

**THE GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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No. 95/2013/ND-CP

*Hanoi, August 22, 2013*

## **DECREE**

### **ON PENALTIES FOR ADMINISTRATIVE VIOLATIONS AGAINST REGULATIONS ON LABOR, SOCIAL INSURANCE, AND OVERSEAS MANPOWER SUPPLY**

*Pursuant to the Law on Government organization dated December 25, 2001;*

*Pursuant to the Law on Handling administrative violations dated June 20, 2012;*

*Pursuant to the Labor Code dated June 18, 2012;*

*Pursuant to the Law on Social insurance dated June 29, 2006;*

*Pursuant to the Law on Vietnamese guest workers dated November 29, 2006;*

*At the request of the Minister of Labor, War Invalids and Social Affairs;*

*The Government issues a Decree on penalties for administrative violations against regulations on labor, social insurance, and overseas manpower supply,*

#### **Chapter 1.**

### **GENEREAL PROVISIONS**

#### **Article 1. Scope of regulation**

This Decree deals with the violations, penalties, fines, remedial measures, the powers to impose penalties, the procedure for imposing penalties against regulations on labor, social insurance, and overseas manpower supply.

#### **Article 2. Subjects of application**

1. Employers.
2. Workers.
3. The organizations and individuals that commit violations specified in this Decree.

#### **Article 3. Fines for administrative violations against regulations on labor, social insurance, and overseas manpower supply**

1. The fines for the violations mentioned in Chapter II, Chapter III, and Chapter IV of this Decree are applicable to individuals, except for the cases in Clause 1 and Clause 2 of Article 4, Clause 2, Clause 4 and Clause 6 of Article 9, Clause 6 and Clause 7 of Article 17, and Articles 29 to 34 of this Decree. The fines applicable to organizations are twice as much as those applicable to individuals.
2. The powers to impose penalties for administrative violations specified in Chapter VI of this Decree are applicable to individuals. The powers to impose fines incurred by organizations are twice at much those applicable to individuals.

## **Chapter 2.**

### **VIOLATIONS, PENALTIES, FINE LEVELS AND REMEDIAL MEASURES APPLICABLE TO VIOLATIONS AGAINST REGULATIONS ON LABOR**

#### **Article 4. Violations against regulations on employment services**

1. The employment agency shall carry a fine of from 1,000,000 VND to 3,000,000 VND for each worker that is charged beyond the following limits:

- a) A fine of from 5,000,000 VND to 10,000,000 VND for misinformation or causing confusion as to the work position;
- b) A fine of from 45,000,000 VND to 60,000,000 VND for running the employment agency without being licensed by a competent authority, or using an expired license.

2. Remedial measures:

- a) Compelling the return of employment service charge that exceeds the limits, applicable to the violations in Clause 1 of this Article;
- b) Compelling the remittance of the inordinate charges collected from workers to government budget, applicable to the violations in Clause 3 of this Article.

#### **Article 5. Violations against the regulations on labor contract conclusion**

1. When committing one of the following acts: failing to conclude written labor contracts for permanent jobs that last for more than 3 months; failing to conclude the right types of contracts with workers according to Article 22 of the Labor Code, the employer shall be liable to:

- a) A fine of from 500,000 VND to 2,000,000 VND, if the violation concerns 01 - 10 workers.
- b) A fine of from 2,000,000 VND to 5,000,000 VND, if the violation concerns 11 - 50 workers.
- c) A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 51 - 100 workers.
- d) A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 101 - 300 workers.
- dd) A fine of from 15,000,000 VND to 20,000,000 VND, if the violation concerns 301 workers or more.

2. The employer shall be liable to a fine of from 20,000,000 VND to 25,000,000 VND when committing one of the following acts:

- a) Keeping the original copies of ID papers, qualifications and certificates of workers;
- b) Forcing workers to put up money or other assets as collateral for the execution of labor contracts.

3. Remedial measures:

- a) Compelling the return of the ID papers, qualifications and certificates to the workers, applicable to the violations in Point a Clause 2 of this Article;
- b) Compelling the return of the money or assets to the workers, together with an interest on the money at the maximum rate of interest on demand deposits announced by the State bank of

Vietnam when the violation is imposed, applicable to the violations in Point b Clause 2 of this Article.

#### **Article 6. Violations against regulations on probation**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 VND if seasonal workers are requested to undergo probation.

2. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when committing one of the following violations:

- a) Requesting workers to undergo more than 01 probation;
- b) The probation extends beyond the permissible length;
- c) Paying the workers under probation lower than 85% of the official wages.

3. Remedial measure: compelling the payment of 100% wages to the workers during the probation, applicable to the violations in Clause 1 Point b and Point c Clause 2 of this Article.

#### **Article 7. Violations against the regulations on labor contract execution**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 VND if they fail to notify the worker in writing at least 15 days prior to the expiration date of the fixed-term labor contract.

2. The employer shall be liable to a fine of from 3,000,000 VND to 7,000,000 VND when committing one of the following acts:

- a) Assigning the worker to work at another location than that agreed in the labor contract, except for the cases in Article 31 of the Labor Code;
- b) Refusing to re-employ the worker after the end of the labor contract suspension, unless otherwise agreed by the employer and the worker.

3. Remedial measure: compelling the employer to pay the worker for the days the worker is not re-employed after the labor contract suspension, applicable to the violations in Point b Clause 2 of this Article.

#### **Article 8. Violations against the regulations amending and terminating labor contracts**

1. When committing one of the following acts: failing to provide or sufficiently provide the severance pay, redundancy pay to the worker within the deadline prescribed in Clause 2 Article 47 of the Labor Code; failing to complete the procedure for certifying and returning other papers to the worker after the labor contract is terminated, according to Clause 3 Article 47 of the Labor Code, the employer shall be liable to:

- a) A fine of from 500,000 VND to 2,000,000 VND, if the violation concerns 01 - 10 workers.
- b) A fine of from 2,000,000 VND to 5,000,000 VND, if the violation concerns 11 - 50 workers.
- c) A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 51 - 100 workers.
- d) A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 101 - 300 workers.

dd) A fine of from 15,000,000 VND to 20,000,000 VND, if the violation concerns 301 workers or more.

## 2. Remedial measures:

a) Compelling the employer to provide the severance pay, redundancy pay to the worker, together with an interest on the such amount at the maximum rate of interest on demand deposits announced by the State bank of Vietnam when the violation is imposed, if the worker is not provided or sufficiently provided with severance pay, redundancy pay according to Clause 1 of this Article;

b) Compelling the employer to complete the procedure for certifying and returning other papers to the worker, if the procedure for certifying and returning other papers to the worker is not completed after the labor contract is terminated according to Clause 1 of this Article.

## **Article 9. Violations against the regulations on outsourcing**

1. One of the following acts committed by the outsourcing service user shall carry a fine of from 500,000 VND to 1,000,000 VND:

a) Failing to inform the outsourced workers of the labor regulations of the company;

b) Provide discriminatory working conditions for outsourced workers in comparison to those provided to the native workers of the company.

2. One of the following acts committed by the outsourcing service provider shall carry a fine of from 1,000,000 VND to 3,000,000 VND:

a) Failing to prepare documents specifying the outsourced workers, the outsourcing service user, or failing to send reports to the labor relations authority of the province;

b) Failing to inform or incorrectly informing the worker of the outsourcing contract.

