



LAW

*No 72/2006/QH11 dated November 29, 2006 of the XIth National Assembly,
Session 10*

ON VIETNAMESE WORKERS WORKING ABROAD UNDER CONTRACT

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

This Law provides for Vietnamese workers working abroad 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 workers working abroad under contract; rights and obligations of enterprises and State-owned non profit organizations sending workers abroad under contract, and of organizations and individuals concerned.

Article 2. Subjects of application

This Law applies to the following organizations and individuals:

1. Enterprises and State-owned non-profit organizations sending workers abroad under contract;
2. Workers working abroad under arrangements defined in Article 6 of this Law;
3. Guarantors for workers working abroad under contract;
4. Organizations and individuals involved in the overseas contractual employment of workers.

Article 3. Interpretation of terms



For the purposes of this Law, the terms below are defined as follows:

1. *Workers working abroad under contract* (hereinafter referred to as workers working abroad) means Vietnamese citizens residing in Vietnam who meet all the requirements prescribed by laws of Vietnam and of receiving countries, and go to work abroad in accordance with this Law.

2. *Labor supply contract* means a written agreement between a Vietnamese enterprises or a State owned non-profit organization and a foreign party on the conditions and obligations of the two parties in supplying and receiving Vietnamese workers working abroad.

3. *Contract for sending workers for overseas employment* means a written agreement between an enterprise or a State-owned non-profit organization and a worker on the rights and obligations of the parties in the sending of the worker to work abroad.

4. *Individual contract* means a direct written agreement between a worker and a foreign party for working abroad.

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

6. *Guarantee for workers working abroad* means a commitment made by a third person (hereinafter referred to as guarantor) to an enterprise or a State-owned non-profit organization sending workers abroad to perform the obligations of workers working abroad who fail to perform or to fully perform such obligations prescribed in Contract for sending workers for overseas employment.

Article 4. Contents of activities of sending workers abroad

Activities of sending workers abroad shall include:

1. Signing contracts relating to workers working abroad;
2. Recruiting workers;
3. Providing training on skills, languages for workers; providing pre-departure orientation for workers;
4. Implementing contracts for sending workers for overseas employment;



5. Managing workers working abroad, protecting their legal rights and interests;
6. Implementing mechanisms and policies applicable to workers working abroad;
7. Liquidating contracts between enterprises or State-owned non-profit organizations and workers working abroad;
8. Other activities of organizations or individuals relating to workers working abroad.

Article 5. State policies on Vietnamese workers working abroad

1. To facilitate qualified Vietnamese citizens to work abroad.
2. To protect the legal rights and interests of workers working abroad, of enterprises and State-owned non-profit organizations sending workers abroad.
3. To support investment in new labor markets, high-income markets and high volume labor markets; support the training of managers, foreign language teachers and vocational trainers.
4. To adopt preferential credit policies for socially targeted groups to work abroad.
5. To encourage the sending of a high number of workers with professional and technical skills to work abroad, and the sending of workers to high-income markets; to encourage the sending of workers to sites, projects, production or business establishments set up or invested overseas by contract-winning or contract-receiving enterprises, organizations or individuals.

Article 6. Arrangements for working abroad

Workers shall work abroad under one of the following arrangements:

1. Under contracts signed with enterprises providing overseas employment services, or with State-owned non-profit organizations permitted to send workers abroad;
2. Under contracts for sending workers abroad signed with contract-winning or contract-receiving enterprises or with offshore-investing organizations or individuals that send workers abroad.



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

4. Under individual contracts.

Article 7. Prohibited acts

1. Granting licenses for sending workers abroad (hereinafter referred to as licenses) to unqualified enterprises as prescribed by this Law.

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

3. Assigning the task of administering activities of sending workers abroad to any person who managed an enterprise with a revoked license or to any person who is serving a caution or more severe disciplinary action due to his/her violations of the law on sending workers abroad.

4. Working in or sending workers to areas, sectors and occupations prohibited under government regulations or not permitted by the receiving 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 work or fleeing from workplaces as stated in contracts after entering the receiving country.

