions stipulated in clause 1 of this Article, but meet any one of the conditions stipulated below, shall be entitled to a monthly retirement pension at a lower rate:
 - a) Employees who meet the age requirement stipulated in sub-clause (a), clause 1 of this Article and have paid social insurance contribution less than 20 years but at least 15 years in full;
 - b) Employees who have paid social insurance contribution for a period of 20 years or more but not met the age requirement, provided that they are at least 50 years of age for male and 45 years of age for female workers and their capacity to work has been reduced by 61 per cent or more;
 - c) Employees employed in extremely heavy or toxic works as determined by the Government, who have paid social insurance contributions for a period of 20 years or more and whose capacity to work has been reduced by 61 per cent or more.
3. Employees who are not qualified for a monthly retirement pension as stipulated in clauses 1 and 2 of this Article shall be entitled to a lump sum retirement benefit.
4. The amount of monthly retirement pension and lump sum retirement benefit referred to *the clauses 1, 1a, 2 and 3 of this Article* shall depend on the level and period of social insurance contribution as determined by the Government.

Article 146

1. Upon the death of an employee in actual employment, of employee currently receiving a monthly retirement pension or a monthly benefit for loss of capacity to work or for employment injury due to an work accident or occupational disease, the person who takes care of the employees' funeral shall be entitled to a grant for funeral expenses as determined by the Government.
2. In case of death of a employee who has died from a work accident or occupational disease, a worker who has paid social insurance contributions for a period of 15 years or more, an employee currently receiving a monthly retirement pension or monthly injury

benefits, their relatives, namely: any children under 15 years of age, spouse, parents who are beyond the working age and who have been supported by the deceased in his/her lifetime, shall be entitled to monthly survivor's benefits. In the case where the deceased employee has no relatives meeting the required conditions for monthly survivor's benefits or who has not paid social insurance contributions for a period of 15 years or more, the family of the deceased is entitled to a lump sum benefit of not more than 12 months of the wage or benefits currently paid to deceased employee.

3. The provisions of this Article shall also apply to the acquired beneficiaries of retirement pension, invalidity benefit, and injury benefits in categories 1 or 2. for work accidents or categories 1 or 2 for occupational diseases before the promulgation of this Code.

Article 147

1. Provided that no severance allowance or no lump sum benefits from social insurance fund has been received by the employee concerned, the period of service of the employee in State enterprises before this Code comes into force shall be counted as a period of social insurance contribution.

2. The social insurance rights and benefits of persons who have been receiving a retirement pension, monthly benefits for invalidity or work injury, or survivors' benefit before this Code comes into force shall continue to be ensured by the State budget and shall be adjusted according to the social insurance schemes in force.

Article 148*

Enterprises in agricultural, forestry, fishery and salt-making industries are required to participate in the social security system suitable to their production and employment characteristics in accordance with the *provisions issued by the Government*.

Article 149*

1. The Social Insurance Fund shall be formed from the following resources:

- a) The contribution of employers at the rate of 15 per cent of the total wages fund of the enterprise;
- b) The contribution of employees at the rate of 5 per cent of their wage;
- c) The contribution and subsidies of the State with a view to ensuring the implementation of social security schemes for employees;
- d) *Income generated from the fund*;
- e) Other resources.

2. The, Social Insurance Fund shall be managed in a unified, *democratic and public way* in accordance with the State financial regulations have an independent accounting and enjoy protection by the State. The Fund may carry out measures to preserve and increase its value, as determined by the Government.

Article 150

The Government promulgates the Social Insurance Regulations, sets up the system of social insurance organization and lays down the Rule governing the organization and operation of the Social Insurance Fund, with the participation of the Vietnam General Confederation of Labour.

