

**BETTER WORK**  
*Vietnam*



# Guide to Vietnamese Labor Law for the Garment Industry



HO CHI MINH CITY GENERAL PUBLISHING HOUSE





## Copyright © International Labour Organization (ILO) and International Finance Corporation (IFC) 2011

First published 2011

Publications of the ILO enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the ILO, acting on behalf of both organizations: ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: [pubdroit@ilo.org](mailto:pubdroit@ilo.org). The IFC and ILO welcome such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit [www.ifro.org](http://www.ifro.org) to find the reproduction rights organization in your country.

---

### ILO Cataloguing in Publication Data

Guide to Vietnamese labour law for the garment industry / International Labour Office = HƯỚNG DẪN LUẬT LAO ĐỘNG CHO NGÀNH MAY. - Geneva: ILO, 2011

1 v.

ISBN: 9789220242490 (print) ;9789220242506 (web pdf)

International Labour Office

clothing industry / labour legislation / comment / minimum age / trade union / collective agreement / labour dispute / sex discrimination / forced labour / wages / labour contract / employment / occupational health / occupational safety / hours of work / Viet Nam

08.09.3

*ILO Cataloguing in Publication Data*

---

The designations employed in this, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the IFC or ILO concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the IFC or ILO of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the IFC or ILO, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: [pubvente@ilo.org](mailto:pubvente@ilo.org)

Visit our website: [www.ilo.org/publns](http://www.ilo.org/publns)

Printed by Better Work Vietnam

## FUNDING

Better Work Vietnam is a partnership between the International Labour Organization (ILO) and the International Finance Corporation (IFC). The Vietnam program is funded by the Australian Agency for International Development (AusAID) and the IFC under its Corporate Advice and Sustainability Program, whose donors include Finland, Ireland, New Zealand, the Netherlands, and Switzerland.

## ACKNOWLEDGEMENTS

Original versions of this document, in both English and Vietnamese, were developed by Onestep Viet Co., Limited.

Better Work Vietnam would like to express its thanks to Mr. Nguyen Van Tien, Chief Inspector of Ministry of Labour, Invalids and Social Affairs (MOLISA) and Mr. Nguyen Tien Tung, Deputy Chief Inspector of MOLISA, for their expert advice and detailed comments on the Guide and for their assistance with the publication process.

### Edited by

**Tara Rangarajan**, Program Manager, Better Work Vietnam

**Hua Minh Duc**, Enterprise Advisor, Better Work Vietnam

**Pham Quoc Thuan**, Enterprise Advisor Team Leader, Better Work Vietnam

**Michelle Brown**, Independent Consultant

### Design & Layout

**Spot Design Trading & Services Co., Ltd.**

## Better Work Vietnam

35 Ly Van Phuc, Tan Dinh Ward, District 1, Ho Chi Minh City, Vietnam

Tel: (+84 8) 3820 6064, Fax: (+84 8) 3820 6331

Email: [vietnam@betterwork.org](mailto:vietnam@betterwork.org), Website: [www.betterwork.org/vietnam](http://www.betterwork.org/vietnam)



International  
Labour  
Office



**IFC**

**International  
Finance Corporation**  
World Bank Group

# Guide to Vietnamese Labor Law for the Garment Industry

Responsible for publication: Nguyen Thi Thanh Huong  
Editor: Hoai Nam  
Proof Reader: Thanh Van

Ho Chi Minh City General Publishing House  
62 Nguyen Thi Minh Khai, Dist.1, HCMC

Quantity: 1,000 copies, size: 18.1cm x 25.6cm  
Publication Permit No.: 298-11/CXB/72-23/THTPHCM  
Send to archives: Q2/2011

# PREFACE

Better Work Vietnam is a partnership program between the International Labor Organization (ILO) and International Finance Corporation (IFC). The program began conducting assessment and advisory services in December 2009. The purpose of this program is to promote competitiveness in Vietnam's garment industry by enhancing economic performance at the enterprise level and improving compliance with Vietnam labor law, and international conventions on Fundamental Principles and Rights at work. The program is consulted and supervised by the Project Advisory Committee (PAC), including representatives of the Ministry of Labor, Invalids and Social Affairs (MOLISA), Vietnam Chamber of Commerce and Industry (VCCI), and Vietnam General Confederation of Labor (VGCL).

The Better Work program builds a mechanism for social dialogue and effective workplace cooperation as a basis for sustainable development. To achieve this, employers and employees must have full knowledge of their rights and responsibilities regulated by law. Therefore, the dissemination of labor legislation to relevant stakeholders is indispensable.

This book was prepared by Better Work Vietnam with the aim to provide basic legal information in an easily-understandable way for different readers. We hope this publication will be an effective contribution for building social compliance, harmonious labor relations, friendly working environments, and offer benefits to enterprises as well as to society.

February 2011

Chief Inspector of Ministry of Labor, Invalids and Social Affairs



**Nguyen Van Tien**

# FOREWORD

Better Work Vietnam has produced this Guide with the aim of helping employers, employees, international buyers, and other stakeholders better understand the obligations and rights stipulated under Vietnamese labour law. The guide integrates every major source of Vietnam labour law into one easy-to-use booklet.

For each subject area the key elements of the law are explained - not in technical legal language, but in plain language that is more easily understood. The sources of the law that are relevant to each area are listed so that actual legal texts can be referred to if desired.

The Guide covers all major areas of Vietnam labour law, derived from the Labour Code itself, the laws on Trade Unions and Social Insurance, governmental regulations, international labour standards that have been ratified by Vietnam, and the Vietnamese Constitution.

This Guide reflects the standards set by national law. However, for the fundamental rights at work (freedom of association and collective bargaining, the elimination of forced labour, the abolition of child labour, and the elimination of employment discrimination), Better Work Vietnam assesses compliance in accordance with international labour standards. Accordingly, Better Work Vietnam's assessment standards for fundamental rights vary from the Guide in areas where national law differs from international standards.

Better Work Vietnam is pleased to be involved with the Vietnamese government in producing this publication. We see it as an important contribution to maintaining labour standards and increasing good employment opportunities in the country.



**Rie Vejs Kjeldgaard**

Director

ILO Office Vietnam

# Table of Contents

<b>1. MINIMUM WORKING AGE</b>	<b>14</b>
1.1. DEFINITION	14
1.2. PROTECTING YOUNG EMPLOYEES	14
1.3. DOCUMENTATION FOR YOUNG EMPLOYEES	14
<b>2. TRADE UNION</b>	<b>15</b>
2.1. ESTABLISHING A TRADE UNION	15
2.2. TRADE UNION REPRESENTATIVES' RIGHTS & RESPONSIBILITIES	15
2.3. EMPLOYERS' RIGHTS & RESPONSIBILITIES	15
2.4. UNION FUNDS	16
2.5. REGULATIONS ON MANAGEMENT OF UNION FUND	16
<b>3. COLLECTIVE BARGAINING AGREEMENTS (CBA)</b>	<b>17</b>
3.1. DEFINITION	17
3.2. CONTENTS OF A CBA	17
3.3. REGISTRATION PROCEDURES	17
3.4. DURATION OF A CBA	18
3.5. EMPLOYERS' OBLIGATIONS IN NEGOTIATING CBAS	18
<b>4. LABOR DISPUTES</b>	<b>19</b>
4.1. INDIVIDUAL LABOR DISPUTES	19
4.2. COLLECTIVE LABOR DISPUTES	19
4.3. STRIKES	19
4.3.1. DEFINITION	19
4.3.2. ORGANIZING STRIKES	19
4.3.3. THE TRADE UNION'S RIGHTS	20
4.3.4. EMPLOYERS' RIGHTS	20
4.3.5. EMPLOYEES' RIGHTS	20
4.3.6. PROHIBITED ACTIONS ( BEFORE, DURING AND AFTER A STRIKE)	20
4.3.7. ILLEGAL STRIKES	20
4.3.8. COMPENSATION FOR ILLEGAL STRIKES	21
<b>5. DISCRIMINATION</b>	<b>22</b>
5.1. RACE, RELIGION, AND POLITICAL OPINIONS	22
5.2. GENDER	22
5.3. DISABILITIES	22
5.4. HIV AND AIDS	22

<b>6. FORCED LABOR</b>	<b>23</b>
6.1. DEFINITION	23
6.2. COERCION	23
6.3. UNDERSTANDING FORCED LABOR AND OVERTIME	23
<b>7. WAGES AND BENEFITS</b>	<b>24</b>
7.1. WAGES	24
7.2. MINIMUM WAGES	24
7.3. WAGE SCALES AND TABLES	25
7.4. METHODS OF PAYMENT	25
7.5. PAYMENT DELIVERY	26
7.6. WAGE DEDUCTIONS	26
7.7. PROBATION, APPRENTICE AND TEMPORARY WORKER WAGES	26
7.8. PAYMENT FOR DOWNTIME	26
7.9. OVERTIME WAGES AND NIGHT SHIFT ALLOWANCES	27
7.9.1. CALCULATING OVERTIME	27
7.9.2. CALCULATING NIGHT SHIFT ALLOWANCES	28
7.10. BONUSSES AND INCENTIVES	29
7.11. WAGE INCREASE REVIEWS	29
7.12. MANDATORY INSURANCE	30
7.13. PAID LEAVE	31
7.13.1. PUBLIC HOLIDAYS	31
7.13.2. ANNUAL LEAVE	31
7.13.3. PAY FOR UNUSED ANNUAL LEAVE	31
7.13.4. PERSONAL LEAVE WITH PAY	32
7.13.5. SICK LEAVE	32
<b>8. CONTRACTS AND HUMAN RESOURCES</b>	<b>33</b>
8.1. RECRUITMENT	33
8.2. PROBATION PERIODS	33
8.3. APPRENTICES	33
8.4. EMPLOYMENT CONTRACTS	34
8.4.1. TEMPORARY LABOR	34
8.4.2. EXTENDED EMPLOYMENT CONTRACTS	34
8.4.3. TEMPORARY JOB TRANSFER	35
8.5. TERMINATION OF EMPLOYMENT CONTRACTS	35
8.5.1. OBVIOUS TERMINATION	35
8.5.2. UNILATERAL TERMINATION	35
8.5.2.1. REASONS FOR LAWFUL UNILATERAL TERMINATION	35
8.5.2.2. PRIOR NOTICE	36

8.5.2.3. PROCEDURES FOR UNILATERAL TERMINATION OF A LABOR CONTRACT _____	36
8.5.2.4. UNLAWFUL UNILATERAL TERMINATION _____	36
8.5.3. REQUIRED ALLOWANCES AND COMPENSATION FOR TERMINATING CONTRACTS _____	37
8.5.4. SEVERANCE ALLOWANCE AND JOB LOSS ALLOWANCE _____	38
<b>8.6. INTERNAL REGULATIONS _____</b>	<b>38</b>
<b>8.7. DISCIPLINE _____</b>	<b>38</b>
8.7.1. TYPES OF DISCIPLINE _____	38
8.7.2. CONDITIONS FOR DISMISSAL _____	39
8.7.3. REGULATIONS FOR DISCIPLINARY ACTION _____	39
8.7.4. CIRCUMSTANCES EXCLUDING DISCIPLINARY PROCEDURES _____	39
8.7.5. SETTLING DISCIPLINARY ISSUES _____	40
8.7.6. MATERIAL LIABILITY _____	40

## **9. OCCUPATIONAL HEALTH & SAFETY (OSH) \_\_\_\_\_ 41**

<b>9.1. GENERAL OSH _____</b>	<b>41</b>
<b>9.2. OSH TRAINING _____</b>	<b>41</b>
<b>9.3. OSH COUNCIL _____</b>	<b>41</b>
9.3.1. HEALTH AND SAFETY OFFICERS _____	42
9.3.2. OSH COLLABORATORS NETWORK _____	42
<b>9.4. HEALTH AND SAFETY REGULATIONS _____</b>	<b>42</b>
<b>9.5. HEALTH CARE AND FIRST AID _____</b>	<b>43</b>
9.5.1. MEDICAL FACILITIES _____	43
9.5.2. FIRST AID KITS _____	43
9.5.3. PERIODICAL HEALTH EXAMINATIONS _____	44
<b>9.6. FACILITY REQUIREMENTS _____</b>	<b>44</b>
<b>9.7. NOISE, AIR QUALITY, TEMPERATURE AND LIGHTING _____</b>	<b>45</b>
<b>9.8. WEIGHTS AND MEASURES _____</b>	<b>45</b>
<b>9.9. PERSONAL PROTECTIVE EQUIPMENT (PPE) _____</b>	<b>45</b>
9.9.1. TASKS REQUIRING PPE _____	46
9.9.2. PPE IN THE GARMENT INDUSTRY _____	46
<b>9.10. MACHINE SAFETY _____</b>	<b>46</b>
<b>9.11. FIRE SAFETY _____</b>	<b>47</b>
9.11.1. FIRE TRAINING, DRILLS AND EVACUATION _____	47
9.11.2. INTERNAL REGULATIONS ON PREVENTING AND FIGHTING FIRES _____	47
9.11.3. EVACUATION MAPS _____	48
9.11.4. SIGNBOARDS AND INSTRUCTION BOARDS _____	48
9.11.5. EMERGENCY EXITS _____	48
9.11.6. EXIT SIGNS _____	48
9.11.7. EMERGENCY LIGHTS _____	49
9.11.8. FIRE HOSES _____	49

9.11.9. FIRE ALARM SYSTEMS _____	49
9.11.10. FIRE EXTINGUISHERS _____	49
<b>9.12. ELECTRICAL SAFETY _____</b>	<b>50</b>
<b>9.13. CHEMICALS _____</b>	<b>50</b>
9.13.1 DEFINITIONS _____	50
9.13.2 REQUIREMENTS FOR ENTERPRISES _____	50
9.13.3 RESPONSIBILITIES FOR ENSURING CHEMICAL SAFETY _____	51
<b>9.14. HAZARDOUS CHEMICALS _____</b>	<b>51</b>
9.14.1 DEFINITION _____	51
9.14.2. CHEMICAL SAFETY SHEETS FOR DANGEROUS SUBSTANCES/ MATERIAL SAFETY DATA SHEETS (MSDS) _____	52
9.14.3 LABELING _____	52
9.14.4 PACKAGES, BARRELS AND TANKS USED FOR HAZARDOUS CHEMICALS _____	52
9.14.5 STORING HAZARDOUS CHEMICALS _____	52
9.14.6 DISPOSAL OF HAZARDOUS CHEMICALS _____	53
9.14.7. TRAINING FOR WORKERS AT RISK OF EXPOSURE TO HAZARDOUS CHEMICALS _____	53
9.14.8. OBLIGATIONS OF ENTERPRISES _____	53
<b>9.15. DORMITORIES _____</b>	<b>54</b>
<b>9.16. DRINKING WATER _____</b>	<b>54</b>
<b>9.17. DINING AND KITCHEN FACILITATES - SANITATION AND HYGIENE _____</b>	<b>54</b>
<b>9.18. ANNUAL INSPECTIONS OF WORK ENVIRONMENTS _____</b>	<b>55</b>
<b>9.19. WORK RELATED ACCIDENTS _____</b>	<b>55</b>
9.19.1. DUTIES OF EMPLOYERS _____	55
9.19.2. SUBSIDIES AND COMPENSATION _____	56
9.19.3. SOCIAL INSURANCE AGENCY RESPONSIBILITIES _____	57
<b>9.20. REGULATIONS FOR REPORTING LABOR ACCIDENTS _____</b>	<b>57</b>
<b>10. WORKING HOURS AND REST TIME _____</b>	<b>58</b>
<b>10.1. REGULAR HOURS _____</b>	<b>58</b>
<b>10.2. REST TIME _____</b>	<b>58</b>
10.2.1 WEEKLY REST DAYS _____	58
10.2.2 PAID BREAKS _____	58
<b>10.3. OVERTIME _____</b>	<b>59</b>
<b>10.4. NIGHT SHIFTS _____</b>	<b>59</b>
<b>10.5. FEMALE EMPLOYEES _____</b>	<b>59</b>
10.5.1 SPECIAL WORK AND REST TIME REQUIREMENTS _____	59
10.5.2. MATERNITY BENEFITS _____	60