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

10. Enticing, seducing or cheating Vietnamese workers working abroad to stay illegally in foreign countries.

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

Chapter II



ENTERPRISES AND STATE NON PROFIT ORGANIZATIONS SENDING WORKERS FOR OVERSEAS EMPLOYMENT

Section 1

ENTERPRISES PROVIDING OVERSEAS EMPLOYMENT SERVICE

Article 8. Enterprises providing overseas employment service

1. Sending worker abroad for employment is a conditional business activity.
2. Enterprises providing overseas employment service (hereinafter referred to as licensed enterprises) shall have legal capital under government regulations and licenses granted by a competent state agency.
3. Licensed enterprises shall directly organize the provision of overseas employment service.
4. The Government shall specify types of enterprises licensed to provide the overseas employment service based on the domestic socio-economic development situation in each period and the international economic integration roadmap.

Article 9. Licensing conditions

An enterprise having legal capital stipulated in Item 2, Article 8 of this Law, having satisfied the following conditions shall be granted with a license:

1. Having a scheme on sending workers abroad.
2. Having a specialized section to provide pre-departure orientation for workers and a specialized section to send workers for overseas employment in accordance with regulations of the Ministry of Labor, War Invalids and Social Affairs. For an enterprise submitting an application dossier for the first time, a plan on organization of the specialized sections is required.
3. The leader in charge of administering activities of sending workers abroad having a university or higher degree, at least three-years experience in the sending of workers abroad or in international cooperation and relations.
4. Having submitted a deposit as stipulated by the Government.

Article 10. Licensing dossiers, procedures and fees

1. A licensing dossier shall comprise:



- 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 that issued the establishment decision or that submitted the proposal to the Prime Minister to establish the enterprise in cases of SoEs;
- b) The person who issued the decision to establish the enterprise in case of an enterprise under a political, socio-political, social or socio-professional organization;
- c) The Chairman of the People's Committee of the province or central 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 for refusal.

4. The licensed enterprise shall pay a licensing fee. The licensing fee amount is set by the Government.

Article 11. Renewal of licenses

1. If a licensed enterprise satisfies legal capital requirements in Clause 2, Article 8 and the conditions in Article 9 of this Law, that licensed enterprise shall have its license renewed when it is re-granted a business registration certificate as a result of a change in the contents of its business registration.

2. A dossier for renewal of a license comprises:

- a) The licensed 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 requirement 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; if the enterprise fails to send the license renewal dossier within this period, its license shall 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 reply in writing 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 the overseas employment service.

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 of the refusal to renew its license.

Within 90 days after receiving a written notice on the refusal to renew its license, a licensed 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 licensed enterprise shall 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 authority in the place where the licensed 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 licensed 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 license 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 specific term

1. A licensed enterprise falling in one of the following cases shall be suspended from sending workers abroad for a specific 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 suspended from sending workers abroad, a licensed enterprise shall not sign or register labor supply contracts, nor recruit workers.

Article 15. Turning in, revocation of licenses



1. A licensed 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 overseas employment service.

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

a) Failing to complete procedures for renewal of its license or being not allowed to renew its license;

b) Failing to abide by 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 central city where the concerned enterprise is headquartered.

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

5. If satisfying the legal capital condition in Clause 2 of Article 8 and the conditions in Article 9 of this Law, having paid all debts and settled other asset liabilities prescribed by law, a licensed 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 a licensed enterprise



1. A licensed enterprise is allowed to assign no more than three branches in three provinces or central cities to provide a number of its services when satisfying the conditions prescribed in Clause 2 of this Article.

2. A branch assigned to provide the service shall meet all the following requirements:

- a) The licensed enterprise must have assigned tasks to the branch;
- b) The branch must have publicly displayed its address, telephone number, fax number and email address at its office;
- c) The branch must have assigning duties to each employee in charge of providing overseas employment services.

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

- a) Signing labor supply contracts or contracts for sending workers abroad;
- b) Collecting service or brokerage charges and deposits from workers, unless authorized by the licensed enterprise.

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

5. Branches shall send periodical and ad hoc reports to, and be subject to inspection and supervision by, the Department of Labor, War Invalids and Social Affairs of the provinces or cities where they are based.

6. Branches shall publicly displayed at their offices the task-assignment decisions and copies of the licenses of the licensed enterprises.

