

THE STATE PRESIDENT**ORDER No. 17/2006/L-CTN OF DECEMBER 12, 2006, ON THE PROMULGATION OF LAW****THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM**

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 50 of the Law on Promulgation of Legal Documents,

PROMULGATES:**the Law on Vietnamese Guest Workers,**

which was passed on November 29, 2006, by the XIth National Assembly of the Socialist Republic of Vietnam at its 10th session.

President of the Socialist Republic of Vietnam

NGUYEN MINH TRIET

LAW ON VIETNAMESE GUEST WORKERS

(No. 72/2006/QH11)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

This Law provides for Vietnamese guest workers under contract.

Chapter I**GENERAL PROVISIONS****Article 1.- Governing scope**

This Law provides for activities of sending workers abroad under contract; rights and obligations of guest workers under contract; rights and obligations of enterprises and non-business organizations sending workers abroad under contract, and of concerned organizations and individuals.

Article 2.- Subjects of application

This Law applies to the following organizations and individuals:

1. Enterprises and non-business organizations sending workers abroad under contract;
2. Guest workers under contracts defined in Article 6 of this Law;
3. Guarantors for guest workers under contract;
4. Organizations and individuals involved in the sending of workers abroad under contract.

Article 3.- Interpretation of terms

In this Law, the terms below are construed as follows:

1. *Guest workers under contract* (below referred to as guest workers) means Vietnamese citizens residing in Vietnam who meet all the conditions prescribed by laws of Vietnam and the host country, and work abroad in accordance with this Law.

2. *Labor supply contract* means a written agreement between a Vietnamese enterprise or non-business organization and a foreign party on the conditions and obligations of the two parties in the supply and receipt of Vietnamese guest workers.

3. *Guest worker contract* means a written agreement between an enterprise or a non-business organization and a worker on the rights and obligations of the two parties in the sending of that worker to work abroad.

4. *Individual contract* means a direct written agreement between a worker and a foreign party on that worker's working abroad.

5. *Labor contract* means a written agreement between a worker and an employer on the rights and obligations of the two parties in labor relations.

6. *Guarantee for guest workers* means that a third person (below referred to as guarantor) commits with an enterprise or a non-business organization sending workers abroad to perform the obligations of guest workers who fail to perform or fully perform such obligations under guest worker contracts.

Article 4.- Contents of activities of sending workers abroad

Activities of sending workers abroad include:

1. Signing contracts relating to the work of guest workers;
2. Recruiting workers;
3. Teaching jobs and foreign languages for workers; providing necessary knowledge for workers before sending them abroad.
4. Performing guest worker contracts;
5. Managing guest workers, protecting their lawful rights and interests;
6. Implementing mechanisms and policies applicable to guest workers;
7. Liquidating contracts between enterprises or non-business organizations and guest workers;
8. Other activities of organizations or individuals related to guest workers.

Article 5.- State policies on Vietnamese guest workers

1. To create favorable conditions for qualified Vietnamese citizens to work abroad.
2. To protect the lawful rights and interests of guest workers, enterprises and non-business organizations sending workers abroad.
3. To support investment in opening new labor markets, high-income markets and markets receiving large numbers of workers; support administrator training, job training and foreign-language teaching for workers.
4. To adopt preferential credit policies for social policy beneficiaries to work abroad.
5. To encourage the sending of many workers with professional and technical skills abroad, the

sending of workers to high-income markets, to foreign-based constructions, projects, production or business establishments set up or invested by contract-winning or -receiving enterprises, organizations or individuals.

Article 6.- Forms of work overseas

Workers may work overseas in one of the following forms:

1. Under contracts signed with enterprises providing guest worker services or with non-business organizations licensed to send workers abroad;

2. Under guest worker contracts signed with contract-winning or -receiving enterprises or with offshore-investing organizations or individuals that send workers abroad.

3. Under guest worker contracts in the form of skill-improvement internship contracts, signed with enterprises sending workers abroad for internship to improve their skills;

4. Under individual contracts.

Article 7.- Prohibited acts

1. Granting guest worker service provision licenses (below referred to as licenses) to unqualified enterprises as prescribed by this Law.

2. Using licenses of other enterprises or letting others use ones' own licenses to send workers abroad.

3. Assigning the task of administering activities of sending workers abroad to persons who managed enterprises with revoked licenses or to persons who are serving a caution or a severer discipline due to their violations of the guest worker law.

4. Working in or sending workers to areas,

sectors, occupations or jobs banned under government regulations or not permitted by the host country.

5. Abusing activities of sending workers abroad in order to organize the sending of Vietnamese citizens abroad.

6. Abusing activities of sending workers abroad in order to organize the recruitment and training of workers for the collection of charges.

7. Sending workers abroad without registering contracts with competent state agencies in accordance with this Law.

8. Failing to go to workplaces or fleeing from workplaces stated in contracts after entering the receiving country.

9. Illegally staying abroad after the expiration of labor contracts.

10. Enticing, seducing or tricking Vietnamese guest workers to stay in foreign countries in contravention of law.

11. Troubling, obstructing, harassing workers or enterprises, non-business organizations, offshore-investing organizations or individuals in the sending of workers abroad.

Chapter II

ENTERPRISES AND NON-BUSINESS ORGANIZATIONS SENDING WORKERS ABROAD

Section 1. ENTERPRISES PROVIDING GUEST WORKER SERVICES

Article 8.- Enterprises providing guest worker

services

1. The provision of guest worker services is a conditional business line.

2. Enterprises providing guest worker services (below called service enterprises) must have legal capital under government regulations and guest worker service-provision licenses granted by a competent state agency.

3. Licensed enterprises shall directly organize the provision of guest worker services.

4. The Government shall specify types of enterprises allowed to provide guest worker services based on the domestic socio-economic development situation in each period and the international economic integration roadmap.

Article 9.- Licensing conditions

An enterprise may be granted a license if it has the legal capital defined in Clause 2, Article 8 of this Law and meets all the following conditions:

1. Having a scheme on sending workers abroad.
2. Having a specialized section to provide necessary knowledge for workers before sending them abroad and to provide guest worker services in accordance with regulations of the Ministry of Labor, War Invalids and Social Affairs. For an enterprise participating in the sending of workers abroad for the first time, a plan on organization of the specialized section in charge of providing necessary knowledge for workers and sending them abroad is required.
3. The leader in charge of administering activities of sending workers abroad having a university or higher degree, at least three-year experience in the sending of workers abroad or in international

cooperation and relations.

4. Having paid deposits under government regulations.

Article 10.- Licensing dossiers, procedures and fees

1. A licensing dossier comprises:

a/ The enterprise's application for a license;

b/ A copy of its business registration certificate;

c/ Papers evidencing the satisfaction of the legal capital condition prescribed in Clause 2 of Article 8 and the conditions in Article 9 of this Law.

2. Within 30 days after receiving a complete and valid dossier prescribed in Clause 1 of this Article, the Minister of Labor, War Invalids and Social Affairs shall consider to grant a license to the enterprise after consulting one of the following competent persons:

a/ The head of the agency having issued the establishment decision of the enterprise or proposed the Prime Minister to establish the enterprise;

b/ The person having issued the establishment decision of the enterprise of a political, socio-political, social or socio-professional organization;

c/ The president of the People's Committee of the province or centrally run city where the enterprise is headquartered, for enterprises other than those defined at Points a and b of this Clause.

3. If refusing to grant a license, the Minister of Labor, War Invalids and Social Affairs shall give a written reply to the enterprise, clearly stating the reasons therefor.

4. The licensed enterprise shall pay a licensing fee. Licensing fee levels are set by the Government.

Article 11.- Renewal of licenses

1. If meeting the legal capital condition in Clause 2, Article 8 and the conditions in Article 9 of this Law, a service enterprise may have its license renewed when it is re-granted a business registration certificate because of a change in the contents of its business registration.

