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THE LABOUR CODE OF THE SOCIALIST REPUBLIC OF VIETNAM

PREAMBLE

Labour is the most important activity of man. It creates the material wealth and spiritual values of society. High-productivity, high-quality and high-efficiency Labour is the determinant factor of national development.

Labour legislation defines the rights and obligations of the laborer and of the Labour user, the Labour norms and the principles for Labour use and management, thus contributing to the promotion of production. Therefore, it plays an important role in social life and in the legal system of the country.

Inheriting and developing the Labour legislation of our country since 1945, the Labour Code institutionalizes the renewal line of the Communist Party of Vietnam and concretizes the provisions of the 1992 Constitution of the Socialist Republic of Vietnam on Labour and on the use and management of Labour.

The Labour Code protects the right to work, the interests and other rights of the laborer. At the same time it protects the rights and lawful interests of the Labour user, thus creating conditions for the establishment of harmonious and stable Labour relations, helping to develop the creativeness and talent of the intellectual and manual workers, of the Labour managers in order to achieve productivity, quality and social progress in Labour, production, service, efficiency in the use and management of Labour, thus contributing to the industrialization and modernization of the country in the cause of bringing prosperity to the people and strength to the nation and building a just and civilized society.

CHAPTER I GENERAL PROVISIONS

Article 1

The Labour Code regulates the Labour relations between the salaried laborer and the Labour user and the other social relations directly related to the Labour relations.

Article 2

The Labour Code applies to all laborers, all organizations and individuals using Labour according to Labour contracts in all economic sectors and of all forms of ownership.

This Labour Code also applies to the apprentices, houseworkers and a number of other jobs defined in this Code.

Article 3

Vietnamese citizens working in foreign invested businesses in Vietnam or at foreign or international offices and organizations based on Vietnamese territory and foreigners working for Vietnamese businesses and organizations or individuals on Vietnamese territory come under the jurisdiction of this Code and other prescriptions of Vietnamese law unless otherwise stipulated in the international conventions which the Socialist Republic of Vietnam has signed or adhered to.

Article 4

The Labour regime for State employees and public servants, the holders of elected, assigned or appointed posts, persons in the People's Armed forces, the People's Security Service, persons of the mass organizations and other political and social organizations, and members of the co-operatives shall be stipulated by other legal documents. However, some of the provisions of this Code may be applied to a number of these persons, depending on concrete cases.

Article 5

1. Everyone has the right to work, freely choose a job or profession, learn a trade and improve his professional standard without discrimination of sex, nationality, social background, belief and religion.

2. Maltreatment of laborer and forcible Labour in any form is forbidden.

3. The State encourages, creates conditions or assists all activities which generate employment or self employment, all activities in job teaching and learning to create employment as well as all activities in production and business which draw a large workforce.

Article 6

A laborer must have attained at least 15 years of age, have the capability to work and must work according to a Labour contract.

A Labour user may be a business, an office, an organization or an individual (in the latter case he must be at least 18 years old). The Labour user hires and uses Labour and pays for it.

Article 7

1. The laborer is paid a salary based on his agreement with the Labour user but this salary shall not at any rate be lower than the minimum salary prescribed by the State if he meets the requirements in productivity, quality and efficiency already agreed upon. He is covered by the regulations on Labour protection, and must be assured conditions to work in Labour safety and hygiene. He is entitled to statutory paid leaves including annual leaves and to social insurance as prescribed by law. The State shall enforce special Labour regimes and social policies aimed at protecting women's Labour and some types of specific Labour.

2. The laboring people have the right to found, join and work for the trade union according to the Trade Union law in order to protect their rights and lawful interests.

They are entitled to the community welfare benefits and take part in the management of the business according to the rules of the business and the prescriptions of law.

3. The laborer has the obligation to carry out the Labour contract, the collective Labour observe Labour discipline and Labour regulations and obey the lawful direction of the Labour user.

4. The laborer has the right to go on strike as prescribed by law.

Article 8

1. The Labour user has the right to select and recruit Labour, assign Labour and control its disposition as required by the need of production and business. He has the right to issue rewards or commendations and handle the violations of the Labour discipline as prescribed by the Labour legislation.

2. The Labour user has the right to send his representative to negotiate and sign collective Labour contracts within the business or inside the whole service. He has the responsibility to cooperate and discuss with the trade union questions concerning the Labour relations, to improve the material and spiritual life of the laborer/

3. The Labour user has the obligation to carry out the Labour contract, the collective Labour contracts and other agreements with the laboring people, respect their honor and dignity and behave properly toward them.

Article 9

The Labour relations between the laborer and the Labour user are established and effected through negotiations and agreement on the principle of voluntaries, equality, cooperation, mutual respect for each other's rights and lawful interests and full implementation of the commitments.

The State encourages such agreements as assuring for laborers more favorable conditions than prescribed in the Labour legislation.

The laborer and the Labour user have the right to ask the authorized office or organization to settle a Labour dispute. The State encourages the settlement of Labour disputes by reconciliation and arbitration.

Article 10

1. The State exercises unified management of the manpower resource, manages Labour through legislation and adopts policies to develop and distribute this manpower resource, diversify the forms of Labour utilization and Labour supply service.

2. The State guides the laborer and the Labour user to build and harmonious and stable Labour relation so as together to work for the development of the business.

Article 11

The State encourages a democratic, just and civilized management of Labour at the business. It encourages all measures including the deduction from the business's profits as bonuses in order to make the laborer pay greater attention to the operation of the business with a view to high efficiency in the management of Labour and production of the business.

The State shall enact policies to help the laborer buy shares and otherwise contribute capital to the development of the business.

Article 12

The trade union joins the State office, the economic organizations and the social organizations in caring for and protecting the rights and interests of the laborer in the inspection and supervision of the implementation of the prescriptions of Labour legislation.

CHAPTER II EMPLOYMENT

Article 13

All income-generating laboring activities which are not banned by law are recognized as employment.

To provide jobs and ensure that every person with Labour capability have the chance to be employed is the responsibility of the State, the businesses and the whole society.

Article 14

1. The State sets out the targets for job generation in its five-year and annual plans for socio-economic development, create necessary conditions, provide financial support, grant loans or tax exemption or reduction and apply other incentive measures so that the Labour-capable persons can create employment for themselves and the organizations, units and individuals in all economic sector can develop diversified new occupations aimed at creating jobs for as many laboring people as possible.

2. The State shall enact preferential employment policies to attract and use the Labour force among the people of ethnic minorities.

3. The State shall enact incentive policies to create favorable conditions for organizations and individuals inside and outside the country including Vietnamese having settled abroad to invest in developing production and business in order to provide jobs for the laboring people.

Article 15

1. The Government shall draw up national employment programs and projects on investment in socio-economic development and emigration of the population to undeveloped regions in close association with the employment program; set up the national employment fund from the State budget and other sources and expand the job-seeking service system. Each year the Government shall present the national job generation program and fund to the National Assembly for decision.

2. The People's Committee in the provinces and cities directly under the central Government shall draw up their own job generation program and fund and submit them to the People's Council of the same level for decision.

3. The State offices, the economic organizations, the people's organizations and social organizations shall, within the scope of their responsibility and power, have the task of joining in the implementation of the job generation programs and funds.

Article 16

1. The laborer has the rights to work for any Labour user and at any place not forbidden by law. The job seeker has the right to directly contact a potential job procurer or register with a job-seeking service organization to find a job suited to his desire, capabilities, professional standard and health condition.

2. The Labour user is entitled to directly contact the job seeker or recruit Labour through a job-seeking service organization. He has the right to increase or reduce the number of working people in conformity with the demand in production and business and with the prescriptions of law.

Article 17

1. In case the laborer who has been working regularly in the business for one year and more loses his job due to the restructuring of the business or the change of technology, the Labour user has the responsibility to retrain him in order to employ him at a new working place. If no new job can be created and he has to lay off the laborer he has to pay the latter his job-losing allowance at the rate of one month's salary for every year of service but at any rate not lesser than two months' salaries.

2. When the need arises for a massive lay-off by virtue of Item 1 of this Article, the Labour user must publicize the list and base himself on the need of the business and the seniority of each laborer at the business, his professional skill, situation and other factors to lay them off one by one after discussing and agreeing with the Executive Committee of the local trade union in the business according to the procedure stipulated in Item 2 of Article 38 of this Code. The lay-off can be effective only after notification to the local Labour office.

3. The business must set up its reserve fund for job losing allowance as prescribed by the Government in order to provide timely relief for the laborers in the business who lose their jobs.

4. The Government shall adopt policies and measures to provide job training and retraining and guidance in production and business, grant low interest loan from the National fund for Employment and create other conditions for the laborers to find jobs or create jobs for themselves; provide financial support for the localities and services where many people are under-employed or lose their jobs due to the change in structure or technology.

Article 18

1. The job-seeking service organization set up by virtue of law has the task of providing consultancy, introducing or supplying jobs or helping in the recruitment of Labour, collecting and supplying information about the Labour market. The sending of Vietnamese laboring people to work abroad can be effected only when a permit to this effect has been issued by the authorized State office.

2. The job-seeking service organization is allowed to collect fees, is eligible for tax exemption or reduction by the State and entitled to organize job training as stipulated in Chapter III of this Code.

3. The Ministry of Labour, War Invalids and Social Welfare shall exercise unified State management of the job-seeking service organizations throughout the country.

Article 19

All acts of enticement, hollow promise and mendacious advertisement aimed at duping the laboring people or missuing the job-service seeking service to commit law-breaking acts are prohibited.

CHAPTER III APPRENTICESHIP

Article 20

1. Everyone has the right to freely choose a profession and a place for apprenticeship suited to the need of this future employment.

2. All businesses, organizations and individuals who meet the conditions prescribed by law shall be allowed to open a job-training establishment.

The Government shall issue regulations on the opening of job training establishments.

Article 21

1. A job training establishment must be registered, operate according to the regulations on job training, is entitled to collect tuition and must pay tax as prescribed by law.

2. Shall be eligible for tax exemption and reduction the job training establishments catering for war invalids, sick soldiers, the disabled, members of ethnic minorities or located in places with a large proportion of underemployment or unemployment, or t hose establishments teaching traditional crafts or job tutoring at the workshop or at home.

Article 22

An apprentice admitted to a job training establishment must be at least 13 years old, except for a number of jobs defined by the Ministry of Labour, War Invalids and Social Welfare. He must respond to the health norms required by the job to be taught.

Article 23

1. The business has the responsibility to organize the upgrading of the professional standard of the laboring people and to retrain them before transferring them to other jobs in the business.

2. A business which signs on a person to learn or practice a trade in order later to work for the business under the terms stipulated in the job learning or apprenticeship contract shall not have to register that person, but it must also not collect tuiti on from him. The time for learning or practicing a trade shall be included in the person's seniority of service at the business. During the period of job learning or apprenticeship if the learner or apprentice directly takes part in manufacturing products for the business, he shall be paid a salary to be mutually agreed upon by the sides.

Article 24

1. An apprenticeship can be effected only through a written or oral contract between the apprentice and the teacher or the representative of the job training establishment. In case of a written contract, it must be done in two copies, each side keeping one copy.