Article 17. Labor supply contract, contract for sending workers for overseas employment and labor contract

1. A labor supply contract shall be in accordance with the laws of Vietnam and the receiving country, and comprises the following principal contents:

- a) Duration of the contract;



- b) Number of workers on overseas employment; the working sector and occupation;
- c) Places of work;
- d) Working conditions and environment;
- e) Working hours and rest hours;
- f) Occupational safety and health;
- g) Wages, remuneration, other benefits and bonuses (if any); overtime pays;
- h) Accommodation conditions;
- i) Health care scheme;
- j) Social insurance scheme;
- k) Conditions for early termination of contract and compensation liability;
- l) Responsibility for transportation between Vietnam and the workplace;
- m) Brokerage commission (if any);
- n) Responsibilities of concerned parties for the death of a worker during his/her employment abroad;
- o) Settlement of disputes;
- p) Responsibility for assisting workers in remitting money to Vietnam.

2. Contracts for sending workers for overseas employment and labor contracts shall have specific contents conforming with the contents of labor supply contracts. The agreement on brokerage, service charges and deposits of workers must be recorded in the contract for sending workers for overseas employment.

3. The Ministry of Labor, War Invalids and Social Affairs shall provide the forms and contents of labor supply contracts and contracts for sending workers for overseas employment appropriate to each labor market.

Article 18. Registration of labor supply contract



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

2. Labor supply contracts shall 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 for disapproval.

Article 19. Dossiers of registration of labor supply contract

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

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

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

3. Documents proving that the sending of workers abroad accord with the laws of the receiving country.

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

5. Relevant documents stipulated 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 licensed enterprise shall pay to the broker in order to sign and perform a labor supply contract.

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

2. Licensed 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, with the Ministry of Finance, define the ceiling brokerage commission rates, the management and use of brokerage commission.



Article 21. Service charge

1. Service charge means an amount paid by a worker to a licensed enterprise for the performance of a contract for sending workers for overseas employment.

2. Licensed enterprises shall reach agreement with workers on the one-off collection of service charge prior to the workers' emigration or by installments during the time the workers work abroad.

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 for reasons beyond his/her control shall be refunded by the concerned licensed enterprise an amount equivalent to the proportion of the service charge corresponding to the remaining duration of the contract.

4. The Ministry of Labor, War Invalids and Social Affairs shall, with the Ministry of Finance, set the ceiling of service charge.

Article 22. Deposit of licensed enterprise

1. Deposits of licensed enterprises defined in Clause 4, Article 9 of this Law shall be used by competent state agencies to deal with issues 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 licensed 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 shall 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, with the State Bank of Vietnam, specify the management and use of deposits of enterprises.

Article 23. Deposits of workers

1. Workers shall reach agreement with a licensed enterprise on their deposits according to Clauses 2 and 4 of this Article to ensure the performance of contracts for sending workers for overseas employment.

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



3. The deposit money and its interest shall be refunded to the workers upon the liquidation of contract for sending workers for overseas employment.

When workers breach contracts for sending workers for overseas employment, their deposits shall be used by the licensed 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 licensed enterprises may reach agreement with workers on the payment of deposits; set a ceiling 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, with the State Bank of Vietnam, specify the management and use of workers' deposits.

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

1. A licensed 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 contracts for sending workers for overseas employment while the contracts remain effective.

2. The management and use of deposits of a licensed 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 licensed enterprise turns in its license or has it revoked are as defined in Article 23 of this Law.

Article 25. Responsibilities of licensed enterprises in case of dissolution

1. A licensed enterprise may dissolve only after having fulfilled all obligations in labor supply contracts and contracts for sending workers for overseas employment that 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 licensed enterprise shall report to the Ministry of Labor, War Invalids and Social Affairs on the situation of workers it has dispatched abroad and the plan on the performance



of its obligations stated in labor supply contracts and contracts for sending workers for overseas employment that remain effective.

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

A licensed 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 licensed 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 contracts for sending workers for overseas employment, the licensed enterprise may use their remaining deposits to pay other debts.

Article 26. Responsibilities of licensed enterprises in cases of bankruptcy

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

2. A licensed enterprise shall stop signing contracts, recruiting and sending workers abroad on the date the court issues the decision to open bankruptcy procedures until 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 contracts for sending workers for overseas employment is provided as follows:

a) A licensed enterprise may reach agreement with another licensed enterprise on the transfer of its rights and obligations in the effective labor supply contracts and contracts for sending workers for overseas employment, provided



that the transfer plan is approved by the Ministry of Labor, War Invalids and Social Affairs.