2. A dossier for renewal of a license comprises:

a/ The service enterprise's application for renewal of its license;

b/ The granted license;

c/ A copy of the re-granted business registration certificate;

d/ Papers evidencing the satisfaction of the legal capital condition in Clause 2, Article 8 and the conditions in Article 9 of this Law.

3. Procedures for renewal of a license are as follows:

a/ Within 30 days after being re-granted a business registration certificate, the service enterprise shall send a license renewal dossier to the Ministry of Labor, War Invalids and Social Affairs; past this time limit, if the enterprise fails to send the license renewal dossier, its license will become invalid;

b/ Within 15 days after receiving a complete and valid dossier prescribed in Clause 2 of this Article, the Minister of Labor, War Invalids and Social Affairs shall consider renewal of the license of the service enterprise or give a written reply stating the reasons for refusal to renew the license.

4. After being re-granted a business registration certificate and pending the renewal of its license or receipt of a written notice on the refusal to renew its license, an enterprise may continue providing guest worker services.

5. When its license cannot be renewed, an enterprise shall stop signing labor supply contracts and recruiting workers on the date of receiving a written notice on the refusal to renew its license.

Within 90 days after receiving a written notice on the refusal to renew its license, a service enterprise shall stop activities specified in Clauses 1, 2 and 3, Article 4 of this Law.

6. An enterprise having its license renewed under the provisions of Clause 1 of this Article shall pay a fee equal to 50% of the licensing fee specified in Clause 4, Article 10 of this Law.

Article 12.- Re-grant of licenses

1. When its license is lost, burnt or damaged, a service enterprise may be re-granted a license.

2. A dossier for the re-grant of a license comprises:

a/ The service enterprise's application for the re-grant of a license;

b/ The damaged license or the written certification of the loss or burning of the license, issued by the police office in the place where the service enterprise is headquartered.

3. Within 15 days after receiving a valid dossier prescribed in Clause 2 of this Article, the Minister of Labor, War Invalids and Social Affairs shall re-grant a license to the service enterprise.

4. An enterprise having its license re-granted under Clause 1 of this Article shall pay a fee equal to 50% of the licensing fee prescribed in Clause 4, Article 10 of this Law.

Article 13.- Announcement of licenses

1. Within 10 days after being licensed or having

its license renewed, an enterprise shall send a written notice enclosed with a copy of the license to the People's Committee of the province or centrally run city where it is headquartered, and post up a copy of the license at its head office.

2. Within 30 days after being licensed or having its licensed renewed, an enterprise shall publicize the contents of its license in three consecutive issues of a central or electronic newspaper.

Article 14.- Suspension of activities of sending workers abroad for a given term

1. A service enterprise falling in one of the following cases shall be suspended from sending workers abroad for a given term as below:

a/ Between 3 and 6 months, for failing to manage and use deposits in strict accordance with the provisions of Articles 22 and 23 of this Law;

b/ Six months for being administratively sanctioned twice or more in 12 months for violating this Law;

c/ Between 6 and 12 months, for violating the provisions of Clause 2, 3, 4, 5, 6 or 7, Article 7 of this Law, unless its license is revoked under the provisions of Point d, Clause 2, Article 15 of this Law.

2. While being suspended from sending workers abroad, a service enterprise may not sign or register labor supply contracts and recruit workers.

Article 15.- Turning in, revocation of licenses

1. A service enterprise shall turn in its license to the Ministry of Labor, War Invalids and Social Affairs in one of the following cases:

a/ It terminates its operation;

b/ It terminates the provision of guest worker services.

2. A service enterprise shall have its licensed revoked in one of the following cases:

a/ Failing to fill in procedures for renewal of its license or being not allowed to renew its license;

b/ Failing to observe the provisions of Clauses 2 and 3 of Article 8, Clauses 3 and 4 of Article 9 of this Law or failing to implement the plan on its organizational apparatus under the provisions of Clause 2, Article 9 of this Law;

c/ Failing to send workers abroad within 12 months after being licensed;

d/ Violating the provisions of Clause 2, 3, 4, 5, 6 or 7 of Article 7, failing to fulfill all the obligations specified in Clause 2, Article 27 of this Law, thus causing serious material or spiritual damage to workers.

3. The Minister of Labor, War Invalids and Social Affairs shall decide on the revocation of a license; announce the revocation of a license in three consecutive issues of a central or electronic newspaper; and notify such to the People's Committee of the province or centrally run city where the concerned enterprise is headquartered.

4. If it meets the legal capital condition in Clause 2 of Article 8 and the conditions in Article 9 of this Law, a service enterprise having its license revoked under the provisions of Point a, b or c, Clause 2 of this Article may be considered and granted another license after two years from the date the revocation decision takes effect.

5. If it meets the legal capital condition in Clause 2 of Article 8 and the conditions in Article 9 of this Law, has paid all debts and settled other asset

liabilities prescribed by law, a service enterprise having its license revoked under the provisions of Point d, Clause 2 of this Article may be considered and granted another license after five years from the date the revocation decision takes effect.

Article 16.- Branches of an enterprise providing guest worker services

1. When meeting the conditions prescribed in Clause 2 of this Article, a service enterprise may assign not more than 3 of its branches in provinces or centrally run cities to provide some of its guest worker services.

2. A branch assigned to provide guest worker services must meet all the following conditions:

a/ Having a decision on task assignment to it by the service enterprise;

b/ Posting up its address, telephone number, fax number and email address at its office;

c/ Assigning duties to each of its employees in charge of guest worker services.

3. A branch defined in Clause 1 of this Article may not conduct the following activities:

a/ Signing labor supply contracts or guest worker contracts;

b/ Collecting service or brokerage charges and deposits from workers, unless authorized by the enterprise.

4. Within 15 days after assigning tasks to a branch, a service enterprise shall notify such to the Ministry of Labor, War Invalids and Social Affairs and the Labor, War Invalids and Social Affairs Service of the province or city where the branch is located.

5. Branches shall send regular and extraordinary

reports to and submit to the inspection and supervision by the Labor, War Invalids and Social Affairs Services of the provinces or cities where they are based.

6. Branches shall post up at their offices the task-assignment decisions and copies of the licenses of their service enterprises.

Article 17.- Labor supply contracts, guest worker contracts and labor contracts

1. A labor supply contract must accord with the laws of Vietnam and the host country, and have the following principal contents:

a/ The term of the contract;

b/ The number of workers to work overseas; occupations and jobs they are expected to do;

c/ The workplace;

d/ The working conditions and environment;

e/ The work time and rest time;

f/ The labor safety and protection conditions;

g/ Wages, remuneration, other benefits and bonuses (if any); overtime pays;

h/ The living conditions;

i/ The medical examination and treatment regime;

j/ The social insurance regime;

k/ The conditions for termination of contracts ahead of time and compensation liability;

l/ The responsibility for payment of travel fares from Vietnam to the workplace and vice versa;

m/ The brokerage commissions (if any);

n/ Responsibilities of concerned parties for the death of a worker working overseas;

o/ The settlement of disputes;

p/ Responsibility for assisting workers in remitting money to Vietnam.

2. Guest worker contracts and labor contracts must have specific contents conformable with the contents of labor supply contracts. The agreements on brokerage commissions, service charges and deposits of laborers must be recorded in the guest workers contract.

3. The Ministry of Labor, War Invalids and Social Affairs shall provide the forms and contents of labor supply contract and guest worker contract suitable to each labor market.

Article 18.- Registration of labor supply contracts

1. Labor supply contracts must be registered with the Ministry of Labor, War Invalids and Social Affairs.

2. Labor supply contracts take effect after they are approved by the Ministry of Labor, War Invalids and Social Affairs.

3. Within 10 days after receiving a complete and valid dossier prescribed in Article 19 of this Law, the Ministry of Labor, War Invalids and Social Affairs shall reply the enterprise in writing. In case of disapproval, it shall state the reasons therefor.

