

**THE GOVERNMENT**

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No.: 24/2018/ND-CP

**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom – Happiness**

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*Hanoi, February 27, 2018*

**DECREE**

**PROVIDING FOR SETTLEMENT OF COMPLAINTS ABOUT AND DENUNCIATIONS OF  
LABOUR, VOCATIONAL EDUCATION, VIETNAMESE GUEST WORKERS,  
EMPLOYMENT, OCCUPATIONAL SAFETY AND HYGIENE**

*Pursuant to the Law on government organization dated June 19, 2015;*

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

*Pursuant to the Law on vocational education dated November 27, 2014;*

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

*Pursuant to the Law employment dated November 16, 2013;*

*Pursuant to the Law on occupational safety and hygiene dated June 25, 2015;*

*Pursuant to the Law on denunciation dated November 11, 2011;*

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

*The Government promulgates the Decree providing for settlement of complaints about and denunciations of labour, vocational education, Vietnamese guest workers, employment, occupational safety and hygiene.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope**

1. This Decree deals with complaints and resolution of complaints against decisions and acts in labour, vocational education, Vietnamese guest workers, employment, occupational safety and hygiene; denunciations and settlement of denunciations of violations against regulations on labour, vocational education, Vietnamese guest workers, employment, occupational safety and hygiene.

2. Complaints and denunciations received in the course of inspection shall be settled in accordance with applicable laws on inspection.

## **Article 2. Regulated entities**

This Decree applies to:

1. Workers, interns and apprentices working at employers' enterprises, probation workers, students of vocational education institutions or institutions providing vocational training courses (hereinafter referred to as “vocational education institutions”), unemployment insurance beneficiaries, and Vietnamese guest workers.
2. Employers.
3. Vocational education institutions.
4. Enterprises and state organizations providing Vietnamese guest worker programs.
5. Employment service providers; organizations involved in creating employment for workers.
6. Organizations examining and issuing national-level vocational certificates.
7. Other authorities, organizations and individuals involved in contents prescribed in Article 1 hereof.

## **Article 3. Interpretation of terms**

For the purposes of this Decree, the terms below are construed as follows:

1. “labour-related complaint” refers to a complaint filed by a worker, an intern, an apprentice or a probation worker according to procedures herein to request the officer competent to settle labour-related complaints to consider labour decisions or labour acts of an employer when there are grounds for presuming that such decisions or acts violate the labour law and infringe his/her legitimate rights and interests.
2. “vocational education-related complaint” refers to a complaint filed by a student who attends a training course at a vocational education institution in Vietnam according to procedures herein to request the officer competent to settle vocational education-related complaints to consider decisions on or acts in vocational education of that vocational education institution when there are grounds for presuming that such decisions or acts violate the law soft on vocational education and infringe his/her legitimate rights and interests.
3. “Vietnamese guest worker-related complaint” refers to a complaint filed by a worker according to procedures herein to request the officer competent to settle Vietnamese guest worker-related complaints to consider decisions or acts of the provider of Vietnamese guest worker programs when there are grounds for presuming that such decisions or acts violate the law on Vietnamese guest workers and infringe his/her legitimate rights and interests.

4. “employment-related complaint” refers to a complaint filed by a worker according to procedures herein to request the officer competent to settle employment-related complaints to consider decisions or acts in employment of organizations involved in employment when there are grounds for presuming that such decisions or acts violate the law on employment and infringe his/her legitimate rights and interests.

5. “occupational safety and hygiene-related complaint” refers to a complaint filed by a worker according to procedures herein to request the officer competent to settle occupational safety and hygiene-related complaints to consider decisions or acts in occupational safety and hygiene of an employer when there are grounds for presuming that such decisions or acts violate the law on occupational safety and hygiene and infringe his/her legitimate rights and interests.

6. “denunciations of labour, vocational education, Vietnamese guest workers, employment and occupational safety and hygiene” refers to the fact that a citizen, worker, intern, apprentice, probation worker, student of a vocational education institution, or Vietnamese guest worker, according to procedures herein, informs a competent officer of a violation that is committed by any authority, organization or individual engaged in any of the aforesaid fields and causes or threatens to cause damage to the State interests or legitimate rights and interests of citizens/ authorities/ organizations.