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

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

Article 27. Rights and obligations of licensed enterprises

1. A licensed enterprise has the following rights:

a) To provide the service of sending workers for overseas employment; to recruit workers in localities;

b) To sign labor supply contracts with foreign parties, contracts for sending workers for overseas employment with workers, and guarantee contracts with guarantors prior to the workers' departure for overseas employment;

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 contracts for sending workers for overseas employment in cases where the workers or their legally 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 the labor contracts;



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

2. A licensed 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 Departments of Labor, War Invalids and Social Affairs; to report, biannually and annually, to the provincial Departments of Labor, War Invalids and Social Affairs on the recruitment results and the number of local workers who have been dispatched 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 contracts for sending workers for overseas employment;

d) To provide pre-departure orientation or make arrangements for vocational training establishments or training institutions to provide vocational and foreign languages training for workers in accordance with the requirements of each labor market prior to sending them abroad;

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

f) To coordinate with foreign parties in dealing with matters arising in case the workers die, having had occupational accidents or risks, occupational diseases, or have their life, health, honor or dignity or property abused, and to settle disputes related to workers;

g) To report to and coordinate with Vietnamese diplomatic missions or consulates in managing and protecting the legal 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 contracts for sending workers for overseas employment with workers in accordance with this law;



j) To make contributions to the Fund for overseas employment support in accordance with this Law;

k) To send to the Ministry of Labor, War Invalids and Social Affairs annual and ad hoc 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 construction or other 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 construction or other projects for which it wins or receives contracts.
4. Having a plan on workers 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 workers working abroad 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 prior to sending workers abroad, a contract - winning or -receiving enterprise shall submit to 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 contracts for sending workers for overseas employment.



2. A report on the sending of workers for overseas employment has the following contents:

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

b) The financial plan for returning the 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 to the enterprise in writing. In case of disapproval, the Ministry shall state the reasons 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 provide pre-departure orientation to the workers prior to sending them abroad.

2. To directly organize the sending and the management of workers working abroad.

3. To sign and liquidate contracts for sending workers for overseas employment with workers. These 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 abroad, the enterprise shall organize the sending of those workers back to Vietnam and shall bear all associated expenses.



7. To organize the bringing of the remains of workers who die while working abroad, bearing all related expenses; to implement other compensation and subsidy mechanisms in accordance with Vietnamese law.

8. To report and coordinate with Vietnamese diplomatic missions and consulates in managing workers working abroad and protecting their legitimate rights and interests.

9. To report annually, on ad hoc basis and upon completion of the won or received contracts, 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 satisfying all following conditions:

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

2. Sending workers to only production or business establishments in which it/he/she has invested and set up abroad.

3. Having a plan on 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 laws of Vietnam and the country where the workers work.

Article 32. Reporting on the sending of workers abroad

1. At least twenty days prior to sending workers abroad, an offshore-investing organization or individual shall submit a report to the Ministry of Labor, War Invalids and Social Affairs on the sending of workers abroad,



enclosed with a copy of the investment certificate, a brief description of the offshore investment project and a list of workers who have signed contracts for sending workers for overseas employment.

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

a) The plan on worker employment and management, which clearly states the number of workers working abroad, their jobs, working times and rest times, salaries, living conditions, health care conditions, social insurance and other worker benefits;

b) The financial plan for sending workers working abroad back to Vietnam in *force majeure* circumstances.

3. Within ten 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 to the enterprise in writing. In case of disapproval, it shall clearly state the reasons for disapproval.

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 provide pre-departure orientation to the workers prior to sending them abroad.

2. To directly organize the sending and the management of workers working abroad.

3. To sign and liquidate contracts for sending workers for overseas employment with workers. These contracts must have contents as specified in Clause 3, Article 17 of this Law.

4. To ensure workers' benefits, solve problems arising under contracts for sending workers for overseas employment.

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

6. To ensure that workers have regular health checks, medical examination and treatment when they get sick or meet with accidents. When workers are no



longer capable of working abroad, to send them back to Vietnam and bear all associated expenses.

7. To organize the sending home of the remains of workers who die while working abroad, bearing all associated expenses; to apply other compensation and subsidy mechanisms in accordance with the laws of Vietnam and the country where the workers work.

8. To report to and coordinate with Vietnamese diplomatic missions and consulates in managing workers working abroad and protecting their legal 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 UNDER SKILL IMPROVEMENT INTERNSHIPS

Article 34. Conditions for sending workers abroad to work under skill improvement internships

An enterprise may send workers abroad to work under skill improvement internships when it meets all the following conditions:

1. Having contracts with foreign institutions on sending workers abroad to work under skill-improvement internships (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 for overseas employment to work under skill improvement internships (below called contracts for sending interns for overseas employment) as prescribed in Clause 3, Article 35 of this Law; workers dispatched abroad must have labor contracts with the enterprise under the provisions of the labor law.