Article 151*

1. Insured workers shall be paid their social insurance benefits in full, by a convenient method and in due time.

2. *On social insurance disputes settlement:*

a) Disputes occurring between employees and employers shall be settled in accordance with the provisions of Chapter XIV of this Code;

b) Disputes occurring between employees who have been retired in accordance with the provisions of laws and employer or social insurance agencies, disputes occurring between employers and social insurance agencies shall be settled by negotiation and agreement between the two parties, in the absence of agreement, the matter shall be brought to the adjudication of the People's Court.

Article 152

The State encourages employees, trade unions, employers, and other social organizations to set up funds for mutual social assistance.

Chapter X111 TRADE UNIONS

Article 153*

1. To represent and defend the *legitimate* rights and interests of the workers and their labour collectives, the *local Federation of Labour tend the branch trade union are responsible to set up trade union organizations* in every enterprise, in six months from the day the *Law revising and amending certain articles* of the Labour Code comes into force in the case of enterprises already operating but there is no trade union organization, and in six months from the date of starting of operation in the case of newly established enterprises.

The employer shall have the responsibility to create favourable conditions for the prompt establishment of the trade union. Until the enterprises' trade union is set up, the local trade union or the branch trade union shall appoint a provisional trade union Executive Committee for the representation and protection of the legitimate rights and interests of the workers and their labour collectives.

All acts to impede the establishment and the activities of the trade union in enterprises are strictly prohibited.

2. *The Government shall provide guidance for the implementation of clause 1 of this Article after agreement in consultation with the Vietnam General Confederation of Labour.*

Article 154

1. When a trade union organization is established in an enterprise in conformity with the Trade Unions Law and the Trade Union Regulations, the employer must recognize the trade union organization.

2. The employer shall co-operate closely with the trade union and create favourable conditions for it to carry out activities in accordance with the provisions of the Labour Code and the Trade Unions Law.

3. Employers shall not discriminate against employees on the ground of their forming or joining trade unions, or participating in trade union activities, and shall not, by economic measures or other manoeuvres, seek to interfere in, the organization and activities of trade unions.

Article 155

1. The employer is required to provide the necessary working facilities to enable the trade union to carry out its activities.
2. Employee who work part-time for trade union shall be given some time off during working hours to conduct their union activities, and shall still be paid their normal wage. The amount of time off depends on the size of the enterprise and the agreement reached between the employer and the Executive Committee of the trade union of the enterprise but shall not be less than three working days per month.
3. Full-time union officers are paid by trade union fund, but are entitled to the same collective welfare benefits as enjoyed by other workers of the enterprise, in accordance with the work rules or the collective agreement concluded within the enterprise.
4. Dismissal, unilateral termination by the employer of the labour contract of a worker who is a member of a trade union Executive Committee shall require the consent of that committee; if the worker is the Chairman of the trade union Executive Committee, the consent of the trade union organization at the higher level is required.

Article 156

The Vietnam General Confederation of Labour and trade unions at various levels shall join the State competent authorities and representatives of employers in discussing and resolving labour relations questions; shall have the right to establish job introducing agencies, vocational training facilities, mutual aid funds, legal counseling offices and other welfare services for workers, as well as other rights provided for in the Trade Unions Law and this Code.

Chapter XIV

LABOUR DISPUTES SETTLEMENT

Article 157

1. Labour disputes are disputes about rights and benefits relating to employment, wage, income, and other conditions of work; to the implementation of labour contracts and collective agreements; and to issues arising from vocational training or apprenticeship.
2. Labour disputes include individual labour disputes between individual employees and the employer, and collective labour disputes between the labour collective and the employer.

Article 158

Labour disputes shall be settled according to the following principles: I

1. Direct negotiation and self-settlement by the two parties at the place where the dispute arises.
2. Conciliation and arbitration based on mutual respect of rights and interests, respect of general the interest of society and compliance with the law.
3. The dispute is settled in an open, objective, prompt and timely manner, and in conformity with the law.
4. The participation of trade union representatives and representatives of the employers in the dispute settlement proceedings is ensured.

Article 159

Labour dispute settlement bodies shall proceed to handle the dispute when one of the parties refuses to negotiate or both parties have negotiated but failed to reach agreement and one or both of the parties lodge a request for labour dispute settlement.

