

Circular No. 15/2003/TT-BLDTBXH dated 03 June 2003 of the molisa  
**Guidelines on overtime work as stipulated in Decree No 109/2002/ND-CP, dated  
27/12/2002, issued by the Government of Vietnam**

In execution of Decree 109/2002/ND-CP promulgated, dated 27 December 2002 (by the Government), on the amendment and supplementation of several articles in Decree 195/CP of 31 December 1994, which regulates the implementation of a number of the articles in the Labour Code on work hours, non-work time, and having received input and comments from the Ministry of Health, the Ministry of Finance, the Vietnam General Confederation of Labour and other competent institutions, the Ministry of Labour, Invalids and Social Affairs has issued guidelines on overtime work regulations as follows:

**I. WHO IS COVERED AND SCOPE OF APPLICATION**

To whom the overtime work regulations are applicable is stipulated in item 2, Article 1, Decree 109/2002/ND-CP, dated 27 December 2002, including:

1. People working under labour contracts - which are subject to the Labour Code, as amended, signed with enterprises, institutions, and agencies, including:
  - a) Enterprises which are established and operating under the State Enterprise Law, including production and trade enterprises, enterprises of public interest and military enterprises;
  - b) Enterprises which are established and are operating under the Enterprise Law, including limited companies, joint stock companies, partnership companies and private enterprises;
  - c) Enterprises operating under the Law on Foreign Investment in Vietnam, including joint ventures and 100% foreign-invested enterprises;
  - d) Enterprises of political organizations and socio-economic organizations;
  - e) Households, individual businesses, and co-operative business groups;
  - f) Administrative and non-productive organizations, political organizations, occupational political-economic organizations, other social entities, military forces; including organizations and units authorized to run businesses of production, trading and services under administrative, non-productive institutions, the Party, civic entities, and other financially self-reliant public organizations;
  - g) Semi-public, private institutions and individuals working in culture, health, education, training, science, gymnastics and sport, and other non-productive institutions;
  - h) Commune, ward and town medical stations;
  - i) International agencies and institutions located in Vietnam and recruiting Vietnamese local labourers, except for those operating under different regulations in international treaties in which Vietnam is a signatory or a supporting member;
  - j) Other institutions employing Vietnamese labourers unmentioned in item 1.
2. Labourers and co-operative members working are entitled to payment under labour contracts stipulated in the Labour Code, as amended for co-operatives established and operating under Co-operative Law.

3. The enterprises, institutions and organizations mentioned in item 1 and the co-operatives mentioned in item 2 will hereinafter be referred to as enterprises and units.

## **II. STIPULATIONS ON OVERTIME WORK HOURS**

### **1. Requirements and principles of overtime work up to 200 hours per year:**

Enterprises and units are allowed to offer their employees overtime work up to 200 hours per year if the following requirements and principles are fully and strictly observed :

1.1 Requirements for overtime work up to 200 hours per year:

- a) To fix production problems;
- b) To settle highly urgent tasks that cannot be delayed;
- c) To process raw commodities, construction and products requiring strictly uninterrupted performance;
- d) To perform jobs requiring a skilled workforce which cannot be fully and promptly provided by the labour market.

1.2. Principles for overtime work up to 200 hours per year:

- a) An agreement shall be made to individual employees on overtime as guided in Form No.1 attached to this Circular;
- b) Overtime shall not last more than 4 hours per day; for workers performing especially hard, hazardous and dangerous jobs, overtime cannot exceed more than 3 hours;
- c) Total overtime work hours shall not exceed 16 hours per week; for workers performing especially hard, hazardous and dangerous jobs, overtime cannot exceed 12 hours;
- d) Total overtime hours shall not exceed 14 hours for 4 consecutive days; for workers performing especially hard, hazardous and dangerous jobs, overtime cannot exceed 10 hours
- e) Every week, employees are entitled to a rest of at least 1 day (24 consecutive hours). In exceptional circumstances where weekly leave cannot be arranged due to labour cycles, employees shall receive at least 4 days of rest per month;
- f) In the event employees work overtime for more than 2 hours a day, they shall be entitled to at least one 30-minute break prior to starting overtime work and this shall be included in the overtime hours;
- g) Employees are entitled to take holiday leave or compensational leave on official holidays, annual leave and other paid days off in accordance with existing regulations of the Law in force;
- h) Stipulations in Article 115, Article 122 and Article 127 of the amended Labour Code on the prohibition and restrictions on overtime to female employees, young employees and disabled employees shall be strictly observed;
- i) Work wage and other overtime pay shall be made in accordance with the existing regulations of the Law in force.