3. The occupations and jobs performed by interns must be relevant to the production and business line of the enterprise.

4. Paying a deposit for the performance of intern acceptance contract under government regulations.



Article 35. Intern acceptance contracts, contracts for sending interns for overseas employment and skill improvement 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 under skill improvement internships.

2. An intern acceptance contract shall conform with the laws of Vietnam and the intern receiving country, and shall have the following principal contents:

- a) The internship duration;
- b) The number of interns, working sectors and occupations for internship;
- c) The place of internship;
- d) The internship conditions and environment;
- e) The internship work times and rest times;
- f) Occupational safety and health;
- g) Salaries and incomes;
- h) Living conditions;
- i) Health care conditions;
- j) Social insurance conditions;
- k) Conditions for early termination of contracts and compensation liability;
- l) Responsibilities for payment of travel expenses from Vietnam to the place of internship and vice versa.
- m) Responsibilities of the parties in case a worker dies while working abroad;
- n) Settlement of disputes;
- o) Responsibilities for assisting workers in remitting money to Vietnam.



3. A contract for sending an intern for overseas employment is a written agreement between an enterprise and an intern on the rights and obligations of the two parties.

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

5. Contracts for sending interns for overseas employment and internship contracts must have contents compatible with those of intern-acceptance contracts.

Article 36. Registration of intern acceptance contracts

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

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

b) The enterprise sending workers abroad to work under a 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 to the enterprise in writing. In case of disapproval, it shall clearly state the reason for disapproval.

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 intern acceptance contract.

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

3. Documents proving that the sending of workers abroad to work under skill improvement internships conforms with the laws 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 under skill improvement internships

1. An enterprise has the following rights:

a) To sign intern acceptance contracts with intern-accepting institutions; to sign contracts for sending interns for overseas employment with workers prior to their departure abroad to work under skill improvement internships;

b) To request workers to pay compensation in accordance with relevant laws 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 of the internship;

b) To provide pre-departure orientation, to teach or make arrangements with training institutions to teach foreign languages for interns in accordance with requirements of the receiving country prior to sending them abroad;

c) To organize the management of interns dispatched abroad and the protection of their legal rights and interests;

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

e) To report to and coordinate with Vietnamese diplomatic missions and consulates in managing interns and protecting their legal rights and interests;

f) To pay compensation in accordance with relevant laws to workers for damage caused by the enterprise;

g) To liquidate contracts for sending interns for overseas employment in accordance with relevant laws;



h) To settle benefits for interns in case the enterprise is dissolved or bankrupt;

i) To report periodically and extraordinarily to competent state agencies in accordance with relevant laws.

Section 5

STATE OWNED NON-PROFIT ORGANIZATIONS SENDING WORKERS ABROAD

Article 39. Conditions for State-owned non-profit organizations to send workers abroad

A State owned non-profit organization may send workers abroad when fully satisfying the following conditions:

1. Being under a ministry, ministerial-level agency or government-affiliated 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-affiliated agency.

3. Its leader has a university or higher degree, at least 3-years' 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 profit.

Article 40. Cases where State-owned non-profit organizations may send workers abroad

A State-owned non-profit 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-affiliated 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 State-owned non-profit organizations sending workers abroad

1. A State owned non-profit 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 contracts for sending workers for overseas employment 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 Ministry of Labor, War Invalids and Social Affairs;

e) To request workers to pay compensation in accordance with relevant laws for damage caused by those workers;

f) To lodge complaints about or initiate lawsuits against decisions or acts in violation of the law on sending workers abroad;

g) To unilaterally liquidate contracts for sending workers for overseas employment with workers who breach contracts by not returning home, who fail to present, or whose representatives fail to present, to liquidate contracts after the State-owned non-profit organization has sent them written notices by registered mail three times in a period of 180 days.

2. A State-owned non-profit organization has the following obligations:

a) To prepare a scheme for sending 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), contracts for sending workers for overseas employment and the plan on the performance of those contracts prior to 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-affiliated agency which has assigned it the task of sending workers abroad;

d) To provide pre-departure orientation, to teach or make arrangements with vocational training institutions or training establishments to teach foreign languages, professional, technical and operational skills for workers prior to 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 Vietnamese diplomatic missions and consulates in managing workers working abroad and protecting their legal rights and interests, and solving their problems; to nominate representatives to coordinate with foreign parties in managing workers working abroad in accordance with the requirements of each labor market.

f) To liquidate contracts for sending workers for overseas employment with workers in accordance with law.