2. The job training contract must specify chiefly the target of training, the place of training, the level of tuition the duration of training and the level of compensation in case of violation of the contract.

3. In case the business signs on a job learner with explicit intent to employ him later at the business there must be in the job training contract a commitment on the term for which the learner shall work for the business and also a commitment to sign the Labour contract after completion of the training. If after learning the trade learner does not work for the business as has been committed he must compensate for the training expenditures.

4. No compensation shall be made if the job learning contract ends before term due to a force-majeure cause.

Article 25

It is strictly forbidden to all businesses, organizations and individuals to misuse the signboard of teaching or handing down a trade to promote self interests, exploit the Labour of the job learner or apprentice or induce and coerce him to undertake unlawful activities.

CHAPTER IV LABOUR CONTRACT

Article 26 The Labour contract is the agreement between the laborer and the Labour user on a paid job, on the conditions of work, on the rights and obligations of each party in the Labour relations.

Article 27

1. The Labour contract must be made in one of the following forms : a/ Contract without definite term; b/ Contract valid for from one to three years; c/ Contract for a seasonal job or a specific job to be carried out in less than one year.

2. It is forbidden to sign Labour contract for a seasonal job or a specific job with a duration of less than one year to do jobs of a permanent character lasting more than one year except when there must be temporary replacements for a laborer who is called up to do his military service duty or who takes child-birth leave or who is temporarily absent for other reasons.

Article 28

The Labour contract must be made in writing and done in two copies, each party keeping one copy. The commitment can be made orally if the job has a temporary character and its term does not exceed three years or it is the job of a houseworker.

Article 29

1. The content of the Labour contract must include the following main points; the job to be done, the working time, the rest time, the salary, the place of work, the term of

the contract, the conditions on Labour safety and Labour sanitation and social insurance for the laboring people.

2. In case part or the whole of the Labour contract provide for lower rights and interests of the working people than those prescribed in the Labour legislation, in the collective Labour accord or in the Labour regulations in force in the business or if it puts restrictions on other rights of the laborer, that part of the contract or the whole contract must be modified or supplemented.

3. In case such contents as are described in Item 2 of this article are the defect of the Labour inspector shall guide the parties to make the necessary modifications or supplements. If the sides refuse to make the recommended modifications or additions, the Labour Inspector is authorized to force the cancelment of these contents.

Article 30

1. The Labour contract is directly made between the laborer and the Labour user.

2. The Labour contract may be signed between the labor user and the legally assigned representative of a group of working people. In this case the contract is held valid if it were signed with each laborer.

3. The laborer may sign one or several Labour contracts, with one or several Labour users, but he must assure full implementation of all the contracts he has signed.

4. The job contracted under the Labour contract must be carried out by the contractor and shall not be assigned another person without the consent of the Labour user.

Article 31

In case of a merger or a division of the business, or assignment of ownership, managerial power or the right to use the property of the business, the Labour user has the responsibility to continue the execution of the Labour contract with the laborer until the two parties agree to amend or terminate the Labour contract or to sign a new contract.

Article 32

The Labour user and the laborer shall agree on the probation, the term of probation and the rights and obligations of the two parties. The salary of the probationer during the period of probation must be equal at least to 70% of the statutory salary of his job. The term of a probation must not exceed 60 days for a job requiring high technical skill and 30 days for other jobs.

Article 33

During the period of probation each party is entitled to cancel its agreement on probation without advance notice and without having to make compensation if the probation does not meet the requirements already agreed upon by both parties. If the probation meets the requirements the Labour user must sign on the laborer as a full-time worker as has been agreed upon.

The Labour contract shall take effect on the day of the signing or on a date mutually agreed upon.

In the process of implementing the Labour contract, if a party wishes to change the contents of the Labour contract, it must notify the other party at least three days in advance. The change of the contents of the Labour contract may be effected by modifying or supplementing the Labour contract already signed or the signing of a new contract.

Article 34

1. In case of unexpected difficulty or due to the need in production and business, the Labour user is entitled to temporarily assign the laborer to another job which he is not accustomed to but not for more than 60 days in a year.

2. When he decided to assign the laborer to another job which he is not accustomed to, the Labour user must notify him at least three days in advance. He must also specify the term of this temporary job and which must suit the health and sex of the laborer.

3. The laborer assigned to another job as defined in Item 1 of this Article shall be paid the salary of the new job. If this salary is lower than that of his former job he is entitled to the former salary for the first 30 days of the new job. The salary of the new job must be equal at least to 70% of the old salary but must not be lower than the minimum salary prescribed by the State.

Article 35

1. The Labour contract shall be temporarily suspended in the following circumstances : a/ The laborer is called up by his military service duty or other citizen's duties prescribed by law. b/ The laborer is taken into temporary custody or detention. c/ Other circumstances mutually agreed upon.

2. At the end of the term of the temporary suspension of the Labour contract under the circumstances defined in Points a and Point c, Item 1, of this article, the Labour user must reinstate the laborer.

3. The reinstating of a laboring people under temporary custody or detention after the expiry of the term of suspension of the Labour contract shall be defined by the Government.

Article 36

The laboring contract shall terminate in the following circumstances : 1. End of the contract term ; 2. The job under contract has been finished ; 3. The two parties agree to terminate the contract ; 4. The laborer is sentenced to imprisonment or is banned from doing the former job by decision of the Court ; 5. The laborer dies or is declared missing by court decision.

Article 37

1. The laborer working under a Labour contract the terms of which range from one year to three years or a Labour contract to do a seasonal job or a specific job which lasts less than one year is entitled to unilaterally terminate the contract before term in one of the following circumstances : a/ He is not assigned the job or to the working place or otherwise not assured the conditions of work already agreed in the contract ; b/ He is not paid fully or at the time stipulated in the contract ; c/ He is maltreated or subjected to

forcible Labour ; d/ The laboring people personally or his family meet with such difficult circumstances that he can not continue executing the contract ; d/ He is elected to a permanent post in a people's elected body or is appointed to an official post in the State apparatus ; e/ The laboring people is a pregnant woman who must stop working by prescription of the doctor.

2. When he decides to unilaterally terminate the Labour contract as stipulated at Item 1 of this Article, the laborer must notify the Labour user : a/ At least three days in advance in circumstances described at Points a, b and c ; b/ At least thirty days in advance in circumstances described in points d and Point with regard to a contract with terms ranging from one year to three years ; at least three days in advance if it is a contract for a seasonal job or a specific job which lasts less than one year ; c/ In circumstances described in Point e the time for advance notification is defined at Article 112 of this Code.

3. The laborer working under a Labour contract without a definite term is entitled to unilaterally terminate the Labour contract but must notify the Labour user at least 45 days in advance.

Article 38

1. The Labour user is entitled to unilaterally terminate the Labour contract in the following circumstances : a/ The laborer constantly fails to achieve his job under the contract ; b/ The laborer is sacked as a disciplinary measure under the terms of Article 85 of this Code. c/ The laborer who works under a Labour contract without a definite term falls sick and has gone through 12 months of treatment, or the working people working under a contract with a definite term has taken six consecutive months of sick leave of the laborer working under a contract of less than one year and has taken a sick leave longer than half the term of the Labour contract without any prospect of recovery in the near future. After recovery he shall be considered for continued execution of the Labour contract ; d/ Due to natural disasters, fire or other force majeure causes of which the Labour user has sought all means to overcome the consequences without success and is accordingly forced to scale down production and reduce the Labour force ; d/ The business, office or organization terminates its operations.

2. Before unilaterally terminating the Labour contract under points a, b and c of item 1 of this Article the Labour user must discuss with and reach agreement with the executive committee of the trade union. In case of disagreement the two sides must report to the competent office or organization. Only 39 days after notification to the Labour office is the Labour user entitled to decide and he shall have to take responsibility for his decision. In case they do not agree with the decision of the Labour user the Executive Committee of the local Trade Union and the laboring people are entitled to request the settlement of a Labour dispute according to the procedure prescribed by law.

3. When he decides to unilaterally terminate the Labour contract, except for cases defined at point b, Item 1 of this Article, the Labour user must notify the laborer : a/ At least 45 days for the Labour contract without a definite term ; b/ At least 30 days for Labour contracts with terms ranging from one year to three years ; c/ At least three days

for Labour contracts for seasonal jobs or specific jobs which do not last more than one year.

Article 39

The Labour user is not allowed to unilaterally terminate the Labour contract in the following circumstances : 1. The laborer is under treatment by decision of the doctor as a result of sickness, a Labour accident or an occupational disease, except for cases stipulated at Point c and Point d of Item 1, Article 38 of this Code ; 2. The laborer is on annual leave, is taking a leave for personal affairs or any other leave with the consent of the Labour user. 3. The laborer is a woman in circumstances defined in Item 3, Article 111 of this Code.

Article 40

Each party may renounce its unilateral decision to terminate the Labour contract before the expiry of the advance notice. On the expiry of the advance notice term either party has the right to terminate the Labour contract.

Article 41

1. In case the decision of the Labour user unilaterally terminate the Labour contract is in contravention of law he must re-instate the laborer and pay a compensation corresponding with the salaries of the laborer during the days when he is denied the right to work. In case the laborer does not want to return to work he shall be entitled, besides the compensation corresponding to his salaries during the days he is not allowed to work, to an allowance as stipulated at Item 1 Article 42 of this Code.

2. In case the laborer unilaterally terminates the Labour contract in contravention of law he shall not receive any severance allowance.

3. In case the laborer unilaterally terminates the Labour contract he shall have to repay the training expenses, if any, as prescribed by the Government.

4. In case of a unilateral termination of the Labour contract any party which violates the regulations on advance notice shall have to make a compensation to the other party corresponding to the salaries of the laborer during the days when he receives no advance notice of the termination.

Article 42

1. On the termination of a Labour contract with a laborer who has worked regularly at the business, office or organization for more than one year, the Labour user has the responsibility to pay him a severance allowance representing one month of salary for every year of service plus wage subsidies, if any.

2. On the termination of the Labour contract as defined in Point b, Item 1 of Articles 85 of this Code the laborer shall not receive the severance allowance.

Article 43

Within seven days after termination of the Labour contract, the two parties have the responsibility to settle all the accounts bearing on the interests of each party. In special cases this time-limit may be extended but not for more than 30 days.

In case of bankruptcy of the business the accounts related to the interests of the laborer shall be settled according to the stipulations of the law on Bankruptcy.

The Labour user shall record the reason for the termination of the Labour contract in the Labour Register and has the responsibility to return the register to the laborer. Apart from the stipulations in the Labour Register the Labour user is not allowed to add any other observation that may be a hindrance to the laborer in seeking a job.

CHAPTER V THE COLLECTIVE LABOUR ACCORD

Article 44

1. The collective Labour accord (hereafter called collective accord) is a written agreement between the collective of laboring people and the Labour user on the conditions for Labour and use of Labour and the rights, interests and obligations of the two parties in their Labour relations.

The collective Labour accord is negotiated and signed by the representative of the laboring collective and the Labour user on the principles of voluntaries, equality and openness.

2. The contents of the collective contract must not contravene the prescriptions of Labour legislation and other legislations.