### **2. Requirements and principles of overtime work to 300 hours per year:**

2.1. Enterprises and units operating in production and export product processing, including textile and garment products, shoes and aqua-cultured products, are entitled to arrange overtime from over 200 hours to 300 hours a year, but the following requirements and principles shall be strictly followed:

a) *Requirements for overtime work from over 200 hours to 300 hours per year:* in cases of urgency such as urgent needs of production, seasonal characteristics of production, or negative factors, which 200 hours have been arranged for but more overtime hours are still required.

b) *Principles for overtime working from over 200 hours to 300 hours per year:*

- All requirements and principles in point 1.2 of item 1 above must be fully and strictly followed ;

- An agreement with the executive board of Trade Union at the grassroots level or the temporary executive board of Trade Union of the enterprises and units on an overtime plan must be made, subject to Form No. 3 attached to this Circular.

2.2. Other enterprises and units that have the demand for overtime from over 200 hours to 300 hours per year must send documents to ask permission from Ministries, Industries and People's Committees at the provincial level or from cities directly under the Centre, subject to Form No. 2 attached to this Circular.

**3.** In circumstances of having to mitigate the consequences of natural disasters, enemy-inflicted destruction, fire and epidemic diseases.

Enterprises and units entitled to mobilize employees to work overtime of more than 4 hours per day must reach an agreement with the employees in cases of mitigating the consequences of natural disasters, enemy-inflicted destruction, fire and epidemic diseases within the scope of those enterprises and units. That amount of overtime hours is not included in the total overtime hours in the year, but overtime payments and other overtime-related requirements must be complied with the law in force.

### **III. PERFORMANCE ORGANIZATION**

#### **1. Responsibilities of enterprises and units:**

- Add overtime restrictions to labour internal rules and collective labour agreements in accordance with production and business conditions of enterprises and units. Based on this foundation, put up an open notice for employees' awareness and implementation;
- Build production and business plans appropriate for the realities of annual production and the business of enterprises and units to minimize overtime work. When overtime work is organized, the stipulations in this Circular must strictly be applied;
- Employees arranged by enterprises and units to work many overtime hours in a year must be cared for and provided with periodic health examinations and reasonable rest for their long-term health;
- Report the overtime situation of enterprises and units in the year to the local Department of Labour, War Invalids and Social Affairs where the head offices are located.

#### **2. Responsibilities of Ministries, Ministry-equivalent organizations, Provincial People's Committees and cities directly under the Centre:**

- Steer competent government institutions of ministries, ministry-equivalent organizations, provincial people's committees and cities directly under the Centre to promulgate, supervise and speed up, instruct, examine and oversee the implementation of this Circular.
- Steer responsible organizations in receiving permission documents and make decisions allowing enterprises and units to work overtime from over 200 hours to 300 hours per year. At the latest,

15 days from when a permission document is received, a response must be issued to enterprises and units based on Form No.4 attached to this Circular.

**3. Responsibilities of Departments of Labour, War Invalids and Social Affairs:**

- Co-ordinate with labour unions at the provincial level to regularly supervise and speed up, as well as oversee overtime work; simultaneously reinforce supervision on the performance. Any serious violation of overtime restrictions must be strictly and clearly dealt with;
- Receive permission documents and submit them to People's Committees at the provincial level and to cities directly under the Centre to make decisions allowing enterprises and units to work overtime from 200 hours to 300 hours per year.
- Collect, classify and report performance on overtime regulations of enterprises and units in the locality to the Ministry of Labour, War Invalids and Social Affairs every 6 months or 1 year.

**4. This circular is valid 15 days from its issuance date.**

During the implementation, any difficulties should be reported to the Ministry of Labour, War Invalids and Social Affairs for examination and solutions.

**Minister of Ministry of Labour,  
Invalids and Social Affairs**

**Nguyen Thi Hang  
(Signed)**