Article 19.- Dossiers of registration of labor supply contracts

A dossier of registration of a labor supply contract consists of:

1. A written registration of the labor supply contract of the service enterprise.

2. A copy of the labor supply contract, enclosed with its Vietnamese translation.

3. A document proving that the sending of workers abroad accords with the law of the host country.

4. The plan on the performance of the labor supply contract.

5. Relevant documents specified by the Ministry of Labor, War Invalids and Social Affairs for each labor market.

Article 20.- Brokerage commission

1. Brokerage commission means an amount a service enterprise shall pay to the broker in order to sign and perform a labor supply contract.

Workers shall refund to the service enterprise a part or the whole of brokerage commission under regulations of the Ministry of Labor, War Invalids and Social Affairs.

2. Service enterprises shall negotiate and decide on brokerage commission rates based on the ceiling rate prescribed in Clause 3 of this Article.

3. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, defining the ceiling brokerage commission rate and the management and use of brokerage commission.

Article 21.- Service charge

1. Service charge means an amount payable by a worker to a service enterprise for the performance of a guest worker contract.

2. Service enterprises shall reach agreement with workers on the one-off collection of service charges before the workers leave Vietnam or on multiple collections during the time the workers work

overseas.

3. A worker who has paid the service charge for the whole working time under the contract but has to return home ahead of time not due to his/her fault shall be refunded by the concerned service enterprise a service charge amount corresponding to the remaining duration of the guest worker contract.

4. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, setting the ceiling service charge rate.

Article 22.- Deposits of service enterprises

1. Deposits of service enterprises defined in Clause 4, Article 9 of this Law shall be used by competent state agencies to deal with problems arising from the enterprises' failure to perform or fulfill their obligations in the sending of workers abroad.

2. For the case specified at Point b, Clause 3, Article 26 of this Law, deposits of service enterprises shall be used by competent state agencies for the settlement of liabilities arising in relation to workers up to the time of transfer; enterprises may use remaining deposit amounts to pay other debts in accordance with the bankruptcy law.

3. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the State Bank of Vietnam in, specifying the management and use of deposits of enterprises.

Article 23.- Deposits of workers

1. Workers shall reach agreement with a service enterprise on their deposits according to Clauses 2

and 4 of this Article in order to ensure the performance of guest worker contracts.

2. Workers shall directly or through a service enterprise pay deposits into a separate account opened by the enterprise at a commercial bank for the purpose of keeping workers' deposits.

3. Both principals and interests of deposits of workers shall be refunded to them upon the liquidation of guest worker contracts.

When workers breach guest worker contracts, their deposits shall be used by the service enterprise to pay compensation for damage caused by the workers to it; in this case, if the deposit amount is insufficient, workers shall make additional payment; if the deposit amount is not used up, the remaining amount shall be returned to workers.

4. The Ministry of Labor, War Invalids and Social Affairs shall specify labor markets in which service enterprises may reach agreement with workers on the payment of deposits; set a uniform level of deposit payable by workers nationwide, which is suitable to each labor market for which service enterprises may reach agreement with workers on the payment of deposits; and assume the prime responsibility for, and coordinate with the State Bank of Vietnam in, specifying the management and use of workers' deposits.

Article 24.- Responsibilities of service enterprises that turn in their licenses or having them revoked

1. A service enterprise turning in its license or having it revoked under the provisions of Clauses 1 and 2, Article 15 of this Law shall continue performing its obligations stated in labor supply contracts or guest worker contracts which remain effective.

2. The management and use of deposits of a service enterprise which turns in its license or has it revoked are as defined in Article 22 of this Law.

3. The management and use of deposits of workers in case the service enterprise turns in its license or has it revoked are as defined in Article 23 of this Law.

Article 25.- Responsibilities of service enterprises in case of dissolution

1. A service enterprise may dissolve only after having fulfilled all obligations in labor supply contracts and guest worker contracts which remain effective and ensure that it can settle all debts and other asset liabilities in accordance with law.

2. Within 10 days after approving the dissolution decision, a service enterprise shall report the Ministry of Labor, War Invalids and Social Affairs on the situation of workers it has sent abroad and the plan on the performance of its obligations stated in labor supply contracts and guest worker contracts which remain effective.

3. A service enterprise may reach agreement with another licensed one on the transfer of its rights and obligations in the effective labor supply contracts and guest worker contracts, provided that the transfer plan is approved by the Ministry of Labor, War Invalids and Social Affairs.

A service enterprise shall transfer its rights and obligations to another one together with the workers' deposits and assets used to secure the guarantee obligation. After completing the transfer, the service enterprise shall notify such completion to the Ministry of Labor, War Invalids and Social Affairs and the foreign party.

4. After fulfilling its obligations in guest worker

contracts, the service enterprise may use their remaining deposits to pay other debts.

Article 26.- Responsibilities of service enterprises in case of bankruptcy

1. Within 10 days after the court issues a decision on opening bankruptcy procedures, the concerned service enterprise shall report to the Ministry of Labor, War Invalids and Social Affairs on the situation of workers it has sent abroad and the plan on the performance of its obligations in labor supply contracts and guest worker contracts which remain effective.

2. A service enterprise shall stop signing contracts, recruiting and sending workers abroad on the date the court issues the decision to open bankruptcy procedures till the court issues a decision to suspend the procedures and allow the enterprise to restore its business activities.

3. In case the court decides to open asset-liquidation procedures, the transfer of rights and obligations for the performance of labor supply contracts and guest worker contracts is provided as follows:

a/ A service enterprise may reach agreement with another licensed one on the transfer of its rights and obligations in the effective labor supply contracts and guest worker contracts, provided that the transfer plan is approved by the Ministry of Labor, War Invalids and Social Affairs.

A service enterprise shall transfer its rights and obligations to another one together with the workers' deposits and assets used to secure the guarantee obligation. After completing the transfer, the service enterprise shall notify such completion to the Ministry of Labor, War Invalids and Social Affairs and the foreign party.

b/ When a service enterprise cannot reach agreement on the transfer of its rights and obligations to another one, it shall hand over to the Ministry of Labor, War Invalids and Social Affairs all dossiers of guest workers it has sent to work overseas, their deposits and assets used to secure the performance of the guarantee obligation, and the service charges collected in advance from workers so that the Ministry of Labor, War Invalids and Social Affairs can settle the interests and obligations of these guest workers in accordance with this Law.

Article 27.- Rights and obligations of service enterprises

1. A service enterprise has the following rights:

a/ To provide services of sending workers abroad; to recruit workers in localities;

b/ To sign labor supply contracts with foreign parties, guest worker contracts with workers, and guarantee contracts with guarantors before workers go to work abroad;

c/ To reach agreement with workers on deposits and the introduction of guarantors;

d/ To request workers or guarantors to pay compensation in accordance with law for damage caused by workers;

e/ To unilaterally liquidate guest worker contracts if the workers or their lawfully authorized representatives fail to show up to liquidate those contracts after the enterprise has sent three written notices by registered mail to them within 180 days from the date the workers terminate labor contracts;

f/ To lodge complaints about or initiate lawsuits against illegal decisions or acts in the sending of workers abroad.