# APPENDIX

<b>APPENDIX 1:</b>	<b>REGION BASED MINIMUM WAGES (SECTION 7.2)</b>	<b>61</b>
<b>APPENDIX 2:</b>	<b>LIST OF DISEASES REQUIRING LONG-TERM TREATMENT (7.13.5)</b>	<b>63</b>
<b>APPENDIX 3:</b>	<b>PROCEDURES FOR UNILATERALLY TERMINATING A LABOR CONTRACT (SECTION 8.5.2.3)</b>	<b>64</b>
<b>APPENDIX 4:</b>	<b>PROCEDURES FOR SETTLEMENT OF A COLLECTIVE DISPUTE (SECTION 4.2)</b>	<b>65</b>
<b>APPENDIX 5:</b>	<b>PROCEDURE FOR A LAWFUL STRIKE (SECTION 4.3)</b>	<b>66</b>
<b>APPENDIX 6:</b>	<b>REQUIRED OSH TRAINING CONTENT</b>	<b>66</b>
<b>APPENDIX 7:</b>	<b>OHS GOOD PRACTICE EXAMPLES</b>	<b>67</b>
<b>APPENDIX 8:</b>	<b>FOREIGN EMPLOYEES</b>	<b>69</b>
	1. HIRING FOREIGNERS	69
	2. APPLICATIONS FOR ISSUING A WORK PERMIT	69

## ABBREVIATIONS

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



# MINIMUM WORKING AGE

## 1.1 DEFINITIONS

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

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

**Note 2:** If a person's Identification Card (ID) does not show the day and month of birth, the default day and month of birth is December 31 of the year.

LABOR LAW, ARTICLE 6 & 120

RESOLUTION 02-HĐTP-TANDTC/QĐ

## 1.2 PROTECTING YOUNG EMPLOYEES

- A young employee is between the ages of 15 and 18 years old
- An employer can sign a labor contract with young employees with the following conditions:
  - Working hours do not exceed 7 hours per day or 42 hours per week;
  - Annual leave of 14 days per year;
  - Overtime or night shifts are not allowed;
  - Difficult and hazardous jobs are prohibited

LABOR LAW, ARTICLE 119, 121 & 122

CIRCULAR 09/1995/TT-LB

Workers under age 18 should not (i) be engaged in heavy work; (ii) be exposed to hazardous chemicals or high levels of vibration; (iii) work in places that exceed 45°C in the summer or 40°C in the winter; (iv) operate boiler, lifting machines; (v) work in high places; or (vi) work under conditions that are not suitable for their mental or psychological well-being. The latter could occur if young workers are frequently shouted at, insulted or struck.

**Example:** Nguyen Van A was born on September 10th, 1992. He joined Happy Clothing Factory on May 19th, 2010. On the day he joined the factory, he was only 17 years and 8 months old. Although close to being 18 years old, he was still classified as a young employee until reaching his 18th birthday.

## 1.3 DOCUMENTATION FOR YOUNG EMPLOYEES

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

- Full name
- Date of birth
- Work assignments
- Results of periodic health checks.

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

LABOR LAW, ARTICLE 119



# TRADE UNION

The Trade Union exists to represent and protect the lawful rights and interests of the employees.

**TRADE UNION LAW,  
ARTICLE 2**

## 2.1 ESTABLISHING A TRADE UNION

- The local or industry Federation of Labor (FoL) is responsible for setting up a provisional Trade Union at enterprises with at least 5 union members within 6 months of the start of operations
- Within 12 months, the temporary Executive Board must suggest to the higher-level Trade Union to issue the decision to set up a permanent company Trade Union

**LABOR LAW, ARTICLE 153  
JOINT CIRCULAR 01/2007/  
TTLT-TLĐLĐVN-BLĐTBXH,  
SECTION II, POINT 1 & 4.**

## 2.2 TRADE UNION REPRESENTATIVES' RIGHTS & RESPONSIBILITIES

- Represent the workers in negotiating and signing a Collective Bargaining Agreement (CBA)
- Work with the employer to inspect and assess compliance with regulations, policies, labor safety and hygiene, and environmental protection
- Educate and encourage employees to implement policies and regulations and to take action to ensure labor safety and hygiene
- Participate in the investigation of industrial accidents
- Consult with the enterprise in handling complaints and labor disputes

Trade Union representatives are entitled to at least three working days of leave per case with full pay to resolve a collective labor dispute. A part time Trade Union representative is entitled to spend time during working hours to carry out Trade Union activities with full pay based on the following number of employees:

- Under 150 employees: at least three days each month
- Over 150 employees: six days each month

**LABOR LAW, ARTICLE 155  
& 174D  
DECREE 302/1992/NĐ-HĐBT  
- ARTICLE 3, 4, 5, 13 & 14  
DECREE 133/1991/NĐ-HĐBT  
- ARTICLE 6 & 12  
DECREE 96/2006/NĐ-CP,  
ARTICLE 5  
DECISION 81/1996/QĐ-TLĐ,  
CHAPTER 2, ARTICLE 4 & 5**

## 2.3 EMPLOYER RIGHTS & RESPONSIBILITIES

The employer is required to:

- Cooperate closely with the Trade Union and create favorable conditions for the Trade Union to carry out its activities

Key activities of the Trade Union which the employer should facilitate include:

- Representing employees in signing collective bargaining agreements (CBAs)
- Checking labor contracts for compliance with the labor laws
- Providing input for the hiring and/or dismissal of workers
- Monitoring the provision of personal protective equipment (PPEs)
- Participating in the development of social insurance and policies relating to the rights and responsibilities of employees

**LABOR LAW, ARTICLE 154 &  
155  
DECREE 96/2006/NĐ-CP  
ARTICLE 9  
DECISION 81/QĐ-TLĐ, ARTICLE 4  
LABOR LAW, ARTICLE 17, 38,  
45, 57, 60, 64, 76, 82, 87, 92  
& 155.  
TRADE UNION LAW, ARTICLE  
14 & 15  
OFFICIAL LETTER 703/HD-TLĐ**

- Participate in the settlement of disputes, complaints, and criticisms of employees in accordance with the law
- Ensure there is no discrimination against employees for forming or joining the Trade Unions
- Ensure that senior employee in certain positions will not participate in the Trade Union. Such positions include: business owners, board members Chairmen, General Managers, Directors, Vice Presidents, Deputy General Directors and foreign workers
- Employers must consult and work towards an agreement with the Trade Union in the following situations:
  - Retrenching of employees due to structural and/or technological change is required
  - Unilaterally terminating a labor contract
  - Negotiating and signing a CBA
  - Developing wage scales, wage tables, and labor norms
  - Making deductions from any employee's salary
  - Determining the rules of a bonus system
  - Setting out a timetable for annual leave
  - Issuing internal labor regulations
  - Taking disciplinary action
  - Temporarily suspending an employee
  - Dismissing and/or unilateral terminating workers who are members of the Trade Union Executive Committee

## 2.4 UNION FUNDS

- **Union fee:** 1% voluntary contribution of Union member wage (or an alternative fixed amount as agreed between the Trade Union Executive Committee and Union members)
- **Union budget:**
  - Foreign Direct Investment (FDI) Firms: 1% of total wages for Vietnamese employees per month
  - Locally Invested Enterprises: 2% of total wages for Vietnamese employees per month

*Employer payments into the Trade Union fund must be made quarterly and within the first month of each quarter.*

CIRCULAR 58/2004/TT-TLĐĐVN, SECTION 2

DECISION 133/2008/QĐ-TTG, ARTICLE 1

JOINT CIRCULAR 119/2004/TTLT/BTC-TLĐĐVN, SECTION 1, POINT 2

CIRCULAR 17/2009/TT-BTC

DECISION 1375/2007/QĐ-TLĐĐ

## 2.5 REGULATIONS ON MANAGEMENT OF UNION FUND

- The Enterprise-level Trade Union is entitled to keep 70% of Union fees. Trade unions in foreign companies are entitled to keep 100% of the Union budget while local companies are entitled to keep 50%
- The remaining of 30% union fees and 50% of union budget (for local companies) should be transferred to the higher-level Trade Union

REGULATION NO 1582/QĐ-TLĐĐ

JOINT CIRCULAR 119/2004/TTLT/BTC-TLĐĐVN, SECTION 1, POINT 2

CIRCULAR 17/2009/TT-BTC

# COLLECTIVE BARGAINING AGREEMENTS (CBA)

## 3.1 DEFINITION

- A CBA is a written agreement between the workers and the employer concerning conditions of work and employment and the rights and interests of each party
- A CBA should be negotiated and signed in accordance with the principles of volunteerism, equality and transparency

LABOR LAW, ARTICLE 44

## 3.2 CONTENTS OF A CBA

The terms and conditions of a CBA cannot contravene the laws of Vietnam and should stipulate the following:

- Employment rights and guarantees
- Work and rest times
- Wages, allowances and bonuses
- Working norms
- Occupational health and safety regulations
- Social insurance

The Vietnamese Government encourages CBAs to contain terms and conditions which are more favorable to employees than minimum legal requirements

LABOR LAW, ARTICLE 44

DECREE 196/1994/CP, CHAPTER 2, ARTICLE 2

### **Example:**

*CBAs are intended to offer greater benefits to workers than the minimum legal requirement. For example, the CBA of Super Knitwear Factory stipulated that annual leave for employees is 15 days per year compared with the legal regulation of 12 days per year.*

## 3.3 REGISTRATION PROCEDURES

- Within 10 days of signing a CBA, the employer must submit the draft to the Department of Labor, Invalids and Social Affairs (DOLISA) for registration, or where appropriate, the Management Board of an Industrial Zone
- Within 15 days of receiving a draft CBA, DOLISA will review the document and notify both parties in writing of its registration status. If the CBA contains clauses which are contrary to the law, DOLISA will inform the parties and support them in making appropriate amendments
- The employer must notify all employees when the CBA is approved

LABOR LAW, ARTICLE 46, 47 & 49

DECREE 93/2002/NĐ-CP, ARTICLE 1, POINT 3

DECREE 196/1994/NĐ-CP, ARTICLE 5

### 3.4 DURATION OF A CBA

- A CBA which is signed by both parties should last between one and three years
- Prior to the expiry of the CBA, both parties may negotiate to extend the existing CBA or to enter negotiations to create a new agreement

**LABOR LAW, ARTICLE 50  
& 51**

### 3.5 EMPLOYERS' OBLIGATIONS IN NEGOTIATING CBAS

- Responsible for facilitating negotiations upon the request of the Trade Union
- Liable for all expenses incurred during the processes of negotiating, signing, registering, amending, supplementing, and publishing a CBA.
- Responsible for paying employees' wages for their time spent during negotiating, signing, registering, amending, supplementing, and publishing a CBA.

**LABOR LAW, ARTICLE 53  
DECREE 196/1994/NĐ-CP,  
ARTICLE 3**

# 4 LABOR DISPUTES

There are two types of labor disputes – individual and collective

LABOR LAW, ARTICLE 157,  
CLAUSE 1, 2, 3 & 4

LABOR LAW, SECTION II &  
CHAPTER XIV

DECREE 133/2007/NĐ-CP

## 4.1 INDIVIDUAL LABOR DISPUTES

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

LABOR LAW, ARTICLE 157,  
CLAUSE 1, 2, 3 & 4

LABOR LAW, SECTION II &  
CHAPTER XIV

DECREE 133/2007/NĐ-CP

## 4.2 COLLECTIVE LABOR DISPUTES

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

**Right-based dispute** is a dispute regarding the implementation of labor law, a registered CBA, Internal regulations, or other lawful rules and agreements

**Interest-based dispute** is a dispute over issues that go beyond the labor law, a registered CBA, Internal regulations, or other lawful rules and agreements

See **APPENDIX 4** for steps to settle collective labor disputes.

LABOR LAW, ARTICLE 157,  
CLAUSE 1, 2, 3 & 4

LABOR LAW, SECTION II &  
CHAPTER XIV

DECREE 133/2007/NĐ-CP

## 4.3 STRIKES

### 4.3.1 DEFINITION

A strike is a temporary and voluntary cessation of work organized by the workers in order to resolve a collective labor dispute.

The law sets out steps and procedures which must be taken prior to organizing a legal strike. See details in **APPENDIX 5**

LABOR LAW, ARTICLE 172

LABOR LAW, ARTICLE 174  
A, B

### 4.3.2 ORGANIZING STRIKES

A strike must be organized and led by the Trade Union Executive Committee / temporary Executive Committee, or a representatives appointed by the workers (in case the enterprise does not have an Executive Committee). In the latter case, names of representatives must be communicated to the higher level Trade Union.

LABOR LAW, ARTICLE 172  
A & B

### 4.3.3 TRADE UNION'S RIGHTS

- To conduct a strike within a section of the enterprise or within the enterprise as a whole
- To amend or withdraw the decision to strike and/or take action related to written demands
- To end the strike

LABOR LAW, ARTICLE 174 C

### 4.3.4 EMPLOYERS' RIGHTS

The employer is entitled to agree to all or part of the demands made by the Trade Union and must provide this agreement in writing.

