THE GOVERNMENT

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

No.: 126/2007/ND-CP

Hanoi, August 01, 2007

DECREE

DETAILING AND GUIDING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE LAW ON VIETNAMESE LABORERS TO WORK ABROAD UNDER THE CONTRACTS

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the Law on Enterprise dated November 29, 2005;
Pursuant to the Law on Vietnamese Laborers Working Abroad Under the Contracts dated November 29, 2006;
At the proposal of Minister of Labor – War Invalids and Social Affairs,

DECREE:

Article 1. Zones, business lines, and jobs prohibited to work abroad (clause 4 Article 7 of the Law)

1. They are the zones with hostilities or threat of hostilities, the affected-by-radioactivity zones, the contaminated areas, the having-particularly-dangerous epidemic disease zones.

2. The areas where the State shall receive labor and ban foreign workers from working.

3. The occupations and extremely hard, harmful and dangerous works not in accordance with the constitution of Vietnamese; works affecting fine customs of Vietnam on the prohibited list provided attached to this Decree.

Article 2. Types of enterprises granted license of service operation of sending laborers to work abroad (Clause 4, Article 8 of the Law)

Enterprise that is considered to grant License of service operation of sending laborers to work abroad (hereinafter referred to as License) is the enterprise that is established and operating under the Enterprise Law with 100% of charter capital of Vietnamese organizations and individuals.

Article 3. The legal capital of the enterprise operating services (clause 2 Article 8 of the Law)

The legal capital of enterprises operating service to send laborers to work abroad is 5 billion dong.

Article 4. Contents of the scheme operating services to send laborers to work abroad (Clause 1 Article 9 of the Law)

The Scheme operating services to send laborers to work abroad must demonstrate financial capacity, material facilities, team of staffs having sufficient qualifications and experience to meet
the requirements of the operation to send the laborers to work abroad. The scheme includes the following contents:

1. Trading name and business address, type of enterprise, business lines, capital and capital structure, enterprise owners or authorized representatives of enterprise, capital, production and business situation of enterprise (if being the enterprise operating).

2. The plan to organize apparatus of operating services to send laborers to work abroad.

3. Market expectation to send laborers to work abroad, business lines to send laborers to work, local for recruiting workers.

4. The plan for recruitment of employees, fostering necessary knowledge for employees, managing employees to work abroad.

5. Financial plan to implement service activities of sending laborers to work abroad.

**Article 5. Deposits of service enterprises (Clause 4 Article 9 of the Law)**

1. The deposit is one billion dong. Where deposit is used to solve problems arising in relation to the employees, within 30 days since the date that the deposit is used, enterprises must pay additional deposit for sufficient deposit as prescribed.

2. Enterprises deposit at commercial banks where the enterprises locate their head offices.

3. Director of Department of Overseas Labor is entitled to use the deposit of the enterprises operating services to settle the problems arising in cases where the enterprises fail to perform or perform not in full obligations in the operation sending laborers to work abroad.

4. The Ministry of Labor - Invalids and Social Affairs shall preside over and coordinate with the State Bank to guide the management and use of deposit of service enterprises.

**Article 6. Deposits of enterprises sending laborers to work abroad upon form of practice for skill improvement (Clause 4 Article 34 of the Law)**

1. Deposits of enterprises that send laborers to work abroad upon the form of practice for skills improvement are used by the competent state agencies to solve problems arising in cases where the enterprises fail to perform or perform not in full obligations in sending laborers to work abroad upon form of practice for skill improvement.

2. The deposit rate of the enterprise sending laborers to work abroad upon form of practice for skill improvement by 10% of one-way ticket money from the country where the laborers travel to work coming back Vietnam calculated by the numbers of laborers travelling to work abroad in the contract receiving laborers to practice as registered.

3. Enterprises sending laborers to work abroad upon the form of practice for skill improvement make deposits at commercial banks where the enterprises locate their head offices and present confirmation of deposit at the time of registration of Contract receiving workers to practice.

4. Use of deposit:

   a) Directors of the Department of Labor - Invalids and Social Affairs are entitled to use the deposits for the contracts sending laborers to work abroad upon the form of practice for skill improvement with time limit less than 90 days;
b) Director of Department of Overseas Labor is entitled to use the deposits for the contracts sending laborers to work abroad upon the form of practice for skill improvement with time limit from 90 days or more.

5. The Ministry of Labor - Invalids and Social Affairs shall preside over and coordinate with the State Bank to guide the management and use of deposit of enterprises sending laborers to work abroad upon the form of practice for skill improvement.

**Article 7. License fees (Clause 4 Article 10 of the Law)**

1. License fee is 5 million dong. The enterprise pays license fee at the time of receiving the license.

2. The collection, management, and use of license fee are made in accordance with the law regulations on charges and fees.

