

Decree of government N_o 23/CP dated 18 April 1996
**Detailing and guiding the implementation of some provisions
of the Labour Code on specific regulations for female workers**

Government

Pursuant to the Law on Organization of the Government dated 30 September 1992,
Pursuant to the Labour Code dated 23 June 1994,
At the proposal of the Minister of Labour, Invalids and Social Affairs

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**CHAPTER 1
GENERAL PROVISIONS**

Article 1. Scope and coverage of this Decree is stipulated as follows:

1. Female workers, including:

- a) Female workers employed by enterprises of all economic sectors and ownership forms;
- b) Female workers employed by the State's administrative and non-productive agencies but not being civil servants or officials working for the State agencies; in cases of being State civil servants or officials, the female workers shall involve in jobs not prohibited by the regulations for civil servants;
- c) Female workers employed by the People's armed forces but not being officers, non-commissioned officers or soldiers;
- d) Female workers employed by People's societies and other socio-political organizations but not being of the professional full-time staff of those societies or organizations;
- e) Female workers being foreigners and employed by Vietnamese enterprises, organizations or individuals in the Vietnamese territory, except for other regulations stipulated in the International Treaty in which Vietnam is a signatory or a supporting member;
- g) Female workers employed by foreign-invested enterprises operating under the Law on Foreign Investment in Vietnam, enterprises in export processing zones, industrial zones, foreign offices, foreign organizations, foreign individuals or international organizations located in Vietnam but not being State civil servants or employees.

2. Employers of female workers, including:

- a) All organizations, individuals employing female workers in economic sectors and ownership forms comprising State-owned enterprises, private enterprises, joint stock companies, limited liability companies, cooperatives, cooperative groups employing workers; foreign-invested enterprises operating under the Law on Foreign Investment in Vietnam; enterprises in export processing zones, industrial zones; foreign individuals or organizations, agencies or international organizations located in Vietnam.
- b) State administrative and non-productive bodies, People's armed forces, People's societies, other socio-political organizations employing female workers.

Article 2. The women's equal right to work in labour relations is stipulated in Item 1, Article 109 of the Labour Code as follows:

- The right to work of women is equal to men in labour relations between employers and employees in all organizations, individuals, economic sectors of all industries; recruitment, employment, training, pay rise, promotion, salary payment, social insurance, health insurance, working conditions and occupational safety, material and spiritual welfares and healthcare.

- The equality ensured by the State in all the aspects concerned above includes labour relations, preferential policies and tax reduction consideration, enabling female workers to perform social duties, fulfill their motherhood functions, and compensating for part of additional expenditures spent for employing female workers.

CHAPTER 2

SPECIFIC PROVISIONS

Article 3. Employment regulations for female workers are stipulated in Item 1, Article 109 of the Labour Code as follows:

Based on specific working conditions and the nature of work in an enterprise, the employer recruiting female workers shall actively coordinate with the trade union to develop a plan providing employment regulations for female workers including flexible, part-time, homework-based employment timetables, creating regular and appropriate work for the legitimate aspirations of female workers.

Article 4. Enterprises employing female workers shall actively identify the list of occupations in which female workers cannot be consecutively engaged until their retirement age as well as develop a plan training additional skills for female workers as stipulated in Article 11, Decree No. 90/CP dated 15 December 1995 by the Government detailing and guiding the implementation of some provisions of the Labour Code on vocational training.

Article 5. An enterprise is qualified as an enterprise employing a high number of female workers if the enterprise meets either one of the two conditions as follows:

1. The number of female workers regularly employed by the enterprise is of between 10 and 100, and the number of female workers employed makes up over 50% of the total regular workforce of the enterprise.
2. The number of female workers regularly employed by the enterprise is of over 100 female workers, and the number of female workers accounts for at least 30% of the total regular workforce of the enterprise.