Article 160

1. In the dispute settlement proceedings, the parties to the dispute have the right:
 - a) To attend the dispute settlement proceedings either personally or through their representatives;
 - b) To withdraw from, or modify the substance of, the dispute;
 - c) To ask for a replacement of the person directly in charge of settlement proceedings, when they have legitimate grounds to believe that the person concerned can not guarantee objectivity and fairness of the dispute settlement.
2. In the dispute settlement proceedings, the parties to the dispute have the obligation:
 - a) To provide all relevant documents and evidence upon the request of the labour dispute settlement bodies;
 - b) To strictly implement the agreement reached, the conciliation record, the decision or award of the dispute settlement bodies, or the judgement or decision of the People's Court, which have taken legal effect.

Article 161

Labour dispute settlement bodies, within their authority and competence, shall have the right to request the parties to the dispute and all bodies, organizations, and individuals concerned to provide documents or evidence; to ask for expert's advice, to invite witnesses and other persons concerned during the proceedings.

Section I

COMPETENCE AND PROCEDURE FOR SETTLEMENT OF INDIVIDUAL LABOUR DISPUTES

Article 162*

The following bodies are competent to examine and settle individual labour disputes:

1. The Labour Conciliation Council of the enterprise, or the labour conciliator of *the labour authority* in the case where there is no Labour Conciliation Council;
2. The People's Court.

Article 163*

1. A Labour Conciliation Council which *must* be set up in enterprises where exists a *trade union or a provisional trade union Executive Committee*, and shall compose of an equal number of representatives of the employees and of representatives of the employer. The number of Council members is agreed upon by both sides.
2. The term of office of representatives of the Labour Conciliation Council is two years. The Chairman and secretary of the Council are appointed by rotation among the representatives of each party. The Council is working on the principle of agreement and unanimity.

3. The employer shall be required to provide all necessary facilities for the working of the Labour Conciliation Council for an enterprise.

Article 164*

The procedure for conciliation of individual labour dispute is as follows:

1. The Labour Conciliation Council shall be required to proceed with the conciliation within seven days from the date when the application for conciliation is acknowledged. Sittings of the Conciliation Council shall be held in the presence of both parties to the dispute or of their authorized representatives.

2. The Labour Conciliation Council shall set forth conciliatory proposals for consideration by the disputing parties. If the conciliatory proposals are accepted by the disputing parties, the Council shall establish a conciliation record, which must bear the signatures of the parties to the dispute and of the Chairman and the secretary of the Council. Both parties are duty-bound to implement the agreement laid down in the conciliation record.

3. If the conciliation fails or *one of the two parties to the dispute is absent without legitimate reasons for the second time in spite of lawful summons*, the Labour Conciliation Council shall establish a record of no conciliation. Copies of the record of non-conciliation shall be sent to the parties to the dispute within three days of the date that the conciliation is declared unsuccessful. Each party to the dispute has the right to request the People's Court to *settle* the dispute. The file submitted to the People's Court must be accompanied by the record of non-conciliation.

Article 165*

1. Labour conciliators examine and settle, in accordance with the procedure stipulated in Article 164 of this Code, individual labour disputes at enterprise *where Labour Conciliation Council has not been set up*, disputes relating to the implementation of vocational training contracts and *training costs*.

2. Labour conciliators are required to proceed with the conciliation within seven days from the date when the application for conciliation is acknowledged.

Article 166*

1. The People's Court has the competence to settle individual labour disputes which failed to be settled by the Labour Conciliation Council or the labour conciliator, *or in case the Labour Conciliation Council or the labour conciliator had not settled in the stipulated time*.