3. When committing one of the following acts: assigning an outsourced worker to another employer, charging outsourced workers; requiring outsourced workers to do the jobs not in the list of outsourced jobs; employing outsourced workers beyond the outsourcing duration, the outsourcing service user shall be liable to:

a) A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 01 - 10 workers.

b) A fine of from 10,000,000 VND to 20,000,000 VND, if the violation concerns 11 - 50 workers.

c) A fine of from 20,000,000 VND to 30,000,000 VND, if the violation concerns 51 - 100 workers.

d) A fine of from 30,000,000 VND to 40,000,000 VND, if the violation concerns 101 - 300 workers.

dd) A fine of from 40,000,000 VND to 50,000,000 VND, if the violation concerns 301 workers or more.

4. When committing one of the following acts: paying the outsourced workers at a lower rate than the wage of a worker at the same level, doing the same or equivalent job of the outsourcing service user; providing outsourcing services without the worker's consent, the outsourcing service provider shall be liable to:

- a) A fine of from 10,000,000 VND to 20,000,000 VND, if the violation concerns 01 - 10 workers.
  - b) A fine of from 20,000,000 VND to 40,000,000 VND, if the violation concerns 11 - 50 workers.
  - c) A fine of from 40,000,000 VND to 60,000,000 VND, if the violation concerns 51 - 100 workers.
  - d) A fine of from 60,000,000 VND to 80,000,000 VND, if the violation concerns 101 - 300 workers.
  - dd) A fine of from 80,000,000 VND to 100,000,000 VND, if the violation concerns 301 workers or more.
5. The provision of outsourcing services without the license to provide outsourcing services shall carry a fine of from 50,000,000 VND to 75,000,000 VND.
6. The outsourcing service provider shall be liable to a fine of from 80,000,000 VND to 100,000,000 VND when committing one of the following acts:
- a) Lending the license for outsourcing to another company to provide outsourcing services;
  - b) Providing outsourcing services for the fields or jobs prohibited by law;
  - c) Providing outsourcing services beyond the permitted duration;
  - d) Providing outsourcing services to an enterprise in the same parent company-subsidiary company relationship, or the same corporation of which the service provider is an affiliate.
7. Additional penalties:
- a) Confiscating the license for outsourcing for 01 - 03 months, applicable to the violations in Clause 4 of this Article;
  - b) Confiscating the license for outsourcing for 06 - 12 months, applicable to the violations in Clause 6 of this Article.
8. Remedial measures:
- a) Compelling the outsourcing service provider to pay the difference in wage for the worker, applicable to the violations in Clause 4 of this Article;
  - b) Compelling the return of the illegal profit earn from the provision of outsourcing services, applicable to the violations in Clause 5 of this Article.

#### **Article 10. Violations against regulations on provision of vocational training and refresher courses**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 VND when committing one of the following acts:
- a) Failing to make and implement annual plans for providing vocation training and refresher courses for their workers;
  - a) Failing to report the result of vocational training and refresher courses to the provincial labor relations authority in the annual labor report.

2. When committing one of the following acts: failing to provide vocational training workers before reassigning them; failing to sign training contracts with apprentices; failing to pay apprentices for their training period during which they directly produce or participate in the production of qualified products; failing to sign labor contracts with apprentices after the end of the apprenticeship, the employer shall be liable to:

- a) A fine of from 500,000 VND to 2,000,000 VND if the violation concerns 01 - 10 workers.
- b) A fine of from 2,000,000 VND to 5,000,000 VND if the violation concerns 11 - 50 workers.
- c) A fine of from 5,000,000 VND to 10,000,000 VND if the violation concerns 51 - 100 workers.
- d) A fine of from 10,000,000 VND to 15,000,000 VND if the violation concerns 101 - 300 workers.
- dd) A fine of from 15,000,000 VND to 20,000,000 VND if the violation concerns 301 workers or more.

3. The employer shall be liable to a fine of from 20,000,000 VND to 25,000,000 VND when committing one of the following acts:

- a) Taking advantage of vocational training to seek profit, exploit workers, or forcing apprentices to commit illegal acts;
- b) Recruiting people under 14 years of age as apprentices.

4. Remedial measures:

- a) Compelling the employer to pay apprentices for their training period during which they directly produce or participate in the production of qualified products, applicable to the violations in Clause 2 of this Article;
- b) Compelling the employer to return the profit earned from illegally taking advantage of vocational training to seek profit, exploit workers, or forcing apprentices to commit illegal acts, applicable to the violations in Point a Clause 3 of this Article.

#### **Article 11. Violations against regulations on workplace communication**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 VND when committing one of the following acts:

- a) Failing to comply with the principles of democracy at the workplace defined by law;
- b) Failing to provide places and other conditions necessary for workplace communication.

2. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when committing one of the following acts:

- a) Failing to carry out workplace communication every 03 months;
- b) Failing to carry out communication at the request of the representative of workers.

#### **Article 12. Violations against the regulations on collective bargaining agreement**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 VND when committing one of the following acts:

- a) Failing to send the collective bargaining agreement to the provincial labor relations authority;

- b) Failing to pay the cost of negotiation, conclusion, amendment, and sending, and announcement of the collective bargaining agreement;
  - c) Failing to inform workers of the contents of the collective bargaining agreement.
2. The employer shall be liable to a fine of from 3,000,000 VND to 5,000,000 VND when committing one of the following acts:
- a) Failing to provide information about the production and business at the request of the worker collective to open collective bargaining;
  - b) Failing to open collective bargaining to conclude or amend the collective bargaining agreement on request.
3. The employer shall be liable to a fine of from 10,000,000 VND to 15,000,000 VND when applying a collective bargaining agreement that is declared null and void.

### **Article 13. Violations against regulations on wages**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 VND when failing to report the pay scale, payroll, and work limits to the labor relations authority of the district.
2. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when committing one of the following acts:
- a) Failing to establish the pay scale, payroll, work limits, and reward scheme in accordance with law;
  - b) Failing to consult the representative of workers when establishing the pay scale, payroll, work limits, and reward scheme;
  - a) Failing to announce the pay scale, payroll, work limit, and reward scheme at the workplace;
  - d) Failing to notify the method of wage payment to workers at least 10 days before the payment is made.
3. When committing one of the following acts: failing to pay wages on time according to Article 96 of the Labor Code; paying wages at a lower rate than that in the pay scale or payroll sent to the labor relations authority of the district; paying for overtime work or night shift at a lower rate than prescribed in Article 97 of the Labor Code; deducting wages of workers in contravention of Article 101 of the Labor Code; failing to provide severance pay for workers according to Article 98 of the Labor Code, the employer shall be liable to:
- a) A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 01 - 10 workers.
  - b) A fine of from 10,000,000 VND to 20,000,000 VND, if the violation concerns 11 - 50 workers.
  - c) A fine of from 20,000,000 VND to 30,000,000 VND, if the violation concerns 51 - 100 workers.
  - d) A fine of from 30,000,000 VND to 40,000,000 VND, if the violation concerns 101 - 300 workers.
  - dd) A fine of from 40,000,000 VND to 50,000,000 VND, if the violation concerns 301 workers or more.