7. “complainant” means a worker, intern, apprentice, probation worker, student of a vocational education institution, Vietnamese guest worker, a candidate in an exam for the national-level vocational certificate or an unemployment insurance beneficiary who makes a complaint related to labour, vocational education, Vietnamese guest workers, employment or occupational safety and hygiene.

8. “defendant” means an employer, head of a vocational education institution, owner or head of enterprise or state organization providing Vietnamese guest worker program, owner of employment service provider, or head of organization involved in employment against whose decision or acts the complaint related to labour, vocational education, Vietnamese guest workers, employment or occupational safety and hygiene is filed.

9. “denouncer” means a citizen, worker, intern, apprentice, probation worker, student of a vocational education institution, Vietnamese guest worker, a candidate in an exam for the national-level vocational certificate or an unemployment insurance beneficiary who makes a denunciation of labour, vocational education, Vietnamese guest workers, employment or occupational safety and hygiene.

10. “denounced party” means an employer or individual working at a vocational education institution, or an enterprise or a state organization providing Vietnamese guest worker program, or an organization involved in employment, whose acts or acts in labour, vocational education, Vietnamese guest workers, employment or occupational safety and hygiene are denounced.

11. “complaint handler” refers to an authority, organization or individual that has the power to handle complaints about labour, vocational education, Vietnamese guest workers, employment, or occupational safety and hygiene as regulated herein.

12. “denunciation handler” refers to an authority, organization or individual that has the power to settle denunciations of labour, vocational education, Vietnamese guest workers, employment, or occupational safety and hygiene as regulated herein.

13. “complaint handling” refers to a complaint handler’s act of receiving, verifying, reaching conclusions and making decisions on a complaint against labour, vocational education, Vietnamese guest workers, employment, or occupational safety and hygiene.

14. “denunciation settlement” refers to a denunciation handler’s act of receiving, verifying, reaching conclusions and making decision on a denunciation of labour, vocational education, Vietnamese guest workers, employment, or occupational safety and hygiene.

15. “complaint withdrawal” refers to the complainant's act of requesting the complaint handler to terminate the handling of his/her complaint.

16. “labour decision” refers to a written decision made by an employer and applicable to an employee, intern or apprentice in employment relations.

17. “labour acts” refer to the employer or the employee's acts done in social relations that arise from hiring or employment and wage payment between an employee and an employer.

18. “vocational education decision” refers to a written decision made by the head of a vocational education institution and applicable to students who attend training courses provided by that institution.

19. “vocational education acts” refer to acts performed by the head of a vocational education institution in the field of vocational education.

20. “decision on Vietnamese guest worker program” refers to a written decision made by the enterprise or state organization providing Vietnamese guest worker programs and applicable to Vietnamese workers who sent to foreign countries to work under labour contracts.

21. “acts of sending Vietnamese guest workers abroad” refers acts performed by the enterprise or state organization providing Vietnamese guest worker programs in the course of sending Vietnamese workers to foreign countries to work under labour contracts.

22. “employment decision” refers to a written decision made by an organization or individual involved in creating employment, examination and issuance of national-level vocational certificates or unemployment insurance.

23. “employment acts” refer to acts performed by an organization or individual involved in creating employment, examination and issuance of national-level vocational certificates or unemployment insurance.

24. “decision on occupational safety and hygiene” refers to a written decision made by an organization or individual involved in occupational safety and hygiene affairs.

25. “acts of occupational safety and hygiene” refer to acts performed by an organization or individual involved in occupational safety and hygiene affairs.

#### **Article 4. Rules for handling complaints about and denunciations of labour, vocational education, Vietnamese guest workers, employment, and occupational safety and hygiene**

1. Complaints and denunciations must be handled in a timely, objective, public and democratic manner in accordance with laws.
2. Legitimate rights and interests of complainants, defendants, denouncers, denounced parties and related organizations and individuals must be ensured.