The State encourage the signing of collective accords with terms more favorable to the laboring people than these prescribed by Labour legislation.

Article 45

1. The representative to the negotiations of a collective accord between the two parties shall comprise : a/ On the Labour collective : the Executive Committee of the local trade union or the provisional trade union organization ; b/ On the side of the Labour user : the Director of the business or his delegate duly empowered under the Statute on the organization of businesses or a person holder of a mandate from the business Director. The number of representatives to the negotiations of a Labour collective accord from each party shall be decided by mutual agreement but the two sides must have equal numbers.

2. The representative who signs for the Labour collective is the President of the Executive Committee of the local trade union or the person with the mandate of this committee. The representative who signs for the Labour user is the business Director or a person with the mandate of the business Director.

3. The signing of the collective accord can be effected only when more than 50% of the persons in the Labour collective in the business agree to the contents of the negotiated accord.

Article 46

1. Each party is entitled to file its own request for the signing and its proposals on the contents of the collective accord. Upon reception of the request, the received must accept the negotiations and discuss the time for beginning the negotiations, 20 days at the latest after receiving the request.

2. The main contents of the collective accord comprise commitments on the work and the guarantee of work ; the time for work and the time for rest ; the salaries, bonuses and wage subsidies ; the Labour norms, Labour safety, Labour sanitation and social insurance for the laborers.

Article 47

1. The signed collective accord shall be made into four copies, of which : a/ One copy is kept by the Labour user ; b/ One copy is kept by the Executive Committee of the local trade union; c/ One copy is to be sent by the local trade union executive committee to its higher level ; d/ One copy is to be sent by the Labour user to the provincial Labour office for registration, 10 days at the latest from the date of signing. The businesses which have their establishment in many provinces or cities directly under the central government shall have the collective accord signed at the provincial Labour office where the business has its main office.

2. The collective accord shall take effect from the day of registration at the provincial Labour office. fifteen days at the latest of receiving the collective accord the provincial Labour office must notify the registration. If no notification is received after expiry of the said time limit the collective accord shall automatically take effect.

Article 48

1. The collective accord shall be considered partially invalid if one or a number of terms in the accord are not accepted by the provincial Labour office, while the other terms which have been registered remain valid.

2. The collective accord shall be considered completely invalid in one of the following circumstances : a/ The whole content of the accord is contrary to law ; b/ The signatories do not have the proper competence ; c/ The negotiation and signing do not proceed according to the prescribed order ; d/ The accord has not been registered at the provincial Labour office.

3. The declaration to annul the collective accords which are considered invalid in the circumstances stipulate at Point a, Item 2, of this Article comes under the jurisdiction of the provincial Labour office. With regard to the collective accords signed in circumstances defined in Points b, c and d of Item 2 of this Article, if the signed terms are favorable to the laborers the provincial Labour office shall guide the sides to make changes conformable to the prescriptions. If one or both parties refuse to modify, the provincial Labour office shall declare to annul the accord.

Article 49

1. Once the collective accord has taken effect the Labour user must notify all the laborers in the business. Everyone in the business, including those who are signed on after the signing have the responsibility to fully implement the collective accord.

2. In case the rights and interests of the laborers already agreed in the Labour contract are lower than those stipulated in the collective accord, the corresponding terms in the collective accord shall apply. All regulations on Labour in the business must be changed according to the stipulations in the collective accord.

3. When one party deems that the other does not fully carry out or violate the collective accord, it is entitled to demand that the other party correctly execute the accord. The two parties must together discuss a solution. If they can not, each party is entitled to demand solution of the Labour dispute concerning collective Labour according to proceedings prescribed by law.

Article 50

The collective accord is signed for terms ranging from one year to three years. for a business which signs a collective accord for the first time the term may be shorter than one year.

Three months after the accord takes effect (for accords with terms shorter than one year) and six months (for accords with terms ranging from one year to three years) each party is entitled to propose amendments or additions to the accord. These amendments and additions shall proceed in the same way as for the signing of the collective accord.

Article 51

Before the expiry of the collective accord the two parties may negotiate to extend its term or sign a new accord. If the negotiations continue at the time of the expiry of the accord, the collective accord shall continue to be effective. If the negotiations do not produce any result three months after the expiry of the collective accord the accord shall automatically cease to be effective.

Article 52

1. In case of division of the business, assignment of ownership, management power or the right to property utilization of the business, the succeeding Labour user has the responsibility of continuing to implement the collective accord until the expiry of its term or the signing of a new collective accord.

In case of the merger of the business with one or more businesses, the carrying out of the collective accord shall be defined by the Government.

2. In case the collective accord ceases to be effective because the business terminates its operation the rights and interest of the laborers shall be settled according to Article 66 of this Code.

Article 53

The Labour user shall bear all expenses involved in the negotiations, signing, registration, amendment, addition and publication of the collective accord.

The representatives of the Labour collective who are laborers on the payroll of the business shall continue to receive their salaries while taking part in the negotiations and signing of the collective accord.

Article 54

The provisions in this Chapter shall apply to the negotiations and signing of collective accords within a service.

CHAPTER VI SALARY

Article 55

The salary of the laborer shall be agreed upon by the two parties to the Labour contract and is paid according to the Labour productivity, the quality and effectiveness of the work. The salary of the laborer must not be lower than the minimum wage prescribed by the State.

Article 56

The minimum wage is based on the cost of living and must ensure for the laborer doing the simplest work in normal working conditions to recuperate his simple Labour and also to accumulate for the reproduction of expanded Labour. This minimum wage shall be used as the basis for the calculation of the salaries of the types of Labour.

The Government shall decide and publish the common minimum wage, the area minimum wage, the service minimum wage for each period after consulting the Vietnam General federation of Labour and the representative of the Labour users.

When a rise of the cost of living index causes a drop in the real wage of the laborers, the Government shall readjust the minimum wage in order to ensure the real wage.

Article 57

The Government shall publish the wage scale and wage groups as basis for the working out of the social and medical insurance schemes and calculating extra-wages for off-hours and night shift duties, suspension of work, annual leaves and other leaves of the laborers after consulting the Vietnam General federation of Labour and the representatives of the Labour users.

Article 58

1. The Labour user is entitled to choose one of the forms salary payment : time salary (hours, days, weeks, months), product salary or package salary but he must maintain the chosen form over a given period and must notify the laborer of this form of payment.

2. The laborer shall receive his pay by hours, days or weeks immediately after these days, hours, days or weeks of work or shall receive or shall receive a lump sum as may be agreed upon by the two parties but this lump sum must be paid to the laborer once every fifteen days of work at the latest.

3. The monthly salaried laborer shall receive his salary once every month or once every half-month.

4. The laborer who is paid according to the products or under the package system shall be paid as may be agreed upon by the two parties. If the work is spread over many months he shall receive provisional pay each month according to the volume of work he achieves during month.

Article 59

1. The laborers shall receive his salary directly, fully, on time and at the place of his work.

In special cases when the pay is delayed for some reason this delay must not exceed one month and in this case the Labour user makes a compensation to the laborer at least equal to the interest rate published by the State Bank at the time of the payment of the salary.

2. The salary is paid in cash. Any partial pay in check or money order issued by the State shall be agreed upon by the two parties on condition that this does not cause damage or inconvenience to the laborer.

Article 60

1. The laborer is entitled to know the reason for all deductions from his salary. Before making deductions from the labourer's salary the Labour user must discuss it with the Executive Committee of the local trade union. Any deduction must not exceed 30% of the monthly wage.

2. The Labour user is not allowed to cut off the labourer's salary as a form of sanction.

Article 61

1. The pay for off-hours duty Labour is defined as follows : a/ On normal days it must be equal at least to 150% of the hourly pay during a normal work day. b/ On weekly non-working days or on holidays, it must be equal at least to 200% of the hourly pay for a normal working day. If the extra hours are done at night the laborer shall receive an additional pay stipulated at Item 2 of this Article. If the laborer later takes a time off corresponding with the time of his off-hours duty work, the Labour user shall have to pay him only the difference between the pay for on-duty and off-duty work.

2. The laborer working at night as stipulated in Article 70 of this Code shall receive an additional pay representing at least 30% of the pay for day-time work.

Article 62

During the time of work interruption the laborer is paid as follows :

1. If the interruption is caused by the Labour user, the laborer shall receive his full salary:

2. If it is caused by the laborer, he shall not receive his pay; the other laborers in the same unit who must stop working shall receive a pay as may be agreed upon by the two parties but must not in any case be lower than the minimum wage.

3. If the interruption is caused by an interruption of power or water supply beyond the control of the Labour user or by any other force majeure causes, the pay shall be agreed upon by the two parties but must at any rate not be lower than the minimum wage.

Article 63

The regimes of allowances, bonuses, pay rises and other incentive regimes may be agreed in the Labour contract, the collective accord or stipulated in the statute of the business.

Article 64

The Labour user has the responsibility of deducting from the business's annual profits to reward the laborers who have worked for more than one year at the business according to Government regulations and in conformity with the characteristics of each kind of business.

Article 65

1. Wherever the work involved the use of contractor or other persons with a similar function the Labour user who is the chief proprietor must have a complete list of the name and addressees of these persons together with the list of laborers working under them. He must ensure that the contractor or the equivalent person abide by the prescription of law regarding Labour pay, Labour safety and Labour sanitation.

2. If the contractor or the person with a similar intermediary role does not pay fully or does not pay the laborer or does not ensure the other rights and interests of the laborer, the Labour user who is the chief proprietor has the responsibility to pay the laborer and ensure other rights and interests of the latest. In this case, the Labour user who is the chief proprietories entitled to request the contractor or the person with a similar intermediary role to pay compensation to the laborer or ask the competent State organ to settle the dispute as prescribed by law.

Article 66

In case of merger or division of the business, assignment of ownership, managerial power or right to use the business's property the succeeding Labour user has the responsibility to pay the salary and assure other rights and interests of the laborer. In case of bankruptcy of the business the laborer shall have the pre-emptive right in the settlement of debts of the business including salary, severance allowance, social insurance and other rights and interests and benefits of the laborer written in the collective accord and Labour contract already signed.

Article 67

1. When he or his family meets with difficulty, the laborer is entitled to an advance payment of his salary on terms agreed upon by the two parties.

2. The Labour user shall have to make an advance payment of salary to the laborer who has to temporarily suspend his work to do his citizen's duties.

3. The advance payment of salary to the laborer under temporary custody or detention shall be defined by the Government.

CHAPTER VII WORKING TIME, REST TIME

Section I : Working time

Article 68

1. The working time shall not exceed 8 hours in a day and 48 hours in a week. The Labour user is entitled to schedule the working time daily or weekly but must notify the laborers in advance.

2. The daily working time shall be shortened by one or two hours for those laborers working in especially heavy, noxious or dangerous jobs as prescribed in the list

of such jobs published by the Ministry of Labour, War Invalids and Social Welfare and the Ministry of Public Health.

Article 69

The Labour user and the laborer may agree on extra-hours work but the time of such work shall not exceed four hours in a day and 200 hours in a year.