**Article 8. Responsibilities of the Ministry of Labor - Invalids and Social Affairs**

1. To take responsibility before the Government in the state management on laborers to work abroad under the contracts.

2. To develop strategies and plans on sending laborers to work abroad and direct the implementation.

3. To coordinate with concerned agencies to make legal documents, policies and mechanisms on laborers to work abroad and submitting to the competent authorities for promulgation or promulgating according to its competence; to direct the propagation and dissemination of the contents of the Law on Vietnamese Laborers to work abroad under the contracts and the relevant guidance documents.

4. To coordinate with concerned agencies to research and develop overseas labor markets.

5. To negotiate and recommend the competent authorities to sign international agreements on labor under the provisions of the law on signing, joining and implementing international agreements; to sign international agreements on labor under the provisions of the law on signing and implementing international agreements.

6. To develop and guide the implementation of the plan to train laborers to work abroad; to specify contents, programs and certificates of fostering necessary knowledge for laborers before travelling to work abroad; to foster knowledge for officers who are on duty to send laborers to work abroad, the managers of overseas labors.

7. To regulate on licenses; decide the grant, renewal, withdrawal of licenses.

8. To organize and guide the registration of contracts of enterprises and laborers to work abroad under personal contract; to supervise the implementation of contracts of enterprises.

9. To settle complaints and denunciations related to the operation of sending laborers to work abroad according to the law regulations; to inspect, examine and handle violations for the organizations and individuals committing administrative violations in the sending of laborers to work abroad.

10. To organize and implement the specialized inspection for the sending of laborers to work abroad.
11. To coordinate with the Ministry of Foreign Affairs to organize and direct the management, handling of matters related to the Vietnamese laborers to work abroad; to coordinate with the Ministry of Foreign Affairs, Ministry of Interior to organize the Management Units of Laborers directly under the diplomatic representative agencies and overseas-based Vietnam consular in the countries, zones with intensive Vietnamese labors.

12. To regulate, guide the regime of annual regular or irregular report of enterprises, of the state administrative organizations to the state management agency; to organize the implementation of the management of laborers to work abroad by codes.

13. Annually to report to the Prime Minister on the situation of Vietnamese laborers who work abroad under contracts.

**Article 9. Responsibilities of the Ministry of Foreign Affairs**

1. Together with the Ministry of Labor - Invalids and Social Affairs, related ministries, branches to research and propose to the Government on guidelines and policies of laborers to work abroad.

2. To direct, and guide the diplomatic representative agencies and the overseas-based Vietnam consular to carry out the following tasks: consular protection, protection of legitimate rights and interests of Vietnamese laborers working in home country in compliance with the laws of Vietnam, laws of the home country and international agreements which Vietnam and the countries that are members, to coordinate with local function authorities to handle matters arising in relation to the Vietnamese laborers working in the home country, to research and provide information for the market development of sending laborers to work in the home countries, to coordinate with the Ministry of Labor - Invalids and Social Affairs and the concerned agencies to organize the promotional activities of overseas labor market.

**Article 10. Responsibilities of the Ministry of Public Security**

1. To issue passports to the laborers according to provisions of law.

2. To direct the Public Security forces at all levels to hold situation of organizations and individuals engaged in activities related to the field of sending laborers to work abroad to prevent, detect and promptly deal with violations of law.

3. To coordinate with the diplomatic representative agencies or the overseas-based Vietnam consular and the Ministry of Labor - Invalids and Social Affairs to direct the competent authorities to promptly investigate, handle for the cases detected signs of crime in accordance with the law regulations.

4. To coordinate with the Ministry of Labor - Invalids and Social Affairs, diplomatic representative agencies and the overseas-based Vietnam consular in receiving Vietnamese laborers being expelled or being forced to come back Vietnam by the laborer-receiving countries under the provisions of the Law on Vietnamese Laborers to work abroad under contracts.

5. To prosecute, investigate in accordance with provisions of law for organizations and individuals committing violation of laws in the sending of laborers to work abroad.

**Article 11. Responsibilities of the Ministry of Health**

1. To stipulate conditions for the medical facilities to examine and certify health for laborers to work abroad; to cooperate with the Ministry of Finance, Ministry of Labor - Invalids and Social Affairs to unify the fee rate of health examination for laborers to work abroad.
2. To preside over and coordinate with the Ministry of Labor - Invalids and Social Affairs, the foreign competent authorities to define conditions, standards of health of laborers to work abroad to suit to each labor market.

3. To coordinate with the Ministry of Labor - Invalids and Social Affairs to synthesize periodically and evaluate the health situation of Vietnamese laborers working abroad.

4. To direct, examine, inspect, and handle violations of the medical facilities in the organization of health examinations for laborers working abroad under the provisions of law.