LABOR LAW, ARTICLE 174 C

### 4.3.5 EMPLOYEES' RIGHTS

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

LABOR LAW, ARTICLE 174 D

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

- Interfering with employees who are exercising their right to strike
- Inciting, embroiling or forcing employees to strike
- Causing damage to machinery, equipment and/or other assets
- Infringing on public order and safety
- Taking revenge on, or victimizing, employees participating in a strike
- Terminating labor contracts, transferring or taking disciplinary action against employees before, during and immediately after a strike

LABOR LAW, ARTICLE 174 D

### 4.3.7 ILLEGAL STRIKES

The following forms of strikes are illegal:

- Strikes which do not arise from a collective labor dispute. Strikes are not permitted as a result of individual disputes
- Strikes against an enterprise by employees who are not working within that enterprise
- Strikes related to a collective labor dispute which is awaiting resolution and is already being addressed by a body or organization
- Strikes which do not represent the collective opinions of the workforce
- Strikes by a provisional Trade Union
- When there is a decision staying or suspending a strike
- Strikes in special state-defined industries that are supplying public products or services or which are essential for the national economy or for national defense and security

**LABOR LAW, ARTICLE 172 A,  
173, 174 A, 174 B, & 175  
DERCEE 67/2002/NĐ-CP**

### 4.3.8 COMPENSATION FOR ILLEGAL STRIKES

When an illegal strike occurs, those who are found to be 'at fault' are required to pay compensation for losses and damages incurred by the employer, organization, and/or individuals affected by the strike.

**LABOR LAW, ARTICLE 179**

# DISCRIMINATION

The labor relationship between the employer and employees should be developed through negotiations and agreement based on principles of voluntary cooperation, equality, and respect for each other's lawful rights and interests. The relationship must observe and respect any commitments made by both sides.

LABOR LAW, ARTICLE 9

## 5.1 RACE, RELIGION AND POLITICAL OPINIONS

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

LABOR LAW, ARTICLE 5,  
POINT 1

## 5.2 GENDER

Employers must observe and implement the principle of equality between men and women for recruitment, employment, advancement in wage grades, and remuneration. Employers cannot discriminate against female employees and carry out any action which could be deemed to be offensive to an employee's 'dignity and honor'.

LABOR LAW, ARTICLE 111

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

**Illegal Practice 2:** Dragon Design Factory issues a notice stating that it will recruit 100 female employees aged 18 to 25. This announcement discriminates on both gender and age.

## 5.3 DISABILITIES

Enterprises are strictly prohibited from discriminating on the grounds of disability.

- Disabilities can include physical, sensory, intellectual or mental impairments. Workers are considered disabled when they have lost at least 21% of their working ability, and this has been certified by the Medical Inspection Council
- Employers in the garment industry should have a workforce with 3% disabled workers. If the factory does not have at least 3% disabled workers, the employer should make monthly payments into the employment fund for the disabled equal to the minimum wage multiplied by the number of disabled workers needed in order to reach 3%
- Employers must create favorable conditions for disabled people to work including appropriate layouts of machinery and must appropriately adapt vehicles and safety devices and equipment

ORDINANCE 06/1998/PL-  
UBTVQH – ARTICLE 9

DECREE 81/1995/NĐ-CP –  
ARTICLE 16

DECREE 116/2004/NĐ-CP

CIRCULAR 19/2005/TTLT/  
BLĐTBXH – BTC-BKHĐT

## 5.4 HIV/AIDS

- Employers must observe and implement principles of equality towards people with HIV/AIDS in respect of recruitment and/or employment.
- Testing for HIV is not permitted when recruiting employees.
- It is prohibited to discriminate against someone with HIV/AIDS or to terminate them based on their HIV/AIDS status.

LAW 64/2006/QH11 - HIV-  
AIDS, ARTICLE 8 CLAUSE 3,

# 6 FORCED LABOR

## 6.1 DEFINITIONS

The Labor law strictly forbids any form of forced labor.

Forced Labor is any work which is carried out in an involuntary manner and/or against the will of the employee.

LABOR LAW, ARTICLE 5

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

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

## 6.2 COERCION

All forms of forced labor are prohibited.

LABOR LAW, ARTICLE 5,  
POINT 2

## 6.3 UNDERSTANDING FORCED LABOR AND OVERTIME

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

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

LABOR LAW, ARTICLE 69  
DECREE 109/2002/NĐ-CP,  
ARTICLE 2, CLAUSE 3  
CIRCULAR 15/2003/  
TT-BLĐTBXH, SECTION 2,  
CLAUSE 1 & 2



# WAGES AND BENEFITS

## 7.1 WAGES

- Employees' wages must be agreed by both parties in the employment contract and paid according to the productivity of the worker and the quality and efficiency of the work performed
- Employees' wages cannot be lower than the applicable legal minimum wage rates

LABOR LAW, ARTICLE 55

## 7.2 MINIMUM WAGES

There are 3 types of minimum wage rates for developing a salary scale and wage tables and for calculating benefits paid by the Government:

**Regionally based minimum wages for a locally-invested enterprise:** The minimum wage for local invested enterprises depending on economic regions

**Regionally based minimum wages for a foreign invested enterprise:** The minimum wage for foreign-invested enterprises depending on economic regions

**General minimum wages:** The minimum wage for 100% state owned enterprises

As of 1st January, 2010, minimum wages vary within regions and between different regions as outlined below:

Region	Local Enterprise (VND/Month)		Foreign Invested Enterprise (VND/ Month)		General Minimum Wage (VND/Month)
	2010	2011	2010	2011	
I	980,000	1,350,000	1,340,000	1,550,000	650,000(*)
II	880,000	1,200,000	1,190,000	1,350,000	730,000(**)
III	810,000	1,050,000	1,040,000	1,170,000	830,000(***)
IV	730,000	830,000	1,000,000	1,100,000	

(\*) The general minimum wage applied until April 30, 2010

(\*\*) The general minimum wages effective from May 01, 2010

(\*\*\*) The general minimum wages effective from May 01, 2011

The Government encourages enterprises to apply minimum wages that are higher than those levels stipulated by the Government.

See **APPENDIX 1** for further details including which provinces are in each region.

DECREE 33/2009/NĐ-CP  
 DECREE 97/2009/NĐ-CP  
 DECREE 98/2009/NĐ-CP, ARTICLE 2  
 DECREE 107/2010/NĐ-CP  
 DECREE 108/2010/NĐ-CP  
 CIRCULAR 06/2010/TT-BLĐTBXH, ARTICLE 2  
 DECREE 28/2010/NĐ-CP  
 DECREE 22/2011/NĐ-CP

## 7.3 WAGE SCALES AND TABLES

- The employer must consult with the Trade Union before establishing or adjusting wage scales
- Employers must register salary scales and salary tables with the Department of Labor and/or Industrial Zone where appropriate
- When the minimum wage is changed by the Government, the enterprise must register with DOLISA within 15 days
- Wage scales must be conveyed to the workforce under the following circumstances:
  - When signing labor contracts
  - When increasing wage grades
  - During settlement of SI, HI and other benefits

### Principles for formulating wage scales

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

LABOR LAW, ARTICLE 57

DECREE 114/2002/NĐ-CP, ARTICLE 3 CLAUSE 1, ARTICLE 5 & 6

CIRCULAR 28/2007/TT-BLĐTBXH, ARTICLE 1

## 7.4 METHODS OF PAYMENT

The employer can choose to pay employees on either a piece rate basis or on an hourly basis. The employer has the right to select the method of payment but must notify the employee of its choice.

> **Piece rate wage:** Payment is based on the number of items (i.e. “pieces”) made by the employee. Monthly salaries for piece-rate workers cannot be lower than the regionally based minimum wage (or part thereof).

### > Hourly wages:

- Monthly salaries must be specified and based on a labor contract.
- Weekly salaries = (monthly salary)/(12 months)/52 weeks
- Daily salaries = monthly salary/ number days of the given month (maximum of 26 days)
- Hourly salaries = daily salary/ 8 hours

**Note:** Enterprises must pay wages based on actual days of the month and must ensure that employee wages per month are not lower than the stipulated regionally based minimum wage. This is particularly an issue for the month of February if the number of working days is less than other months.

**Example:** Ms. A is working in a garment factory in Binh Duong Province with the agreed monthly wage of 1,400,000 VND. In February, she works 24 days. If her salary is calculated on the number of working days, it will be lower than the required regional minimum wage. As February often has less than 26 working days employers need to be mindful of this particularly during that month.

Actual wage =  $(1,400,000\text{VND} \times 24) / 26 = 1,292,308\text{VND}$  which is lower than the region based minimum wage of region 2 (VND 1,350,000).

Therefore the employer must pay Ms. A at least 1,350,000 VND which is equivalent to the stipulated regionally based minimum wage.

LABOR LAW, ARTICLE 58

DECREE 114/2002/NĐ-CP, ARTICLE 7, CLAUSE 2

## 7.5 WAGE DELIVERY

Wages shall be paid:

- Directly to employees, in full, at the workplace and at the stipulated time
- In cash, by check, or by other method as stipulated in the employment contract
- In the case of any delay in payment, the employer must pay appropriate bank interest. Wage payment cannot be delayed for more than a month

LABOR LAW, ARTICLE 59  
DECREE 114/2002/NĐ-CP,  
ARTICLE 8

## 7.6 WAGE DEDUCTIONS

- Employers are not allowed to punish employees by making deductions from their wages.
- Employers must inform employees and provide a clear explanation regarding any deduction in wages.
- Employers must consult with the Trade Union and Trade Union Executive Committee prior to making any deductions.
- Total deductions cannot exceed 30% of the employees' wages in any given month.

LABOR LAW - ARTICLE 60,  
67, 89  
DECREE 114/2002/NĐ-CP –  
ARTICLE 9

## 7.7 PROBATION, APPRENTICE AND TEMPORARY WORKER WAGES

- Probation wages: Employers may agree with employees to pay a probationary salary equal to at least 70% of the normal wage. However, probationary wages must still not be lower than the stipulated minimum wage
- Apprentice wages: If an apprentice produces products for sale, wages must be agreed by the apprentice and the enterprise. This must not be less than the stipulated minimum wage
- Temporary worker wages: Temporary workers are entitled to the same wage as other workers, plus any additional benefits. For details see section 8.4.1

LABOR LAW, ARTICLE 32  
LABOR LAW, ARTICLE 23  
CIRCULAR 17/2009/TT-  
BLĐTBXH, ARTICLE 1

**Illegal Practice:** The wages of a regular employee on a sewing line in Fortune Factory are 1,600,000 VND per month. Mr Phuong joins the factory and starts as a probationary worker. His salary is the following:

*Probationary salary = 1,600,000 x 70% = 1,120,000 VND.*

*This salary is lower than the stipulated minimum wage of 1,350,000VND per month (Region II) and is not in compliance with the law.*

## 7.8 PAYMENT FOR DOWNTIME

Work stoppage (downtime) is defined as the cessation of work during working hours caused by the employer, employee, or by force majeure such as the interruption of power or water supplies.

In such situations:

- If the interruption is the fault of the employer, the employer must pay employees in full

LABOR LAW, ARTICLE 62  
DECREE 114/2002/NĐ-CP,  
ARTICLE 14, CLAUSE 2

- If the work stoppage is caused by the employee, he/she will not be paid for the hours he/she was not working. Other employees who need to stop work as a result of the actions of a co-worker will continue to be paid at a rate agreed by the two parties. This rate must not be less than the minimum wage
- If stoppages are caused by other reasons, wages should be paid based on agreement between both parties. Again, this must not be less than the minimum wage

## 7.9 OVERTIME WAGES AND NIGHT WORK ALLOWANCES

Overtime (OT) wages must be paid as follows:

Type of OT	Overtime pay must be at least equal to
OT on regular days	150%
OT on rest days	200%
OT on public holidays or paid leave	300%
Night work allowance (where 'regular' hours are during night hours)	130%
OT on night work For the definition of night work see Section 10.4	130% x 150% for regular days 130% x 200% for rest days 130% x 300% for public holidays or paid leave

LABOR LAW, ARTICLE 61, 71

CIRCULAR 14/2003/TT-BLĐTBXH

### 7.9.1 CALCULATING OVERTIME

#### Overtime calculation for day work: hourly wages

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

LABOR LAW, ARTICLE 61, 71

CIRCULAR 14/2003/TT-BLĐTBXH

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

Overtime wage for night work	=	Actual wage per hour	x	130%	x	150% or 200% or 300%	x	Number of overtime hours at night
------------------------------	---	----------------------	---	------	---	----------------------	---	-----------------------------------

## Overtime calculation for day shift for piece-rate wages

- **Option 1**

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

- **Option 2**

Overtime wage	=	Total piece-rate wage of a given month	/	Total hours worked (including overtime)	x	Number of overtime hours	x	150% or 200% or 300%
---------------	---	--	---	---	---	--------------------------	---	----------------------

## 7.9.2 NIGHT WORK ALLOWANCES

- **Night work allowance for hourly wages**

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

LABOR LAW, ARTICLE 61, 71

CIRCULAR 14/2003/TT-BLĐTBXH

- **Overtime rate for night work: hourly wages**

Overtime wage for night work	=	Actual wage rate per hour	x	130%	x	Number of overtime hours working at night	x	150% or 200% or 300%
------------------------------	---	---------------------------	---	------	---	---	---	----------------------

- **Night work allowances for piece-rate wages**

Piece-rate wage for night work	=	Rate per unit of day work	x	130%
--------------------------------	---	---------------------------	---	------

• **Overtime rates for night work: Piece-rate wages**

Overtime wage at night	=	Total piece-rate wage in a month	/	Total hours worked (including overtime)	x	Number of overtime hours worked	x	130%	x	150% or 200% or 300%
------------------------	---	----------------------------------	---	---	---	---------------------------------	---	------	---	----------------------

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

Mr. Thuan's monthly salary is 1,664,000 VND and is calculated based on a 26 day working month. Last month he worked 60 hours of overtime. Therefore his wages for that month should be calculated as follows:

- Hourly wage calculated for a 26 day working month and an 8 hour working day:  
 $1,664,000 \text{ VND} / 26 / 8 = 8,000 \text{ VND}$ .
- Wages for 60 hours of normal overtime are calculated as follows:  
 $8,000 \text{ VND} \times 150\% \times 60 \text{ hours} = 720,000 \text{ VND}$
- Total salary for the month =  $1,664,000 \text{ VND} + 720,000 \text{ VND} = 2,384,000 \text{ VND}$

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

Ms. Nga works on a sewing line. Last month she made 1,200 units at the unit rate of 1,500VND per unit. To produce this, she worked for 208 normal hours (i.e. 8 hours per day over 26 working days) plus 60 hours of overtime. Her wage should therefore be calculated as follows:

- Piece-rate wage per hour =  $1,200 \text{ unit} \times 1,500 \text{ VND} / 268 \text{ hours} = 6,716 \text{ VND}$
- Piece-rate wage for normal hours =  $6,716 \text{ VND} \times 208 \text{ hours} \times 100\% = 1,397,015 \text{ VND}$
- Piece-rate wage for overtime hours =  $6,716 \text{ VND} \times 60 \text{ hours} \times 150\% = 604,478 \text{ VND}$ .
- Total salary for the month =  $1,397,015 + 604,478 = 2,001,493 \text{ VND}$

**7.10 BONUSES AND INCENTIVES**

Bonuses and incentives are not required by law. However, the employer and employee may reach an agreement on bonuses and incentives as part of the CBA.