Article 70

The working time at night is counted from 22 hrs to 6 hrs of the following day of from 21 hrs to 5 hrs of the following day depending on the climatic zones stipulated by the Government.

Section II : Rest time

Article 71

1. The laborer is entitled to at least half an hour of rest inclusive of the working time if he works continuously for eight hours.

2. The laborer on a night shift is entitled to at least 45 minutes of rest inclusive of the working time.

3. The laborer working on night-shift is entitled to at least 12 hours of rest before beginning another shift.

Article 72

1. Each week the laborer is entitled to at least one day of rest (24 straight hours).

2. The Labour user may arrange the weekly rest day on Sunday or any other fixed day in the week.

3. In special cases where the rest day can not be arranged weekly due to the work cycle, the Labour user must ensure that the laborer can have an average of four days of rest at least in a month.

Article 73

The laborer is entitled to abstain from work and receive full pay on the following holidays : - New Year's Day (solar calendar) : one day. - Lunar New Year festival : four days (the last day of the year and the first three days of the new year). - Victory Day : one day (April 30) - International Labour Day : one day (May 1st) -National Day : one day (September 2nd)

In case the above holidays coincide with weekly non-working days the laborer is entitled to take one day's leave on the following day.

Article 74

1. The laborer with 12 months service at a business or with a Labour user is entitled to an annual leave with full pay with the following specifications : a/ 12 days for a person working in normal conditions : b/ 14 days for a person working in heavy, noxious or dangerous jobs or in places with harsh living conditions or for persons under 18 years of age ; c/ 16 days for persons working in especially heavy, noxious and

dangerous jobs or in places with especially harsh living conditions. The time for travel not inclusive of the annual leave shall be defined by the Government.

Article 75

The number of days in an annual leave shall increase proportionally with the seniority of work at a business or with a Labour user, at the rate of one day for every five years.

Article 76

1. The laborer user is entitled to set the calendar for annual leaves after consulting the Executive Committee of the local trade union and must notify in advance everyone on the business.

2. The laborer may agree with the Labour user to straggle his annual leaves into many shorter leaves. Those working in remote areas may combine the leaves of two years into a single annual leave, if he so desires. If he wants to combine the leaves of three years he must have the consent of the Labour user.

3. The laborer who due to work severance or any other for other reasons has not taken his annual leave or has not used all the days in his annual leave shall be paid for the days when he is entitled to take fully paid leave.

Article 77

1. The laborer on annual leave shall receive an advance payment equal at least to the pay for the days on leave. The travel expenditures and the salary of the laborer during the traveling days shall be agreed upon by the two parties.

2. The laborer with less than 12 months of work shall enjoy a number of days leave corresponding with the duration of his work and this leave may be paid in cash.

Section III LEAVES FOR PERSONAL AFFAIRS, UNPAID LEAVES

Article 78

The laborer is entitled to fully paid leaves for personal affairs in the following circumstances : 1. Marriage : three days. 2. Marriage of his son or daughter : one day. 3. Death of parents (including parent of husband or wife) death of wife or husband, death of son or daughter : 3 days.

Article 79

The laborer may agree with the Labour user to take unpaid leaves.

Section IV WORKING TIME, REST TIME FOR PERSONS DOING JOBS OF SPECIAL CHARACTER

Article 80

The working time and the rest time of the person working on the sea, in the mines and doing other jobs of a special character shall be defined by the Government.

Article 81

The working time and the rest time of laborers working under contracts of less than one day or less than one week or under package contracts shall be agreed upon by the laborer and the Labour user.

CHAPTER VIII

LABOUR DISCIPLINE, MATERIAL RESPONSIBILITY

Article 82

1. Labour discipline is the mandatory observance of the norms on time, technology, and management of production and business stipulated in the Labour regulation.

The Labour regulations must not contravene Labour legislations and other legislations. A business employing from ten laborers upward must have a written Labour regulation.

2. Before publishing the Labour regulation the Labour user must consult the Executive Committee of the local trade union at the business.

3. The Labour user must register the Labour regulation at the provincial Labour office. The Labour regulation shall take effect from the day of its registration. Within ten days at the latest of receiving the Labour regulation, the Labour provincial Labour office must issue a notice on the registration. If no notification is received after this time limit the Labour regulation shall automatically take effect.

Article 83

1. A Labour regulation must comprise the following essential points : a/ The working time and the rest time ; b/ Order in the business ; c/ Labour safety, Labour sanitation at the working places ; d/ Protection of property and technological and business secrets of the business ; e/ Acts in violation of the Labour discipline, forms of disciplinary measures and material responsibility.

2. The Labour regulation must be notified to each person and its main points must be posted up at the necessary places in the business.

Article 84

1. A person who violates the Labour discipline shall, depending on the level of his fault, be subjected to one of the following disciplinary measures : a/ Reprimand b/ Transfer to another job with a lower pay for a maximum of six months ; c/ Dismissal.

2. It is forbidden to use many disciplinary measures at the same time against an act of violation of the Labour discipline.

Article 85

1. Dismissal as a disciplinary measure can be applied only in the following circumstances: a/ The laborer has committed an act of theft, embezzlement or disclosure of business and technological secrets or another act which causes serious damage in property and other interests to the business. b/ The laborer who has been disciplined and transferred to a new place now commits a new offense while the term of his sanction has

not expired. c/ The laborer unwarrantedly absents himself from work for seven days in a month or 20 days in a year without plausible reason.

2. After dismissing the laborer the Labour user must report the dismissal to the provincial Labour office.

Article 86

The time limit for handling a case of violation of the Labour discipline is three months from the date of the violations and must not exceed six months even in special cases.

Article 87

1. When deciding on the disciplinary measure against the violator of the Labour discipline the Labour user must demonstrate the offense of the laborer.

2. The laborer has the right to defend himself or ask for the defense from a solicitor, a people's defender or any other person.

3. When examining a case of violation of the Labour discipline there must be the presence of the concerned person and the participation of the representative of the Executive Committee of the local trade union at the business.

4. The examination of a case of discipline must be put down in a written record.

Article 88

1. A violator of the Labour discipline shall be automatically reinstated if he does not relapse after three months for a person subjected to reprimand and six months for a person transferred to another job from the day the sanction becomes effective.

2. A laborer who is disciplined by transfer to another job shall be considered for reduction of sanction after having served half the term of the sanction and showing progress in mending his ways.

Article 89

The laborer who damages instruments or equipment or otherwise causes damage in property to the business must pay compensation as prescribed by law for the damages he has made. If the damage is not very serious the maximum compensation shall not exceed three months' salaries to be gradually subtracted from his salary as stipulated in Article 60 of this Code.

Article 90

The laborer who causes the loss of tools, equipment or otherwise causes damage to the property of the business or causes the consumption of materials to exceed the allowed level shall, depending on each case, pay partial or full compensations at market prices. He shall make compensation according to the responsibility contract if such a contract has been signed. He shall have to make no compensation in case of force majeure.

Article 91

The order and procedure in the compensation for damages stipulated in Articles 89 and 90 shall apply as defined in Articles 86 and 87 of this Code.

Article 92

1. The Labour user is entitled to temporarily suspend the work of the laborer if he finds that the violation involves complicated elements and that the continuation of the labourer's work might cause difficulties to the inquiry. But this suspension can be effected only after consultation with the Executive Committee of the local trade union.

2. The temporary suspension of work shall not exceed 15 days and even in special cases it shall not exceed three months. The laborer is entitled to an advance pay representing 50% of his salary for the whole duration of the suspension before the suspension takes effect. After the period of temporary suspension the laborer must be reinstated.

3. Even if the laborer is found guilty of a violation of the Labour discipline and is sanctioned, he shall not have to return the advance payment.

4. If the laborer is found not guilty the Labour user must pay him his full wages and subsidies during the period of the temporary suspension.

Article 93

If he finds that the penalty he receives is not justified the laborer who is sanctioned for violation of Labour discipline, or who is subjected to temporary suspension of work or who is made to pay compensations according to the work or who is made to pay compensation according to the system of material responsibility, is entitled to appeal to the Labour user, the authorized office or request the settlement of a Labour dispute in the order prescribed by law.

Article 94

If the authorized office concludes that the decision of the Labour user to discipline the laborer is unjustified the Labour user must annul the decision, publicly apologize to him, rehabilitate his honors and restore all his material benefits.

CHAPTER IX LABOUR SAFETY, LABOUR SANITATION

Article 95

1. The Labour user has the responsibility of fully providing the laborers with equipment for Labour protection, Labour safety and Labour sanitation and for improving their laboring conditions. The laborer must observe the regulation on Labour safety, Labour sanitation and the Labour rules of the business. All organizations and individuals related to Labour and production must observe legislation on Labour safety, Labour sanitation and environmental protection.

2. The Government shall draw up the national program on Labour protection, Labour safety, Labour sanitation and integrate it in the social-economic development programs, plans and the State budgets ; the Government shall invest in scientific research, support the development programs of the establishments producing instruments for Labour safety Labour sanitation equipment for personal safety. It shall publish the system of norms, rules and measures for Labour safety and Labour sanitation.

3. The Vietnam General federation of Labour shall join the Government in working out the national program on Labour protection, Labour safety, Labour sanitation and in elaborating programs of scientific research and legislation on Labour protection, Labour safety and Labour hygiene.

Article 96

1. The building of new establishments or the expansion of and transformation of existing ones for the production, utilization, maintenance, storage and stockpiling of machine, equipment, materials and substances requiring a high level of Labour safety and Labour sanitation must be provided with measures to ensure Labour safety and Labour sanitation the working places of the laborers and the environment as prescribed by law.

The list of machines, equipment, materials and substances requiring a high level of Labour safety and Labour sanitation shall be published by the Ministry of Labour, War Invalids and Social Welfare and the Ministry of Public Health.

2. The production, utilization, maintenance and transportation of machines, equipment, materials, energy, electricity, chemicals, fertilizers, herbicides, raticides, the change of technologies and importation of new technologies must be done in conformity with the norms of Labour safety and Labour sanitation. The production or importation of machines, equipment, materials and substances requiring a high level of Labour safety and sanitation must be declared and registered and have the licenses of the State inspection offices on Labour safety or Labour sanitation.

Article 97

The Labour user must ensure that the working place meet the norms on space, airiness, lighting and the prescribed maximum limits on dust, steam, noxious gases, radiation, magnetism, heat, noise, vibration and other harmful factors. These factors must be periodically controlled and measured.

Article 98

1. The Labour user must periodically control and repair the machines, equipment, building structures and storage according to the norms of Labour safety and Labour sanitation.

2. The Labour user must have the necessary equipment to shelter those parts of machines and equipment in the business likely to provoke accidents. The working places, the emplacements of machines and equipment, the places likely to cause dangers or noxious effects in the business must be so arranged to provide against accidents and equipped with signs and signal on Labour sanitation put up at open places where they can be easily seen and read.

Article 99

1. In case the working place or a machine or equipment threatens to cause a Labour accident or occupational disease, the Labour user must immediately take remedial measures or must order immediate cessation of operation at the said place until the danger has been removed.

2. The laborer has the right to refuse to work or leave the working place when he detects an imminent Labour accident is seriously threatening his life or health and he must immediately warn the directly responsible person of the danger. The Labour user must not force the laborer to continue his work or return to the working place so long as the danger has not been removed.