4. When paying their workers at a lower rate than the minimum wages decided by the Government, the employer shall be liable to:

- a) A fine of from 20,000,000 VND to 30,000,000 VND, if the violation concerns 01 - 10 workers.
- b) A fine of from 30,000,000 VND to 50,000,000 VND, if the violation concerns 11 - 50 workers.
- c) A fine of from 50,000,000 VND to 75,000,000 VND, if the violation concerns 51 workers or more.

5. Additional penalty: suspending the operation for 01 - 03 months if the employer commits the violations in Clause 4 of this Article.

6. Remedial measures:

- a) Compelling the worker to pay sufficient wages to workers, applicable to the violations in Clause 3 and Clause 4 of this Article;
- b) Compelling the employer to pay the deferred wages to workers, together with an interest on such amount at the maximum rate of interest on demand deposits announced by the State bank of Vietnam when the payment is made, applicable to the violations in Clause 3 of this Article.

#### **Article 14. Violations against regulations on hours of works and rest**

1. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when failing to grant workers sufficient rest breaks during working hours and between shifts, personal leaves, and unpaid leaves as prescribed.

2. When committing violations against regulations on weekly rest, annual leave and holidays, the employer shall be liable to:

- a) A fine of from 500,000 VND to 1,000,000 VND, if the violation concerns 01 - 10 workers.
- b) A fine of from 1,000,000 VND to 3,000,000 VND, if the violation concerns 11 - 50 workers.
- c) A fine of from 3,000,000 VND to 7,000,000 VND, if the violation concerns 51 - 100 workers.
- d) A fine of from 7,000,000 VND to 10,000,000 VND, if the violation concerns 101 - 300 workers.
- dd) A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 301 workers or more.

3. The employer shall be liable to a fine of from 20,000,000 VND to 25,000,000 VND when committing one of the following acts:

- a) Imposing more hours of work than the hours prescribed in Article 104 of the Labor Code;
- b) Mobilizing workers to work overtime without their consent, except for the cases in Article 107 of the Labor Code.

4. The employer shall be liable to a fine of from 25,000,000 VND to 50,000,000 VND when mobilizing workers to work overtime more than the maximum working hours prescribed in Point b Clause 2 Article 106 of the Labor Code, or more than 12 hours in a day during holidays and weekends.



5. Additional penalty: suspending the operation for 01 - 03 months if the employer commits the violations in Clause 4 of this Article.

#### **Article 15. Violations against the regulations on labor discipline and responsibility**

1. The employer that fails to announce or post the labor regulation at proper places at the work place shall be liable to a fine of from 500,000 VND to 1,000,000 VND.

2. The employer shall be liable to a fine of from 5,000,000 VND to 10,000,000 VND when committing one of the following acts:

- a) Failing to make a written labor regulation when 10 workers or more are employed;
- b) Using a labor regulation that is not registered with the provincial labor relations authority;
- c) Using an expired labor regulation.

3. The employer shall be liable to a fine of from 10,000,000 VND to 15,000,000 VND when committing one of the following acts:

- a) Committing physical or mental assaults against workers when taking disciplinary actions;
- b) Imposing fines or salary cut as disciplinary actions;
- c) Impose penalties against the violations that are not mentioned in the labor regulation.

4. Remedial measures:

a) Compelling the employer to return the fines collected or pay sufficient wages to workers, applicable to the violations in Point b Clause 3 of this Article;

b) Compelling the employer to re-employ the worker and pay for the days the worker is wrongly dismissed, applicable to the violations in Point c Clause 3 of this Article.

#### **Article 16. Violations against the regulations on occupational safety and occupational hygiene**

1. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when committing one of the following acts:

- a) Failing to consult the representative of workers when establishing the plans for ensuring occupational safety and occupational hygiene;
- b) Failing to check and assess the dangers and harms at the workplace;
- c) Failing to appoint persons in charge of occupational safety and occupational hygiene;
- d) Failing to make periodic statistics and reports, or making false reports on occupational accidents, occupational illness, and severe accidents as prescribed by law.

2. The employer shall be liable to a fine of from 5,000,000 VND to 10,000,000 VND when committing one of the following acts:

- a) Failing to periodically assess the harms at the workplace;
- b) Failing to make plans for ensuring occupational safety and occupational hygiene in the workplace when building, extending, or upgrading the constructions and facilities for producing, using, preserving machinery, equipment, supplies, and substances subject to strict hygiene and safety requirements;

- c) Failing to provide safe and hygienic conditions in facilities;
- d) Violating the National Technical Regulations on occupational safety, occupational hygiene, or standards of occupational safety and occupational hygiene applicable to the production, use, preservation, and transport of machinery, equipment, supplies, energy, electricity, chemicals, pesticides, change in technology, and import of new technologies;
- dd) Failing to periodically inspect, maintain machinery, equipment, facilities, and warehouses as prescribed;
- e) Failing to provide instructions on occupational safety and occupational hygiene, or the instructions are not put up at noticeable at the workplace;
- g) Failing to provide adequate technical and medical instruments to respond to occupational accidents;
- h) Failing to appoint competent persons to take charge of occupational safety and occupational hygiene in fields facing high risks of occupational accidents and occupational illness;
- i) Failing to classifying works as arduous, harmful, dangerous, and extremely arduous, harmful, dangerous to provide benefits;
- k) Failing to report and investigate severe occupational accidents;
- l) Failing to defray the costs incurred by both the employer and worker, and the costs that are not covered by health insurance; failing to defray the whole medical cost from first-aid to recovery that is incurred by the worker that does not have health insurance.
- m) Failing to provide benefits and compensation for the workers that suffer from occupational accidents and occupational illness as prescribed.

### 3. Remedial measures:

- b) Compelling the employer to make plans for ensuring occupational safety and occupational hygiene in the workplace when building, extending, or upgrading the constructions and facilities for producing, using, preserving machinery, equipment, supplies, and substances subject to strict hygiene and safety requirements when then the employer commits the violation mentioned in Point b Clause 2 of this Article;
- b) Compelling the employer to comply with the applicable National Technical Regulations and standards on occupational safety and occupational hygiene, applicable to the violations in Point c and Point d Clause 2 of this Article;
- c) Compelling the employer to provide technical and medical instruments, applicable to the violations in Point g Clause 2 of this Article;
- d) Compelling the employer to defray the costs incurred by both the employer and worker, and the costs that are not covered by health insurance; pay the whole medical cost from first-aid to recovery, which is incurred by the worker that does not have health insurance, applicable to the violations in Point 1 Clause 2 of this Article;
- b) Compelling the employer to provide benefits and compensation for the worker, together with an interest on the amount at the maximum rate of interest on demand deposits announced by the State bank of Vietnam when the violation is imposed, applicable to the violations in Point m Clause 2 of this Article.

## **Article 17. Violations against the regulations on prevention of occupational accidents and occupational illness**

1. The worker shall be liable to a fine of from 500,000 VND to 1,000,000 VND when committing one of the following acts:

- a) Failing to responsively report the risk or occupational accidents, occupational illness, harm, or danger to responsible persons;
- b) Failing to participate in giving first aid and repair damage caused by occupational accidents at the order of the employer;
- c) Failing to use the personal safety equipment provided or using the personal safety equipment improperly.

2. When failing to provide training in occupational safety and occupational hygiene for workers, apprentices, and interns during recruitment and assignment, the employer shall be liable to:

- a) A fine of from 1,000,000 VND to 3,000,000 VND, if the violation concerns 01 - 10 workers.
- b) A fine of from 3,000,000 VND to 5,000,000 VND, if the violation concerns 11 - 50 workers.
- c) A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 51 - 100 workers.
- d) A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 101 - 300 workers.
- dd) A fine of from 15,000,000 VND to 20,000,000 VND, if the violation concerns 301 workers or more.