*Note: In Vietnam there is a tradition for many enterprises to pay a 13th month salary around the Lunar New Year. For wage calculation purposes, enterprises that provide this additional 13th month salary should consider it as a bonus.*

**LABOR LAW, ARTICLE 63 & 64**

**DECREE 114/2002/NĐ-CP, ARTICLE 11**

**7.11 WAGE INCREASE REVIEWS**

Employers must coordinate with the Trade Union executive committee to review and evaluate wage scale increases every year. Rules and regulations relating to annual wage increases must be clearly indicated in the employment contract and in the CBA.

**LABOR LAW, ARTICLE 63**

**CIRCULAR 28/2007/TT-BLĐTBXH, ARTICLE 2**

## 7.12 MANDATORY INSURANCE

Employees who have signed a labor contract for 3 months or more are required to contribute to, and be covered by, mandatory insurance calculated against the wages in their contracts:

Type	Total	Employer Contribution	Employee Contribution	Notes
Social Insurance (SI)	22%	16%	6%	Maximum declared wage is 20 months' wage at the general minimum wage. Applies only to Vietnamese employees.
Health Insurance (HI)	4.5%	3%	1.5%	Maximum declared wage is 20 months' wage at the general minimum wage. Applied for Vietnamese and foreign employees.
Unemployment Insurance (UI)	2%	1%	1%	UI applies to contracts of 1 year or more. UI applies to enterprises with 10 or more employees. Applies only to Vietnamese employees.

**LAW ON SOCIAL INSURANCE,  
ARTICLE 2, ARTICLE 4  
CLAUSE 1, ARTICLE 18, 92  
& 94  
DECREE 127/2008/NĐ-CP**

\*Starting in 2012, the SI fund increases every 2 years by 1% until it reaches 18% for the employer and 8% for the employee.

### Examples 1: SI – HI – UI for Vietnamese Employees

Ms. Thu signed a labor contract with a salary of 1,400,000 VND /month. Each month she must pay Social, Health and Unemployment Insurance as follows:

Employee pays:  $1,400,000\text{VND} \times (6\% + 1,5\% + 1\%) = 119,000\text{ VND}$

Employer pays:  $1,400,000\text{VND} \times (16\% + 3\% + 1\%) = 280,000\text{ VND}$

### Example 2: Health Insurance for foreign workers

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

Employee pays:  $20,000,000\text{VND} \times 1,5\% = 300,000\text{VND}$

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

## 7.13 PAID LEAVE

### 7.13.1 PUBLIC HOLIDAYS

Employees are entitled to all of the following public holidays with full pay:

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

If the public holiday falls on a regular weekly day off, the employee will be entitled to a day off the following day.

**LABOR LAW, ARTICLE 73**  
**LAW No. 84/2007/QH11**

### 7.13.2 ANNUAL LEAVE

Minimal annual leave requirements are the following

Workers in normal working conditions	12 days
Workers doing heavy or dangerous work. Young workers under 18 years old.	14 days
Workers doing extremely heavy or hazardous work.	16 days

**LABOR LAW, ARTICLE 74 & 76**

**DECREE 114/2002/NĐ-CP, ARTICLE 14, CLAUSE 1**

**DECISION 1152/2003/QĐ-BLĐTBXH**

**DECISION 1629/1996/QĐ-BLĐTBXH**

- Employees are entitled to one additional day of annual leave for every five years of employment within the enterprise
- Leave for employees contracted to work for periods of less than 12 months will be calculated on a pro-rata basis in proportion to the length of their period of employment
- The employer has the right to arrange a timetable for annual leave in advance and to notify employees of this after consulting with the Executive Committee of the Trade Union

### 7.13.3 PAY FOR UNUSED ANNUAL LEAVE

- If an annual leave plan is prepared by the employer but the employee works voluntarily on leave days, the employer is only required to pay the worker their regular wage for those working days
- If the employer does not arrange annual leave in advance, or if the employer has already arranged and informed employees of annual leave dates but then asks the employee to work on these days, the employee must be paid at 300% for these unused annual leave days, inclusive of the normal wage for each day worked

**LABOR LAW, ARTICLE 76**  
**DECREE 114/2002/NĐ-CP, ARTICLE 14**

**CV45/2005/ATLĐ-CSQP**

**Example:** A sewing employee has been working for two years in BBB Factory with a monthly wage (as stated in the labor contract) of 1,040,000VND. The employee is entitled to 14 days annual leave every year. In 2009, the employer did not make a plan for annual leave for employees. The employee used 5 days of her annual leave but was unable to take the remaining 9 days due to production requirements. Therefore, the employer must compensate the employee for this unused annual leave at 300% of the normal wages for the unused annual leave days as follows:

- Number of unused annual leave days = 14 days – 5 days = 9 days
- 300% normal wages will include:
  - 100% was paid in regular monthly wages:  $1,040,000\text{VND}/26 \times 9 = 360,000 \text{ VND}$
  - 200% will be paid by the end of 2009 or at the end of 1st quarter of 2010 at the latest =  $9 \times 200\% \times (1,040,000\text{VND} / 26) = 720,000\text{VND}$

### 7.13.4 PERSONAL LEAVE WITH PAY

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

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

LABOR LAW, ARTICLE 78

### 7.13.5 SICK LEAVE

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

LAW ON SOCIAL INSURANCE,  
ARTICLE 25  
JOINT CIRCULAR 33/1987/  
TT-LB

Type of Employment	Sick Leave Allowances (based on working days not holidays)
Working in normal conditions	<ul style="list-style-type: none"> <li>• Less than 15 years: 30 days</li> <li>• 15 to 30 years: 40 days</li> <li>• 30 years or more: 60 days</li> </ul>
Working in heavy or hazardous occupations or jobs	<ul style="list-style-type: none"> <li>• Less than 15 years: 40 days</li> <li>• 15 to 30 years: 50 days</li> <li>• 30 years or more: 70 days</li> </ul>
Employees who suffer from a disease that requires extended treatment <b>See Appendix 2</b>	<ul style="list-style-type: none"> <li>• Maximum of 180 days in a year, including public holidays</li> <li>• If the illness continues after these 180 days the employee will be compensated at a lower rate.</li> </ul>



# CONTRACTS AND HUMAN RESOURCES

## 8.1 RECRUITMENT

- Enterprises must announce any recruitment opportunities at least 7 days prior to application deadlines
- Recruitment notices must include details pertaining to the job title, job requirements, working conditions, salary, working time, and any required documents employees need for applications
- Employers must issue receipts to all applicants acknowledging each application.

Candidates must be able to provide the employer with the following documents:

- Completed job application
- Resume or copy of personal labor file
- Copies of certificates
- Health checkup reports
- Other documents as requested by the employer

**LABOR LAW, ARTICLE 16, CLAUSE 2**

**DECREE 39/2003/NĐ-CP, CHAPTER II**

**CIRCULAR 20/2003/TT-BLĐTBXH, SECTION II.**

## 8.2 PROBATION PERIODS

Maximum probation periods are the following:

Employees with specialized or highly technical skills, who have a college level diploma or higher	Maximum 60 days
Graduates from vocational schools, technical or operational staff	Maximum 30 days
Casual or unskilled workers	Maximum 6 days

**LABOR LAW, ARTICLE 32**

**DECREE 44/2003/NĐ-CP, ARTICLE 7**

**ARTICLE 32 & DECREE 44/2003/NĐ-CP**

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

## 8.3 APPRENTICES

When recruiting trainees for subsequent employment at enterprise, employers must:

- Agree to an apprentice contract, either in written or verbal form. In the event of a written contract an original copy must be given to each party
- Not collect a training fee. The enterprise can collect training fees for providing training and apprenticeships for outsiders who will not be employed by the enterprise. (Note: The enterprise must obtain approval from Dolisa for setting up a training center and must have an apprentice permit)
- Pay the salary based on agreement of both parties
- If the apprentice makes products, wages must be agreed upon by the two parties and cannot be less than the minimum wage

**VOCATIONAL TRAINING LAW, ARTICLE 35, CLAUSE 3**

**LABOR LAW, ARTICLE 22, 23, 24 & 25**

## 8.4 EMPLOYMENT CONTRACTS

- > There are 3 types of labor contracts:
  - Temporary contracts of less than 12 months
  - Definite term contracts from 12 months to 36 months
  - Indefinite term contracts
- > Labor contracts must be made in writing with two originals, one for each party. The contract must include the following:
  - The nature of the work
  - Time of work and rest time
  - The amount of pay
  - The place of work
  - The duration of the contract
  - Conditions regarding occupational health and safety and social insurance for the employee
- > For temporary works of less than 3 months, the two parties can conclude a verbal contract
- > An employer cannot sign a temporary contract for regular work that would normally require 12 months or more of work
- > Definite term contracts can only be signed a maximum of two times with the same employee. Following that, the employee is entitled to an 'indefinite term' contract

**LABOR LAW, ARTICLE 26, 27, 28, 29 & 30**

**DECREE 44/2003/NĐ-CP, ARTICLE 3 & 4**

### 8.4.1 TEMPORARY LABOR

- > Temporary workers have the same rights as regular workers
- > A person who performs a job lasting less than three (3) months will not contribute to mandatory insurance schemes and therefore shall be paid directly by the employer for the following pay:
  - Social insurance: 16%
  - Health insurance: 2%
  - Annual leave allowance: 4%
  - Travel allowance: Based on agreement

**CIRCULAR 17/2009/TT-BLĐTBXH, ARTICLE 1**

**Example:** Mr. Bao signed a temporary contract with a salary of 1,040,000 VND /month. The monthly salary which the employee receives includes the additional allowances as follows:

$$\text{Wage} = 1,040,000\text{VND} \times (16\% + 2\% + 4\%) = 1,268,800\text{ VND}$$

### 8.4.2 EXTENDED EMPLOYMENT CONTRACTS

When a definite time bound employment contract expires but an employee continues to work, the following conditions apply:

- Within 30 days from the date of expiry of a labor contract, both parties must negotiate to renew or terminate the contract. If, after 30 days, both parties have not signed a new contract, the obsolete contract is automatically considered an indefinite contract.

**CIRCULAR 17/2009/TT-BLĐTBXH, ARTICLE 1**

### 8.4.3 TEMPORARY JOB TRANSFER

- Employers can temporarily transfer employees to another job due to unexpected difficulties or business needs, but the transfer must not exceed 60 days in 1 year and the employee must be given at least 3 days notice
- If the wage of the new position is lower than the wage of the former position, the wage of the former position must be maintained for 30 working days. The wage of the new job must be at least equal to 70% of the former job wage and not lower than the minimum wage

LABOR LAW, ARTICLE 34

## 8.5 TERMINATION OF EMPLOYMENT CONTRACTS

### 8.5.1 OBVIOUS TERMINATION

**Contacts can be considered “obviously terminated” when:**

- The contract expires or the tasks stated in the contract have been completed
- The employee is dead or declared missing by the Court
- The employee is sentenced to imprisonment or is subject to a Court order
- There is agreement between parties

LABOR LAW, ARTICLE 36

### 8.5.2 UNILATERAL TERMINATION

#### 8.5.2.1 REASONS FOR LAWFUL UNILATERAL TERMINATION

<b>A. Employees with definite contracts have the right to terminate employment in the following situations:</b>	<b>B. Employers have the right to terminate employment in the following situations:</b>
<ul style="list-style-type: none"><li>a. If they are not assigned to the agreed occupation or workplace or are not provided with the working conditions as agreed to in the contract</li><li>b. If they are not paid in full or within the time agreed the wage stipulated in the labor contract</li><li>c. If they are subject to maltreatment or to forced labor</li><li>d. If they cannot carry out the contract due to personal or family difficulties</li><li>e. If they are elected or appointed to full-time work in a public office or in the state apparatus</li><li>f. If they are pregnant and must stop working by doctor's orders</li><li>g. If they fall ill or are victim to an accident and are unable to return to work following treatment</li></ul>	<ul style="list-style-type: none"><li>a. If the employee regularly fails to fulfill the tasks assigned by contract(*)</li><li>b. If the employee is dismissed due to specific types of serious misconduct</li><li>c. If the employee is ill and does not recover after having received treatment for several months</li><li>d. In cases of force majeure where the employer has made every effort to overcome difficulties but is nevertheless compelled to make cuts in production and workforce</li><li>e. If the enterprise ceases activities</li></ul>

LABOR LAW, ARTICLE 37 & 38 CLAUSE 1

DECREE 44/2003/NĐ-CP, SECTION III, ARTICLE 11 & 12

LABOR LAW, ARTICLE 85

(\*) The employer must provide two written notices and see no improvement in performance

### 8.5.2.2 PRIOR NOTICE

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

	Length of prior notice required	Type of contract
For employer	45 days	Indefinite term contract
	30 days	Definite term contract
	3 days	Temporary contract or a specific task of less than 12 months
	No prior notice	(b) of 8.5.2.1 (column B)
For employee	3 days	(a), (b), (c), (g) of 8.5.2.1 (column A)
		(d), (e) of 8.5.2.1 (column A) in case of temporary contract or specific task of less than 12 months
	30 days	(d), (e) of 8.5.2.1 (column A) in case of definite term contract
	45 days	Indefinite term contract
	Determined by doctor	(f) of 8.5.2.1 (column A)

**LABOR LAW, ARTICLE 37  
CLAUSE 2, ARTICLE 38  
CLAUSE 2 & ARTICLE 112  
CIRCULAR 21/2003/TT-  
BLĐTBXH, SECTION III. 1 (B)**

### 8.5.2.3 PROCEDURES FOR UNILATERAL TERMINATION OF A LABOR CONTRACT

In cases where there is continued disagreement with the decision of the employer, the employee and the Executive Board of the Trade Union shall have the right to request the settlement of a labor dispute in the Court. See **APPENDIX 3** for more details

**LABOR LAW, ARTICLE 38,  
CLAUSE 2**

### 8.5.2.4 UNLAWFUL UNILATERAL TERMINATION

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

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

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

**LABOR LAW, ARTICLE 39  
ARTICLE 111, CLAUSE 3**

### 8.5.3 REQUIRED ALLOWANCES AND COMPENSATION FOR TERMINATING CONTRACTS

Types	Conditions	Payment by	
		Employer	Employee
Severance allowance	Lawful termination with reason and prior notice	½ month salary plus allowance for each year of service	
Job-loss allowance	Retrenchment	1 month salary for each year of service, but minimum is two months' salary	
Compensation	Violation points mentioned in Section 8.5.2.1	<ul style="list-style-type: none"> <li>- Salary of the period the employee was not able to work;</li> <li>- At least 2 months salary</li> <li>- If employer unlawfully terminates the contract, compensation will be negotiated between the employer and employee.</li> <li>- Compensation for any days notice not given in case of breaking prior notice requirements mentioned at 8.5.2.2</li> </ul>	<ul style="list-style-type: none"> <li>½ month's salary plus allowance</li> <li>- Cost for training if any</li> <li>- Compensation for any days notice not given in case of breaking prior notice requirements mentioned at 8.5.2.2</li> </ul>
Cases of no severance allowance	<ul style="list-style-type: none"> <li>- Where disciplinary action has been taken</li> <li>- Upon retirement</li> <li>- In cases the employee receives job loss allowance</li> </ul>		

LABOR LAW, ARTICLE 17, 41 & 42

DECREE 44/2003/NĐ-CP, SECTION III, ARTICLE 13, 14 & 15

CIRCULAR 17/2009/TT-BLĐTBXH, ARTICLE 2

CIRCULAR 21/2003/TT-BLĐTBXH, SECTION III.2 (B)

LABOR LAW, ARTICLE 85 (A,B)

#### **Example: Severance allowance**

Ms. Hong started working in the factory on January 1<sup>st</sup> 2007 and continues to work until July 1<sup>st</sup> 2010. During this time she had an average salary over 6 consecutive months of 1,500,000VND. In this example the severance allowance will be calculated as follows:

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

**Severance allowance:** 1,500,000VND x ½ monthly wage x 2 years = 1,500,000VND

From January 1<sup>st</sup> 2009 to July 1<sup>st</sup> 2010, she contributed to the unemployment insurance scheme, so the severance allowance will be paid by this insurance if the employee is jobless.