Article 100

At the working place where dangerous and noxious factors exist susceptible of provoking Labour accidents must be equip by the Labour user with technical and medical devices and appropriate Labour protection gear to ensure timely rescue when an accident or Labour accident occurs.

Article 101

The laborer doing dangerous or noxious jobs must be adequately equipped with personal protection means.

The Labour user must ensure the supply of mean for personal protection achieving the norms in quality and designs as prescribed by law.

Article 102

In recruiting and arranging Labour the Labour user shall base himself on the health criteria for each type of work must organize training, guidance and inform the laborer of the regulations and measures of safety and sanitation the possibilities of accident to be prevented in the work of each laborer.

The laborer must be given a health check during the recruitment and periodical health checks according to the prescribed regime. The cost of health checks for the laborer is borne by the Labour user.

Article 103

The business has the responsibility to organize health care for the laborers and must give first aid and emergency aid to the laborers when necessary when necessary.

Article 104

The laborer working in the conditions of dangerous or noxious elements shall receive retainer in kind, enjoys preferential treatment in the matters of working time and rest time as prescribed by law.

The laborer working in a place infested by noxious elements or bacteria must be ensured by the Labour user of measures for detoxification and disinfection and personal hygiene after working time.

Article 105

Labour accident is an accident causing injuries to any part or function on the body of the laborer or death of the laborer in the process of working associated with the execution of a job or a task.

The victim of Labour accident must be rescued in time and carefully treated. The Labour user must take responsibility for letting a Labour accident occur, as prescribed by law.

Article 106

Occupational disease is a disease caused by the harmful effects of the Labour conditions of the occupation on the laborer. The list of the occupational diseases shall be published by the Ministry of Public Health and the Ministry of Labour, War Invalids and Social Welfare after consultation with the Vietnam General federation of Labour and the representative of the Labour users.

The sufferer of an occupational disease must be given careful treatment, given periodical medical checks and have a specific medical record of his own.

Article 107

1. The laborer rendered invalid by a Labour accident or an occupational disease shall receive a general check-up by the medical examination board for classification of his injury and the rate of reduction of his working capacity and shall go through a rehabilitation process to recuperate his Labour capabilities. If later he can continue to work he shall be assigned a job suited to his health according to the conclusion of the Labour Medical examination Board.

2. The Labour user must bear all the medical cost from the first aid and emergency aid till completion of the treatment of the of the victim of Labour accident or occupational disease. The laborer is entitled to the system regime of social insurance in case of Labour accident or occupational disease. If the business has not joined any form of statutory social insurance, the Labour user must pay to the laborer a sum equal to that provided for in the a sum Social Insurance Statute.

3. The Labour user has the responsibility to pay a compensation representing at least 30 months' salaries of the laborer who suffers a reduction by 81% and more of his Labour capacity or an equivalent amount to the close relatives of a laborer who dies of a Labour accident or an occupational disease not of his own fault. In case the injury or the death of the laborer is due to his own fault, the laborer still receive an allowance equaling at least 12 months of his salary.

Article 108

All the Labour accidents, cases of occupational disease must be declared, investigated, recorded in writing statisticised and periodically reported as prescribed by law.

It is strictly forbidden to hide or falsely declare or report on Labour accidents and occupational diseases.

CHAPTER X SPECIFIC PROVISIONS ON WOMEN'S LABOUR

Article 109

1. The State ensures the right to equality of women with men in all domains of work and shall adopt policies of encouraging the Labour users to create conditions for women laborers to have regular jobs. It shall also widely apply the system of work according to a flexible time schedule, work for less than a day and less than a week, and work done at home.

2. The State shall adopt policies and measures to expand employment step by step, improve the laboring conditions, heighten the professional standard, caring for the health, and increasing the material and spiritual welfare of female Labour aimed at helping the women laborers to effectively develop their professional capacities and harmoniously combine work and family life.

Article 110

The State offices have the responsibility to devise diversified and convenient forms of training for women laborers so that besides their current jobs they can have reserve jobs and so that the use of female Labour can become easier and more and more suitable for the physical and physiological characteristics of women as well as their motherly function.

Article 111

1. All acts of sex discrimination against women laborers and abuse of their honor and dignity by the Labour user are strictly forbidden.

The Labour user must observe the principle of sex equality in recruitment, utilization, pay rise and remuneration for work done.

The Labour user must observe the principle of sex equality in recruitment, utilization, pay rise and remuneration for work done.

2. The Labour user must give priority to the woman who fills all the norms for recruitment for a job of which the business is in need and which can be done by a man or a woman.

3. The Labour user is not allowed to dismiss or unilaterally terminate the Labour contract with a woman laborer for the reasons of marriage, pregnancy, child birth leave or tending her child under 12 months of age, unless the business terminates its operation.

Article 112

The woman laborer is entitled to unilaterally terminate her Labour contract without having to pay compensation defined at Article 41 of this Code if she can produce a certification by a doctor that there will be harmful effects on the fetus if she continues working. In this case, the time limit in which the woman laborer has to notify the Labour user in advance shall depend on the time limit prescribed by the doctor.

Article 113

1. The Labour user is not allowed to use female Labour for heavy or dangerous jobs or jobs which necessitate contact with noxious substances having harmful effects on the reproductive and child - rearing function of the woman laborer, the list of such substances is to be published by the Ministry of Labour, War Invalids and Social Welfare and the Ministry of Public Health.

Those businesses using female Labour for the above mentioned jobs must adopt plans of retraining in order gradually to transfer these women laborers to other more appropriate jobs, increase measures for health protection, improvement of the working conditions or reduction of the working time.

2. The Labour user must not use women laborers at whatever age for permanent work in the mines or requiring constant immersion in water.

Article 114

1. The woman laborer is entitled to take a leave before and after child birth totaling from four to six months according to prescriptions by the Government, depending on the working conditions and the character of the job, whether it is a heavy or noxious job or a job in a remote region. If she gives birth to two or more children, the mother is entitled to another 30 days of leave for each additional child. The rights and interests of the women laborers during the childbirth leave are defined in Articles 141 and 144 of this Code.

2. After the end of the childbirth leave the woman laborer may take an additional unpaid leave as may be agreed with the Labour user, if she so request. The woman laborer may return to work before the end of the childbirth leave if she has not worked at least two months after childbirth and the doctor certifies in writing that her return to work will not harm her health. However, she must notify the Labour user in advance. In this case the woman laborer shall continue to receive the childbirth allowance besides the pay for her working days.

Article 115

1. The Labour user must not assign a woman laborer who is seven or more months pregnant or who is tending her child of less than 12 months of age to off-hours work, night-time work or to a far-off mission.

2. From the seventh month of her pregnancy onward, the woman laborer doing heavy job shall be assigned to a lighter job or has her working time in a day slashed by one hour while continuing to receive full pay.

3. The woman laborer is entitled to 30 minutes of rest per workday during her periods. The woman laborer tending her child less than 12 months of age is entitled to 60 minutes off during working time while continuing to receive full pay.

Article 116

1. Where female Labour is used there must be a place for change, a bathroom and a room for women's sanitation.

2. In places where a large female Labour force is used the Labour user has the responsibility to help in the organization of baby sitting room or infant class or help to cover part of the expenditures on women laborers with children at the age of baby sitting or infant classes.

Article 117

1. During her leave for pre-natal examination, for taking a contraceptive measure or on account of an abortion or for tending a sick child under seven years old or adopting a new born, the woman laborer shall receive a social insurance allowance or shall be paid a sum equivalent to the social insurance allowance by the Labour user. The duration of the leave and the level of allowance stipulated in this item shall be defined by the

Government. If the sick child is tended by another person in replacement of his mother, the mother shall receive the social insurance allowance.

After the statutory childbirth leave and even in case of her allowed unpaid leave, the woman laborer shall be assured of her job when she returns to work.

Article 118

1. At the businesses using a large women Labour force the responsible persons in the managerial board must assign a person to monitor the question on female Labour. Before taking a decision related to the rights and interests of women and children they must consult the representative of the women laborers.

2. Among the Labour inspectors there must be an appropriate number of women inspectors.

CHAPTER XI SOME SPECIFIC REGULATIONS CONCERNING UNDER-AGE LABORER AND OTHER TYPES OF LABORERS

Section I Under-age Labour

Article 119

1. An under-age laborer is one under 8 years of age. Where under age Labour is employed there must be a separate record of these youngsters with their full names, dates of birth, their current jobs, the results of each periodical health check which must be produced to the Labour inspector on his request.

2. It is strictly forbidden to misuse the Labour of under-age persons.

Article 120

It is forbidden to sign on children of less than 15 years of age except for some professions and jobs to be defined by the Ministry of Labour, War Invalids and Social Welfare.

With regard to some profession services allowed to sign on children under 15 years of age for work, job learning or apprenticeship this admission and utilization must have the consent and the constant care the consent and the constant care of their parents or tutors.

Article 121

The Labour user is allowed to use under-age Labour for jobs suited to their health in order to ensure the development of the physical and intellectual conditions as well as their personality. He has the responsibility to care for the under-age laborer in the domains of Labour, wages, health and studies during the process of Labour.

It is forbidden to use under-age laborers in heavy dangerous job or jobs necessitating contact with noxious substances prescribed in the list published by the Ministry of Labour, War Invalids and Social Welfare and the Ministry of Public Health.

Article 122

1. The working time of an under-age laborer must not exceed seven hours in a day and 42 hours in a week.

2. The Labour user can use under-age Labour for off-hours work or night work in a number of occupations and jobs defined by the Ministry of Labour, War Invalids and Social Welfare.

Section II Elderly laborers

Article 123

An elderly laborer is one above 60 years old for man and above 55 years old for women.

In the last year before retirement the elderly laborer is entitled to one hour less in his daily working time or to the system of work of less than one day of less than one week according to prescriptions by the Government.

Article 124

1. If the need arises the Labour user may agree with the elderly laborer to extend the Labour contract or to sign a new Labour contract as stipulated in Chapter IV of this Code.

2. After retirement, if he works under a new Labour contract, besides the benefits deriving from the pension system the elderly laborer shall benefit from the interests stipulated in the Labour contract.

3. The Labour user has the responsibility to care for elderly laborer for heavy or dangerous jobs or jobs necessitating regular contact with noxious substances having bad effects on the health of the elderly laborer.

Section III INVALID LABORERS

Article 125

1. The State protects the right to work of the invalids and encourages the admission and job generation for the invalids. The State shall devote part of its annual budget to help the invalids recover their health and rehabilitate their working capacities or learn a trade. The State shall adopt policies of granting low-interest loans to the invalids so that they can produce jobs for themselves and stabilize their life.

2. The institutions which admit invalids for job training are entitled to tax reduction, to low interest loans and other preferential policies with a view to creating conditions for the invalids to learn a trade.

3. The Government shall set a mandatory proportion of invalid Labour for a number of occupations and jobs. If a business in these occupations and jobs does not want to accept this proportion it shall have to pay a sum prescribed by the Government to the employment fund to help in the settlement of employment for the invalids. Any business which takes in a proportion of invalid laborers higher than the prescribed rate shall receive financial support from the government of government loans at low interest in order to create working conditions suitable for invalid laborers.