2. The People's Court has the competence to settle the following individual labour disputes without having gone through the conciliation procedure:

a) Disputes concerning labour disciplinary measure of dismissal, or unilateral termination of a labour contract;

b) Disputes concerning compensation for damages, and *allowances when terminating a labour contract*;

c) *Disputes between domestic helps and their employers*;

d) *Disputes concerning social insurance specified in the point b of clause 2 of Article 151 of this Code*;

e) *Disputes concerning compensation for damages occurring between worker and enterprise engaged in placement for overseas employment*.

3. Workers are exempted from court expenses in proceedings involving claims for wages due, *loss of work allowance, severance allowance*, social security rights and benefits, compensation for

work accidents or occupational diseases, matters relating to compensation for damages, illegal dismissal or illegal termination of a labour contract.

4. While settling the disputes, People's Courts may declare labour contract and collective agreement null and void partially or totally upon discovering that the labour contract is in infringement of the collective agreements and labour legislation, or the collective agreement runs counter to the labour legislation.

The rights, obligations and interests of the parties in the labour contracts and collective agreements, which are declared null and void, shall be thereafter settled in accordance with the provisions of the laws.

5. The Government gives specific prescriptions for the settlement of consequences from the cases when labour contracts, collective agreements are declared null and void as stipulated in the paragraph 3 of Article 29, clause 3 of Article 48 and clause 4 of this Article.

Article 167*

1. The time limits for requesting a settlement of individual labour disputes, starting from the day a party considers that its rights and interests have been infringed, are the following:

a) One year for the cases indicated in the sub clauses a, b and c of clause 2 of Article 166;

b) One year for the case indicated in the sub-clause d of clause 2 of Article 166;

c) Three years for the case indicated in the sub clause (d) of clause 2 of Article 166;

d) Six months for other cases.

2. The time limit for requesting a settlement of collective labour disputes is one year from the day a party considers that its rights and interests have been infringed.

Section II

COMPETENCE AND PROCEDURE FOR SETTLEMENT OF COLLECTIVE LABOUR DISPUTES

Article 168

The following bodies are competent to examine and settle collective labour disputes:

1. The Labour Conciliation Council of the enterprise or the labour conciliator of the district labour office in cases where there is no Labour Conciliation Council;

2. The Labour Arbitration Council at provincial level;

3. The People's Court.

Article 169*

1. The Labour Conciliation Council of enterprise as stipulated in Article 163 of this Code shall also be competent to examine and settle collective labour disputes.

2. The Labour Arbitration Council at provincial level consists of full-time and part-time members who are representatives of the labour office, the trade union, the employers and some prestige lawyers, administrators and social activist in the locality. The membership of the Arbitration Council shall be in odd number but not exceed nine members, and shall be chaired by the representative of *the authority on labour of provinces, cities coming directly under the central administration.*

The term of the Labour Arbitration Council is three years.

The Labour Arbitration Council takes its decisions by majority and secret ballot.

The authority on labour of provinces, cities coming directly under the central administration is required to provide all necessary facilities for the working of the Labour Arbitration Council.

Article 170

The procedure for conciliation of collective labour disputes is as follows:

1. The Labour Conciliation Council or the labour conciliator are required to proceed with the conciliation within seven days from the date when the application for conciliation is acknowledged. Sittings of the Conciliation Council shall be held in the presence of both parties to the dispute or of their authorized representatives.
2. The Labour Conciliation Council or the conciliator shall set forth conciliatory proposals for examination by the disputing parties. If the conciliatory proposals are accepted by the disputing parties, the Council shall establish a conciliation record, which must bear the signatures of the parties to the dispute and of the Chairman and the secretary of the Council or the conciliator. Both parties shall have the obligation to carry out the provision of the agreement stipulated in the conciliation record.
3. If the conciliation fails, the Conciliation Council or the conciliator shall establish a record of no conciliation, indicating the views of the parties and those of the Council or the conciliator and bearing the signatures of the parties to the dispute, of the Chairman and secretary of the Council or the conciliator. Each party or both parties to the dispute have the right to request the Labour Arbitration Council at provincial level to settle the dispute.