## 8.5.4 SEVERANCE ALLOWANCE AND JOB LOSS ALLOWANCE

- Severance allowance and job loss allowance must be paid by the employer for the number of years the employee has worked up to 31 December, 2008.
- Severance allowance is equivalent to the average wage received by the employee during the 6 months prior to termination.

### From 01 January 2009

- For enterprises with **10 or more employees contributing to the** unemployment insurance scheme; the severance allowance or job-loss allowance will be covered by UI
- For enterprises with **less than 10 employees**, employers will pay a severance allowance or job loss allowance

CIRCULAR 17/2009/TT-BLĐTBXH, ARTICLE 2

## 8.6 INTERNAL REGULATIONS

- Internal labor regulations (Internal Regulations or IR) cannot contravene the Laws of Vietnam and must be registered with the local labor department or industrial zone management board
- Enterprises that employ ten or more employees are required to have written Internal Regulations
- Enterprises must inform employees about Internal Regulations and post them in the workplace
- Re-registration of Internal Regulations must take place if they are amended in any way

LABOR LAW, ARTICLE 82 & 83

DECREE 33/2004/NĐ-CP, ARTICLE 1

CIRCULAR 19/2003/TT-BLĐTBXH, SECTION II

DECREE 41/1995/CP ARTICLE 4 & 5

## 8.7 DISCIPLINE

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

LABOR LAW, ARTICLE 82, CLAUSE 1

DECREE 41/1995/CP, ARTICLE 3

### 8.7.1 TYPES OF DISCIPLINARY

Depending on the situation, the following disciplinary measures apply:

Type of disciplinary measure	Verbal or written reprimand	Stipulated in the Internal Regulations of each enterprise
	<ul style="list-style-type: none"> <li>• Delay in increasing wage</li> <li>• Transfer of employee to a lower paid position (for no longer than 6 months)</li> <li>• Dismissal of the employee</li> </ul>	
	Immediate Dismissal	Applies to an employee who commits any offence referred to in 8.7.2

LABOR LAW, ARTICLE 84 & 85

DECREE 41/CP, ARTICLE 6  
DECREE 33/2004/NĐ-CP, ARTICLE 2

CIRCULAR 19/2003/TT-BLĐTBXH, SECTION III

## 8.7.2 CONDITIONS FOR DISMISSAL

### Dismissing employees is permitted in the following situations:

- If the employee commits theft, embezzlement, discloses technological and business secrets or carries out other acts causing severe losses to the property and interest of the enterprise. (Note: the employer must define such situations requiring dismissal in the Internal Regulations)
- Employees who were initially disciplined through a delay in payment or transfer to lower paid work and whose performance has not improved and who have committed the same breach which required the initial disciplinary action
- Employees who are absent for five days per month or 20 days per year without legitimate reasons

LABOR LAW, ARTICLE 85,  
CLAUSE 1, POINT A,B,C  
DECREE 33/2004/NĐ-CP,  
ARTICLE 1, POINT 2

## 8.7.3 REGULATIONS FOR DISCIPLINARY ACTION

- Every violating act is given only one form of punishment. In cases of simultaneous violations, there should be only one form of punishment corresponding to the most serious violation
- All actions that encroach upon human dignity are prohibited
- All forms of financial punishment, such as failure to pay salary, are prohibited
- Punishment for participation in strikes is prohibited
- Disciplinary measures must be applied within three months after the violation (maximum of six months in special cases)
- The employer must issue a written notice when the disciplinary period is complete

LABOR LAW, ARTICLE 86  
DECREE 4 1/1995/NĐ-CP,  
ARTICLE 7

## 8.7.4 CIRCUMSTANCES EXCLUDING DISCIPLINARY PROCEDURES

- The employee takes days off for illness or recovery with the consent of the employer
- The employee is subject to temporary detention or custody
- The employee is waiting for investigation results from the authority
- A female employee is pregnant, takes maternity leave or is nursing a child under 12 months of age

DECREE 33/2003/NĐ-CP,  
ARTICLE 3, CLAUSE 2

**Example:** On 19 May 2009, after a meeting between the Executive Board of the Trade Union and Ms. Thao, the Factory decided to take disciplinary action. The action chosen was to prolong the waiting time for any wage increase. However, this action must be delayed and applied after 1st January 2010 because she is currently nursing her child who is under 6 months old. In this case the disciplinary measure must be delayed until after she is no longer nursing her child.

## 8.7.5 SETTling DISCIPLINARY ISSUES

- The employer must be able to provide proof regarding employee violations
- A Trade Union representative must be present in the event of an oral warning
- The employee must respond to the accusation or ask somebody to respond on their behalf
- Settlement of disciplinary issues must be made in writing stating the decision and signed by both the employer and the employee, as well as a Trade Union representative
- Disciplinary procedures must be recorded on paper and signed by all concerned (including Trade Union representatives)
- Dismissal decisions must be sent to DOLISA together with minutes from the disciplinary meeting

**LABOR LAW, ARTICLE 87**

**DECREE 41/1995/NĐ-CP,  
ARTICLE 11**

**DECREE 33/2003/NĐ-CP,  
ARTICLE 5**

## 8.7.6 MATERIAL LIABILITY

- Employee who damages tool, equipment, or other property of the enterprise can be held liable for compensation to the damage. In case of non-serious damage due to negligence, the maximum liability is 3-month salary, gradually deducted from the employee's monthly salary. Total deduction can not exceed 30% of the employee's wages in any given month (see 7.6)
- Employee who loses tool, equipment, or other property assigned by employer or uses materials beyond allowed standards must fully or partly compensate the damage at market prices. If the employee has signed a liability contract, the term of repayment will be according to the contract. In cases of force majeure, the employee will not be held liable for any compensation

**LABOR LAW, ARTICLE 89  
& 90**

**DECREE 41/1995/NĐ-CP,  
CHAPTER III**

**CIRCULAR 19/2003/TT-  
BLĐTBXH, SECTION V**

# 9 OCCUPATIONAL SAFETY AND HEALTH (OSH)

## 9.1 GENERAL OSH

Employers are responsible for protecting employees, ensuring occupational health and safety, and improving the working conditions of employees.

Employers must prepare a feasibility study outlining all potential OSH issues when building or renovating new facilities or when purchasing equipment that have strict OSH requirements.

LABOR LAW, ARTICLE 95

## 9.2 OSH TRAINING

<b>Required Participants</b>	<ul style="list-style-type: none"><li>• Employer, director, vice director, manager, production supervisor</li><li>• Person in charge of occupational safety and health</li><li>• All employees</li><li>• Contractors or freelancers performing work in the company</li></ul>
<b>Requirements</b>	<ul style="list-style-type: none"><li>• All required participants must be trained prior to working</li><li>• Every year, the employer must develop a plan and organize training on occupational safety and health</li><li>• The training content and length must follow legal regulations. <i>See Appendix 6 for more information</i></li><li>• A list of employees involved in jobs with strict requirements on labor safety and hygiene must be provided to the Department of Labor</li><li>• The employer must keep an OSH record book, provide training materials, and carry out regular checking for labor safety and health</li></ul>

CIRCULAR 37/2005/TT-BLĐTBXH, SECTION VII

## 9.3 OSH COUNCIL

- Enterprises with more than 1,000 workers are required to establish an OSH Council
- An OSH Council is a coordinating and advisory unit within the enterprise. It ensures the participation and supervision of the Trade Union in OSH activities
- A representative of the employer shall be the OSH Council Chairperson
- A representative of the Trade Union shall be the Vice Chairperson of the OSH Council
- A designated Labor Protection Chief Officer or an alternate individual designated with responsibility for labor protection must be a standing member and secretary of the Council. The maximum number of OSH Council members is 9
- Inspections must be carried out at regular 6 month intervals to ensure attention to OSH issues

JOINT CIRCULAR 01/2011/TTLT-BLĐTBXH-BYT, CHAPTER II

### 9.3.1 HEALTH AND SAFETY OFFICERS

The employer must set up a unit or assign labor protection officers in accordance with the following minimum requirements based on the number of employees:

Requirements	Number of employees in the enterprise
One part-time officer in charge of Labor Protection	Below 300
One full-time officer in charge of Labor Protection	300-1000
At least 2 full-time officers in charge of Labor Protection and setting up the Labor Protection unit or department	Above 1000

JOINT CIRCULAR 01/2011/  
TTLT-BLĐTBXH-BYT,  
CHAPTER II

### 9.3.2 OCCUPATIONAL HEALTH AND SAFETY COLLABORATORS NETWORK

An additional way of ensuring protection for employees is through the development of a network of OSH collaborators. This must be established through agreement between the employer and the Trade Union.

JOINT CIRCULAR 01/2011/  
TTLT-BLĐTBXH-BYT,  
CHAPTER II

Every enterprise must establish an Occupational Health and Safety (OSH) collaborators network.

The OSH collaborator is responsible for reminding and guiding employees in his or her group to comply with occupational safety and health regulations.

The OSH collaborators supervise the implementation of company OSH rules, detect unsafe cases, guide for new workers.

Every production group must have at least one employee who is a direct worker in the OSH collaborators network.

The Trade Union manages operation of the OSH collaborators network.

### 9.4 HEALTH AND SAFETY REGULATIONS

The employer must develop rules on labor safety and/or hygiene for all types of machinery, equipment and materials and apply these in the workplace.

DECREE 06/1995/CP,  
ARTICLE 3, POINT 1

## 9.5 HEALTH CARE AND FIRST AID

### 9.5.1 MEDICAL FACILITIES

Every factory must appoint medical personnel in accordance with the following table based on the number of employees. Medical personnel must be on duty during every shift and able to provide sufficient first aid and emergency services.

**JOINT CIRCULAR 01/2011/  
TTLT-BLØTBXH-BYT,  
CHAPTER II**

No. of employees	Medical Personnel Requirements
Below 500	If there is no clinic, a health care contract can be made with the commune or district health center
500-1000	1 medical staff with a vocational medical certificate
Above 1000	At least 1 physician OR 1 doctor

Enterprises must establish a first aid team and the first aid team members must be trained and certified. The enterprise must also conduct training on first-aid to all employees.

### 9.5.2 FIRST AID KITS

There must be a first aid kit on each floor of the enterprise as follows based on the number of employees:

**CIRCULAR 09/2000/TT-BYT,  
SECTION III, POINT 3**

No. of employees	Type
25	Type A: Small kit
50	Type B: Medium sized kit
100	Type C: Large kit

The kit must have all supplies as stipulated in the law

### 9.5.3 PERIODICAL HEALTH EXAMINATIONS

- The employer is responsible for costs associated with health checks
- The employer must conduct a medical examination for employees when they are hired. Based on the examination results, the employer assigns employees jobs suitable for their health
- The employer must organize health checks for all employees, including trainees, once per year
- Employees performing hazardous work need a checkup every 6 months. A log book must be maintained to monitor results of employee checkups
- Time required by employees to attend health checks must be counted as working hours with full pay
- Medical examinations at the time of recruitment and periodic health examinations are to be carried out by recognized State Health services at the district level and at the relevant Center for Occupational Health at the industry or provincial level. Examinations for occupational diseases shall be carried out by State Health services at the provincial level and/or the industrial level

CIRCULAR 13/1996/BYT-TT,  
SECTION III

CIRCULAR 13/2007/TT-BYT

### 9.6 FACILITY REQUIREMENTS

- Enterprises must ensure there is adequate water for flushing toilets. Water stored for this purpose must not contain pests such as mosquito larvae
- Toilets must be well ventilated and not produce unpleasant odors
- Water from treatment tanks must run into a designated waste drain for treatment and must not be allowed to drain into storm drains or other surrounding areas
- Toilets/latrines must be adequately sheltered and protected against the elements

DECISION 08/2005/QĐ-BYT.  
CLAUSE 2, SECTION V

DECISION 3733/2002/QĐ-  
BYT, PART I

#### Number of facilities:

Facility	Required facilities (By working shift)	Size of enterprise
Toilets	1- 10 persons/room 11- 20 persons/room 21 - 30 persons/room	1- 100 persons 101 - 500 persons Above 500 persons
Female changing rooms ( <i>for women to use during menstruation</i> )	1- 30 women /room Above 30 women/room	1 - 300 persons Above 300 persons
Hand washing facilities	1 - 20 persons/tap 21 - 30 persons/tap Above 30 persons/tap	1 - 100 persons 101 - 500 persons Above 500 persons
Eye-wash	1 - 200 persons/shower Above 200 persons/ shower	1 - 1000 persons Above 1.000 persons

## 9.7 NOISE, AIR QUALITY, TEMPERATURE AND LIGHTING

DECISION 3733/2002/QĐ-BYT

Aspect	Requirements
<b>Noise Levels</b>	Noise levels in the work place must not exceed 85 decibels. The employer must provide protective earplugs when and if this limit is exceeded.
<b>Air Quality</b>	The employer must ensure that the working environment within the workplace is reasonably comfortable. Airborne chemical contaminants must comply with the law.
<b>Temperature Controls</b>	Temperatures within the workplace must not be lower than 20 degrees C in winter and must not exceed 35 degrees C during the summer.
<b>Lighting Levels</b>	Lighting within the workplaces and manufacturing areas in the garment industry must not be lower than 300 lux in ironing areas and 500 lux in sewing areas.