2. A service enterprise has the following obligations:

a/ The obligations defined in Articles 13, 16, 18, 23, 24, 25 and 26 of this Law;

b/ To directly recruit workers without collecting recruitment fees. When recruiting workers in localities, to notify the provincial/municipal Services of Labor, War Invalids and Social Affairs thereof; biannually and annually, to report the provincial/municipal Services of Labor, War Invalids and Social Affairs on the recruitment results and the number of local workers who have been sent abroad;

c/ To coordinate with local administrations in publicizing and supplying workers with adequate information on the number of workers to be recruited, recruitment criteria and terms of guest worker contracts;

d/ To organize the provision of necessary knowledge or associate with vocational training establishments or training institutions in teaching jobs and foreign languages for workers in accordance with the requirements of each labor market before sending them abroad;

e/ To organize the management of workers it sends abroad and protect their lawful rights and interests;

f/ To coordinate with foreign parties in dealing with matters arising when workers die, meet with labor accidents or risks, are infected with occupational diseases, or have their life, health, honor or dignity or property infringed upon, and to settle disputes related to workers;

g/ To report to and coordinate with foreign-based Vietnamese diplomatic missions or consulates in managing and protecting the lawful

rights and interests of workers working in foreign countries;

h/ To pay compensation to workers and guarantors in accordance with law for damage it caused to them;

i/ To liquidate guest worker contracts with workers in accordance with law;

j/ To make contributions to the overseas employment support fund in accordance with this Law;

k/ To send to the Ministry of Labor, War Invalids and Social Affairs annual and extraordinary reports on the situation of sending of workers abroad.

Section 2. CONTRACT-WINNING OR -RECEIVING ENTERPRISES SENDING WORKERS ABROAD

Article 28.- Conditions for sending workers abroad to work at construction sites or for projects for which Vietnamese enterprises win or receive contracts

An enterprise winning or receiving contracts for overseas constructions or projects may send workers abroad when meeting all the following conditions:

1. Obtaining permission from the Ministry of Labor, War Invalids and Social Affairs.

2. Having labor contracts with workers sent abroad under the provisions of labor law.

3. Sending workers to only those foreign-based constructions or projects for which it wins or receives contracts.

4. Having a plan on guest worker management and employment, and a financial plan for sending

those workers back to Vietnam in *force majeure* circumstances.

5. Assuring the rights and obligations of its guest workers in accordance with the laws of Vietnam and the country where they work.

Article 29.- Reporting on the sending of workers abroad

1. Within 20 days before sending workers abroad, a contract- winning or -receiving enterprise shall send the Ministry of Labor, War Invalids and Social Affairs a report on the sending of workers abroad, enclosed with copies of the won or received contract and a list of workers who have signed guest worker contracts.

2. A report on the sending of workers abroad has the following contents:

a/ The plan on guest worker employment and management, which clearly states the number of guest workers, their expected jobs, working time and rest time, salaries, living conditions, medical care conditions, social insurance and other conditions related to them;

b/ The financial plan for sending guest workers back to Vietnam in *force majeure* circumstances.

3. Within 10 days after receiving a report on the sending of workers abroad, the Ministry of Labor, War Invalids and Social Affairs shall consider it and reply the enterprise in writing. If disapproving the report, it shall state the reason for disapproval.

Article 30.- Rights and obligations of contract-winning or -receiving enterprises

A contract-winning or -receiving enterprise has the following rights and obligations:

1. To organize the provision of necessary knowledge for workers before sending them abroad.
2. To directly organize the sending of workers abroad and the management of guest workers.
3. To sign and liquidate guest worker contracts with workers. Guest worker contracts must have contents as specified in Clause 3, Article 17 of this Law.
4. To ensure that salaries for workers are not lower than the minimum salary level prescribed by the laws of Vietnam and the country where they work.
5. To ensure working conditions, living conditions and social insurance for workers under the laws of Vietnam and the country where they work.
6. To ensure that workers have regular health checks and medical examination and treatment when they are sick or meet with accidents. When workers are no longer capable of working overseas, the enterprise shall organize the sending of those workers back to Vietnam and bear related expenses.
7. To organize the bringing of the remains or corpses of workers who die while working overseas and bear all related expenses; to implement other compensation and subsidy mechanisms in accordance with Vietnamese law.
8. To report and coordinate with foreign-based Vietnamese diplomatic missions and consulates in managing workers working overseas and protecting their legitimate rights and interests.
9. Annually, extraordinarily and upon completion of the won or received contracts, to report to the Ministry of Labor, War Invalids and Social Affairs on the situation of sending of workers abroad.

**Section 3. OFFSHORE-INVESTING
ORGANIZATIONS AND INDIVIDUALS
SENDING WORKERS ABROAD**

Article 31.- Conditions for sending workers to production or business establishments set up overseas by offshore-investing organizations or individuals

An organization or individual having offshore investment projects may send workers abroad when meeting all the following conditions:

1. Obtaining permission from the Ministry of Labor, War Invalids and Social Affairs;
2. Sending workers to only production or business establishments it/he/she has invested and set up abroad.
3. Having a plan on guest worker employment and management; having a financial plan for sending workers back to Vietnam in *force majeure* circumstances.
4. Assuring the rights and obligations of workers at production and business establishments it/he/she has set up abroad in accordance with the law of the country where guest workers work and the Vietnamese law.

Article 32.- Reporting on the sending of workers abroad

1. At least 20 days before sending workers abroad, an offshore-investing organization or individual shall send to the Ministry of Labor, War Invalids and Social Affairs a report on the sending of workers abroad, enclosed with a copy of the investment certificate, a brief content of the offshore investment project and a list of workers who have signed guest worker contracts.

2. A report on the sending of workers abroad has the following contents:

a/ The plan on guest worker employment and management, which clearly states the number of guest workers, their expected jobs, working time and rest time, salaries, living conditions, medical care conditions, social insurance and other benefits for them;

b/ The financial plan for sending guest workers back to Vietnam in *force majeure* circumstances.

3. Within 10 days after receiving a report on the sending of workers abroad, the Ministry of Labor, War Invalids and Social Affairs shall consider it and reply the enterprise in writing. In case of disapproval, it shall clearly state the reasons therefor.

Article 33.- Rights and obligations of offshore-investing organizations and individuals sending workers abroad .

An offshore-investing organization or individual has the following rights and obligations:

1. To organize the provision of necessary knowledge for workers before sending them abroad.

2. To directly organize the sending of workers abroad and manage guest workers.

3. To sign and liquidate guest worker contracts with workers. Guest worker contracts must have contents as specified in Clause 3, Article 17 of this Law.

4. To ensure workers' benefits, solve problems arising under guest worker contracts.

5. To ensure working conditions, living conditions and social insurance for workers in accordance with the law of the country where they work and the Vietnamese law.

6. To ensure that workers have regular health checks and medical examination and treatment when they get sick or meet with accidents. When workers are no longer capable of working overseas, to send them back to Vietnam and bear related expenses.

7. To organize the sending home of the remains or corpses of workers who die while working overseas and bear all related expenses; to apply other compensation and subsidy mechanisms in accordance with the law of the country where guest workers work and the Vietnamese law.

8. To report to and coordinate with foreign-based Vietnamese diplomatic missions and consulates in managing workers working overseas and protecting their lawful rights and interests.

9. To report annually and extraordinarily on the situation of sending workers abroad to the Ministry of Labor, War Invalids and Social Affairs.

Section 4. ENTERPRISES SENDING WORKERS ABROAD TO WORK IN THE FORM OF SKILL IMPROVEMENT INTERNSHIP

Article 34.- Conditions for sending workers abroad to work in the form of skill improvement internship

An enterprise may send workers abroad to work in the form of skill improvement internship when meeting all the following conditions:

1. Having contracts with foreign institutions on sending workers abroad to work in the form of skill-improvement internship (below referred to as intern acceptance contracts) as prescribed in Clauses 1 and 2, Article 35 of this Law, which have been registered with competent state agencies.

2. Having contracts on sending workers abroad to work in the form of skill improvement internship (below called guest worker-intern contracts) as prescribed in Clause 3, Article 35 of this Law; workers sent abroad must have labor contracts with the enterprise under the provisions of the labor law.

3. The occupations and jobs to be done by guest worker-interns must be relevant to the production and business line of the enterprise.

4. Paying deposits for the performance of intern acceptance contracts under government regulations.

Article 35.- Intern acceptance contracts, guest worker-intern contracts and internship contracts

1. An intern acceptance contract is a written agreement between an enterprise and an intern-accepting institution overseas on the rights and obligations of the concerned parties in the supply and acceptance of workers working in the form of skill improvement internship.