Chapter III

WORKERS WORKING ABROAD

Section 1. WORKERS WORKING ABROAD UNDER CONTRACTS WITH ENTERPRISES, STATE-OWNED NON-PROFIT ORGANIZATIONS, ORGANIZATIONS OR INDIVIDUALS MAKING OFFSHORE INVESTMENT

Article 42. Conditions for workers working abroad under contracts with enterprises, State-owned non-profit organizations, organizations or individuals making offshore investment

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

1. Having full civil legal capacity;
2. Willing to work abroad;
3. Law abiding and of good moral behaviors;
4. Having good health as provided for by Vietnamese law and required by the receiving country;



5. Meeting requirements of foreign language skills, technical and professional qualifications and other requirements of the receiving country;
6. Having a certificate of possession of pre-departure orientation;
7. Not subject of a ban on exiting Vietnam under Vietnamese law.

Article 43. Workers working abroad dossiers

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

2. A worker working abroad 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 institution attesting to the worker's good health;
- d) Diplomas or certificates of foreign language proficiency, job skills and expertise and a certificate of possession of pre-departure orientation;
- e) Other documents as required by the worker-receiving party.

Article 44. Rights of workers working abroad

A worker working abroad has the following rights:

1. To request the enterprise, State-owned non-profit organization, offshore-investing organization or individual to supply information on Vietnamese policies and law on workers working abroad; information on relevant policies and laws as well as customs and practice of the receiving country; and on rights and obligations of related parties while he/she works abroad.
2. To be entitled to salaries, remunerations and other incomes, health care, 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 legal rights and interests protected while working abroad by the enterprise, State-owned non-profit organization, offshore-investing organization or individual, and by the Vietnamese diplomatic mission or consulate in accordance with the Vietnamese law, the law of the host country as well as 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 receiving country.

5. To enjoy the benefits from the abroad 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 workers working abroad

A worker working abroad has the following obligations:

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

2. To actively learn the technical skills, foreign language and relevant laws.

3. To participate in a training course to acquire pre-departure orientation.

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

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

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

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



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

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

Article 46. Rights and obligations of workers working abroad under contracts for sending workers for overseas employment with licensed enterprises

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

1. To sign a contract for sending workers for overseas employment with the licensed enterprise;

2. To receive training in vocational 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 be awarded compensation where the licensed enterprise breaches the contract for sending workers for overseas employment;

5. To extend the labor contract or sign a new labor contract in accordance with the law of the receiving country;

6. To pay service charges and refund brokerage commissions (if any) to the licensed enterprise;

7. To pay a deposit or introduce a guarantor according to the agreement with the licensed enterprise in order to secure the performance of the contract for sending workers for overseas employment;

8. To liquidate the contract for sending workers for overseas employment with the licensed enterprise within 180 days from the date of termination of the labor contract.

Article 47. Rights and obligations of workers working abroad under contracts for sending workers for overseas employment 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 worker working abroad under a contract for sending workers for overseas employment with a contract-winning or -receiving enterprise or offshore-investing organization or individual has the following rights and obligations:

1. To sign a contract for sending workers for overseas employment with the contract-winning or -receiving enterprise or offshore-investing organization or individual;
2. To receive training in vocational and foreign language skills to meet the requirements of the contract for sending workers for overseas employment.
3. To be awarded compensation in case the contract-winning or -receiving enterprise or offshore-investing organization or individual breaches the contract.
4. To liquidate the contract for sending workers for overseas employment with the contract-winning or -receiving enterprise or offshore-investing organization or individual.

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

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

1. To sign a contract for sending interns for overseas employment with the enterprise that sends him/her abroad to work under a skill improvement internship;
2. To be awarded compensation in case the enterprise sending him/her abroad to work under a skill improvement internship breaches the contract for sending interns for overseas employment.
3. To liquidate the contract for sending interns for overseas employment with the enterprise that sends him/her abroad under a skill improvement internship contract.