## 9.8 WEIGHTS AND MEASURES

DECISION 3733/2002/QĐ-BYT, PART V

Restrictions on the weight of a load that a person may carry are as follows:

Type of lifting	Limit (kg)	
	Males	Females
Regular lifting and carrying (when a job regularly requires an employee to carry loads)	40	30
Irregular carrying (loads must be lighter when they are seldom required within the specified job description)	20	15

## 9.9 PERSONAL PROTECTIVE EQUIPMENT (PPE)

DECREE 06/1995/NĐ-CP, ARTICLE 6

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

## 9.9.1 TASKS REQUIRING PPE

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

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

**LABOR LAW, ARTICLE 100  
CIRCULAR 10/1998/TT-  
BLĐTBXH, SECTION III**

## 9.9.2 PERSONAL PROTECTIVE EQUIPMENT (PPE) FOR THE GARMENT INDUSTRY

The following table sets out the required PPE for various types of work in the garment industry:

Type of work	Required Equipment
Fabric cleaning, laundry, fabric screen printing	Uniform, fabric cap, rubber gloves, dust mask, rubber boots, soap.
Fabric arrangement, cutting, ironing, sewing machine operation, button hole making, button sewing, over lock machine operation	Fabric cap, uniform, dust mask, fabric shoes, soap.

**DECISION 68/2008/QĐ-  
BLĐTBXH, SECTION XV**

## 9.10 MACHINE SAFETY

The employer must:

- Carry out periodic checks and repairs of machinery, equipment, workshops and storehouses
- Provide adequate protective devices for all dangerous machinery and equipment within the enterprise
- Take all necessary measures to prevent accidents. Signboards with instructions on occupational health and safety must be posted in the workplace where they can be easily seen and read. Key places for signs and notices are at machine sites and equipment installation locations, and in other places where there is a heightened risk of danger
- If a risk is found, the employer must take immediate action to stop or remove the risk including stopping work or switching off relevant machinery until the risk is under control
- The list of machines with strict safety requirements is outlined in the law

**LABOR LAW, ARTICLE 98  
& 99**

**CIRCULAR 04/2008/TT-  
BLĐTBXH**

**DECISION 2013/2005/QĐ-  
BLĐTBXH.**

## 9.11 FIRE SAFETY

The employer must:

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

**CIRCULAR 04/2004/TT-BCA,  
PART I**

### 9.11.1 FIRE TRAINING, DRILLS AND EVACUATION

The enterprise's fire prevention and fire fighting forces must be professionally trained and have practice drills in coordination with the fire department at least once a year. The enterprise should ensure the team has obtained certification for firefighting.

**LAW ON FIRE PREVENTION  
AND FIGHTING 27/2001/  
QH10, ARTICLE 46**

**DECREE 35/2003/NĐ-CP,  
ARTICLE 34**

**CIRCULAR 04/2004/TT-BCA,  
SECTION XVII**

### 9.11.2 INTERNAL REGULATIONS ON PREVENTING AND FIGHTING FIRES

The enterprise's internal regulations on preventing and fighting fires should include the following regulations:

- Management and use of flame sources, heat sources, inflammable materials as well as flame or heat generating equipment and instruments
- Prohibited acts and procedures to prevent fires and explosions
- Systems maintenance, use of prevention and firefighting systems, and required equipment
- Procedures to be carried out in the event of fires or explosions
- Diagrams on fire prevention, firefighting and means of escape must be clearly communicated to all personnel and posted at easily visible points for the benefit of all employees and visitors

**DECREE 35/2003/NĐ-CP,  
ARTICLE 9.**

**CIRCULAR 04/2004/TT-BCA,  
SECTION III**

### 9.11.3 EVACUATION MAPS

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

**DECREE 35/2003/NĐ-CP,  
ARTICLE 9.**

**CIRCULAR 04/2004/TT-BCA,  
SECTION III**

### 9.11.4 SIGNBOARDS AND INSTRUCTIONS BOARDS

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

**DECREE 35/2003/NĐ-CP,  
ARTICLE 9.**

**CIRCULAR 04/2004/TT-BCA,  
SECTION III**

### 9.11.5 EMERGENCY EXITS

- Exits must be easy to find and exit paths clearly marked with instructions
- Each site must have a minimum of two fire exits at different locations
- The minimum allowable widths for emergency exits are:
  - Paths: 1m
  - Corridors: 1.4m
  - Doors: 0.8m
- Escape routes must be safe and convenient to use, without any risk of obstruction during evacuation
- Escape routes must be easily accessible and have clear directions with visible signage
- Doors located in emergency exits must never be obstructed in any way and should remain closed when not in use. Fire doors should always open outwards of the building (away from the building)
- Door height must be at least 2m

**VIETNAM STANDARD TCVN  
2622 – 1995**

**VIETNAM STANDARD OF  
CONSTRUCTION 439/1997/  
BXD-CSXD**

### 9.11.6 EXIT SIGNS

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

**VIETNAM STANDARD OF  
CONSTRUCTION 439/1997/  
BXD-CSXD**

### 9.11.7 EMERGENCY LIGHTS

Emergency lighting in evacuation routes must be at least 1 lux in strength and at least 1.5 times the level necessary to enable people to escape the premises to a designated safe meeting area.

VIETNAM STANDARD OF  
CONSTRUCTION 439/1997/  
BXD-CSXD

### 9.11.8 FIRE HOSES

- Indoor boxes for firefighting must be placed next to all entrances and exits, on landings, in elevator lobbies, waiting rooms, and corridors and in easily seen and convenient places
- Boxes must be equipped with locking valves, sprinklers, and flexible hose reels. Lengths of flexible hose reels and sprinkler diameters must be appropriate for the location

VIETNAM STANDARD TCVN  
2622 – 1995

### 9.11.9 FIRE ALARM SYSTEMS

- Systems must be inspected at least once a year
- Systems must undergo a complete scheduled maintenance service every 2 years
- Fire alarms must have a different sound from other alarms
- The power supply for the fire alarm must be from 2 independent sources:
  - 220V source
  - Battery backup system, designed to last at least 12 hours in standby mode and 1 hour in operation mode

VIETNAM STANDARD TCVN  
5738 – 2000

VIETNAM STANDARD OF  
CONSTRUCTION: 439/1997/  
BXD-CSXD, POINT 11.8

#### **Alarm buttons must be:**

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

### 9.11.10 FIRE EXTINGUISHERS

Fire extinguishers must be:

- Fully loaded and placed in defined locations at all times
- Installed in easy to find locations, where they are accessible and ready for immediate use in the event of a fire
- Placed on stands or in designated fire boxes with the exception of portable trolley fire extinguishers

VIETNAM STANDARD 7435-1  
& 2:2004 PCCC

VIETNAM STANDARD OF  
CONSTRUCTION: 439/1997/  
BXD-CSXD, POINT 11.9

- Free from all obstructions
- Accompanied with easily visible directions and guidance in Vietnamese
- Inspected and certified on a monthly basis

### Applicable types of extinguishers

There are 3 main types of extinguishers for enterprises:

- Type A – CO2 Extinguishers: Applicable for fires fuelled by paper, fabric, wood, plastic and other similar substances
- Type B - Powder Extinguishers: Applicable for fires containing oils, paints and other inflammable liquids
- Type C - Foam Extinguishers: Applicable for fires containing gas, cylinders, and electric fires

## 9.12 ELECTRICAL SAFETY

- Operating procedures should be provided for all positions. These should include troubleshooting, process safety, electrical grid maps, firefighting and prevention regulations, operation log books, tools, personal protection equipment, safety signs and indications for all electrical appliances
- Employees performing work related to electrical installations must be trained in relevant technical skills and safety and possess an official safety certificate
- Electrical systems, electrical equipment, lightening systems, and places where exposed flames are used or heat is generated must use exemplary fire prevention and firefighting safety measures
- The enterprise must carry out scheduled annual inspections and certification of all electrical systems
- Electrical equipment that has been damaged and is not in use must be isolated and removed from the electrical system

**DECREE 105/2005/NĐ-CP ,  
ARTICLE 31**

**VIETNAM STANDARD OF  
CONSTRUCTION 439/1997/  
BXD-CSXD, POINT 14.5**

**DECREE 35/2003/NĐ-CP,  
ARTICLE 9, CLAUSE 1**

**VIETNAM STANDARD 11  
TCVN - 48 : 1996**

## 9.13 CHEMICALS

### 9.13.1 DEFINITION

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

**CHEMICALS LAW, ARTICLE 4,  
POINT 1 & 4**

**DECREE 68/2005/NĐ-CP,  
ARTICLE 3, POINT 1 & 2**

### 9.13.2 REQUIREMENTS FOR ENTERPRISES

All enterprises using chemicals in their production processes must:

- Conform to the official rules governing chemical safety
- Have qualified staff trained appropriately to manage the volumes and particularities of the chemicals

**CHEMICAL LAW 2007,  
ARTICLE 30**

- Periodically organize training on chemical safety for workers
- Provide timely, accurate and relevant information and instructions on chemical safety to workers and managers
- Establish plans and measures to prevent and deal with chemical problems
- Update and keep archived records on all chemical usage

### 9.13.3 RESPONSIBILITIES FOR ENSURING CHEMICAL SAFETY

#### Each enterprise must:

- Be responsible for ensuring the safe use of chemicals
- Apply necessary measures to prevent risks to human health and/or the environment
- Train and assess employees directly involved in working with hazardous chemicals to ensure they:
  - Understand legal and regulatory requirements;
  - Have a clear understanding of relevant safety procedures, technological procedures and health protection measures in use within the workplace;
  - Know the required actions for dealing with any emergency situations.

**DECREE 68/2005/NĐ-CP,  
ARTICLE 4**

## 9.14 HAZARDOUS CHEMICALS

### 9.14.1 DEFINITION

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

Hazardous chemicals are classified under the following categories:

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

**LAW ON CHEMICAL,  
ARTICLE 4**

**DECREE 108/2008/NĐ-CP,  
ARTICLE 16**

**CIRCULAR 12/2006/TT-BCN,  
SECTION II**

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

Producers and importers of specified chemicals need to file a chemical safety sheet when transferring the chemical to receivers. The chemical safety sheet always needs to be attached to the chemical consignment during its circulation.

**Note:** *The MSDS needs to be available in the workplace. This includes wherever the chemical is stored (not just in the office).*

**DECREE 68/2005/NĐ-CP,  
ARTICLE 8**

**CIRCULAR 12/2006/TT-BCN,  
PART D, SECTION I & II**

### 9.14.3 LABELING

Labels for hazardous chemicals need to comply with the law. Warnings must be printed on the outside of the label in accordance with the hazardous properties of the specified chemical.

**DECREE 68/2005/NĐ-CP,  
ARTICLE 9**

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

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

**DECREE 68/2005/NĐ-CP,  
ARTICLE 15**

**VIETNAM STANDARDS TCVN  
5507:2002, SECTION 4.4**

### 9.14.5 STORING HAZARDOUS CHEMICALS

- Chemicals must be stored in specialized chemical storage warehouses
- Equipment used to work with chemicals must be managed by suitably qualified people
- Warehouses and equipment for hazardous chemicals must meet legal requirements and observe best practices on safety, fire and explosion prevention
- Notices must be posted in prominent locations listing safety regulations and providing guidance on safety measures for the staff working in storage areas. This must be in accordance with the properties of the related chemicals
- Equipment in warehouses must undergo scheduled inspections to ensure compliance with safety requirements
- Persons coming in and out of chemical storage areas must be checked and registered in a registration book
- Workshops and warehouses in establishments storing or using hazardous chemicals must be located a safe distance from residential areas, public access areas and water sources
- Work areas and storage areas must be fitted with mechanical ventilation systems
- Hazardous chemical storage areas must be kept dry and weatherproof and be fitted with lightning conductors. These safety systems must be inspected and certified in accordance with legal requirements

**DECREE 68/2005/NĐ-CP,  
ARTICLE 16**

**VIETNAM STANDARDS TCVN  
5507:2002, SECTION 4**

- Hazardous chemicals must be stored in secure storage facilities. For safety reasons, storage areas should be arranged for each category of chemical elements. Chemicals should not be stacked in adjacent areas where close proximity may cause one to react with another to create a hazard, or that may require different methods of firefighting or response in the event of an emergency
- Exteriors of workshops, storage area buildings and/or enclosures should post easily visible and readable signs to warn members of the public of the presence of potentially hazardous materials (for example; “Warning, Hazardous Chemicals! No Fires!, No Smoking!” and other notices)
- Aisles between chemicals stacked and/or shelved in storage areas should be at least 1.5m wide. Stacks and shelving should not be above 2 meters in height
- At each workshop, activities related to hazardous chemicals must have detailed guidelines containing easily readable procedures and safety operations

#### 9.14.6 DISPOSAL OF HAZARDOUS CHEMICALS

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

**DECREE 68/2005/NĐ-CP,  
ARTICLE 19**

**VIETNAM STANDARDS TCVN  
5507:2002, SECTION 8**

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

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

**VIETNAM STANDARDS TCVN  
5507:2002, SECTION 4,  
POINT 4.14**

#### 9.14.8 OBLIGATIONS OF ENTERPRISES

Establishments using, producing and/or storing chemicals must:

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

**DECREE 68/2005/NĐ-CP,  
ARTICLE 14**

**VIETNAM STANDARDS TCVN  
5507:2002, POINT 4.16 &  
8.3**

## 9.15 DORMITORIES

### Minimum requirements for dormitories:

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

### Requirements for electrical supplies:

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

### Requirements for water supplies:

Each person must have a minimum of 75 liters of fresh water available for their daily use. Water must be filtered if the supply comes from a drilled well.