2. An intern acceptance contract must be conformable with the laws of Vietnam and the intern receiving country, and have the following major contents:

- a/ The internship duration;
- b/ The number of interns and occupations and jobs for internship;
- c/ The place of internship;
- d/ The internship conditions and environment;
- e/ The internship time and rest time;
- f/ Labor safety and protection;
- g/ Salaries and incomes;
- h/ Living conditions;

i/ Medical examination and treatment;

j/ Social insurance conditions;

k/ Conditions for termination of contracts ahead of time and compensation liability;

l/ Responsibilities for payment of expenses for travel from Vietnam to the place of internship and vice versa.

m/ Responsibilities of the parties in case a worker dies while working overseas;

n/ Settlement of disputes;

o/ Responsibilities for assisting workers in remitting money to Vietnam.

3. A guest worker-intern contract is a written agreement between an enterprise and a guest worker-intern on the rights and obligations of the two parties.

4. A skill improvement internship contract (below referred to as internship contract) is a written agreement between a guest worker-intern and an intern-accepting institution on the rights and obligations of the two parties.

5. Guest worker-intern contracts and internship contracts must have contents compatible with those of intern-acceptance contracts.

Article 36.- Registration of intern acceptance contracts

1. Intern acceptance contracts must be registered in accordance with the following provisions:

a/ The enterprise sending workers abroad to work in the form of skill improvement internship for a duration of less than 90 days shall register with the Service of Labor, War Invalids and Social Affairs of the province or city where it is headquartered.

b/ The enterprise sending workers abroad to work in the form of skill improvement internship for a duration of 90 days or more shall register with the Ministry of Labor, War Invalids and Social Affairs.

2. Within 10 days after receiving a complete and valid dossier, the competent state agency defined in Clause 1 of this Article shall reply the enterprise in writing. In case of disapproval, it shall clearly state the reason therefor.

Article 37.- Dossiers of registration of intern acceptance contracts

A dossier of registration of an intern acceptance contract comprises:

1. A written registration of the inter acceptance contract.

2. A copy of the intern acceptance contract, enclosed with its Vietnamese translation.

3. A document proving that the sending of workers abroad to work in the form of skill improvement internship is conformable with the law of the host country.

4. A copy of the business registration certificate and papers proving the deposits of the enterprise as prescribed in Clause 4, Article 34 of this Law.

Article 38.- Rights and obligations of enterprises sending workers abroad to work in the form of skill improvement internship

1. An enterprise has the following rights:

a/ To sign intern acceptance contracts with intern-accepting institutions; to sign guest worker-intern contracts with workers before they go abroad to work in the form of skill improvement internship;

b/ To request workers to pay compensation in accordance with law for damage caused by those workers.

c/ To complain and initiate lawsuits against illegal decisions or acts in the sending of workers abroad.

2. An enterprise has the following obligations:

a/ To disclose and supply workers with information on conditions for guest workers-interns;

b/ To organize the provision of necessary knowledge, to teach or associate with training institutions to teach foreign languages for guest workers-interns in accordance with requirements of the host country before sending them abroad;

c/ To organize the management of guest workers-interns it sends abroad and the protection of their lawful rights and interests;

d/ To coordinate with intern-accepting institutions in dealing with matters arising when workers die, meet with labor accidents or risks, have occupational diseases, have their life, healthy, honor, dignity or property infringed upon and to settle disputes related to workers;

e/ To report to and coordinate with foreign-based Vietnamese diplomatic missions and consulates in managing guest workers-interns and protecting their lawful rights and interests;

f/ To pay compensation in accordance with law to workers for damage caused by the enterprise;

g/ To liquidate guest worker-intern contracts in accordance with law;

h/ To settle benefits for guest workers-interns in case the enterprise is dissolved or bankrupt;

i/ To report periodically and extraordinarily to competent state agencies in accordance with law.

**Section 5. NON-BUSINESS STATE
ORGANIZATIONS SENDING WORKERS
ABROAD**

Article 39.- Conditions for non-business state organizations to send workers abroad

A non-business state organization may send workers abroad when fully meeting the following conditions:

1. Being under a ministry, ministerial-level agency or government-attached agency.
2. Being assigned the task of sending workers abroad by the minister, the head of the ministerial-level agency or the head of the government-attached agency.
3. Its leader has a university or higher degree, at least 3-year experience in the domain of sending workers abroad or in the domain of international cooperation and relations.
4. Its activities of sending workers abroad are not for profits.

Article 40.- Cases where non-business organizations may send workers abroad

A non-business organization may send workers abroad in the following cases:

1. To implement a treaty to which the Socialist Republic of Vietnam is a contracting party.
2. To implement an agreement signed by the ministry, ministerial-level agency or government-attached agency with the foreign party.
3. Other cases as decided by the Minister of Labor, War Invalids and Social Affairs.

Article 41.- Rights and obligations of non-

business organizations sending workers abroad

1. A non-business organization has the following rights:

- a/ To recruit and train workers and send them abroad;
- b/ To sign labor supply contracts with foreign parties and sign guest worker contracts with workers under the provisions of Article 17 of this Law;
- c/ To request workers to introduce their guarantors;
- d/ To be entitled to collect a sum of money from each worker to cover expenses for sending them abroad in accordance with the treaty or agreement stated in Clause 1 or 2, Article 40 of this Law or regulations of the Minister of Labor, War Invalids and Social Affairs;
- e/ To request workers to pay compensation in accordance with law for damage caused by those workers;

f/ To lodge complaints about or initiate lawsuits against decisions or acts in violation of the guest worker law;

g/ To unilaterally liquidate guest worker contracts with workers who breach contracts by not returning home or who or whose representatives fail to show up to liquidate contracts after the non-business organization has thrice sent them written notices by registered mail in a period of 180 days.

2. A non-business organization has the following obligations:

a/ To work out a scheme on organization of the sending of workers abroad to be submitted to a competent state agency for approval;

b/ To report to the Ministry of Labor, War Invalids and Social Affairs on the contents of labor supply

contracts (if any), guest worker contracts and the plan on the performance of those contracts before sending workers abroad;

c/ To report periodically and extraordinarily on the situation of sending workers abroad to the Ministry of Labor, War Invalids and Social Affairs, the ministry, ministerial-level agency and government-attached agency which has assigned it the task of sending workers abroad;

d/ To organize the provision of necessary knowledge, to teach or associate with vocational training institutions or training establishments to teach foreign language, professional, technical and operational skills for workers before sending them abroad in accordance with the treaty or agreement defined in Clause 1 or 2, Article 40 of this Law;

e/ To report to and coordinate with foreign-based Vietnamese diplomatic missions and consulates in managing guest workers and protecting their lawful rights and interests, and solving their problems; to nominate representatives to coordinate with foreign parties in managing guest workers in accordance with the requirements of each labor market.

f/ To liquidate guest worker contracts with workers in accordance with law.

Chapter III

GUEST WORKERS

Section 1. GUEST WORKERS UNDER CONTRACTS WITH ENTERPRISES, NON-BUSINESS ORGANIZATIONS, ORGANIZATIONS OR INDIVIDUALS MAKING OFFSHORE INVESTMENT

Article 42.- Conditions for workers to work abroad under contracts with enterprises, non-

business organizations, organizations or individuals making offshore investment

Workers may work abroad when they fully meet the following conditions:

1. Having full civil act capacity.
2. Willing to work abroad.
3. Observing law and having good moral qualities.
4. Having good health as provided for by Vietnamese law and required by the host country.
5. Meeting requirements on foreign language skills, technical and professional qualifications and other conditions of the workers-receiving country.
6. Having a certificate of possession of necessary knowledge.
7. Being not banned from exiting Vietnam under Vietnamese law.

Article 43.- Guest worker dossiers

1. Workers willing to work abroad shall submit relevant dossiers to enterprises, non-business organizations, offshore-investing organizations or individuals that send them abroad.