Article 6. An enterprise identified as with a high number of female workers as stipulated in Item 2, Article 110 of the Labour Code is entitled to preferential policies as follows:

1. In case the enterprise faces special difficulties and is supported by the Prime Minister's decision, the enterprise shall be entitled to borrow loans from the National Fund for Employment promotion at low interest rates as stipulated in part d, item 2, Article 6 of Decree No 72/CP dated 31 October 1995 of the Government detailing and guiding the implementation of some provisions of the Labour Code on employment;
2. In case the enterprise faces financial problems and the employer cannot transfer female workers engaged in jobs belong to the list of jobs prohibited for female workers to other appropriate jobs, the enterprise shall be entitled to build up a project asking for financial assistance in terms of a lump sum from the National Fund for Employment

Promotion as stipulated in part b, Item 2, Article 6 of Decree No 72/CP dated 31 October 1995 by the Government;

3. The enterprise shall be entitled to priority in terms of transferring part of the total annual investment fund to improve working conditions for female workers.

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

Article 7. The consideration for tax reduction is stipulated in Item 2, Article 110 of the Labour Code as follows:

1. Enterprises satisfying conditions stipulated in Article 5 of this Decree shall be entitled for tax reduction;
2. Tax reduction is applied to profit tax but the tax reduction level shall be not lower than additional costs resulted from employment of many female workers and those additional costs shall be calculated by enterprises;
3. The amount obtained from tax reduction shall be managed by the enterprise and spent for female workers;
4. Additional costs resulted from a high number of female workers employed by enterprises whose business performance is unprofitable, are considered valid.

The Ministry of Finance shall provide guidance detailing the implementation of Items 2, 3, 4 Article 7 of this Decree.

Article 8. Based on the prescribed conditions, enterprises not qualified as ones with a high number of female workers, subject to their realistic circumstances and conditions, shall study the State's policies concerning female workers to coordinate with the trade union for appropriate implementation solutions. The solutions agreed shall be included in collective labour agreements.

Article 9. Employers are not permitted, according to Article 111 of the Labour Code, to perform activities as follow:

1. Issuing regulations and rules less beneficial for female workers than legal regulations;
2. Making acts that restrict employment opportunities for female workers;
3. Insulting, beating, outraging honour and human dignity of female workers, etc at the workplace;

Employers violating the acts identified above shall be punished as stipulated by laws according to the nature and seriousness of the violation.

Article 10. Female workers in their pregnancy have the right to unilaterally terminate the labour contract according to Article 112 of the Labour Code as follows:

1. The employer shall move a pregnant female worker engaged in jobs of potentially negative risk to her fetus to another appropriate job if there is a certificate by a general practitioner of a hospital or clinic at the district level upwards;

2. In case the employer cannot arrange another job appropriate for the pregnant worker, the pregnant worker has the right to unilaterally terminate the labour contract without having to compensate for the training cost received (if any).

Article 11. Enterprises entitled to employ female workers for the jobs as identified in the list of jobs prohibited to female workers as jointly stipulated by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health shall be obliged to develop a plan on transferring female workers to other jobs as stipulated in Article 113 of the Labour Code and Item 2, Article 6 of this Decree. During the period the plan concerned above is developed, the enterprise shall apply measures as follows:

1. For extremely hard and hazardous jobs, the enterprise shall reduce the daily working time in accordance with laws;
2. Strengthening measures for improving working conditions;
3. Allocating working time appropriately for female worker so that the female workers can have opportunities to update knowledge and skills or be trained in a new career.

Article 12. To implement the policies applied to female workers as stipulated in Article 118 of the Labour Code:

1. Enterprises employing a high number of female workers shall assign members in the executive board to monitor and supervise the implementation of the policies and regulations for female workers; collect information and make proposals to the State's administration agencies to revise or supplement regulations and policies for female workers;
2. Enterprises employing a high number of female workers shall make reports on the implementation of regulations and policies for female workers as stipulated by the Ministry of Labour, Invalids and Social Affairs;
3. In enterprises the trade union or the temporary trade union already exists, the representative of the female workers shall be the Section on Female workers.

Chapter III

IMPLEMENTATION PROVISIONS

Article 13. This Decree shall come into effects on the date the Decree is signed.

Article 14. The Ministry of Labour, Invalids and Social Affairs, the Ministry of Finance, within the regulated jurisdiction, are responsible for providing instructions and guidance on the implementation of this Decree.

Article 15. Ministers, Heads of Ministry-equivalent agencies, Heads of Governmental agencies, Chairmans of People's Committees of provinces and cities under the Centre shall be responsible for the implementation of this Decree.

**On behalf of the government
pp. prime minister
vice prime minister**

**Phan Van Khai
(Signed)**