### Requirements on water discharge:

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

### Requirements for fire safety:

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

DECISION 17/2006/QĐ-BXD,  
ARTICLE 4

## 9.16 DRINKING WATER

Employers must send drinking water samples to the relevant provincial/municipal centers for testing at least once every quarter to ensure compliance with legal requirements

DECISION 4128/2001/QĐ-  
BYT/SECTION II, CLAUSE 4  
QCVN 01/2009/BYT

## 9.17 DINING AND KITCHEN FACILITIES - SANITATION AND HYGIENE

- The employer must obtain relevant certificates from local authorities covering food safety and hygiene in the kitchen
- Food safety and hygiene inspection reports must be obtained from the health department every 3 months
- Cooking staff must be appropriately trained and possess an official certificate related to food safety and hygiene

DECREE 163/2004/NĐ-CP,  
CLAUSE 1, ARTICLE 15

- Cooking staff must undergo medical check-ups every 6 months
- Cooking staff must use face masks and other appropriate protective equipment while working
- Cooked foods must be covered and cannot be placed together with any raw ingredients
- Food samples should be retained for 24 hours after serving for identification in the event of any cases of food poisoning

## 9.18 ANNUAL INSPECTIONS OF WORKING ENVIRONMENTS

- Work environments should be inspected annually for risk assessment purposes.
- Costs incurred in the process of identifying risks and measuring harmful elements within the working environment will be covered by the employer
- Only agents licensed by the Ministry of Health are entitled to conduct measurement of hazardous materials and this must be done under the supervision of the provincial Department of Health

**LABOR LAW, ARTICLE 97**

**DECREE 06/1995/NĐ-CP,  
ARTICLE 4**

**CIRCULAR 13/1996/BYT-TT,  
SECTION II, POINT 2**

## 9.19 WORK RELATED ACCIDENTS

Accidents which injure or otherwise affect employees are considered to be work-related accidents when they:

- Are related to work
- Occur during working hours and/or rest hours during working hours
- Occur while travelling to or from the place of work

**LABOR LAW, ARTICLE 105,  
106**

### 9.19.1 DUTIES OF EMPLOYERS

If a work related accident takes place the employer must:

- Provide first aid
- Maintain the scene of the accident
- Provide the investigating committee with relevant reports
- Pay for any technical investigative work related to the accident
- Take action to prevent similar accidents from happening in the future
- Inform the labor authority if there is a serious accident or death

**DECREE 06/1995/NĐ-CP**

## 9.19.2 SUBSIDIES AND COMPENSATION (EMPLOYER)

**Compensation:** The settlement of claims for damages brought forward by employees, caused by occupational accidents and diseases.

**Subsidies:** Funds provided to help employees when they lose their ability to work and / or suffer a serious disability.

Reduction in working ability	Compensation	Subsidies	Requirements
81% and over or death	30 months salary	12 months salary	- Accident caused by the employer
5% - 10%	1.5 months	0.6 month salary	- Compensation and pension paid for each occurring accident
Over 10% and below 81%	Refer to Circular No. 10/2003/TT-BLĐTBXH which provides a formula and pre-calculated table for checking the appropriate rates.		- Occupational diseases must be confirmed by forensic agencies

**LABOR LAW, ARTICLE 107**

**DECREE 110/2002/NĐ-CP, ARTICLE 4**

**CIRCULAR 10/2003/TT-BLĐTBXH, SECTION II**

### Example

Mr. Ha has been working at Golden Factory with a salary of 1,420,000VND/month since January 2009. In August, 2009, he was in an accident while operating a machine. After treatment and assessment, it was determined that his working ability had been reduced by 21%. The factory's records relating to Mr. Ha's work accident showed that the factory was responsible and that compensation would need to be paid to Mr. Ha as they let him run the machine without proper instruction and training.

The factory referred to Circular No. 10/2003/TT-BLĐTBXH which provides a formula and pre-calculated table for easily checking the appropriate rates which would apply to a work capacity reduction of 21 %.

Based on the information in this table, the correct time frame for compensation in this case should be 5.9 months.

Therefore payment is as follows =  $5.9 \times 1,420,000\text{VND} = 8,378,000\text{ VND}$

For subsidies, the same table determined that in Mr. Ha case the rate payment should be for 2.36 months.

Therefore the payment is =  $2.36 \times 1,420,000\text{VND} = 3,351,2000\text{ VND}$

### 9.19.3 SOCIAL INSURANCE AGENCY RESPONSIBILITIES

**Compensation:** The settlement of claims for damages brought forward by employees, caused by occupational accidents and diseases.

**Subsidies:** Funds provided to help employees when they lose their ability to work and / or suffer a serious disability.

**SOCIAL INSURANCE LAW,  
ARTICLE 39, 40, 42, 43,  
46, 48**

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

### 9.20 REGULATIONS FOR REPORTING LABOR ACCIDENTS

- Enterprises must submit to DOLISA annual reports listing employees with jobs that have strict OSH requirements and the result of OSH training to employees
- Enterprises must submit 6-month and full year reports on work-related accidents and diseases, together with relevant compensation for these cases
- Enterprises must submit to DOLISA a report on labor protection two times per year. The first report, covering the first 6 months of the year, must be submitted prior to July 10 and the second report, covering the full year, must be submitted prior to January 15 of the following year

**DECREE 06/1995/NĐ-CP,  
ARTICLE 13**

**CIRCULAR NO 13/1996/TT-  
BYT, SECTION IV**

**JOINT CIRCULAR NO  
14/1998/TTLT-BLĐTBXH-  
BYT-TLĐĐVN, SECTION VI**

**CIRCULAR 37/2005/TT-  
BLĐTBXH, SECTION VII**

**CIRCULAR 10/2003/TT-  
BLĐTBXH, SECTION IV**

## 10.1 REGULARS HOURS

Maximum hours	Per day	Per week
Regular employees	8 hours	48 hours
Pregnant employees doing hazardous work reaching 7 months of pregnancy or mothers nursing a child under 12 months of age, elderly, disabled and young employees	7 hours	42 hours

LABOR LAW, ARTICLE 68, ARTICLE 115 CLAUSE 2& 3, ARTICLE 122, CLAUSE 1, ARTICLE 123 & ARTICLE 125, CLAUSE 4

## 10.2 REST TIME

### 10.2.1 WEEKLY REST DAYS

- Employees are entitled to have one day off per week (24 consecutive hours) on a Sunday or another specified day
- The weekly day off must be stated in internal regulations and in the Collective Bargaining Agreement
- If an employee decides to work overtime on their weekly rest day in a particular week, then the employer must ensure that the employee has at least four days (04) off during the calendar month

LABOR LAW, ARTICLE 72

### 10.2.2 PAID BREAKS

The following requirements apply to paid breaks

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

LABOR LAW, ARTICLE 71  
DECREE 109/2002/NĐ-CP,  
ARTICLE 1 CLAUSE 3  
CIRCULAR 15/2003/TT-  
BLĐTBXH, SECTION II,  
CLAUSE 1.2

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

## 10.3 OVERTIME

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

Type	Normal condition	Hazardous work (incl. garment)
Per day	4 hours	4 hours
Over 4 consecutive days	14 hours	10 hours
Per week	16 hours	12 hours
Per year	200 hours	300 hours

Enterprises are responsible for including regulations on overtime into their internal labor regulations and the Collective Bargaining Agreement (CBA)

LABOR LAW, ARTICLE 69  
DECREE 109/2002/NĐ-CP,  
ARTICLE 1 CLAUSE 3  
CIRCULAR 15/2003/TT-  
BLĐTBXH, SECTION II,  
CLAUSE 1.2

## 10.4 NIGHT SHIFTS

Night work is defined differently in different locations as follows:

- From 10pm – 6am for the province and cities from Thua Thien-Hue northwards;
- From 9pm – 5am for the provinces and cities from Quang Nam - Da Nang southwards.

**Note:** In some enterprises, operations are in 3 shifts with a night shift operating from 10pm to 6am. Night shifts must be stated in the regulations and agreed in the CBA of the enterprise.

LABOR LAW, ARTICLE 70  
CIRCULAR 13/2003/TT-  
BLĐTBXH, SECTION V.3  
CIRCULAR 14/2003/TT-  
BLĐTBXH, SECTION V.3

## 10.5 FEMALE EMPLOYEES

### 10.5.1 SPECIAL WORK AND REST TIME CONDITIONS

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

Type	Hazardous work (incl. garment)
During menstruation (monthly period)	30 minutes /day
During the seventh month of pregnancy or when nursing a child under 12 months of age	60 minutes/day

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

LABOR LAW, ARTICLE 115

## 10.5.2 MATERNITY BENEFITS

### SOCIAL INSURANCE LAW, ARTICLE 27 – 35 & 37

Type	Permitted leave	Details
1. Pre-natal (pregnancy) examination	5 times (1 time = 1 day)	<ul style="list-style-type: none"> <li>- Paid by social insurance agency based on full salary. The employee and employer are not required to pay SI premiums.</li> </ul>
2. In the case of miscarriage, abortion or stillbirth	10 – 50 days depending on the age of the fetus	
3. If a newborn child dies	90 days if the child is under 60 days of age; 30 days if the child is 60 days or older.	
4. When taking contraceptive measures	7 – 15 days depending on the kind of contraceptive measures	
5. Infant adoption	Until the child is four months old	<ul style="list-style-type: none"> <li>- Paid by social insurance agency based on full salary.</li> </ul>
6. Giving birth	4 – 5 months  If twins or more children: there is an additional entitlement of 30 days for each additional infant.	<ul style="list-style-type: none"> <li>- The employee and employer are not required to pay SI premiums.</li> <li>- Lump-sum allowance: 2 months of general minimum salary for each child by Social insurance agency.</li> </ul>
7. Recovering or convalescent after confinement	5 – 15 days in a year	25% or 40% general minimum salary

**Note:** Female employees are only entitled to the above benefits if they contributed to the insurance scheme for at least 6 months or more.

#### **Example: Maternity allowance**

Ms. Phan Thi B has worked as a regular employee in Tip Top Factory since May 2009 with a salary of 1,160,000 VND/month. On 9 June, 2010, Ms. Phan will start maternity leave and will receive the following benefits:

Duration for maternity leave is 4 months from 9 June, 2010

**One off allowance (paid by SI agency):** 730,000 VND (general minimum wage) x 2 months = 1,460,000 VND;

**Allowance (paid by SI agency):** 1,160,000 VND (Contract wage) x 4 months = 4,640,000 VND

# APPENDICES

## APPENDIX 1 :

Regulations on the regions for minimum wages applied from 1/1/2011

DECREE 107/2010/NĐ-CP

DECREE 108/2010/NĐ-CP

Regions	Location
I	<ul style="list-style-type: none"> <li>- Urban districts of Hanoi City</li> <li>- Urban districts of Ho Chi Minh City</li> </ul>
II	<ul style="list-style-type: none"> <li>- Suburban districts of Hanoi: Gia Lam, Dong Anh, Soc Son, Thanh Tri, Tu Liem, Thuong Tin, Hoai Duc, Dan Phuong, Thach That, Quoc Oai, Me Linh, Chuong My and Son Tay Hamlet of Hanoi</li> <li>- Districts and Commune of Thuy Nguyen, An Duong, An Lao, Vinh Bao of Hai Phong City</li> <li>- Hai Duong City of Hai Duong Province</li> <li>- Vinh Yen City, Phuc Yen Hamlet and Binh Xuyen Commune of Vinh Phuc Province</li> <li>- Ban Ninh City, Tu Son Hamlet and Communes of Que Vo, Tien Du, Yen Phong of Bac Ninh Province</li> <li>- Ha Long, Mong Cai City of Quang Ninh Province</li> <li>- Thai Nguyen City of Thai Nguyen Province</li> <li>- Viet Tri City of Phu Tho Province</li> <li>- Ninh Binh City of Ninh Binh Province</li> <li>- Hue City of Thua Thien Hue Province</li> <li>- Districts and communes of Da Nang City</li> <li>- Nha Trang City and Cam Ranh Commune of Khanh Hoa Province</li> <li>- Da Lat, Bao Loc City of Lam Dong Province</li> <li>- Phan Thiet City of Binh Thuan Province</li> <li>- Suburban Districts of Ho Chi Minh City</li> <li>- Bien Hoa City, Long Khanh Commune and Hamlets as Nhon Trach, Long Thanh, Vinh Cuu, Trang Bom of Dong Nai Province</li> <li>- Thu Dau Mot Commune and Thuan An, Di An, Ben Cat, Tan Uyen Hamlet of Binh Duong Province</li> <li>- Vung Tau City, Ba Ria Commune and Tan Thanh Hamlet of Ba Ria – Vung Tau Province</li> <li>- My Tho City of Tien Giang Province</li> <li>- Districts of Can Tho City</li> <li>- Rach Gia City of Kien Giang Province</li> <li>- Long Xuyen City of An Giang Province</li> <li>- Ca Mau City of Ca Mau Province</li> </ul>
III	<ul style="list-style-type: none"> <li>- Others Provincial Cities (except provincial cities listed in Region II above)</li> <li>- The remaining suburban districts of Hanoi City</li> <li>- Other communes and hamlets of Hai Phong City</li> <li>- Chi Linh Commune and Hamlets as Cam Giang, Nam Sach, Kim thanh, Kinh Mon, Gia Loc, Binh Giang, Tu Ky of Hai Duong Province</li> <li>- Hamlets such as Yen Lac, Vinh Tuong, Tam Dao, Tam Duong, Lap Thach, Song Lo of Vinh Phuc Province</li> </ul>

Regions	Location
III	<ul style="list-style-type: none"> <li>- Phu Ninh, Lam Thao Commune of Phu Tho Province</li> <li>- Gia Binh, Thuan Thanh, Luong Tai Commune of Bac Ninh Province</li> <li>- Communes of Viet Yen, Yen Dung, Hiep Hoa of Bac Giang Province</li> <li>- Hamlets Uong Bi, Cam Pha and other Communes of Hoanh Bo, Dong Trieu of Quang Ninh Province;</li> <li>- Commune of My Hao, Van Lam, Van Giang, Yen My of Hung Yen Province;</li> <li>- Song Cong Hamlet and Communes of Pho Yen, Phu Binh, Phu Luong, Dong Hy, Dai Tu of Thai Nguyen Province</li> <li>- My Loc Commune of Nam Dinh</li> <li>- Duy Tien, Kim Bang Commune of Ha Nam Province</li> <li>- Tam Diep Hamlet and Communes of Gia Vien, Yen Khanh, Hoa Lu of Ninh Binh Province</li> <li>- Bim Son Hamlet and Tinh Gia Commune of Thanh Hoa Province</li> <li>- Ky Anh Commune of Ha Tinh Province</li> <li>- Huong Thuy Hamlet and Communes as Huong Tra, Phu Loc, Phong Dien, Quang Dien, Phu Vang of Thua Thien Hue Province</li> <li>- Communes of Dien Ban, Dai Loc, Duy Xuyen, Nui Thanh of Quang Nam Province</li> <li>- Communes of Binh Son, Son Tinh of Quang Ngai Province;</li> <li>- Song Cau Hamlet of Phu Yen Province</li> <li>- Communes of Cam Lam, Dien Khanh, Ninh Hoa, Van Ninh of Khanh Hoa Province</li> <li>- Communes of Ninh Hai, Thuan Bac of Ninh Thuan Province;</li> <li>- Communes of Duc Trong, Di Linh of Lam Dong Province</li> <li>- La Gi Hamlet and Communes of Ham Thuan Bac, Ham Thuan Nam of Binh Thuan Province</li> <li>- Communes of Trang Bang, Go Dau of Tay Ninh Province;</li> <li>- Dong Xoai, Phuong Long, Binh Long Hamlet and Chon Thanh, Dong Phu Communes of Binh Phuoc Province</li> <li>- Other remaining communes and hamlets of Dong Nai Province;</li> <li>- Other remaining communes and hamlets of Binh Duong Province</li> <li>- Long Dien, Dat Do, Xuyen Moc, Chau Duc, Con Dao Communes of Ba Ria – Vung Tau Province</li> <li>- Thu thua, Dua Hoa, Ben Luc, Can Duoc, Can Giuoc of Long An Province</li> <li>- Go Cong Hamlet and Chau Thanh Commune of Tien Giang Province</li> <li>- Chau Thanh Commune of Ben Tre Province</li> <li>- Binh Minh, Long Ho Communes of Vinh Long Province</li> <li>- All of Communes of Can Tho City</li> <li>- Ha Tien Hamlet and Communes as Kien Luong, Phu Quoc, Kien Hai, Gian Thanh, Chau thanh of Kien Giang Province</li> <li>- Chau Doc, Tan Chau Hamlet of An Giang Province</li> <li>- Nga Bay Hamlet and Communes of Chau Thanh, Chau Thanh A of Hau Giang Province</li> <li>- Communes as Nan Can, Cai Nuoc, U Minh, Tran Van Thoi of Ca Mau Province</li> </ul>
IV	All remaining regions

Regulations on the regions for minimum wages applied from 1/7/2011

Note: all enterprises are requested to comply with these new regulations starting in July 2011.