Article 12. Responsibilities of the Ministry of Finance

To coordinate with the Ministry of Labor - Invalids and Social Affairs and concerned ministries and branches to stipulate the financial regime in the field of Vietnamese laborers to work abroad.

Article 13. Responsibilities of the State Bank of Vietnam

1. To preside over and coordinate with the Ministry of Labor - Invalids and Social Affairs concerned ministries and branches to submit to the Government for promulgation or to promulgate according to its competence the policies of preferential credit loans to laborers subject to the social policy to work abroad.

2. To preside over and coordinate with the Ministry of Labor - Invalids and Social Affairs to guide the credit institutions loan laborers to work abroad.

Article 14. Responsibilities of People's Committees of provinces and cities under central Government

1. To perform state management on laborers working abroad in their locality.

2. To direct the specialized agencies directly under the subordinate People's Committees.
   a) To propagate and disseminate guideline, policies and laws of the State on the Vietnamese laborers to work abroad under the contracts;
   b) To have plans to train workforce and introduce the laborers who have senses of discipline, strictly execute the provisions of the law to participate in recruitment to work abroad;
   c) To coordinate with the enterprises, administrative organizations of the State to recruit laborers in the locality and management of its local laborers working abroad;
   d) To certify, confirm the documents of laborers travelling to work abroad according to law regulations;
   d) To settle complaints and denunciations of organizations and individuals related to the operation of laborers to work abroad according to law regulations;
   e) To examine, inspect and timely handle violations in the sending of laborers to work abroad of the local enterprises;
   g) To organize the receipt of contract registration of laborers to work abroad under the individual contracts and of enterprises sending laborers to work overseas upon form of practice for skill improvement.

3. To report regularly or irregularly to the Ministry of Labor - Invalids and Social Affairs on the situation of laborers to work abroad of its locality.
Article 15. Responsibilities of agencies and organizations specified in points a, b and c, Clause 2 of Article 10 of Vietnamese Labor Law to work abroad under the contracts

1. To contribute opinions with the Ministry of Labor - Invalids and Social Affairs in the licensing of service operation of sending laborers to work abroad for the enterprises that meet the conditions specified in Article 8 of the Law on Vietnamese Laborers to work abroad under the contracts.

2. To coordinate and direct the settlement of issues related to laborers sent to work abroad by the enterprises under their management scope in the case the enterprises are dissolved or declared bankrupt.

3. To support enterprises, administrative organizations under its management scope to settle the issues arising related to the rights of laborers to work abroad.

4. To settle complaints and denunciations related to the operation of sending laborers to work abroad as prescribed by law.

5. To coordinate with the Ministry of Labor - Invalids and Social in management of laborers doing the particular lines to be of the domains of management of the ministries, central branches.

Article 16. Effect

This Decree takes effect 15 days after its publication in the Official Gazette.

To annul Decree No.81/2003/ND-CP dated July 17, 2003 of the Government detailing and guiding the implementation of the Labor Code on the Vietnamese laborers to work abroad.

Article 17. Organization of implementation

1. The Ministry of Labor - Invalids and Social Affairs guides, organizes the implementation, and is responsible for inspecting and urging the implementation of this Decree.

2. The ministers, heads of ministerial-level agencies, heads of governmental agencies, Presidents of the People’s Committees of provinces and cities directly under the Central Government are responsible for the implementation of this Decree./.

FOR THE GOVERNMENT
PRIME MINISTER

Nguyen Tan Dung

LIST

OCCUPATIONS AND JOBS BANNED FROM TRAVELLING TO WORK ABROAD


1. Dancers, singers, occupation of massage, working at the restaurants, hotels, or entertainment centers.
2. The works that must frequently contact with explosives, toxic substances in practice of non-ferrous metal ores (copper, lead, mercury, silver, zinc), frequently contact with manganese, dioxide mercury.

3. The works that must expose to opened radioactive sources, radioactive ore of all types.

4. The works of production, packaging that must frequently contact with chemicals of nitric acid, sodium sulfate, carbon disulfide, the pesticides, herbicides, rodenticides, antiseptics, anti-termite with strong toxicity.

5. The hunting of predators, crocodiles, sharks.

6. The works that are often in the poor air, strong pressures (underground, the oceans).

7. The works of shrouding, the corpse bury, corpses burning, graves loading.

8. The works that are banned by the laborer-receiving countries and Vietnam./.

This translation is translated by LawSoft, for reference only.
LawSoft is protected by copyright under clause 2, article 14 of the Law on Intellectual Property.
LawSoft always welcome your criticisms.

This translation is made by LawSoft and for reference purposes only. Its copyright is owned by LawSoft and protected under Clause 2, Article 14 of the Law on Intellectual Property. Your comments are always welcomed.