3. The employer shall be liable to a fine of from 10,000,000 VND to 15,000,000 VND when committing one of the following acts:

- a) Failing to promptly take appropriate measures or suspend the machines or facility posing risk of occupational accidents, occupational illness;
- b) Failing to provide treatment or periodic check-ups or make separate health profile for workers that suffer from occupational illness;
- c) Failing to obtain the certificate of training in occupational safety and occupational hygiene;
- d) Appointing the persons that do not have the certificate in training in occupational safety and occupational hygiene to take charge of occupational safety and occupational hygiene;
- dd) Failing to report the occupational accidents, occupational illness, dangers, harms, and measures for ensuring occupational safety and occupational hygiene at the workplace;
- e) Failing to provide periodic check-ups for workers as prescribed;
- g) Failing provide test for occupational illness for workers as prescribed;
- h) Failing to assign the works suitable for the condition of the workers suffering from occupational illness or occupational accidents according to the conclusion of the Medical Examination Council
- i) Failing to decontaminate the workers working in places at risk of contamination and infection after work.

4. When committing one of the following acts: failing to provide adequate or providing substandard personal safety equipment for workers working under dangerous and harmful conditions; paying money in stead of providing benefits in kind, the employer shall be liable to:

- a) A fine of from 3,000,000 VND to 6,000,000 VND, if the violation concerns 01 - 10 workers.
- b) A fine of from 6,000,000 VND to 10,000,000 VND, if the violation concerns 11 - 50 workers.
- c) A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 51 - 100 workers.
- d) A fine of from 15,000,000 VND to 20,000,000 VND, if the violation concerns 101 - 300 workers.
- dd) A fine of from 20,000,000 VND to 30,000,000 VND, if the violation concerns 301 workers or more.

5. When violating the regulations on using machinery, equipment, and supplies subject to strict safety requirements, the employer shall be liable to:

- a) A fine of from 1,000,000 VND to 3,000,000 VND, if the employer fails to report the inspection of machinery, equipment, and supplies subject to strict safety requirements;
- b) A fine of from 3,000,000 VND to 5,000,000 VND, if the employer fails report before putting the inspection of machinery, equipment, and supplies subject to strict safety requirements into use;
- c) A fine of from 50,000,000 VND to 75,000,000 VND, if the employer keeps using the machinery, equipment, and supplies subject to strict safety requirements that fails the test;
- d) A fine of 02 or 03 times the total cost of inspection shall be imposed for each unsatisfactory machine or instrument.

6. When the provider of training in occupational safety and occupational hygiene violates the regulations on training in occupational safety, it shall be liable to a fine as follows:

- a) A fine of from 2,000,000 VND to 5,000,000 VND for failing to report the provision of training in occupational safety and occupational hygiene;
- b) A fine of from 5,000,000 VND to 10,000,000 VND for one of the following acts: providing training in contravention of programs; failing to provide sufficient trainers and infrastructure when providing training; failing to meet the conditions for providing training services according to the certificate of eligibility to provide training;
- c) A fine of from 20,000,000 VND to 25,000,000 VND for one of the following acts: issuing certificates of training without providing training; issuing certificates to untrained persons; providing training beyond the certificate of eligibility to provide training;
- d) A fine of from 25,000,000 VND to 50,000,000 VND for forging documents for training, cheating during training;
- dd) A fine from 50,000,000 VND to 75,000,000 VND for one of the following acts: providing training without the certificate of eligibility to provide training or the using an expired certificate of eligibility to provide training; using forged documents to apply for the certificate of eligibility to provide training.

7. The provider of occupational safety inspection services that violates regulations on inspection of occupational safety techniques shall be liable to a fine. In particular:

- a) A fine of from 2,000,000 VND to 5,000,000 VND for failing to report the inspection of occupational safety techniques as prescribed;
- b) A fine from 5,000,000 VND to 10,000,000 VND for one of the following acts: Failing to maintain the conditions for carrying out inspection according to the Certificate of eligibility for inspection; failing to report the inspection to competent authorities for 18 consecutive months;
- c) A fine from 40,000,000 VND to 50,000,000 VND for one of the following acts: carrying out inspection beyond the Certificate of eligibility for inspection; failing to comply with the prescribed inspection procedure;
- d) A fine from 50,000,000 VND to 70,000,000 VND for one of the following acts: falsifying the Certificate of eligibility for inspection; falsifying documents during inspection; cheating during inspection;
- dd) A fine of from 70,000,000 VND to 100,000,000 VND for one of the following acts: giving incorrect inspection results; giving results without actually carrying out the inspection;
- e) A fine from 100,000,000 VND to 150,000,000 VND for one of the following acts: carrying out inspections without the Certificate of eligibility for inspection or using an expired Certificate of eligibility for inspection; using forged documents to apply for the Certificate of eligibility for inspection.

8. The inspector shall be liable to a fine of from 2,000,000 VND to 4,000,000 VND when committing one of the following acts:

- a) Failing to follow the inspection procedure announced or promulgated by competent authorities;
- b) Carrying out inspections without the Inspector's certificate or using an expired Inspector's certificate; carrying out inspections beyond the certificate.

9. Additional penalties:

- a) Suspending the provision of training for 01 - 03 months, applicable to the providers of training in occupational safety and occupational hygiene that commit the violations in Point b Clause 6 of this Article;
- b) Revoking the Certificate of eligibility to provide training in occupational safety and occupational hygiene for 01 - 06 months, applicable to the providers of training in occupational safety and occupational hygiene that commit the violations in Point c and Point d Clause 6 of this Article;
- c) Suspending the operation for 01 - 03 months, applicable to the providers of occupational safety inspection services that commit the violations in Point b Clause 7 of this Article;
- d) Revoking the Certificate of eligibility for occupational safety inspection for 01 - 06 months, applicable to the providers of providers of occupational safety inspection services that commit the violations in Point c and Point d Clause 7 of this Article;
- dd) Revoking the Inspector's certificate for 01 - 03 months, applicable to the violations in Point a Clause 8 of this Article.

10. Remedial measures:

- a) Compelling the provision of benefits in kind that were converted to cash, applicable to the violations against regulations on provision of benefits in kind mentioned in Clause 4 of this Article;
- b) Compelling the provision of qualified personal safety equipment for the persons doing dangerous and harmful works, applicable to the violations against regulations on provision of personal safety equipment mentioned in Clause 4 of this Article;
- c) Compelling the suspension of the machines, instruments, and workplace posing risks of occupational accidents and occupational illness, applicable to the violations in Point a Clause 3 of this Article;
- d) Compelling the suspension of the machines, instruments, and supplies subject to strict safety requirements, applicable to the violations in Point c and Point d Clause 5 of this Article;
- dd) Revoking the certificate of training in occupational safety and occupational hygiene, applicable to the violations in Point c Clause 6 of this Article;
- e) Revoking the inspection results, applicable to the violations in Point c and Point dd Clause 7 of this Article;

**Article 18. Violations against regulations on female workers**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 when committing one of the following acts:

- a) Failing to consult female workers when deciding the issues related to their rights and interests;
- b) Not allowing female workers to rest 30 minutes everyday during their periods.