Article 171

1. The Labour Arbitration Council is required to proceed with the conciliation and settlement of the collective labour dispute within 10 days from the date when the application for dispute settlement is acknowledged. Sittings of the Arbitration Council shall be held in the presence of authorized representatives of both parties to the dispute. Where it deems necessary, the Arbitration Council invites representatives or trade union of a higher level and representatives of the competent authorities concerned to attend its sittings.
2. The Arbitration Council shall set forth conciliatory proposals for examination by the disputing parties. In case of agreement by both disputing parties, the Council shall establish a conciliation record, which must bear the signatures of the parties to the dispute and of the Chairman and the secretary of the Council. Both parties are duty-bound to implement the agreement laid down in the conciliation record.
3. If the conciliation fails, the Arbitration Council shall settle the case by arbitration procedure and issue its decision in settlement of the dispute and immediately notify both disputing parties of the award. If there is no objection from either party, the decision shall automatically become enforceable.

Article 172

1. In case of objection to the decision of the Labour Arbitration Council by the workers' collective, the latter shall have the right to request the People's Court to settle the dispute, or to go on strike.
2. In case of objection to the decision of the Labour Arbitration Council by the employer, the latter has the right to request the People's Court to review the award of the

Arbitration Council. The employer's request for a review of the award of the Arbitration Council has no impeding effect on the right to strike of the workers' collective.

Article 173

1. While the collective dispute is under examination of the Labour Conciliation Council or the Labour Arbitration Council, neither party is allowed to take unilateral action against the other party.
2. The decision to go on strike is declared by the Executive Committee of the trade union of the enterprise after obtaining the approval through secret ballot or signatures collection by the majority of worker's collective.
The Executive Committee of the trade union of the enterprise shall send its delegation of three representatives as maximum to present a written claim of the workers' collective to the employer and, at the same time, to send notice thereof to the provincial labour office and the Federation of Labour at the same level. The claim and notices must indicate the issues of disagreement, the demands, the results of the secret ballot or signatures collection approving the decision to go on strike, and the starting time of the strike.
3. All acts of violence, damages to machinery, equipment and property of the enterprise, and acts in breach of public order and safety during a strike are strictly prohibited.

Article 174

Strikes are prohibited at certain enterprises of public service and enterprises, which are essential to the national economy or national security and defense as indicated in a list issued by the Government.

The competent authorities are required to organize periodic consultations with representatives of the workers' collective and the employer at these enterprises in order to provide prompt assistance and response to legitimate demands of the workers' collective. Where a collective labour dispute occurs, it shall be settled by the Labour Arbitration Council at provincial level. If either party does not agree with the award of the Labour Arbitration Council, that party has the right to request the People's Court to settle the dispute.

Article 175

When it is considered that a strike may cause serious threat to the national economy or public safety, the Prime Minister of the Government shall have the power to issue a decision to suspend or to stop the strike.

Article 176

1. The strike is considered illegal when:
 - a) It does not arise from a collective labour dispute; it goes beyond the scope of labour relations;
 - b) It goes beyond the scope of the enterprise;
 - c) It breaches the provisions of clauses 1 and 2 of Article 173 and those of Article 174 of this Code.
2. Decisions as to the legality of a strike come under the competence of the People's Court.

Article 177

The People's Court shall have the power to make the final decision in relation to strikes and collective labour disputes.

Article 178

1. All acts of repression or reprisals against persons who took part or had a leading role in a strike shall be strictly prohibited.
2. Persons who obstruct the exercise of the right to strike, or force another person to strike; persons who commit unlawful acts during a strike; and persons who fail to comply with the above mentioned decision of the Prime Minister of the Government or decisions of the People's Court shall, depending on the seriousness and the nature of the offence, be liable to compensation for damages, administrative sanctions, or to prosecution for penal responsibility.

Article 179

The Standing Committee of the National Assembly shall make provisions governing the resolution of strikes and the adjudication of labour cases.