2. A guest worker dossier comprises:

- a/ An application for working abroad;
- b/ A curriculum vitae certified by the People's Committee of the commune, ward or township where he/she resides or by the agency, organization or unit managing him/her with its comments on his/her sense of observing law and morality;

c/ A health certificate granted by a competent medical establishment;

d/ Diplomas or certificates of foreign language, expertise and job skills and a certificate of possession of necessary knowledge;

e/ Other papers as required by the worker-receiving party.

Article 44.- Rights of guest workers

A guest worker has the following rights:

1. To request the enterprise, non-business organization, offshore-investing organization or individual to supply information on Vietnamese policies and law on guest workers; information on relevant policies and laws as well as customs and practice of the host country; and on rights and obligations of related parties while he/she works abroad.

2. To enjoy salaries, remunerations and other incomes, medical examination and treatment, social insurance and other benefits provided for in contracts as well as the treaty or agreement defined in Clause 1 or 2, Article 40 of this Law.

3. To have his/her lawful rights and interests protected while working abroad by the enterprise, non-business organization, offshore-investing organization or individual and by the foreign-based Vietnamese diplomatic mission or consulate in accordance with the Vietnamese law, the law of the host country as well as the international law and practice; to be advised on and supported in the exercise of their rights and enjoyment of benefits stated in the labor contract or internship contract.

4. To transfer home his/her salary, remunerations, incomes and other personal properties in accordance with the laws of Vietnam and the host country.

5. To enjoy the benefits from the overseas employment support fund under the provisions of

law.

6. To lodge complaints or denunciations or initiate lawsuits against illegal acts in the sending of workers abroad.

Article 45.- Obligations of guest workers

A guest worker has the following obligations:

1. To follow and promote fine traditions of the Vietnamese nation; to respect the customs and practice of the host country; to unite with workers of the host country and other countries.

2. To take the initiative in learning the job, foreign language and inquiring into relevant laws.

3. To participate in a training course to acquire necessary knowledge before going abroad.

4. To observe the laws of Vietnam and the host country.

5. To work at the proper workplace; to observe working rules and return home after terminating the labor contract or internship contract in accordance with regulations of the host country.

6. To be liable for damage caused by his/her breaches of the signed contract under the laws of Vietnam and the host country.

7. To participate in social insurance in accordance with Vietnamese law and other types of insurance according to the law of the host country.

8. To pay income tax in accordance with the laws of Vietnam and the host country.

9. To contribute to the overseas employment support fund in accordance with this Law.

Article 46.- Rights and obligations of guest

workers under guest worker contracts with service enterprises

Apart from the rights and obligations provided in Articles 44 and 45 of this Law, a guest worker under a guest worker contract with a service enterprise has the following rights and obligations:

1. To sign a guest worker contract with the service enterprise.
2. To receive training in job and foreign language skills to meet the requirements of the labor contract.
3. To be entitled to borrow capital from a credit institution in accordance with law in order to work abroad.
4. To enjoy compensation in case the service enterprise breaches the guest worker contract.
5. To extend the labor contract or sign a new labor contract in accordance with the law of the host country.
6. To pay service charges and refund brokerage commissions (if any) to the service enterprise.
7. To pay a deposit or introduce a guarantor according to the agreement with the service enterprise in order to secure the performance of the guest worker contract.
8. To liquidate the guest worker contract with the service enterprise within 180 days from the date of termination of the labor contract.

Article 47.- Rights and obligations of guest workers working under guest worker contracts with contract-winning or -receiving enterprises or offshore-investing organizations or individuals

Apart from the rights and obligations provided in Articles 44 and 45 of this Law, a guest worker

working under a guest worker contract with a contract-winning or -receiving enterprise or offshore-investing organization or individual has the following rights and obligations:

1. To sign a guest worker contract with the contract-winning or -receiving enterprise or offshore-investing organization or individual;
2. To receive training in job and foreign language skills to meet the requirements of the guest worker contract.
3. To enjoy compensation in case the contract-winning or -receiving enterprise or offshore-investing organization or individual breaches the guest worker contract.
4. To liquidate the guest worker contract with the contract-winning or -receiving enterprise or offshore-investing organization or individual.

Article 48.- Rights and obligations of guest workers working under skill improvement internship contracts

Apart from the rights and obligations provided for in Articles 44 and 45 of this Law, a guest worker working under a skill improvement internship contract has the following rights and obligations:

1. To sign an internship contract with the enterprise which sends him/her abroad to work in the form of skill improvement internship;
2. To enjoy compensation in case the enterprise sending him/her abroad to work in the form of skill improvement internship breaches the guest worker contract.
3. To liquidate the guest worker contract with the enterprise which sends him/her abroad under a skill improvement internship contract.

Article 49.- Rights and obligations of guest workers working under guest worker contracts with non-business organizations

Apart from the rights and obligations provided for in Articles 44 and 45 of this Law, a guest worker working under a guest worker contract with a non-business organization has the following rights and obligations:

1. To sign a guest worker contract with the non-business organization;
2. To introduce a guarantor to the non-business organization.
3. To enjoy compensation in case the non-business organization breaches the guest worker contract.
4. To pay a sum of money under the provisions of Point d, Clause 1, Article 41 of this Law.
5. To liquidate the guest worker contract with the non-business organization within 180 days from the date of termination of the labor contract.
6. To have other rights and obligations provided for in Clauses 2, 3 and 5, Article 46 of this Law.

Section 2. GUEST WORKERS WORKING UNDER INDIVIDUAL CONTRACTS

Article 50.- Conditions for guest workers working under individual contracts

A worker may work abroad under an individual contract when fully meeting the following conditions:

1. The conditions prescribed in Clauses 1, 2, 3, 4 and 7, Article 42 of this Law.

2. Having an individual contract as prescribed in Article 51 of this Law.

3. Having a certificate of registration of the individual contract issued by the provincial/municipal Service of Labor, War Invalids and Social Affairs of the locality where he/she resides.

Article 51.- Individual contracts

1. Individual contracts must accord with the laws of Vietnam and the country where the workers go to work.

2. An individual contract has the following principal contents:

- a/ The job to be done;
- b/ The term of the contract;
- c/ The workplace;
- d/ The working time and rest time;
- e/ The salary, remuneration and extra work pays;
- f/ Medical examination and treatment conditions;
- g/ Social insurance conditions;
- h/ Responsibilities of the employer in case the worker dies while working abroad;
- i/ The settlement of disputes.

Article 52.- Dossiers and procedures for registration of individual contracts

1. A dossier of registration of an individual contract with the provincial/municipal Service of Labor, War Invalids and Social Affairs of the locality where the concerned worker resides comprises:

- a/ A registration application, enclosed with a copy of the individual contract and its Vietnamese translation;

b/ A copy of the personal identity card or passport;
 c/ A curriculum vitae of the worker, certified by the People's Committee of the commune, ward or township where the worker resides or of the agency, organization or unit managing him/her, with its comments on his/her sense of observing law and morality.

2. Within 5 working days after receiving a complete and valid dossier, the provincial/municipal Service of Labor, War Invalids and Social Affairs shall issue a written certification of registration of the individual contract to the worker or reply in writing. In case of disapproval, it shall clearly state the reason therefor.

The certificate of registration of the individual contract must be produced when the worker fills in the exit procedures to go to work abroad.

Article 53.- Rights and obligations of guest workers working under individual contracts

1. A guest worker working under an individual contract has the following rights:

a/ To be provided by the provincial/municipal Service of Labor, War Invalids and Social Affairs with information on Vietnamese policies and law on guest workers;

b/ To have his/her lawful rights and interests protected while working overseas by the foreign-based Vietnamese diplomatic mission or consulate in accordance with Vietnamese law, the law of the country where he/she works and international practice; to be advised on and supported in the exercise of his/her rights and the enjoyment of his/her benefits provided for in the individual contract;

c/ To enjoy benefits from the overseas employment support fund in accordance with law;

d/ To transfer home his/her salary, remuneration, income and other personal properties in accordance with the laws of Vietnam and the country where he/she works;

e/ To extend the contract or sign a new labor contract in accordance with the law of the country where he/she works.