2. The employer shall be liable to a fine of from 10,000,000 VND to 20,000,000 when committing one of the following acts:

- a) Requiring female workers that are 07 months pregnant (or 06 months pregnant if working in remote areas, highlands, bordering areas, islands) or female workers having children under 12 months of age to work overtime, work on the night shift, or go on business trips;
- b) Failing to reassign or reduce the hours of works of the female workers that are 07 months pregnant or more and doing arduous works, according to Clause 2 Article 155 of the Labor Code;
- c) Not allowing female workers having children under 12 months of age to rest 60 minutes everyday during their periods;
- d) Failing to re-employ female workers to do the same jobs after the maternity leave according to Clause 1 and Clause 3 Article 157 of the Labor Code;
- dd) Taking disciplinary actions against female workers that are pregnant or on maternity leave according to legislation on social insurance and raising children under 12 months of age;
- r) Laying off or unilaterally terminate labor contracts with female workers for reason marriage, pregnancy, maternity leave, raising children under 12 months of age, unless the employer that is a natural person dies, announced incapable of civil acts, missing, or dead by court, or the employer other than a natural person shuts down;

g) Employing females to do the jobs that must not be done by females according to Article 160 of the Labor Code.

#### **Article 19. Violations against regulations on underage workers**

1. The employer that fails to make a logbook when employing underage workers, or fails to present the logbook at the request of competent authorities shall be given a warning.

2. The employer shall be liable to a fine of from 10,000,000 VND to 15,000,000 when committing one of the following acts:

a) Employing people under 15 years of age without signing written contracts with legal representatives;

b) Requiring underage workers to longer than the working hours prescribed in Clause 2 Article of the Labor Code;

c) Requiring people from 15 years of age to under 18 years of age to work overtime or on night shift, except for the jobs and works permitted by law.

3. The employer shall be liable to a fine of from 20,000,000 VND to 25,000,000 when committing one of the following acts:

a) Employing underage people to do the prohibited works or to work at prohibited places according to Article 165 of the Labor Code;

b) Employing people under 15 years of age to do other works than those permitted by law according to Clause 1 and Clause 3 Article 164 of the Labor Code.

#### **Article 20. Violations against regulations on domestic servants**

1. The employer shall be given a warning when committing one of the following acts:

a) Failing to sign written labor contracts with domestic servants;

b) Failing to pay for the travel fees of domestic servants that are laid off, unless they terminate the labor contract ahead of time.

2. The employer shall be liable to a fine of from 5,000,000 VND to 7,000,000 when impounding ID papers of domestic servants;

3. Remedial measures:

a) Compelling the worker to pay for the travel fees of the domestic servants, applicable to the violations in Point b Clause 1 of this Article;

b) Compelling the employer to return the ID papers to the domestic servants, applicable to the violations in Clause 2 of this Article.

#### **Article 21. Violations against regulations on elderly workers**

1. The employers shall be liable to a fine of from 500,000 VND to 1,000,000 VND when employing elderly workers that are on monthly pension without paying social insurance and health insurance.

2. The employers shall be liable to a fine of from 10,000,000 VND to 15,000,000 VND when requiring elderly workers to do arduous, harmful, and dangerous works that negatively affect their health.

3. Remedial measures: compelling the payment of social insurance and health insurance, applicable to the violations in Clause 1 of this Article.

## **Article 22**

1. Foreign workers in Vietnam shall be expelled when committing one of the following acts:

- a) Working without work permits, except for the cases in which the work permit is exempt;
- b) Using an expired work permit.

2. When employing foreign workers without work permits (except for the cases in which the work permit is exempt) or using expired work permits, the employer shall be liable to:

- a) A fine of from 30,000,000 VND to 45,000,000 VND, if 01 - 10 workers are employed;
- b) A fine of from 45,000,000 VND to 60,000,000 VND, if 11 - 20 workers are employed;
- c) A fine of from 60,000,000 VND to 75,000,000 VND, if 21 workers or more are employed;

3. Additional penalty: suspending the company's operation for 01 - 03 months, applicable to the violations in Clause 2 of this Article.

## **Article 23. Violations against regulations on settling labor dispute**

1. The worker shall be given a warning when taking part in the strike after the President of the People's Committee of the province or central-affiliated city has made a decision on suspending or stopping it.

2. The worker shall be liable to a fine of from 1,000,000 VND to 2,000,000 when committing one of the following acts:

- a) Infringing the right to strike, inciting, or forcing other workers to go on strike;
- b) Obstructing the workers that do not take part in the strike from going to work;
- c) Destructing machinery, equipment, assets of the employer, threatening public safety and order, or taking advantage of the right to strike to commit other violations of law.

3. The employer shall be liable to a fine of from 3,000,000 VND to 5,000,000 when committing one of the following acts:

- a) Terminating labor contracts or taking disciplinary actions against the striking workers or the strike leader, reassigning the striking workers or the strike leader to other places as they are preparing for or take part in the strike;
- b) Oppressing, retaliating the workers that take part in the strike or the strike leader;
- c) Temporarily closing the workplace according to in Article 217 of the Labor Code.

4. Remedial measure: compelling the employer to pay the workers for the period the workplace is temporarily closed, applicable to the violations in Point c Clause 3 of this Article.

## **Article 24. Violations against regulations on the Union**

1. The employer shall be liable to a fine of from 1,000,000 VND to 3,000,000 VND when failing provide union representatives with favorable working conditions.



2. The employer shall be liable to a fine of from 5,000,000 VND to 10,000,000 when committing one of the following acts:

- a) Failing to enable part-time union representatives to the union's works during working hours;
- b) Failing to provide full-time union representatives with the same collective interests and benefits as those provided for other workers in the organization;
- c) Imposing discriminatory wages, working hours, other rights and obligations in order to obstruct workers from establishing, joining the union and doing the union's works;
- d) Failing to pay part-time union representatives for the hours they do the union's works;
- dd) Failing to enable superior union representatives to enter the premises to do the union's works.

3. The employer shall be liable to a fine of from 10,000,000 VND to 15,000,000 when committing one of the following acts:

- a) Obstructing the establishment of the union, preventing workers from joining to the union or doing the union's works;
- b) Forcing workers to establish, join the unions, or do the union's works;
- c) Requesting the workers to not join to or to leave the union;
- d) Failing to renew labor contracts with part-time union representatives whose labor contracts expire during their term of office.

#### **Article 25. Violations against other regulations**

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 when committing one of the following acts:

- a) Failing to make labor books, wage books, or failing to present them to competent authorities on request;
- b) Failing to report the employment within 30 days from the day on which the operation is commenced, and failing to submit periodic reports on the change in employment during the operation to the local labor relations authority;
- c) Violations against the regulations on documentation and procedure for employment.

2. Discrimination by gender, race, social class, marriage, religion, discrimination against HIV sufferers and the disabled shall carry a fine of from 5,000,000 VND to 10,000,000 VND.

#### **Chapter 3.**

### **VIOLATIONS, PENALTIES, FINE LEVELS, AND REMEDIAL MEASURES APPLICABLE TO VIOLATIONS AGAINST REGULATIONS ON SOCIAL INSURANCE**

#### **Article 26. Violations against regulations on compulsory social insurance and unemployment insurance**

1. The worker shall be given a warning or liable to a fine of from 500,000 VND to 1,000,000 VND for reaching an agreement with the employer to not participate in compulsory social insurance and unemployment insurance.

