

Decree of Government N<sub>0</sub> 195/CP dated 31 December 1994

**Elaborating provisions and providing guidance for the enforcement  
of relevant stipulation of the Labour Code on time  
of work and time of rest**

The Government

Pursuant to the Law on the organisation 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,

Decrees

**Chapter I**

**Subjects and scope of application**

**Article 1.** Working and resting time applied to the employees who work for the following enterprises, bodies, organizations:

- Enterprises set up and operating under the Law on State-run Enterprise
- Enterprises set up and operating under Enterprise Law
- Enterprises operating according to Foreign Investment law to Vietnam
- Enterprises belonging to political organizations, social-political organizations
- Cooperatives operating in accordance with the Co-op Law and employing workers according to regime of Labour contract.
- Education, Health, Culture and Sport undertakings set up in accordance with the Decree No. 73/1999/ND-CP dated 19 August 1999 on policy for promoting the socialization of activities in the said fields.
- Co-op team, Private business household, family household and individuals who are employing Labours;
- International or Foreign organizations & bodies located in the territory of Vietnam employing Vietnamese workers, excluding other regulations applied to International treaties signed with or joined in by the Socialist Republic of Vietnam.
- This Decree shall also be applied to civil servants and public employees working in administrative, non-productive organs, elected, appointed or assigned people of political organization, social-political organization, mass organization, those belonging to the People's Armed Forces, the People's Public Security, except where other legal text applied for each category provides otherwise."

**Article 2.** This Decree shall not apply to persons working in special undertakings belonging to the armed forces and security forces, to officers, non - commissioned officers and soldiers of the armed forces and security forces.

**Chapter II**

**Time of work**

**Article 3:** Time of work referred to Article 68 of the Labour Code is elaborated as follows:

1. In normal working conditions and normal labour environment, the time of work:
  - Shall not exceed 8 hours per day;

- Shall not exceed 48 hours per week.
- 2. Daily working hours shall be reduced by one to two hours in extremely hard, harmful, or dangerous work as indicated on the list issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health,
- 3. The working hours with pay includes:
  - Time of rest in the interval between shifts;
  - Breaks for rest, according to the nature of work;
  - Time off work necessary for physiological needs, already included in working norms;
  - 60 minutes' time off work every working day for a female worker nursing a child under 12 months of age;
  - Minutes' time off work every working day for female worker in her menstruation period;
  - Time lost in work stoppage not due to the worker's fault;
  - Time for education and training on occupational safety and health;
  - Time for meeting and education at the initiative of the employer or under his permission.

**Article 4.** The employer has the right, based on Article 68 of the Labour Code to determine the working hours on a daily or a weekly basis, and may fix the regular weekly rest day, according to the production and business conditions of the undertaking, but he/she can not contravene the stipulations of points 1 and 2 of Article 3 of this Decree, and shall specify his/her decision in labour contract, collective agreement, and work rules of the undertaking .

**Article 5.** The over time specified in the Article 69 of Amended, Supplemented Labour Code shall be regulated as follows:

1. For specific type of work the daily over time shall not exceed 50% of the daily working hours. In case of working hours are regulated per week, normal working hours and over time per day shall not exceed 12 hours. The total working hours in per year shall not exceed 200 hours, excluding special cases as stipulated in Clause 3 of this Article.
2. Employer and employee shall discuss for an agreement on over time not exceeding 200 hours per year as stipulated in Clause 1 of this Article in following cases:
  - To settle troubles arisen in the production;
  - To solve urgent works which can not be delayed;
  - To process timely fresh goods, construction works and products which can not be left unfinished as strictly requested by the technology.
3. As having to overcome serious consequences caused by natural calamities and war, fire and epidemic diseases within the operating area of the enterprises, bodies and organizations, the employer is allowed to mobilize the extra working hour beyond hours regulated in Clause 1 of this Article, provided it has to be agreed by the employees.”

**Article 6 .** Hours of night work referred to in Article 70 of the Labour Code are elaborated as follows:

- From Thua Thien - Hue province to the far north : within the period from 10.00 p.m to 6.00 a.m.
- From Quang Nam - Da Nang province to the far south: within the period from 9.00 p.m to 5.00 a.m

### **Chapter III**

## **Time of rest**

### **Article 7.**

- The time of rest referred to in Article 71 of the Labour Code is elaborated as follows:

- A break of 30 minutes for workers who work 8 consecutive hours in normal working conditions, or 6 - 7 consecutive hours in case of reduced daily working time.
- A break of 45 minutes for workers who perform night work consecutively from 10.00 p.m. to 6.00 a.m. or from 9.00 p.m. to 5.00 a.m.