Chapter XV

LABOUR ADMINISTRATION

Article 180

Labour administration by the State includes the following main functions:

1. To identify the current status and development of labour supply and demand as the inputs for formulating national policies, plans or projects on human resources, distribution and utilization of labour in the overall social context;
2. To promulgate laws and regulations and to provide guidance for their enforcement;
3. To draw up and implement national programs for employment, re-allocation of labour force for new economic zones, and for employment in foreign countries;
4. To determine policies concerning remuneration of labour, social insurance, occupational safety and health, and other policies in the labour and social field; and policies concerning the development of labour relations within enterprises;
5. To organize and carry out scientific research on labour and social matters, and to collect statistics and information on labour and the labour market and on the living standards and income levels of workers;
6. To carry out inspection and supervision of the application of labour legislation, to impose sanctions on breaches of labour laws, and to settle labour disputes in accordance with the provisions of this Code;
7. To develop international co-operation relations with foreign countries and with international organizations in the labour field.

Article 181*

1. The Government assumes the unified State administration of labour in the whole country.

The Ministry of Labour, Invalids and Social Affairs *is responsible to the Government* for carrying out the state administration on labour.

Ministries, bodies at ministerial level are responsible to coordinate with Ministry of Labour, Invalids and Social Affairs so as to exercise the unified state administration on labour.

2. People's Committees at all levels shall perform the state administration of labour within their respective localities. *The local labour authority* shall assist the People's Committees of the same level in performing the state administration of labour according to the levels of duties assigned by the Ministry of Labour, Invalids and Social Affairs.

3. The Vietnam General Confederation of Labour and trade unions at all levels shall participate in the supervision of the State administration of labour in accordance with the provisions of the laws.

4. *The representatives of employers and employees shall provide state bodies with their comments on policies, laws and other issues relating to labour relations in accordance with the provisions determined by the Government.*

Article 182*

Within 30 days of the date of starting business, the employer shall declare the number of workers employed and subsequently during the period of operation, shall report *to the local labour authority* on changes in the labour situation of the enterprise, according to the regulations issued by the Ministry of Labour, Invalids and Social Affairs. Within 30 days of the enterprise's ceasing its activities, the employer must submit a report on termination of employment of labour *to the local labour authority*.

The employer must establish and keep labour records, wage records and social security records.

Article 183*

Employees shall be issued with individual labour books and social security books in accordance with the provisions of laws.

Article 184*

1. *The Ministry of Labour, Invalids and Social Affairs assumes the unified state administration of overseas employment.*

2. *The People's Committees of provinces, cities coming directly under the central administration shall carry out the state administration of overseas employment within their respective localities.*

3. *The authority on labour of provinces, cities coming directly under the central administration shall issue work permits to foreigners working in Vietnam as stipulated in the clause 1 of Article 133 of this Code.*

Chapter XVI

STATE LABOUR INSPECTION-PENALTIES FOR BREACHES OF LABOUR LAWS

Section I

STATE LABOUR INSPECTION

Article 185*

The State Labour Inspection shall fulfill *the functions of inspection on labour policies, occupational safety and occupational hygiene.*

The Ministry of Labour, Invalids and Social Affairs and the *local labour authority* carry out the state labour inspection.

Article 186*

The State Labour Inspection has the following *main* duties:

1. To carry out inspection of the compliance with statutory provisions on labour, occupational safety and occupational hygiene;
2. To inquire into work accidents and violations of stipulated standards on occupational hygiene;
3. *To take part in developing and guiding the application of the system of standards and different regulations on occupational safety and occupational hygiene;*
4. To deal with complaints and grievances *on labour affairs in accordance with laws;*
5. To make decisions within its competence and submit recommendations to other competent authorities in dealing with breaches of *labour laws*.