2. The employer shall be liable to a fine of 12% - 15% of the compulsory social insurance and unemployment insurance premium at the time the administrative violation is recorded (not exceeding 75,000,000 VND) when committing one of the following acts:

- a) Failing to pay compulsory social insurance premium and unemployment insurance premium on schedule;
- b) Failing to pay sufficient social insurance premium and unemployment insurance premium;
- c) Failing to buy compulsory social insurance and unemployment insurance for all the people that must have social insurance and unemployment insurance.

3. The employer shall be liable to a fine of 18% - 20% of the compulsory social insurance and unemployment insurance premium at the time the administrative violation is recorded (not exceeding 75,000,000 VND) when failing to buy compulsory social insurance and unemployment insurance for all the workers that must have social insurance and unemployment insurance.

4. Remedial measures:

- a) Compelling the payment of the omitted or deferred compulsory social insurance premium and unemployment insurance premium, applicable to the violations in Clause 1, Clause 2 and Clause 3 of this Article;
- b) Compelling the payment of the interest on the omitted and deferred compulsory social insurance and unemployment insurance premium omitted or deferred, applicable to the violations in Clause 1, Clause 2 and Clause 3 of this Article;

#### **Article 27. Violations against regulations on application for social insurance benefits**

1. The worker shall be liable to a fine of from 500,000 VND to 1,000,000 VND for making false declarations or falsifying the information related to the entitlement to benefits of compulsory social insurance, voluntary social insurance, and unemployment insurance.

2. The employer shall be liable to a fine of from 5,000,000 VND to 10,000,000 when forging the application for social insurance benefits.

3. Remedial measures: compelling the return of the social insurance money that is provided, applicable to the violations in Clause 1 and Clause 2 of this Article.

#### **Article 28. Violations against other regulations on social insurance**

1. The employer shall be liable to a fine of from 300,000 VND to 800,000 when committing one of the following acts:

- a) Failing to provide documents and information about compulsory social insurance and unemployment insurance at the request of competent authorities;
- b) Failing to provide information about payment of compulsory social insurance premium and unemployment insurance premium at the request of workers or the union.

2. The employer shall be liable to a fine of from 200,000 VND to 500,000 for every worker affected by one of the following acts committed by the employer:

a) Failing to give sick pay, maternity pay, subsidies for recovery from sickness or childbirth within 03 working days from the day on which sufficient and valid documents are submitted by the worker;

b) Failing to pay support for accidents, occupational illness within 15 days from the day on which the decision on payment made by the social insurance agency is received;

c) Losing, damaging, falsifying the social insurance books.

3. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 for every worker affected by one of the following acts committed by the employer:

a) Failing to make the application for compulsory social insurance, unemployment insurance within 30 days from the day on which the labor contract is signed;

b) Failing to request the social insurance agency in writing to: provide a pension 30 days before the worker is qualified for retirement and pension, provide support for occupational accident or occupational illness within 30 days revenues sufficient and valid documents are submitted by the worker;

c) Failing to have the worker tested for reduction in work ability by Medical Examination Council for provision of social insurance benefits.

4. The employer shall be liable to a fine of from 20,000,000 VND to 30,000,000 when improperly using the social insurance fund.

5. Remedial measures:

a) Compelling the employer to provide sufficient social insurance benefits for the worker, applicable to the violations in Point a and Point b Clause 2 of this Article;

b) Compelling the employer to submit the profit earned from improper use of the social insurance fund, applicable to the violations in Clause 4 of this Article.

#### **Chapter 4.**

### **VIOLATIONS, PENALTIES, FINE LEVELS AND REMEDIAL MEASURES APPLICABLE TO VIOLATIONS AGAINST REGULATIONS ON OVERSEAS MANPOWER SUPPLY**

#### **Article 29. Violations against the regulations on conditions for service provision**

1. The overseas manpower supplier shall be liable to a fine of from 5,000,000 VND to 10,000,000 VND when committing one of the following acts:

a) Failing to announce the License for overseas manpower supply;

b) Failing to post the assignments of branches and copies of the License for overseas manpower supply at the branches;

c) Appointing a person without a bachelor's degree or higher to administer the overseas manpower supply;

d) Failing to report the replacement of the person in charge of overseas manpower supply as prescribed.

2. The manpower supplier shall be liable to a fine of from 20,000,000 VND to 40,000,000 VND when committing one of the following acts:

- a) Failing to announce the assignments of branches of the manpower supplier as prescribed by law;
- b) Appointing a person without a 03 years' experience in overseas manpower supply or international cooperation to administer the overseas manpower supply.

3. The manpower supplier shall be liable to a fine of from 50,000,000 VND to 70,000,000 VND when committing one of the following acts:

- a) Failing to implement the plan for overseas manpower supply within 30 days from the day on which the License for overseas manpower supply is issued.
- b) Failing to implement the plan for provision of training in necessary knowledge for Vietnamese workers being sent abroad 90 days from the day on which the License for overseas manpower supply is issued.

4. The manpower supplier shall be liable to a fine of from 150,000,000 VND to 180,000,000 VND when committing one of the following acts:

- a) Giving assignments to more than 03 branches in various central-affiliated cities and provinces;
- b) Giving assignments to branches against the law;
- c) The branches act beyond the assignments pertaining to overseas manpower supply;
- d) Signing contracts related to overseas manpower supply; recruiting; providing vocational training, language teaching, training in necessary knowledge for workers; charging workers; sending workers abroad during the period of suspension of the manpower supply contract, suspension of the operation, or after being notified that the License for overseas manpower supply is not renewed.

5. The enterprise shall be liable to a fine of from 180,000,000 VND to 200,000,000 VND when committing one of the following acts:

- a) Using the License for overseas manpower supply of another enterprise to send Vietnamese workers abroad;
- b) Lending the License for overseas manpower supply to another organization or individual to send Vietnamese workers abroad;
- c) Delegate the administration of the overseas manpower supply to a person that administered another enterprise that had its License for overseas manpower supply revoked, or to a person that is given a warning or incurs a heavier penalty for violations of the law on overseas manpower supply.

6. additional penalty: suspending the overseas manpower supply for:

- a) 01 - 03 months, applicable to the violations in Point a, Point b and Point c Clause 4 of this Article;
- b) 04 - 06 months, applicable to the violations in Point d Clause 4 of this Article.

**Article 30. Violations against regulations on registering contracts and reporting overseas manpower supply**

1. The failure to send periodic and unscheduled reports on overseas manpower supply as prescribed by law shall carry a fine of from 5,000,000 VND to 10,000,000 VND.
2. One of the fines below shall be imposed when the number of Vietnamese workers being sent abroad exceeds the number registered in the manpower supply contract or intern recruitment contract approved by competent authorities:
  - a) 20,000,000 VND to 40,000,000 VND if the excess number is below 30%;
  - b) 60,000,000 VND to 100,000,000 VND if the excess number is 30% to below 50%;
  - c) 150,000,000 VND to 180,000,000 VND if the excess number is over 50%;
3. One of the following acts shall carry a fine of from 150,000,000 VND to 180,000,000 VND:
  - a) Sending workers abroad without registering the manpower supply contract or intern recruitment contract, or the registration is not approved by competent state authorities;
  - b) The contractors and investors sending Vietnamese workers abroad without reporting or obtaining approval from competent state authority.
4. Additional penalty: suspending the overseas manpower supply 06 - 12 months, applicable to the violations in Clause 3 of this Article.