Article 49. Rights and obligations of workers working abroad under contracts for sending workers for overseas employment with State-owned non-profit organizations

Apart from the rights and obligations provided for in Articles 44 and 45 of this Law, a worker working abroad under a contract for sending workers for



overseas employment with a State-owned non-profit organization has the following rights and obligations:

1. To sign a contract for sending workers for overseas employment with the State owned non-profit organization;
2. To introduce a guarantor to the State owned non-profit organization.
3. To be awarded compensation in case the State owned non-profit organization breaches the contract for sending workers for overseas employment;
4. To pay a sum of money under the provisions of Point d, Clause 1, Article 41 of this Law.
5. To liquidate the contract for sending workers for overseas employment with the State owned non-profit 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

WORKERS WORKING ABROAD UNDER INDIVIDUAL CONTRACTS

Article 50. Conditions for workers working abroad under individual contracts

A worker may work abroad under an individual contract when fully satisfying the following requirements:

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 on individual contract registration issued by the provincial Department 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 shall have the following principal contents:

- a) The job to be done;
- b) The term of the contract;
- c) The workplace;
- d) Working hours and rest hours;
- e) Salary, remuneration and extra work pays;
- f) Health care 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 for individual contract registration with the provincial Department of Labor, War Invalids and Social Affairs in the locality where the concerned worker resides shall comprise:

- 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 Department of Labor, War Invalids and Social Affairs shall issue a written certification on individual contract registration to the worker. In case of disapproval, it shall clearly state the reason for disapproval.



The certificate of registration of the individual contract must be produced when the worker exits for overseas employment.

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

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

a) To be provided with information on Governmental laws and policies on workers working abroad by the provincial Department of Labor, War Invalids and Social Affairs;

b) To have his/her legal rights and interests protected while working abroad by the 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 be entitled to benefits from the Fund for overseas employment 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 worker working abroad 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 Fund for overseas employment support 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 WORKERS WORKING ABROAD

Article 54. Conditions for guarantors

A guarantor must satisfy the following conditions:

1. Having full civil legal 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) Workers working abroad under contracts for sending workers for overseas employment with licensed enterprises fail to make deposits or have insufficient money to make deposits under the provisions of Article 23 of this Law;

b) Workers working abroad under contracts for sending workers for overseas employment with a State owned non-profit organization which requests them to have guarantee.

2. Guarantors shall reach agreement with licensed enterprises or State-owned non-profit organizations on their responsibilities to provide a partial or whole guarantee for the liabilities of their workers working abroad.

3. When a worker breaches the contract for sending workers for overseas employment and causes damage to a licensed enterprise or State owned non-profit



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 licensed enterprise or State owned non-profit organization. The remaining property of the guarantor after paying compensation shall be returned to the guarantor.

Article 56. Duration of the guarantee obligation

The duration for performance of the guarantee obligation shall be agreed between the guarantor and the licensed enterprise or State owned non-profit organization; if they cannot reach agreement, the guarantor shall perform the guarantee obligation within a reasonable time limit to be fixed by the licensed enterprise or State owned non-profit organization, which shall be counted from the time the guarantor receives the licensed enterprise or State-owned non-profit 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 duration of the guarantee obligation;
 - d) The handling of the guarantor's property.
3. The Ministry of Labor, War Invalids and Social Affairs shall, with the Ministry of Justice, specify 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. Licensed enterprises and State owned non-profit organizations may reach agreement with guarantors on the application of a 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 a 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 Departments of Labor, War Invalids and Social Affairs shall notify returned workers of domestic employment opportunities; and shall guide and introduce them to register to find appropriate jobs.

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

Article 60. Encouragement of job creation

1. The State facilitates and encourages former workers working abroad to invest in production or business activities and create jobs for themselves and for others.

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

Chapter IV

VOCATIONAL TRAINING, FOREIGN LANGUAGE TRAINING AND PRE-DEPARTURE ORIENTATION

Article 61. Purposes of vocational training, foreign language training and pre-departure orientation

Vocational training, foreign language training and pre-departure orientation aims to provide workers working abroad with occupational and foreign language skills, legal knowledge and other necessary knowledge as required by the labor markets.

Article 62. Responsibilities of workers in learning vocational skills, foreign languages and acquiring pre-departure orientation

1. Workers wishing to work abroad must take the initiative in learning vocational skills and foreign languages, learn about relevant laws and participate



in pre-departure orientation courses organized by licensed enterprises, State-owned non-profit 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 vocational skills and foreign languages and acquire pre-departure orientation.