4. The working time of an invalid laborer shall not exceed seven hours in a day and 42 hours in a week.

Article 126

The job training institutions and the production and business establishments reserved for the invalids shall receive financial assistance in the initial stage for the installation of schools, workshops and classes and for the purchase of equipment and materials and enjoy tax exemption and low interest loans.

Article 127

1. The institutions which teach jobs to the invalids or employ invalid Labour must observe regulations concerning appropriate working conditions, Labour tools, Labour safety, Labour and must regularly take care of the health of the invalid laborers.

2. It is forbidden to use invalids who have lost more than 51% of their work capacity in off-hours or night jobs.

3. The Labour user must not use invalid laborers for heavy or dangerous jobs or jobs which necessitate regular contact with noxious substances as defined in the list published by the Ministry of Labour, War Invalids and Social Welfare and the Ministry of Public Health.

Article 128

The laborer who is an injured or sick armyman shall, besides the benefits defined in this Section, enjoy the State preferential policies and regimes with regard to war invalids and sick soldiers.

Section IV LABORERS WITH HIGH PROFESSIONAL AND TECHNICAL SKILLS

Article 129

1. The laborer with a high professional or technical skill is entitled to cumulate many jobs and many posts on the basis of integrating many Labour contracts with many Labour users on condition that he could ensure the full implementation of the Labour contracts already signed and notify all the Labour users.

2. The laborer with a high professional or technical skill enjoys copyright or patent protection as prescribed by law when he devises a useful solution or has an innovation or invention. In case his research project is funded by the business's investment he shall receive his share of the economic efficiency according to the contract already signed for this research project.

3. The laborer with a high professional or technical skill is entitled to take long term unpaid leaves or to partial pay in order to carry out his research work or to improve his standard while continuing to hold his job at the office or business by mutual agreement with the user.

4. The laborer with a high professional or technical skill shall be a priority object for the application of the regulations stipulated at Item 1 and Item 2 of Article 124 of this Code.

5. If the laborer with a high professional or technical skill discloses a technological or business secret of the institution where he works he shall, besides being disciplined under the terms of Article 85 of this Code, have to pay compensations for damages as provided for at Article 89 and Article 90 of this Code.

Article 130

1. The Labour user is entitled to enter into a Labour contract with any person with a high technical professional and technical skill, including State employees in jobs not prohibited by the Public Servants statute.

2. The laborer with a high professional and technical skill shall receive preferential treatment by the State and the Labour user who shall create favorable conditional for them to develop their capabilities and talents for the benefit of the business and the country. Such preferential treatment accorded to the laborer with high professional and technical skill is not regarded as discrimination in the user of Labour.

3. The State shall encourage and apply special preferential policies with regard to the laborer with high professional and technical skill who willingly go and work in the highlands, the border regions, offshore islands and other places with many difficult ties.

Section V LABORERS WHO WORK FOR FOREIGN ORGANIZATION AND INDIVIDUAL IN VIETNAM FOREIGNERS WORKING IN VIETNAM VIETNAMESE LABORERS WORKING ABROAD

Article 131

Vietnamese citizens working in businesses founded under law on Investment in Vietnam, in the export processing zones, in foreign or international agencies or services organizations in Vietnam, or working for individuals who are foreigners in Vietnam or foreigners working in Vietnam must all abide by the Vietnamese Labour legislation and are protected by Vietnam's Labour legislation.

Article 132

1. The businesses, agencies, organizations and individuals stipulated at Article 131 of this Code who want to recruit Vietnamese laborers must go through the employment service defined at Article 18 of this Code. If the employment service introduces or recruits laborers who do not meet their requirements, these businesses, organizations or organizations are entitled to directly recruit their laborers but they must notify the Labour office at the provincial level or another authorized office.

With regard to jobs requiring high technique or managerial jobs which the Vietnamese side cannot yet fill, the said business, organisation or individual is authorized to sign on a foreigner for a given period of time but it must have a plan or program of training so that a Vietnamese may soon carry out this job and replace the foreigner.

2. The minimum wage of the Vietnamese laborer working in the circumstances defined in Article 131 of this Code shall be set and published by the Government after consulting the Vietnam General federation of Labour and the representative of the Labour user .

3. The working time, the rest time, the Labour safety, Labour sanitation, social insurance, the settlement of Labour disputes in the businesses, organizations and in other circumstances defined in Article 131 of this Code shall be effected as prescribed by the Vietnamese Government.

Article 133

1. The foreigners working on a permanent basis for a Vietnamese business, organization or individual or for a business with foreign investment in Vietnam must have a Labour permit issued by the Vietnamese Ministry of Labour, War Invalids and Social Welfare.

2. The foreigner working in Vietnam is entitled to benefits and must fulfill obligations as prescribed by Vietnamese law except otherwise provided for in international conventions which the Socialist Republic of Vietnam has signed or adhered to.

Article 134

1. The laborer who is a Vietnamese citizen allowed to go and work in a foreign country under a Labour contract and who comes under the management of a foreign organization or individual shall have to obey the prescriptions of the Labour legislation of that country. If he works under an agreement on Labour cooperation signed between the Vietnamese government and the government of that country he must abide by the prescriptions of the Labour legislation of that country and the said agreement.

2. With regard to the laborer who is a Vietnamese citizen allowed to go and work in a foreign country under a building contract signed by a Vietnamese business and who comes under the management of and is paid by this business the provisions of this Code shall apply unless otherwise provided for in an international convention which the Socialist Republic of Vietnam has signed or adhered to.

Article 135

1. The laborer who goes and work in a foreign country entitled to know about his rights, interests and obligations, is guaranteed consular and juridical protection by the authorized Vietnamese office in that country, can transfer his income in foreign currencies and his personal properties to the country, is entitled to the social insurance benefits and other policies and regimes.

2. The laborer who goes to work in a foreign country has the duty to contribute part of his salary to the social insurance fund.

Section VI SOME OTHER TYPES OF LABOUR

Article 136

The person who works in a special occupation or job in the domain of arts shall enjoy a number of regimes on job learning and apprenticeship and retirement ages ; on Labour contract commitment, on the working time and rest time, on salary, wage subsidies, bonuses, Labour safety, Labour sanitation according to prescriptions by the Government.

Article 137

1. The laborer may agree with the Labour user to accept work to do regularly at home while enjoying all the benefits of a person actually working at the business.

2. The laborer receiving work to do at home by sub-contract does not come under the jurisdiction of this Code.

Article 138

At the places employing less than 10 laborers, the Labour user still has to assure the basic interests of the laborer as prescribed in this Code but is entitled to a number of reduction or exemption from the observance of a number of norms and procedures as prescribed by the Government.

Article 139

1. The person who is hired to do housework can make an oral or written Labour contract. But if he is hired to be a caretaker the Labour contract must be in written form.

2. The Labour user must respect the honor and dignity of the houseworker and has the responsibility to look after him if he falls sick or meets with accident.

3. The salary, working time, rest time and the allowances of the houseworker are agreed upon by the two sides during the making of the Labour contract. The Labour user shall bear the travel expenses of the house worker on his return to his place of origin except in case the latter unilaterally decides to leave the family before the expiry of the Labour contract.

CHAPTER XII SOCIAL INSURANCE

Article 140

1. The State shall enact policies on social insurance aimed at gradually expanding and raising the material well-being of the laborer and his family thus contributing to the stabilization of their life in case of his sickness, pregnancy of the woman laborer, at the end of his or her laboring age, his or her death or meeting a Labour accident or contracting an occupational disease, losing his or her job or meeting with other misfortunes and difficulties.

2. Various forms of obligatory or voluntary social insurance shall be applied to each type of laborer and business aimed at assuring that the laborers have access to appropriate forms of social insurance.

Article 141

1. Obligatory forms of social insurance apply to the businesses employing more than 10 laborers.

At these businesses, the Labour user as well as the laborer must pay their social insurance premiums as defined at Article 148 of this Code and the laborer is beneficiary of social insurance allowances in case of sickness, Labour accident, occupational disease, pregnancy, retirement and death.

2. With regard to the laborer working in a place employing less than 10 laborers or doing jobs lasting less than three months, jobs of a seasonal or temporary character, his social insurance allowances shall be included in his salary paid by the Labour user so that he can join a social insurance scheme of his choice or look after his own insurance.

Article 142

1. In case of sickness the laborer is entitled to medical examination and treatment at the medical establishments according to the system of medical insurance.

2. The laborer who falls sick and is allowed by the doctor to have treatment at home or at the hospital shall receive a sickness allowance paid by the social insurance fund.

The level of this sickness allowance depends on the type of his work and the level and time he has paid for his social insurance premiums. This level shall be set by the Government.

Article 143

1. During the labourer's treatment following a Labour accident or as a result of an occupational disease, the Labour user must pay salary and medical expenses of the laborer as provided for in item 2 of Article 107 of this Code.

After treatment, depending on the level of his disability as a result of the Labour accident or the occupational disease, the laborer shall be examined by the medical assessment board which will classify the degree of his disability for the allocation of his disability allowance either once for all or monthly, to be paid by the social insurance fund.

2. While working if the laborer dies of a Labour accident or occupational disease his closer relatives shall receive a death indemnity defined in Article 146 of this Code plus an allowance from the social insurance amounting to 24 minimum monthly wages as prescribed by the Government.

Article 144

1. During her childbirth leave defined at Article 114 of this Code if the woman laborer has paid her social insurance premium she shall receive a social insurance benefit equal to 100% of her salary plus an allowance equal to one month salary of she gives birth to her first or second child.

2. The other regimes concerning women laborers shall apply as defined at Article 117 of this Code.

Article 145

1. The laborer shall benefit from a monthly pension if he/she meets the following conditions on age and social insurance premium. a/ 60 years of age for men, 55 years for women. The pensionable age of the workers in heavy or noxious jobs or work in the highlands, border regions, offshore islands and some special cases shall be defined by the Government. b/ Having paid his/her social insurance premium for at least 20 years.

2. The laborer who does not meet all the conditions stated above shall also receive a monthly pension at a lower rate if he fills one of the following condition : a/ He has reached the age stipulated at Point a, Item 1 of this Article and has paid his social insurance premium for at least 15 years. b/ The laborer has paid his/her social insurance for at least 20 years and is at least 50 years old for a man and 45 years old for a woman and who has lost at least 61% of his/her working capacity. c/ The laborer doing especially heavy or noxious jobs as prescribed by the Government, has paid his/her social insurance premium for at least 20 years and has lost at least 61% of his/her working capacity.

3. The laborer who can not gather conditions to benefit from the monthly pension as defined in Item 1 and Item 2 of this Article, shall receive a package allowance.

4. The level of monthly pension and package allowance defined in Item 1, Item 2 and Item 3 of this Article depends on the level of the premium and the number of years it is paid to be prescribed by the Government.

Article 146

1. When a working laborer, a pensioner, a beneficiary of monthly allowances for Labour incapacitation, Labour accident or occupational disease dies, the person in charge of his funeral shall receive a funeral allowance to be prescribed by the Government.