Article 187

While carrying out their functions of inspection, labour inspectors shall have the power:

1. To inspect and investigate any place liable to inspection within their competence, at any time without advance notice;
2. To require the employer and other persons concerned to supply information, data and documents relevant to inspection or investigation work;
3. To receive and deal with grievances and complaints concerning breaches of labour laws, in accordance with the provisions of the laws;
4. To decide on temporary suspension of the use of machinery, equipment, work places, which show imminent danger of, work accidents or serious pollution of the working environment. The labour inspector shall bear personal responsibility for his decision and has the duty to report immediately to the competent authorities.

Article 188

Labour inspectors shall not have any personal interests, either direct or indirect, relating to the matters and persons covered by the inspection. Labour inspectors even after their termination of duty are obliged not to reveal any secret that has come to their knowledge in the course of their duties and to keep absolutely confidential all sources of complaint.

Article 189

While carrying out their functions of inspection, labour inspectors shall cooperate closely with the Executive Committee of the trade union. In case the matters under inspection are related to scientific, technical or other professional and specialized fields, appropriate specialists and highly qualified experts may be invited for consult. The inspection of machinery, equipment and stores must be carried out in the presence of the employer and of persons directly in charge of the items in question.

Article 190

Labour inspectors' decisions are given directly to the persons concerned and must clearly indicate the date of their taking effect, the date of completion of execution and also the date of follow-up inspection, if necessary.

Labour inspectors' decisions are binding and must be implemented.

Persons to whom the decision is applied shall have the right to appeal to the competent authorities while duly executing the decision of labour inspectors.

Article 191*

1. The Government shall make regulations on the organization and operation of State Labour Inspection.

2. The Ministry of Labour, Invalids and Social Affairs shall be responsible for organizing the system of State Labour Inspection; for prescribing criteria for the recruitment, appointment, transfer, discharge and dismissal of labour inspectors; for issuing inspector cards; and for setting schedules for periodical or extraordinary reporting and for establishing other necessary systems and procedures.

3. The inspection of occupational safety and hygiene in the fields of: radiation work; oil and gas exploitation; means of transportation by rail, water, road, or air, and in establishments of the armed forces, shall be carried out by the State administrative organs of the respective branches, in coordination with the State Labour Inspection.

Section II
PENALTIES

Article 192

Any person acting in breach of the provisions of this Code shall, according to the degree of infringement, be liable to the following penalties: warning, fine, suspension or withdrawal of permits or license, obligation of compensation, forced closing down of the enterprise, or prosecution for penal responsibility in accordance with the provisions of the laws.

Article 193

Any person who obstructs, bribes or takes revenge on the competent authorities as stipulated in this Code while they are carrying out their duty shall, according to the degree of offence, be liable to disciplinary or administrative sanctions, or be prosecuted for penal responsibility in accordance with the provisions of the laws.

Article 194

Owners of enterprises must bear responsibility under civil law in respect of the decisions of the competent authorities, which impose penalties according to the law, on the director, the manager, or the legal representatives of the enterprise for breaches of labour laws in the exercise of labour management. Liability of the persons concerned to payment of compensation to the enterprise shall be resolved in accordance with the Regulations or work rules of the enterprise or with the contract of responsibility entered into by the parties concerned or with the provisions of the laws.

Article 195

The Government shall stipulate administrative penalties for breaches of labour laws.

Chapter XVII
IMPLEMENTATION PROVISIONS

Article 196

The provisions of this Code shall apply to labour contracts, collective agreements and other lawful agreements, which were signed before the coming into force of this Code. Agreements providing for conditions more favourable to the workers than those provided for in this Code shall continue to be implemented. Agreements, which are not consistent with the provisions of this Code, must be amended and supplemented accordingly.

Article 197

This Labour Code shall come into force on 1 January 1995.

All previous provisions contrary to this Code are hereby repealed.

Article 198

The Standing Committee of the National Assembly and the Government shall elaborate and give guidelines for the implementation of this Code.

This Code was adopted by the National Assembly of the Socialist Republic of Vietnam, IX Legislature, Fifth Session, on June 23, 1994.

**CHAIRMAN OF THE NATIONAL
ASSEMBLY**

Nong Duc Manh
(Signed)