Regions	Location
I	<ul style="list-style-type: none"> <li>- Communes of Cu Chi, Hoc Mon, Binh Chanh, Nha Be of Ho Chi Minh City</li> <li>- Bien Hoa City and Communes of Nhon Trach, Long Thanh, Vinh Cuu, Trang Bom of Dong Nai Province</li> <li>- Thu Dau Mot Hamlet and Communes of Thuan An, Di An, Ben Cat, Tan Uyen of Binh Duong Province</li> <li>- Vung Tau City of Ba Ria – Vung Tau Province</li> </ul>
II	<ul style="list-style-type: none"> <li>- Dinh Quan, Xuan Loc Communes of Dong Nai Province</li> <li>- Phu Giao, Dau Tieng Communes of Binh Duong Province</li> <li>- Tan An City and Communes of Duc Hoa, Ben Luc, Can Duoc, Can Giuoc of Long An Province</li> </ul>
III	Communes of Thu Thua, Duc Hue, Chau Thanh, Tan Tru of Long An Province

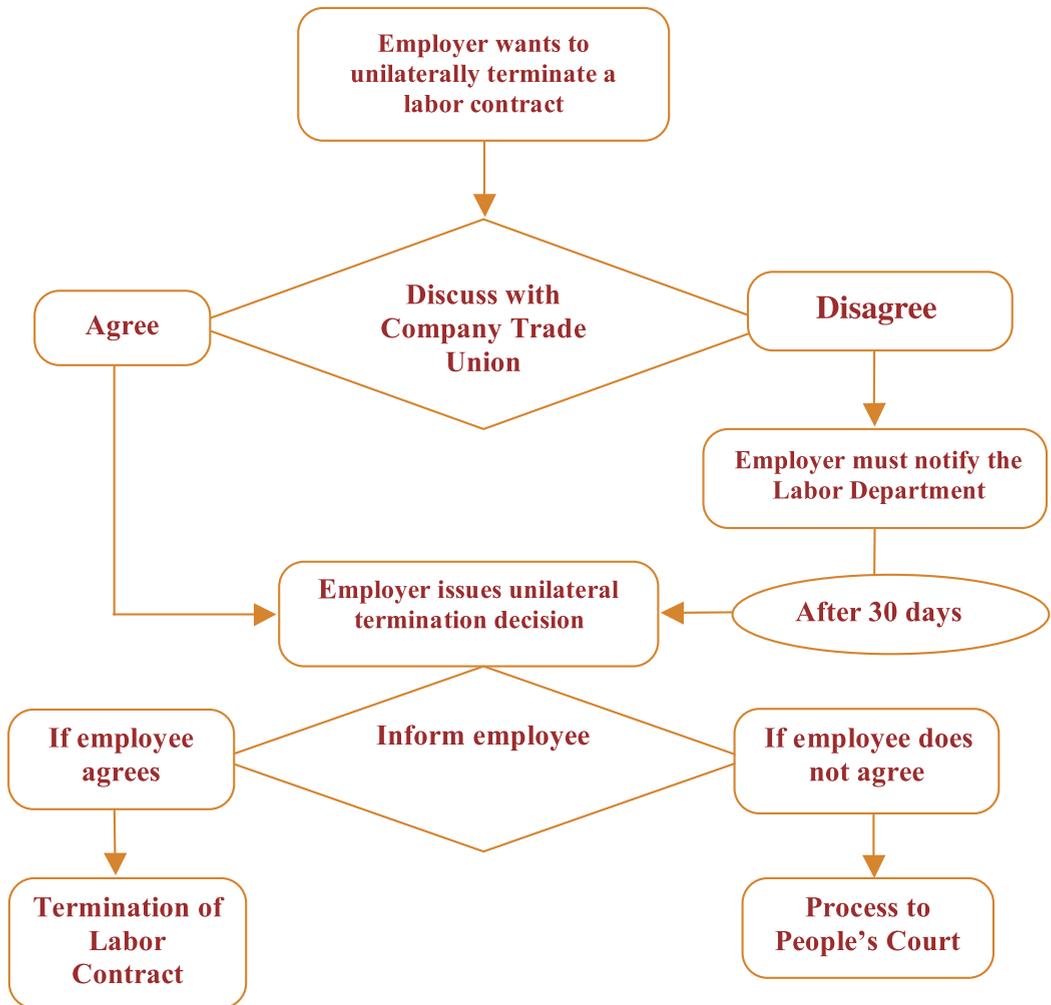
## APPENDIX 2: List of diseases requiring long-term treatment (Section 7.13.5)

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

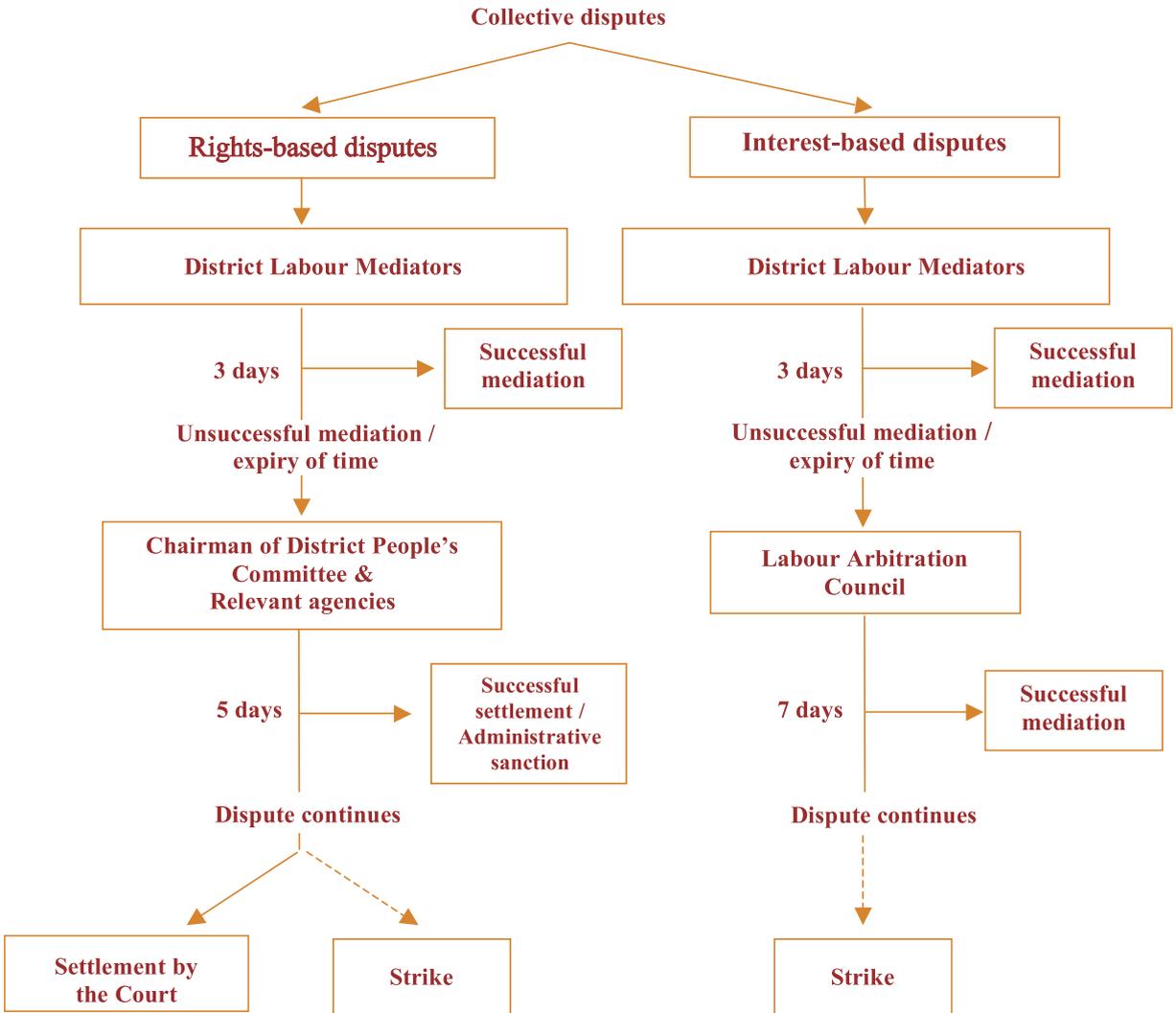
**DECREE 107/2010/NĐ-CP**

**DECREE 108/2010/NĐ-CP**

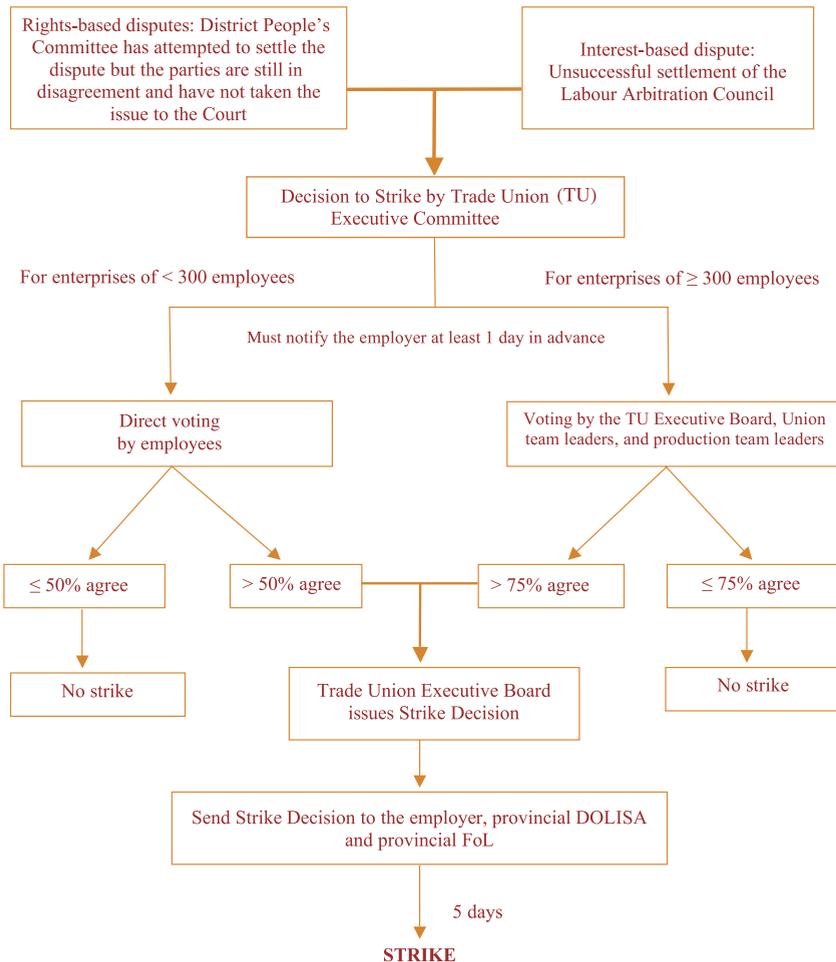
APPENDIX 3: Procedures for unilaterally terminating a labor contract (Section 8.5.2.3)



APPENDIX 4: Procedures for settlement of a collective dispute (Section 4.2)



## APPENDIX 5: Procedure for a lawful strike (Section 4.3)



## APPENDIX 6: Required OSH Training Content (Section 9.2)

- Basic information on labor safety and hygiene
- Purpose and importance of labor safety and hygiene
- Rights and obligations of employers and employees in implementing the regulations on labor safety and hygiene
- Internal rules on labor safety and hygiene
- Working conditions and hazardous factors that could lead to accidents, diseases and potential preventative measures
- Measures that can be taken to address various problems and basic first aid for victims in cases of accidents
- Applications, usage and preservation of personal protective equipment
- Production characteristics, working procedures and regulations on labor safety and hygiene employees shall strictly follow at work

## APPENDIX 7: OHS Good practice examples

OSH Examples and key steps that enterprises can take



### CHEMICALS

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



### CANTEEN

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



### MACHINES

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



### SANITATION

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



### ELECTRICAL

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



### **FIRE EXTINGUISHERS**

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



### **EMERGENCY EXITS**

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



### **EVACUATION MAPS**

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

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



### **FIRST AID**

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

## APPENDIX 8: Expatriates

### 1. Hiring foreigners

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

- Must be at least 18 years of age
- Must be in good health to satisfy job requirements
- Must be a manager or an expert
- Must not be sentenced to imprisonment or have any criminal liability
- Must have work-permit except legally-allowed exceptions (stipulated in Article 9.1 of Decree No. 34/2008/NĐ-CP)

**Decree No. 34/2008/NĐ-CP,  
Article 3**

### 2. Application process for work permits for foreigners

For employees		
No.	Items	Remark
1	Application form	Using template issued by Ministry of Labor
2	No criminal record	Must be legalized and notarized.
3	Curriculum Vitae	
4	Copies of Certificates of Specialization	
5	Health Certificate	
6	3 color photos (3cmx4cm)	
For employers		
1	Letter requiring the issuance of a work permit	Using template issued by Ministry of Labor
2	Invoice for recruitment when using a labor agency	

**Decree No. 34/2008/NĐ-CP,  
Article 9 Clause 1 & 4**

**Circular No. 80/2008/TT-  
BLĐTBXH**

The duration of work permit can be no longer than thirty six (36) months.

**Note:** Employers must register for Health Insurance for foreign employees if the employee has signed a labor contract directly with the employer.