**Article 8.** Besides the full pay public holidays referred to in Article 73 of the Labour Code, foreign nationals who work in Vietnamese undertakings are entitled to be off work with full pay for one day during the traditional New Year Holidays and for another one day during their National Day, (If applicable).

### **Article 9.**

1. As referred to in Article 74 of the Labour Code, for the purpose of annual leave calculation, the employment duration in the same undertaking or at the same employer includes:

- Training period and apprentice period under a training or apprentice contract for subsequent employment in the undertaking;
- Trial period under a labour contract for employment in the undertaking
- Time off work for private purposes:
- Unpaid leave, with the consent of the employer;
- Time off work due to occupational accidents and occupational diseases, but the total may not exceed 6 months;
- Time off work due to sickness, but the total may not exceed 3 months;
- Time off work under special regime for female workers;
- Time off work to perform civil obligations stipulated by the law;
- Time off work during working hours to conduct trade union activities, in accordance with the law;
- Time of meeting or education requested or permitted by the employer;
- Forced work stoppage or time off work not due to the fault of the worker;
- Period of temporary suspension of a worker;
- Period of temporary arrest or detainment of a worker concerned who is later justified not guilty or is acquitted at the discretion of the Court.

2. Workers are entitled to an annual leave of 14 or 16 days as defined in points b and c, Paragraph 1 of Article 74 of the Labour Code, based on the list of hard, harmful, dangerous work and areas with hard living conditions, established by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

3. During annual travelling leave, if the two way journey by car, by boat or by train takes more than two days, the travelling time counted from the third day onwards are added to annual leave.

4. Travel fares and wages paid for travelling time shall be agreed on by the employer and the worker concerned; as regarding workers working in remote areas (mountainous

regions, regions in deep forests, islands), travel fares and wages paid for travelling time in their annual leave shall be borne by the employer.

**Article 10.** A compensation equivalent two daily wage will be paid to the workers who have not taken part or whole of the annual leave specified in Paragraph 3 of Article 76 of the Labour Code in the following cases:

1. The labour contract is temporarily suspended because the worker concerned is called up for military service;
2. The labour contract expires; the labour contract is unilaterally terminated; the worker becomes redundant as a result of structural or technological changes; the worker is dismissed; the worker retires; the worker dies.

**Article 11.** Annual leave referred to in Paragraph 3, Article 76 and Paragraph 2, Article 77 of the Labour Code is calculated by adding to the number of additional days according to the length of service in the undertaking (if applicable), the relevant basic number of working days for annual leave then divide the sum by 12 (excluding decimal number) and finally multiply the quotient by the number of actually worked months in the year. The product represent the full-paid days on leave.

## **Chapter IV**

### **Time of work and time of rest of persons engaged in special types of work**

**Article 12.** The working and resting time of employees engaged in the works specified in the Article 80 of the Labour Code is regulated as follows:

For the works with special characteristics such as: Road, railway, maritime and air transport action; petroleum investigation and exploitation in the sea; in the art fields; using radiate and nuclear technique, application of high frequency wave technology, diver's work; pit miner's work; seasonal production works and export processing works according to the orders; the work requiring the employee to be on duty 24/24 hours, Ministries and Industries who directly administrate the above said works shall regulate specifically working and resting hours upon reaching an agreement with the Ministry of Labour, Invalids and Social Affairs."

**Article 13.** Female workers are not allowed to be employed in hard, dangerous work, or work exposed to toxic substances that are harmful to their child bearing and rearing functions, as stipulated in Paragraph 1, Article 113 of the Labour Code. In cases where female workers are being currently in such work because no other suitable jobs are available for them, they are entitled to have daily working time reduced by at least 2 hours but shall still receive their full wages.

**Article 14.** Male workers and female workers more than 60 and 55 years old, respectively, who are still working, shall be entitled to have daily working time reduced 4 hours with full pay in the last year of work before retirement.

## **Chapter V**

### **Implementation provisions**

**Article 15.** The present Government Decree shall come into force on 1 January 1995. All previous provision on time of work and time of rest contrary to this Decree are hereby repealed.

**Article 16.** The Ministers, the Heads of agencies equivalent to ministries and Government office, the Chairpersons of People's Committees of provinces and cities coming directly under central administration are responsible for the enforcement of this Decree.

**On behalf of the government  
Prime minister**

**Vo Van Kiet  
(Signed)**