**Article 31. Violations against regulations on recruitment, contract conclusion and finalization**

1. The enterprise shall be liable to a fine of from 20,000,000 VND to 40,000,000 VND when committing one of the following acts:
  - a) Failing to inform the workers of the recruitment target, criteria, terms and conditions of the contracts;
  - b) Failing to make a commitment on the duration before departure after the worker is recruited;
  - c) Failing to directly selecting workers.
2. The enterprise shall be liable to a fine of from 50,000,000 VND to 80,000,000 VND when committing one of the following acts:
  - a) Failing to sign contracts with workers as prescribed;
  - b) Failing to specify the financial rights and obligations in the contracts signed with workers;
  - c) Failing to finalize or improperly finalizing the contract to send workers abroad;
  - d) The contracts to send workers abroad, labor contracts, and internship contracts are not consistent with the manpower supply contract and intern recruitment contract registered;
  - dd) The contract between the contractor, the organization that makes outward investments and the worker, the labor contract is not consistent with the report on overseas manpower supply.
3. Additional penalty: suspending the performance of the manpower supply contract for 01 - 03 months, applicable to the violations in Clause 2 of this Article.

**Article 32. Violations against regulations on provision of training in professional skills, foreign languages, and necessary knowledge for workers**

1. The employer shall be liable to a fine of from 20,000,000 VND to 40,000,000 VND when committing one of the following acts:
  - a) Failing to provide training in necessary knowledge for the workers before they are sent to works abroad;
  - b) Failing to adequately test and issue certificates for the workers that took the training course in necessary knowledge.
  - a) Failing register the form of certificate of training in necessary knowledge issued to Vietnamese guest workers;
  - d) Failing to provide documents about necessary knowledge for workers.
2. The failure to provide training or cooperate with a vocational training institution to provide training in professional skills and foreign languages for the workers being sent to work abroad shall carry a fine of from 80,000,000 VND to 100,000,000 VND.
3. The failure to provide training in necessary knowledge for the workers before they are sent to work abroad shall carry a fine of from 150,000,000 VND to 180,000,000 VND.
4. Additional penalties:
  - a) Suspending the manpower supply contract for 03 - 06 months, applicable to the violations in Clause 3 of this Article;
  - b) The manpower supply contract shall be suspended for 07 - 12 months if the damage caused by the violations are not repaired after the manpower supply contract is suspended as prescribed in Point a of this Clause.
5. Remedial measure: compelling the provision of training in professional skills, foreign languages, and necessary knowledge for the workers, or compelling the refund of the training fees to the workers (if any).

**Article 33. Violations against the laws on collection, payment, management, use of brokerage charges, deposits, services charges, and the money collected from workers; contribution of Overseas Employment Support Fund**

1. Each of the following acts shall carry a fine of from 20,000,000 VND to 40,000,000 VND:
  - a) Collecting recruitment charges from workers;
  - b) Failing to collect money from workers to make contributions to Overseas Employment Support Fund;
  - c) Failing to issue the certificate of payment to Overseas Employment Support Fund;
  - d) Failing to provide instructions and complete the procedure supporting workers using Overseas Employment Support Fund, or failing to remit supporting money to workers;
  - dd) Failing to remit all the money paid by workers to Overseas Employment Support Fund;
  - e) Failing to make sufficient contribution to Overseas Employment Support Fund.
2. Each of the following acts shall carry a fine of from 80,000,000 VND to 100,000,000 VND:
  - a) Collecting, managing, using, and returning brokerage charges improperly;

- b) Collecting charges from workers improperly;
- c) Failing to refund or sufficiently refund the amount corresponding to the remaining duration of the contract to send workers abroad to the worker when the worker, who has paid the charge for the entire contract duration, has to go home ahead of schedule through no fault of the worker;
- d) Failing to remit the money paid by workers to Overseas Employment Support Fund;
- dd) The service provider fails to make contribution to the Overseas Employment Support Fund.

3. Each of the following acts shall carry a fine of from 150,000,000 VND to 200,000,000 VND:

- a) Failing to refund the charges paid to the service provider by the workers when they are not sent to work abroad;
- b) Improperly collecting, managing, using deposits paid by workers;
- c) Failing to sufficiently and punctually remit the deposits of services providers as prescribed.

4. Additional penalty: suspending the manpower supplier from sending Vietnamese workers to work overseas for:

- a) 01 - 03 months, applicable to the violations in Clause 2 of this Article;
- b) 04 - 06 months, applicable to the violations Point b and Point c in Clause 3 of this Article;
- c) 07 - 12 months, applicable to the violations in Point a Clause 3 of this Article.

5. Remedial measures:

- a) Compelling the sufficient payment to Overseas Employment Support Fund, applicable to the violations in Point dd and Point r Clause 1, Point d and Point dd Clause 2 of this Article;
- b) Compelling refund of money to the workers, applicable to the violations in Point c Clause 2 and Point a Clause 3 of this Article;
- c) Revoking the remittance of the deposits, applicable to the violations in Point b and Point c Clause 3 of this Article.

#### **Article 34. Violations against regulations on overseas manpower supply and management of overseas workers**

1. Each of the following acts shall carry a fine of from 20,000,000 VND to 40,000,000 VND:

- a) Failing to submit the list of departing workers to the diplomatic mission or Vietnam's consular office at the other country;
- b) Failing to cooperate with the diplomatic mission or Vietnam's consular office at the other country in the management and protection of lawful interests of workers during the period of overseas work.

2. Each of the following acts shall carry a fine of from 50,000,000 VND to 80,000,000 VND:

- a) Failing to manage and protect the lawful rights and interests of the works being sent abroad;
- b) Failing to responsively dealt with the cases in which the worker dies, has an occupational accident, occupational illness, or when their life, health is threatened, their honor, dignity, asset is damaged; failing to resolve the disputes related to the workers.

3. Each of the following acts shall carry a fine of from 150,000,000 VND to 200,000,000 VND:

- a) Taking advantage of overseas manpower supply to charge workers for consultancy, recruitment, or training;
- b) Taking advantage of overseas manpower supply to illegally send Vietnamese citizens abroad;
- c) Sending workers to do prohibited jobs or when the host country does not allow.

4. Additional penalties:

- a) Suspending the overseas manpower supply for 01 - 03 months, applicable to the violations in Clause 2 of this Article;
- b) Suspending the overseas manpower supply for 06 - 12 months, applicable to the violations in Clause 3 of this Article;

5. Remedial measure: compelling the manpower supplier to repatriate the workers at the request of the host country or Vietnamese competent authority, applicable to the violations in Clause 2 and Point c Clause 3 of this Article.

#### **Article 35. Violations committed by Vietnamese guest workers and relevant entities**

1. The failure to register individual contracts with competent authorities shall carry a fine of from 2,000,000 VND to 5,000,000 VND.

2. Each of the following acts shall carry a fine of from 80,000,000 VND to 100,000,000 VND:

- a) Illegally staying in the host country after the labor contract or visa expires;
- b) Illegally leaving the contractual workplace;
- c) Failing to go to the contractual workplace after being admitted by the host country;
- d) Enticing, forcing, deceiving Vietnamese workers into staying in the host country illegally.