2. A guest worker working under an individual contract has the following obligations:

a/ To register his/her individual contract under the provisions of Clause 1, Article 52 of this Law;

b/ To learn about relevant provisions of law;

c/ To observe the laws of Vietnam and the country where he/she works;

d/ To strictly observe his/her individual contract and rules of the workplace;

e/ To take responsibility for damage caused by his/her breach of the signed contract under the law of the country where he/she works;

f/ To participate in social insurance in accordance with Vietnamese law and other types of insurance in accordance with the law of the country where he/she works;

g/ To pay income tax in accordance with the laws of Vietnam and the country where he/she works;

h/ To contribute to the overseas employment support fund in accordance with this Law;

i/ To register his/her citizenship at the Vietnamese diplomatic mission or consulate in the country where he/she works.

Section 3. GUARANTEE FOR GUEST WORKERS

Article 54.- Conditions for guarantors

A guarantor must meet the following conditions:

1. Having full civil act capacity.
2. Having financial capability to meet the conditions in the guarantee contract.

Article 55.- Scope of guarantee

1. Guarantee shall be provided in the following cases:

a/ Guest workers working under guest worker contracts with service enterprises fail to make deposits or have not enough money to make deposits under the provisions of Article 23 of this Law;

b/ Guest workers working under guest worker contracts with a non-business organization which requests them to have guarantee.

2. Guarantors shall reach agreement with service enterprises or non-business organizations on their responsibilities to provide partial or whole guarantee for the liabilities of their guest workers.

3. When a worker breaches the guest worker contract and causes damage to a service enterprise or non-business organization but fails to perform or fulfill his/her compensation obligation, the guarantor shall use his/her/its property to pay compensation for damage caused by the worker to the service enterprise or non-business organization. The remaining property of the guarantor after paying compensation shall be returned to the guarantor.

Article 56.- Time limit for performance of the guarantee obligation

The time limit for performance of the guarantee obligation shall be agreed between the guarantor

and the service enterprise or non-business organization; if they cannot reach agreement, the guarantor shall perform the guarantee obligation within a reasonable time limit to be fixed by the service enterprise or non-business organization, which shall be counted from the time the guarantor receives the service enterprise or non-business organization's notice on the performance of the worker's obligations.

Article 57.- Guarantee contracts

1. Guarantee contracts must be made in writing.
2. A guarantee contract must have the following principal contents:

a/ The scope of guarantee;

b/ The rights and obligations of the parties to the contract;

c/ The time limit for performance of the guarantee obligation;

d/ The handling of the guarantor's property.

3. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Justice in, specifying the contents of a guarantee contract and the liquidation of a guarantee contract.

Article 58.- Measures to ensure the performance of the guarantee obligation

1. Service enterprises and non-business organizations may reach agreement with guarantors on the application of pledge, mortgage or deposit to ensure the performance of the guarantee obligation.

2. The pledge, mortgage or deposit shall be stated in a separate document or in the guarantee

contract.

3. The determination and application of pledge, mortgage or deposit to ensure the performance of the guarantee obligation shall comply with the provisions of law.

Section 4. POLICIES TOWARDS WORKERS AFTER RETURNING HOME

Article 59.- Employment support

1. Provincial/municipal Services of Labor, War Invalids and Social Affairs shall notify guest workers who return home of domestic employment opportunities; guide and introduce them to make registration to find appropriate jobs.

2. The State encourages enterprises to receive and recruit former guest workers or send them to work abroad.

Article 60.- Encouragement of job creation

1. The State creates favorable conditions and encourages former guest workers to invest in production or business activities and create jobs for themselves and for others.

2. Workers who meet with difficulties may borrow preferential capital for the creation of jobs in accordance with law.

Chapter IV

TEACHING OF JOBS AND FOREIGN LANGUAGES AND PROVISION OF NECESSARY KNOWLEDGE

Article 61.- Purposes of teaching jobs and foreign languages and providing necessary

knowledge

Teaching jobs and foreign languages and providing necessary knowledge aims to provide guest workers with job and foreign language skills, legal knowledge and other necessary knowledge as required by the labor markets.

Article 62.- Responsibilities of workers in learning jobs, foreign languages and acquiring necessary knowledge

1. Workers wishing to work abroad must take the initiative in learning jobs and foreign languages, learn about relevant laws and participate in necessary knowledge training courses organized by enterprises, non-business organizations, or offshore-investing organizations or individuals that send them abroad.

2. The State shall adopt policies to support workers who are social policy beneficiaries to learn jobs and foreign languages and acquire necessary knowledge.

Article 63.- Teaching jobs and foreign languages for guest workers

Enterprises, non-business organizations and offshore-investing organizations or individuals that send workers abroad shall conduct or associate with vocational training institutions or training establishments in conducting job and foreign language skills training courses for workers to work abroad.

Article 64.- Policies applicable to vocational training institutions

The State shall adopt investment policies for vocational training institutions to train guest

workers; set up vocational training schools with adequate training equipment, facilities, programs, curricula and staff in order to train workers with high job and technical, and foreign language skills as required by the labor markets.

Article 65.- Provision of necessary knowledge

1. Enterprises, non-business organizations and offshore-investing organizations or individuals that send workers abroad shall provide workers with necessary knowledge, test and grant certificates before sending them abroad.

2. Necessary knowledge to be provided includes:

a/ Vietnam's traditions and cultural identity;

b/ Basic contents of the labor, criminal, civil and administrative laws of Vietnam and the host country;

c/ Contents of the contract signed between the enterprise, non-business organization, offshore-investing organization or individual and the worker;

d/ Labor discipline, safety and hygiene;

e/ Customs, practice and culture of the host country;

f/ Working and living behaviors;

g/ Use of means of transport, purchase and use of tools and equipment for daily-life needs;

h/ Problems to be avoided while workers live and work abroad.

3. The Minister of Labor, War Invalids and

Social Affairs shall specify the program and duration for the provision of necessary knowledge.

Chapter V

OVERSEAS EMPLOYMENT SUPPORT FUND

Article 66.- Overseas employment support fund

The overseas employment support fund is aimed at developing and expanding foreign labor markets, raising the quality of workforce, and supporting workers and enterprises in handling risks.

Article 67.- Sources of the overseas employment support fund

1. Contributions of enterprises.
2. Contributions of workers.
3. State budget support.
4. Other lawful sources.

Article 68.- Setting up, management and use of the overseas employment support fund

1. The overseas employment support fund is set up under the Ministry of Labor, War Invalids and Social Affairs, operates for non-profit purposes, is tax-exempt and independent in cost-accounting, has the legal person status and state treasury accounts.

2. The Prime Minister shall decide on the setting up of the fund; provide for its management and use; levels of contribution by enterprises and guest

workers and state budget support; and levels of benefits for target beneficiaries.

Chapter VI

STATE MANAGEMENT OF GUEST WORKERS

Article 69.- Contents of state management of overseas workers

1. Elaborating, and organizing the implementation of, strategies, plans and policies on guest workers.

2. Formulating, promulgating, organizing the implementation, propagation, dissemination of, and education about, the guest worker law.

3. Defining contents of programs and documents to provide necessary knowledge for guest workers.

4. Managing, and directing and guiding the management of, guest workers; organizing the apparatus to manage guest workers; providing professional training for personnel in charge of sending workers abroad; studying the code-based management of guest workers.

5. Effecting international cooperation on sending workers abroad; negotiating and signing treaties or agreements on guest workers.

6. Organizing promotion activities to develop foreign labor markets; defining prohibited sectors, industries and jobs for guest workers; supplying information on foreign labor markets to enterprises, non-business organizations and workers.