2. A monthly allowance shall be granted to the close relative of a laborer who dies after having paid his social insurance premium for more than 15 years or who dies while benefiting from a monthly pension or monthly allowance for Labour accident or occupational disease or who has children under 15 years of age or whose wife (or husband) or parents are past the working age whom he directly catered for while he was still living. If the dead has no relatives eligible for a monthly allowance or has not paid his social insurance premium for 15 years, his family shall receive a package allowance but this must not exceed 12 months of his salary or the allowance he is receiving.

3. The beneficiary of the pension system, of the allowance for Labour incapacitation or the allowance for Labour accidents degrees 1 and 2 or occupational diseases and 2 prior to the promulgation of this Code shall benefit from the death allowance regime stipulated in this Article.

Article 147

1. The working time of a laborer working in a State-owned business before this Code takes effect shall be regarded as already covered by the social insurance premium if he has not received the work severance allowance or the package allowance paid by the social insurance fund.

2. The social insurance benefits of the pensioners, the beneficiaries of monthly allowance for Labour incapacitation Labour accident occupational disease and death allowance in the period prior to the taking effect of this Code shall be assured by the State budget and shall be readjusted to fit in with the social insurance policy in force.

Article 148

The businesses engaged in agriculture, forestry, fisheries and salt production have the responsibility to take part in different forms of social insurance suitable for the characteristics of their production and use of Labour in each branch according to the Statute on Social Insurance.

Article 149

1. The social insurance fund is formed by the following sources : a/ Contribution by the Labour user representing 150% of the total wage fund ; b/ Contributing by the laborer representing 5% of his wage. c/ Contribution and allowance by the State to ensure the implementation of the social insurance policy toward the laborer. d/ Other sources.

2. The social insurance fund is placed under unified management according to the financial regime of the State and the system of independent accounting and is protected by the State. It is authorized to take measures to preserve its value and increase its growth according to prescriptions of the Government.

Article 150

The Government shall issue the Statute on social insurance, set up the system of social insurance and promulgate the Rules on the organization and operation of the Social Insurance fund with the participation of the Vietnam General federation of Labour.

Article 151

1. The laborer taking part in the social insurance scheme shall receive social insurance benefits fully, conveniently and on time.

2. When dispute arises between the laborer and the Labour user concerning social insurance, the dispute shall be settled according to the prescriptions at Chapter XIV of this Code. If a dispute involved the social insurance agency it shall be settled according to the Rules on the organization and operation of the Social Insurance fund.

Article 152

The State encourages the laborers, trade unions, the Labour users and other social organizations to set up social mutual assistance funds.

CHAPTER XIII TRADE UNION

Article 153

1. Six months at the latest after this Labour Code takes effect for the operating business where no trade union organization has been set up and also six months at the latest after a newly created business becomes operational for newly created businesses, the provincial federation of trade unions must set up a provisional trade union organization at the business to represent and protect the rights and interests of the laborers and the collective of laborers.

2. The operations of the provisional trade unions shall be defined by the Government in coordination with the Vietnam General federation of Labour.

Article 154

1. Once a trade union is set up according to the Trade Union Law and the Trade Union Statute the Labour user must recognize it.

2. The Labour user must closely cooperative with and create favorable conditions for the trade union to operate according to the regulations of the Labour Code and the Trade Union Law.

3. The Labour user is not allowed to discriminate against a laborer for his activities in founding a trade union or joining a trade union or his trade union activities. Neither is he allowed to use economic measures and other measures to interfere in the organization and activities of the trade union.

Article 155

1. The Labour user has the responsibility to ensure the necessary working means for the activities of the trade union.

2. The laborer working half time for the trade union may use part of his time during the working time to look after trade union work and still receives his full pay from the Labour user. This amount of time shall depend on the size of the business and on the agreement between the Labour user and the executive committee the local trade union but must not be fewer than three working days in a month.

3. The full-time trade union workers is paid by the trade union fund but enjoys all benefits including trade union benefits community benefits like any other laborer in the business depending on the statute of the business or the collective accord.

4. When the Labour user decides to dismiss or unilaterally terminate the Labour contract with a laborer who is a member of the executive committee of the local trade union, he must have the consent of this committee. If the concerned person is president of this committee he must have the consent of the trade union of a higher level.

Article 156

The Vietnam General federation of Labour and trade unions at all levels shall join the State offices and representatives of the Labour user in discussing and settling questions concerning the Labour relations. The General federation and the trade unions at all levels are entitled to set up service agencies in employment seeking, job teaching or training, mutual assistance, legal consultancy and community welfare institutions for laborers, and other rights defined in the Trade Union Law and this Code.

CHAPTER IV SETTLEMENT OF LABOUR DISPUTES

Article 157

1. A Labour dispute is a dispute on the rights and interests related to employment, salaries, incomes and other Labour conditions, on the implementation of the Labour contract, collective accord and question arising during the process of apprenticeship.

2. Labour disputes include individual dispute between the laborer and the Labour user and collective dispute between the Labour collective and the Labour user.

Article 158

Labour disputes are settled on the following principles :

1. Direct negotiation and arrangement between the two disputing parties at the place where the dispute arises.

2. Through reconciliation and arbitration on the basis of respect for the rights and interest of both parties, respect for the common interests of society and observance of law.

3. Openness, objectivity, timeliness, expeditiousness and in conformity with law.

4. With the participation of the representative of the trade union and of the Labour user in the process of settling the dispute.

Article 159

A Labour dispute is brought to the office or organization in charge of settling Labour disputes when one party refuses to negotiate or the two parties have failed in their negotiations or both parties apply for a settlement of their dispute.

Article 160

1. In the process of settling the Labour dispute the disputing parties have the right to : a/ Take part in the process directly or through their representatives ; b/ Withdraw their demands or change the contents of their dispute ; c/ Request the replacement of the person directly in charge of the settlement if they can produce plausible reasons to prove that he can not ensure objectivity and equity in the settlement of the dispute.

2. In the process of settling the Labour dispute the disputing parties have the obligation to: a/ Supply all the necessary documents and evidences as requested by the agency or organization in charge of settling the dispute. b/ Seriously implement what has been agreed upon, the minutes of the reconciliation, the effective decision of the office or organization in charge of settling the Labour dispute, the verdict or the effective decision of the People's Court.

Article 161

The office or organization in charge of settling a Labour dispute has, within the of their task and powers, the right to ask the disputing parties, the offices, organizations and individuals concerned to supply documents and evidences, ask for expertise, invite witnesses and other persons concerned in the process of settling the Labour dispute.

Section I Competence and order in settling individual Labour disputes

Article 162

Their office or organizations having the authority to settle individual Labour disputes comprise :

1. The local Labour reconciliation council or Labour reconciliatory of the Labour office in the district, township or town in a province (hereafter called district level) in the places where no local Labour reconciliation council exists

2. The People's Court.

Article 163

1. The local Labour reconciliation council set up in the business comprises from 10 laborers upward made up of an equal number of representatives of the laborer and the Labour user. The number of such a council shall be decided by mutual agreement.

2. The term of this council is two years. The chairmanship and secretariat of the council shall be rotated between the two sides. The council operates according to the principle of agreement and consensus.

3. The Labour user must ensure the necessary conditions for the operation of the local Labour reconciliation council.

Article 164

The order in the settlement of an individual Labour dispute is prescribed as follows :

1. The local Labour reconciliation council shall meet seven days at the latest after receiving the request for reconciliation. This meeting must be attended by the two disputing parties or their mandated representatives.

2. The council shall propose a reconciliation plan for the parties to consider. If the two parties accept this plan, an agreement on reconciliation shall be drafted and signed by the two disputing parties, the president and secretary of the local reconciliation council. The two parties have the obligation to carry out the agreements written in the record of reconciliation.

3. In case the reconciliation fails, the local reconciliation council shall draw up a report on the failure with opinions of the two disputing parties and of the council and the signatures of the two parties, the president and secretary of the council. Copies of this report shall be sent to the two parties not later than three days after the reconciliation fails. Each party to the dispute has the right to ask the district People's Court to settle the dispute. The dossier sent to the People's Court must be attached with the report on the unsuccessful reconciliation.

Article 165

1. The Labour reconciliation proceeds in the order defined at Article 164 of this Code in regard to the individual Labour disputes at the businesses employing less than 10 laborers, or dispute between the houseworker and the Labour user or a dispute on the execution of the apprenticeship contract and the job training tuition.

2. The Labour reconciliatory must begin the reconciliation not later than seven day after receiving the request for reconciliation.

Article 166

1. The district People's Court shall settle individual Labour disputes after local reconciliation council or reconciliatory has failed and if one of the two disputing parties so requests.

2. The following Labour disputes can be settled by the district People's Court without having to go through the local reconciliation council or reconciliatory : a/ Disputes concerning disciplinary measure dismissal or the unilateral termination of the Labour contract. b/ Disputes concerning the compensation for damages to the Labour user.

3. The laborer is exempt from court fees in case of litigation concerning the demand for salary, social insurance, indemnities for dismissal and unlawful termination of the Labour contract.

Article 167

The time-limit for settling individual Labour disputes (from the date when each of the two disputing parties claims that its rights and interests have been violated) shall be defined as follows :

1. One year for the Labour disputes described at Item 2, Article 166 of this Code.
2. Six months for Labour disputes of other types.

Section II Competence and order settlement of collective Labour disputes

Article 168

The office and organizations having the competence to settle collective Labour disputes comprise :

1. The local Labour reconciliation council or the reconciliatory of the district level Labour office where no local Labour reconciliation council exists ;
2. The provincial level Labour arbitration Council.
3. The People's Court

Article 169

1. The local Labour reconciliation defined at Article 163 of this Code has the competence to reconcile also the collective Labour disputes.

2. The Labour arbitration council at the provincial level is composed of full-time or part-time members who are representatives of the Labour office, trade union, the Labour users and a number of lawyers, managers and prestigious social workers in the locality. The Labour arbitration council at the provincial level shall comprise an odd number of members with a maximum of nine members presided over by a representative of the provincial Labour office.

The term of the Labour Arbitration Council is three years.

The arbitration council decides by majority vote and secret ballots.

The Labour office at the provincial level shall ensure the necessary conditions for the operation of the Labour arbitration council.

Article 170

The order in the settlement of collective Labour disputes is defined as follows :

1. The local Labour reconciliation council or the reconciliatory shall begin the reconciliation not later than seven days after receiving a request for reconciliation. At the reconciliation meeting the two disputing parties or their mandated representatives must be present.

2. The local Labour reconciliation council or the reconciliatory shall present a reconciliation plan for the parties to consider. If the two parties accept the plan an agreement report shall be drawn up and signed by the two disputing parties, the president and secretary of the local reconciliation council or the Labour reconciliatory. The two parties have the obligation to implement what has been recorded in the reconciliation agreement.

3. In case the reconciliation fails the local reconciliation council or the reconciliatory draws a report on the unsuccessful reconciliation, with opinions of the two disputing parties and of the council or the reconciliatory and the signatures the two disputing parties and the president of the council or the reconciliatory. Each party or both parties in the dispute have the right to request the Labour arbitration council at the provincial level for a settlement.