3. Remedial measures:

- a) Compelling the repatriation, applicable to the violations in Point a, Point b and Point c Clause 2 of this Article;
- b) Suspending the worker from working abroad for 02 years, applicable to the violations in Point a and Point b Clause 2 of this Article;
- c) Suspending the worker from working abroad for 05 years, applicable to the violations in Point c and Point d Clause 2 of this Article.

### **Chapter 5.**

## **POWERS AND PROCEDURE FOR IMPOSING PENALTIES FOR ADMINISTRATIVE VIOLATIONS**

### **SECTION 1. POWERS TO IMPOSE PENALTIES**

#### **Article 36. The power to impose penalties of Presidents of the People's Committees**

1. Presidents of the People's Committees of communes are entitled to:

- a) Issue warnings;
- b) Impose fines of up to 5,000,000 VND.



2. Presidents of the People's Committees of districts are entitled to:

- a) Issue warnings;
- b) Impose fines of up to 37,500,000 VND for the administrative violations against regulations on labor and social insurance;
- c) Impose the additional penalties specified in Chapter II and Chapter III of this Decree;
- d) Take the remedial measures specified in Chapter II and Chapter III of this Decree.

3. Presidents of the People's Committees of provinces are entitled to:

- a) Issue warnings;
- b) Impose fines of up to 75,000,000 VND for the administrative violations against regulations on labor, social insurance, and impose fines of up to 100,000,000 VND for the administrative violations against regulations on overseas manpower supply;
- c) Impose the additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree;
- d) Take the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

**Article 37. The powers to impose penalties of labor inspectors**

1. Labor inspectors and the persons assigned to carry out inspections are entitled to:

- a) Issue warnings;
- b) Impose fines of up to 500,000 VND.

2. The Chief Inspectors of Services of Labor, War Invalids and Social Affairs are entitled to:

- a) Issue warnings;
- b) Impose fines of up to 37,500,000 VND for the administrative violations against regulations on labor, social insurance, and impose fines of up to 50,000,000 VND for the administrative violations against regulations on overseas manpower supply;
- c) Impose the additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree;
- d) Take the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

3. The Chief Inspector of the Ministry of Labor, War Invalids and Social Affairs is entitled to:

- a) Issue warnings;
- b) Impose fines of up to 75,000,000 VND for the administrative violations against regulations on labor, social insurance, and impose fines of up to 100,000,000 VND for the administrative violations against regulations on overseas manpower supply;
- c) Impose the additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree;
- d) Take the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

4. The chief of the ministerial labor inspectorate is entitled to:

- a) Issue warnings;

b) Impose fines of up to 52,500,000 VND for the administrative violations against regulations on labor, social insurance, and impose fines of up to 70,000,000 VND for the administrative violations against regulations on overseas manpower supply;

c) Impose the additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree;

d) Take the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

5. The chiefs of the inspectorates of Services and state agencies assigned to carry out inspections are entitled to:

a) Issue warnings;

b) Impose fines of up to 37,500,000 VND for the administrative violations against regulations on labor, social insurance, and impose fines of up to 50,000,000 VND for the administrative violations against regulations on overseas manpower supply;

c) Impose the additional penalties specified in Chapter II, Chapter III and Chapter IV of this Decree;

d) Take the remedial measures specified in Chapter II, Chapter III and Chapter IV of this Decree.

#### **Article 38. The powers to impose penalties of the Director of the Overseas Manpower Authority**

The Director of the Overseas Manpower Authority is entitled to impose penalties for the administrative violations in Chapter IV of this Decree, in particular:

1. Issue warnings;

2. Impose fines of up to 100,000,000 VND;

3. Impose the additional penalties specified in Chapter IV of this Decree;

4. Take the remedial measures specified in Chapter IV of this Decree.

#### **Article 39. The power to impose penalties of other agencies**

1. The heads of the diplomatic missions, consular offices, and other agencies authorized to perform consular functions of Socialist Republic of Vietnam overseas are entitled to impose penalties against the administrative violations in Chapter IV of this Decree, in particular:

a) Issue warnings;

b) Impose fines of up to 100,000,000 VND;

c) Compel the repatriation of workers at the request of the host country or the competent authority of Vietnam according to Chapter IV of this Decree.

2. The Director of Vietnam Immigration, Directors of Police Departments of provinces are entitled to order expulsion as prescribed in Clause 1 Article 22 of this Decree.

3. Apart from the persons entitled to impose penalties mentioned in Article 36, Article 37, Article 38, Clause 1 and Clause 2 of this Article, the persons entitled to impose administrative penalties of other agencies specified in the Law on Handling administrative violations, within the area of their competence, are entitled to impose penalties for the violations against this Decree upon their discovery according to Article 52 of the Law on Handling administrative violations.

## **SECTION 2. PROCEDURE FOR PENALTY IMPOSITION**

### **Article 40. Making records on violations**

When a violation is discovered, the person entitled to impose penalties, the officials and civil servants on duty shall make records and follow the procedure in Article 58 of the Law on Handling administrative violations.

### **Article 41. Procedure for imposing fines incurred by workers outside Vietnam's territory that violates the regulations on sending workers abroad**

1. The worker that incurs a fine overseas may pay them at a diplomatic mission or consular office of Vietnam in the host country.

2. The fine shall be paid in USD, local currency or VND.

If the fine is paid in USD, the average exchange rate on the inter-bank foreign exchange market announced by the State bank of Vietnam when the fine is collected shall apply.

If the fine is paid in local currency, the exchange rate of the local currency to USD announced by the host country when the fine is collected, or at the exchange rate of the bank where the diplomatic mission or consular office of Vietnam opens its account. This exchange rate shall be kept unchanged for 06 months.

## **Chapter 6.**

## **IMPLEMENTATION**

### **Article 42. Effect**

1. This Decree takes effect on October 10, 2013.

2. The Government's Decree No. 47/2010/ND-CP dated May 06, 2010 of the Government on penalties for violations against legislation on labor, the Government's Decree No. 86/2010/ND-CP dated August 13, 2010 on penalties for administrative violations against legislation on social insurance, and the Government's Decree No. 144/2007/ND-CP dated September 10, 2007 on penalties for administrative violations when sending Vietnamese workers overseas under contracts are annulled from the day on which this Decree takes effect.

### **Article 43. Transitional provisions**

1. The violations that are committed before July 01, 2013 and discovered or dealt with afterwards, the regulations on penalties shall apply if they are advantageous to the violators. The Vietnamese workers overseas that leave their contractual workplace or illegally stay in the host country after the labor contracts expire before the Decree takes effect, and wish to go back to Vietnam within 03 months from the day on which this Decree takes effect, Article 35 of this Decree shall not apply to such workers.

2. The decision on penalties for administrative violations that have been issued or implemented before July 01, 2013, but the entities that carry such penalties still make complaints, the Ordinance on Handling administrative violations shall apply.

### **Article 44. Responsibility to provide instruction and implement**

1. The Minister of Labor, War Invalids and Social Affairs shall provide guidance and inspect the implementation of this Decree.

2. Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Presidents of the People's Committees of central-affiliated cities and provinces are responsible for the implementation of this Decree./.

**FOR THE GOVERNMENT  
THE PRIME MINISTER**

**Nguyen Tan Dung**

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