7. Granting, renewing, withdrawing licenses, terminating activities of sending workers abroad; managing the registration and guiding the

performance of contracts under the provisions of this Law.

8. Inspecting, supervising and handling violations of the guest worker law; settling disputes, complaints and denunciations in the sending of workers abroad.

Article 70.- Responsibilities for state management of guest workers

1. The Government shall perform the state management of guest workers.

2. The Ministry of Labor, War Invalids and Social Affairs shall take responsibility before the Government for performing the state management of guest workers.

3. Ministries and ministerial-level agencies shall, within the ambit of their tasks and powers, coordinate with the Ministry of Labor, War Invalids and Social Affairs in performing the state management of guest workers under the Government's assignment.

4. People's Committees at all levels shall perform the state management of guest workers under the Government's decentralization.

Article 71.- Responsibilities of foreign-based Vietnamese diplomatic missions and consulates

1. To protect the lawful rights and interests of guest workers; to handle violations of guest workers in accordance with this Law.

2. To research and inquire into foreign labor markets, labor policies and worker-receiving modes.

3. To supply information and guide enterprises in approaching markets in order to sign labor supply contracts in accordance with the laws of Vietnam

and concerned foreign countries.

4. To support competent Vietnamese state agencies in appraising conditions and feasibility of contracts in activities of sending workers abroad as well as the legal status of foreign parties.

5. To guide and inspect activities of foreign-based representatives of Vietnamese enterprises and the non-business organizations in the management of guest workers and the settlement of problems related to them.

6. To report to and propose competent Vietnamese state agencies to handle cases showing signs of serious violations of Vietnamese law.

7. To coordinate with Vietnamese agencies, enterprises, non-business organizations, offshore-investing organizations and individuals as well as agencies and organizations of concerned foreign countries in repatriating guest workers who commit violations.

Article 72.- Inspection of activities of sending workers abroad

1. The Labor, War Invalids and Social Affairs Inspectorate shall conduct specialized inspection of activities of sending workers abroad.

2. The organization, tasks and powers of the inspectorates in charge of activities of sending workers abroad shall comply with legal provisions on inspection.

Chapter VII

SETTLEMENT OF DISPUTES AND HANDLING OF VIOLATIONS

Article 73.- Settlement of disputes

1. Disputes between workers and enterprises or non-business organizations sending workers abroad shall be settled on the basis of contracts signed between the parties and the provisions of Vietnamese law.

2. Disputes between guest workers and foreign employers shall be settled on the basis of agreements signed between the parties and the legal provisions of host countries, treaties to which the Socialist Republic of Vietnam is a contracting party and international agreements concluded between Vietnamese ministries, ministerial-level agencies or government-attached agencies and foreign parties.

3. Disputes between enterprises or non-business organizations sending workers abroad and foreign employers or brokers shall be settled on the basis of agreements signed between the parties and the provisions of Vietnamese law, the laws of host countries, treaties to which the Socialist Republic of Vietnam is a contracting party and international agreements concluded between Vietnamese ministries, ministerial-level agencies or government-attached agencies and foreign parties.

Article 74.- Handling of violations

Any persons who commit violations of this Law shall, depending on the nature and severity of their violations, be disciplined, administratively sanctioned or examined for penal liability; if causing damage, they shall pay compensation in accordance with law.

Article 75.- Handling of administrative violations

1. Enterprises or non-business organizations

sending workers abroad, organizations or individuals involved in the sending of workers abroad or guest workers who commit administrative violations prescribed in this Law shall, depending on the nature and severity of their violations, be administratively sanctioned.

2. For each administrative violation, enterprises or non-business organizations sending workers abroad, organizations or individuals involved in the sending of workers abroad shall be subject to one of the following principal sanctions:

- a/ Caution;
- b/ Fine.

3. Apart from the principal sanctions, subjects defined in Clause 2 of this Article may also be subject to one or both of the following additional sanctions:

- a/ Revocation of licenses;
- b/ Confiscation of material evidences and means of commission of administrative violations.

4. Apart from the principal and additional sanctions, subjects defined in Clause 2 of this Article may also be ordered to take one or several remedies as follows:

- a/ Suspending for a given period of time activities of sending workers abroad according to the provisions of Article 14 of this Law;
- b/ Suspending or terminating the performance of labor supply contracts;
- c/ Sending workers back to Vietnam at the request of host countries or competent Vietnamese state agencies;
- d/ Paying compensations and bearing all expenses arising due to administrative violations;
- e/ Other remedies prescribed by the Government.

5. For each administrative violation, guest workers are subject to one of the following principal sanctions:

- a/ Caution;
- b/ Fine.

6. Apart from the principal sanctions defined in Clause 5 of this Article, depending on the nature and severity of their violations, guest workers may also be subject to the additional sanction of forced repatriation.

7. The Government shall specify administrative violations, sanctioning forms and remedies for each administrative violation in the sending of workers abroad, and procedures for sanctioning administrative violations in foreign countries in case the violators' residences are unidentified.

Article 76.- Competence to sanction administrative violations

1. Presidents of provincial/municipal People's Committees, the chief inspector of the Ministry of Labor, War Invalids and Social Affairs, chief inspectors of provincial/municipal Services of Labor, War Invalids and Social Affairs and specialized independent inspectors and the director of the Department for Management of Guest Workers have the power to sanction of organizations and individuals who commit administrative violations in activities of sending workers abroad.

2. Heads of foreign-based Vietnamese diplomatic missions and consulates have the power to sanction Vietnamese guest workers who commit administrative violations in foreign countries in the forms defined in Clauses 5 and 6, Article 75 of this Law.

*Chapter VIII***IMPLEMENTATION PROVISIONS**

Article 77.- Provisions applicable to enterprises that were granted labor export permits before the effective date of this Law

Enterprises that were granted labor export permits before the effective date of this Law may continue using those permits for 180 days from the date this Law takes effect.

An enterprise that wishes to continue providing guest worker services shall reorganize its apparatus and satisfy the conditions prescribed in this Law and send a dossier for renewal of its permit to the Ministry of Labor, War Invalids and Social Affairs.

Article 78.- Dossiers, procedures for renewal of labor export permits granted before the effective date of this Law

1. A dossier for permit renewal comprises:

- a/ A written request of the enterprise;
- b/ The granted labor export permit;

c/ A document proving that the enterprise satisfies the legal capital condition in Clause 2, Article 8 and other conditions prescribed in Article 9 of this Law.

2. The permit renewal procedures are as follows:

a/ Within 15 days after receiving a complete and valid dossier prescribed in Clause 1 of this Article, the Minister of Labor, War Invalids and Social Affairs shall consider the renewal of the permit for the enterprise; in case of refusal, it shall reply the enterprise in writing, stating the reasons therefor;

b/ Pending the renewal of its permit, the

enterprise may continue providing their guest worker services.

3. An enterprise shall terminate the provision of guest worker services in one of the following cases:

a/ It fails to submit a full dossier prescribed in Clause 1 of this Article for renewal of its permit within 180 days after this Law takes effect;

b/ It receives a written notice from the Ministry of Labor, War Invalids and Social Affairs on the Ministry's refusal to renew its permit. In this case, the enterprise shall terminate the provision of guest worker services on the date it receives the notice.

4. When an enterprise is required to terminate the provision of guest worker services under the provisions of Clause 3 of this Article, it shall comply with the provisions of Clause 5 of Article 11 and Clause 1 of Article 24 of this Law.

5. Enterprises applying for renewal of their permits in accordance with this Article need not pay any fees.

Article 79.- Implementation effect

This Law takes effect on July 1, 2007.

All previous regulations contrary to this Law are annulled.

Article 80.- Implementation guidance

The Government shall detail and guide the implementation of this Law.

This Law was passed on November 29, 2006, by the XIth National Assembly of the Socialist Republic of Vietnam at its 10th session.

Chairman of the National Assembly
NGUYEN PHU TRONG