Article 63. Vocational training, foreign language training for workers working abroad

Licensed enterprises, State owned non-profit organizations and offshore-investing organizations or individuals that send workers abroad shall conduct or make arrangements with vocational training institutions or training establishments to conduct vocational 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 workers working abroad; set up vocational training schools with adequate training equipment, facilities, programs, curricula and staff in order to train workers with professional, technical, and foreign language skills as required by the labor markets.

Article 65. Pre-departure orientation

1. Licensed enterprises, State owned non-profit organizations and offshore-investing organizations or individuals that send workers abroad shall provide workers with pre-departure orientation, test and grant certificates prior to sending them abroad.

2. Pre-departure orientation 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 licensed enterprise, State owned non-profit organization, offshore-investing organization or individual and the worker;



- d) Labor discipline, occupational safety and health;
 - e) Customs, practice and culture of the receiving country;
 - f) Working and living behaviors;
 - g) Use of means of transport, purchase and use of tools and equipment for daily 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 of pre-departure orientation.

Chapter V

FUND FOR OVERSEAS EMPLOYMENT SUPPORT

Article 66. Fund for overseas employment support

The Fund for overseas employment support 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 legal sources.

Article 68. Establishment, management and use of the Fund for overseas employment support

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

2. The Prime Minister shall decide on the establishment of the fund; provide for its management and use; levels of contribution by enterprises, workers working abroad and state budget support; and levels of benefits for target beneficiaries.



Chapter VI

STATE MANAGEMENT OF WORKERS ON OVERSEAS EMPLOYMENT

Article 69. Scope of state management of workers on overseas employment

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

2. Formulating, promulgating, organizing the implementation, propagation, dissemination of, and education about the laws on worker working abroad.

3. Defining contents of programs and materials on pre-departure orientation for workers working abroad.

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

5. Promoting international cooperation on sending workers abroad; negotiating and signing treaties or agreements on workers working abroad.

6. Organizing promotion activities to develop foreign labor markets; defining prohibited sectors, industries and jobs for workers working abroad; supplying information on foreign labor markets to enterprises, State owned non-profit 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 law on sending workers abroad; settling disputes, complaints and denunciations in the sending of workers abroad.

Article 70. Responsibilities for state management of workers working abroad

1. The Government shall perform the state management of workers working abroad.



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

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 workers working abroad under the Government's assignment.

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

Article 71. Responsibilities of Vietnamese diplomatic missions and consulates

1. To protect the legal rights and interests of workers working abroad; to handle violations of workers working abroad 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 State owned non-profit organizations in the management of workers working abroad 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, licensed enterprises, State owned non-profit organizations, offshore-investing organizations and individuals as well as agencies and organizations of concerned foreign countries in repatriating workers working abroad 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 licensed enterprises or State owned non-profit 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 workers working abroad and foreign employers shall be settled on the basis of agreements signed between the parties and the legal provisions of receiving 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-affiliated agencies and foreign parties.

3. Disputes between licensed enterprises or State owned non-profit 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 receiving 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 State owned non-profit organizations sending workers abroad, organizations or individuals involved in the sending of workers abroad or



workers working abroad 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 State owned non-profit 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 receiving 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, workers working abroad 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, workers working abroad 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. Chairmen of provincial People's Committees, the Chief inspector of the Ministry of Labor, War Invalids and Social Affairs, Chief inspectors of provincial/municipal Departments of Labor, War Invalids and Social Affairs and specialized independent inspectors and the Director General, Department of Overseas Labor have the power to sanction organizations and individuals who commit administrative violations in activities of sending workers abroad.

2. Heads of Vietnamese diplomatic missions and consulates have the power to sanction Vietnamese workers working abroad 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 license to send workers abroad prior to the effective date of this Law

Enterprises that were granted licenses to send workers abroad prior to the effective date of this Law may continue using those licenses for 180 days from the date this Law takes effect.

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

Article 78. Dossiers, procedures for renewal of licenses to send workers abroad granted prior to the effective date of this Law



1. A dossier for permit renewal comprises:
 - a) A written request of the enterprise;
 - b) The granted license to send workers abroad;
 - c) 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 to the enterprise in writing, stating the reasons for refusal;
 - b) Pending the renewal of its license, the enterprise may continue providing the overseas employment service.
3. An enterprise shall terminate providing overseas employment 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 of the Ministry's refusal to renew its permit.
4. When an enterprise is required to terminate the provision of overseas employment service 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 shall be exempted from payment of application 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



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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