Article 171

1. The Labour arbitration council shall begin the reconciliation and settle the collective Labour dispute not later than 10 days after receiving the request.

The lawful representative of the two disputing parties must be present at the meeting to settle the collective Labour dispute. When necessary the Labour arbitration council may invite the higher level of the local trade union and the representative of the concerned State office to attend the meeting.

2. The arbitration council presents a reconciliation plan for the two parties to consider. If the two parties agree, a report on the agreement shall be drawn up with the signatures of the disputing parties and the president of the arbitration council. The two parties have the obligation to comply with the provisions of the reconciliation agreement.

3. In case the reconciliation fails the Labour arbitration council shall settle the dispute and immediately inform the two disputing parties of its decision. If neither party to the dispute raise objection the decision shall automatically take effect.

Article 172

1. In case the Labour collective does not agree with the decision of the Labour arbitration council it may ask the People's Committee to settle the dispute or may stage a work strike.

2. In case the Labour user does not agree with the decision of the Labour arbitration council he may ask the People's Court to reconsider this decision. The request of the Labour user of the reconsideration of the Labour arbitration council's decision does not hamper the right to strike of the Labour collective.

Article 173

1. While the Labour Reconciliation Council or the Labour Arbitration Council is settling the Labour dispute neither party to the dispute is allowed to take unilateral action against the other.

2. The work strike shall be decided by the executive committee of the local trade union after the majority of the Labour collective approve it by secret ballots or by their signatures. The Executive Committee of the local trade union shall send delegation composed of three persons at most to hand the list of their demands to the Labour user, at the same time send a notice to the Labour office at the provincial level and a notice to the provincial federation of trade unions. The list of demands and the notice must specify the question in dispute, the contents of the demands, the result of the vote or the signing in favor of the work strike and the point of time when the strike shall begin.

3. It is strictly forbidden to undertake acts of violence or acts damaging to the machinery and equipment and other properties of the business and all acts of violation of public order and safety during the strike.

Article 174

Strikes are forbidden in a number of businesses catering for the public or businesses essential to the national economy or national security and defense provided for in the list defined by the Government.

The State managerial offices must periodically organize the gathering of opinions of the representative of the Labour collective and the Labour user at these businesses in order to help settle in time the legitimate demands of the Labour collective. In case of a collective Labour disputes, it shall be settled by the provincial Labour arbitration council. If one of the two parties does not agree with the decision of the Labour arbitration council it may ask the Peoples Court settle the dispute.

Article 175

If the strike is judged to constitute a serious danger to the national economy or to public safety, the Prime Minister is entitled to order the postponement or cessation of the strike.

Article 176

1. The following strikes are unlawful : a/ The strike does not proceed from a collective Labour dispute ; or goes beyond the ambit of Labour relations ; b/ The strike goes beyond the domain of the business ; c/ The strike violates the provisions at Item 1 and Item 2 of Article 173 and Article 174 of this Code.

2. The judgment whether a strike is lawful or unlawful comes under the jurisdiction of the People's Court.

Article 177

The People's Court is authorized to have the final say on the strikes and collective Labour disputes.

Article 178

1. It is strictly forbidden to take acts of harassment or retaliation against the participants or leaders of strikes.

2. Any person who prevents the exercise of the right to strike or force other to strike who take unlawful acts during the strike, who refuse to comply with the decision of the Prime Minister or of the People's Court shall, depending on the seriousness of their offenses, have to pay indemnities for the damages, be subjected to administrative sanctions or criminal prosecution.

Article 179

The settlement of the strikes and the court cases concerning Labour shall be decided by the Standing Committee of the National Assembly.

CHAPTER XV STATE MANAGEMENT Of LABOUR

Article 180

The management of Labour by the State comprises the following main points :

1. To grasp the supply-demand relation and the evolution of this supply-demand relation of Labour as the basis to decide the national policy, planning and plans on the human resource and to distribute and use Labour on the scale of the whole society.

2. To promulgate and guide the implementation of legal documents on Labour ;

3. To elaborate and organize the implementation of national programs on employment, and move the population to build new economic zones and to send Labour to work abroad.

4. To decide on policies regarding wages, social insurance, Labour safety, Labour sanitation and other policies on Labour and social welfare, on the building of Labour relations in the businesses.

5. To organize and conduct scientific research on Labour to draw up statistics and information on Labour and the Labour market, on the living standard and income of the laborers.

6. To inspect and control the implementation of Labour legislation and handle the violation of Labour legislation and settle the Labour disputes according to the provisions of this Code.

7. To expand cooperative relations with foreign countries and international organizations in the domain of Labour.

Article 181

1. The Government exercises unified State management of Labour on the national scale.

The Ministry of Labour, War Invalids and Social Welfare carries out State management of Labour in all branches and localities in the country.

2. The People's Committee at all levels exerts State management of Labour within its locality. The local Labour office helps the People's Committee of the same level exercise State management of Labour according to the assignment of responsibilities by the Ministry of Labour, War Invalids and Social Welfare.

Article 182

Within 30 days after the begins operation the Labour user must declare the use of Labour and in the process of operation of the business must report the change in the Labour force to the local Labour office as prescribed by the Ministry of Labour, War Invalids and Social Welfare. Also within 30 days after the business terminates its operation, the Labour user must report to the local Labour office about the cessation of the use of Labour.

At the establishments employing more than 10 laborers the Labour user must establish the Labour record, the salary record and the social insurance record.

Article 183

The laborers is supplied with the Labour record, the salary record and the social insurance record as prescribed by law.

Article 184

1. The sending of Vietnamese citizens to work in a foreign county must have the permit of the Ministry of Labour, War Invalids and Social Welfare and other authorized State offices as prescribed by law.

It is strictly forbidden to send people to work abroad in contravention of law.

2. The Ministry of Labour, War Invalids and Social Welfare shall issue Labour permits to foreigners entering Vietnam to work for Vietnamese businesses, organizations and individuals or for businesses with foreign investment capital in Vietnam stipulated in Article 133 of this Code at the request of the concerned persons and of the businesses, organizations or individuals who have the need to use Labour.

CHAPTER XVI STATE INSPECTION ON LABOUR SANCTIONS AGAINST VIOLATIONS OF LABOUR LEGISLATION

Section I State Inspection on Labour

Article 185

The State inspection on Labour includes Labour inspection, Labour safety inspection and Labour sanitation inspection.

Article 186

The State Inspection on Labour has the following main task :

1. Inspecting the observance of the regulations on Labour, Labour safety and Labour sanitation.

2. Investigating Labour accidents and the violations of the norms on Labour sanitation.

3. Examining and agreeing to the norms of Labour safety and the measures of Labour safety in the economic and technical feasibility plans and designing plans, registering and allowing the use of machines, equipment and materials requiring high norms of Labour safety in the list defined by the Ministry of Labour, War Invalids and Social Welfare.

4. Taking part in the examination and agreeing to the locations and the Labour sanitation measures in the building of new production establishments or the expansion and transformation of old ones, in the preservation, maintenance, storing and stockpiling of radioactive substances or poisonous substances in the list prescribed by the Ministry of Public Health.

5. Settling the complaints and denunciations of laborers about legislation.

6. Deciding on the sanctions against violations of the Labour legislation within its jurisdiction and recommending the competent offices to sanction the violations under their jurisdiction.

Article 187

When conducting his inspection the Labour inspector has the right to :

1. Inspect and investigate all places and objects under his inspection mandate at any time and without advance notice;

2. Request the Labour user and other related persons to supply the situation and documents related to the inspection and investigation ;

4. Decide the temporary suspension of the use of machines, equipment and working places which threaten to cause Labour accidents or serious pollution of the

working environment. He must take responsibility for this decision and immediately report it to the competent State office.

Article 188

The Labour inspector must be a person which has no personal interest directly or indirectly related to the object of the inspection. The Labour inspector must not, even after having quit his job, disclose the secrets which came to his knowledge during his discharge of the public service and must keep absolutely secret all sources of denunciation.

Article 189

During the inspection the inspector must closely cooperate with the executive of the committee of the trade union. If the case is related to the domain of science, technique, or professional matters the Labour inspector may invite experts or skilled technicians in the concerned domain as consultants. During the inspection of machines, equipment or storage there must be the presence of the Labour user the direct operator or custodian of the machines, equipment or storage.

Article 190

The Labour inspector shall directly hand the decision to the concerned person. The decision must clearly specify the date when the decision begins to take effect, the date when the decision implementation must be completed and if necessary, the date of the re-inspection.

The decision of the Labour inspector is compulsory for all parties.

The receiver of the decision is entitled to appeal to the authorized State office while continuing to seriously carrying out the decision of the Labour inspector.

Article 191

1. The Government shall define the organization and operation of the State Inspector on Labour.

2. The Ministry of Labour, War Invalids and Social Welfare and the Ministry of Public Health have the responsibility to set up the organizations of State inspection on Labour within their own jurisdiction and functions, provide for the norms for the recruitment, appointment, transfer, removal or dismissal of inspectors, issue inspector cards, define the regime of periodical or unwarranted reporting and other necessary regimes and procedures.

3. The inspection of Labour safety and Labour sanitation in the domain of radioactive, the prospection for and exploitation of oil and gas, the means of railway, water, land and air transport and the units of the armed forces shall be done by the management offices of these services in collaboration with the State Inspection on Labour.

Section II HANDLING VIOLATIONS OF LABOUR LEGISLATION

Article 192

Any person takes an act in violation of the provisions of this Code shall, depending on the extent of his violation, be subjected to one of these sanctions : reprimand, fine, suspension or withdrawal of license, forcible compensation, closing of business or prosecution under the penal code as stipulated by law.

Article 193

Any person who takes an act of obstruction, buying off or retaliation with regard to the authorized persons under this Code during their execution of their public service shall, depending on the extent of their offenses, subjected to discipline, administrative sanction or prosecution under the Penal Code as prescribed by law.

Article 194

The owners of businesses shall have to take civil responsibility for the decision of the authorized State offices to apply sanctions against the directors, managers or lawful representatives of the businesses in connection with the violations of Labour legislation in the process of managing the Labour force as prescribed by law. The responsibility for compensation of these persons for the business shall conform to the statute and rules of the business or the responsibility.

Article 195

The Government shall provide for administrative sanctions against the violations of Labour legislation.

CHAPTER XVII IMPLEMENTATION PROVISION

Article 196

The provisions of this Code shall apply to the Labour contracts, collective Labour accords and all other lawful agreements contracted before the Labour Code takes effect. The agreements which are more beneficial to the laborers compared to the provisions of this Code shall continue to be implemented. The agreements which do not conform to the provisions of this Code shall have to be amended or supplemented.

Article 197

This Code takes effect on the 01 of January, 1995.

All the previous provisions which are contrary to this Code are now annulled.

Article 198

The Standing Committee of the National Assembly and the Government shall defined detailed provisions to guide the implementation of this Code.

This Code was passed by the National Assembly of the Socialist Republic of Vietnam, 9th Legislature, 5th session on June 23, 1994.

Chairman of the National Assembly

Nong Duc Manh

(This translation is for reference only)