### **Chapter II**

## **COMPLAINTS AND COMPLAINT HANDLING**

### **Section 1. COMPLAINTS**

#### **Article 5. Procedures for filing a complaint**

1. An individual is entitled to file a complaint to the officer who has the power to conduct first-time complaint handling as regulated in Clause 1 Article 15, Clause 1 Article 16, Clause 1 Article 17 and Clause 1 Article 18 hereof or file a lawsuit in the court as regulated in Point a Clause 2 Article 10 hereof if there are grounds for presuming that decisions or acts of an employer, a vocational education institution, an enterprise or organization providing Vietnamese guest worker programs, an employment service provider or an organization involved in creating employment for workers, or an organization organizing examination and issuance of national-level vocational certificates, are unlawful or infringe his/her legitimate rights and interests .
2. If a complainant disagrees with the first-time complaint handling decision as prescribed in Article 23 hereof or over the time limit prescribed in Article 20 hereof, the complaint remains unhandled, he/she is entitled to file a lawsuit in the court in accordance with regulations in Point a Clause 2 Article 10 hereof or carry out procedures for the second-time filing of complaint as follows:
  - a) With regard to a complaint related to labour or occupational safety and hygiene, the complainant shall file the complaint to the complaint handler prescribed in Clause 2 Article 15 hereof;
  - b) With regard to a vocational education-related complaint, the complainant shall file the complaint to the complaint handler prescribed in Clause 2 Article 16 hereof;
  - c) With regard to a Vietnamese guest worker-related complaint, the complainant shall file the complaint to the complaint handler prescribed in Clause 2 Article 17 hereof;

d) With regard to an employment-related complaint, the complainant shall file the complaint to the complaint handler prescribed in Clause 2 Article 18 hereof.

3. If a complainant still disagrees with the second-time complaint handling decision as prescribed in Article 31 hereof or over the time limit prescribed in Article 28 hereof, the complaint remains unhandled, he/she is entitled to file a lawsuit in the court in accordance with regulations in Point b Clause 2 Article 10 hereof.

4. If a defendant disagrees with the second-time complaint handling decision as prescribed in Article 31 hereof, he/she is entitled to bring an administrative case in accordance with regulations in Point dd Clause 1 Article 11 hereof.

### **Article 6. Forms of complaint**

1. A complaint may be made either in writing or orally. To be specific:

a) If a complaint is made in writing, the written complaint must clearly state the date of complaint, name and address of the complainant, name and address of the defendant, contents of or reasons for filing the complaint, documents used in the complaint (if any) and the complainant's expectations. The complainant is required to append his/her signature or fingerprints to this written complaint;

b) If an oral complaint is made, the person receiving the complaint shall instruct the complainant to make a written complaint or make a written record of the complaint with required details prescribed in Point a of this Clause and request the complainant to append his/her signature or fingerprints to the written record of the complaint.

2. If two or more people file complaint about the same content, the complaint shall be made as follows:

a) If a written complaint is made, it must include details prescribed in Point a Clause 1 of this Article, and bear signatures of all complainants who shall authorize a person to act as their representative to meet with the complaint handler as requested;

b) If oral complaints are made, the competent authority shall receive and request complainants to appoint a representative to state contents of the complaint; the person receiving the complaint shall make a written record of the complaint with details prescribed in Point a Clause 1 of this Article and request the representative to append his/her signature or fingerprints to this written record.

3. If a complaint is submitted by a representative, this representative is required to provide documents proving his/her capacity as a representative and carry out procedures for filing a complaint in accordance with regulations herein.

### **Article 7. Prescriptive period for complaints**

1. The prescriptive period for filing the first complaint is 180 days after the person filing the complaint receives or perceives the decision or acts of an employer, of an organization or individual engaging in vocational education, of an enterprise or organization providing Vietnamese guest worker programs, of an employment service provider or an organization involved in creating employment for workers, or of an organization in charge of holding examination and issuing national-level vocational certificates that he/she deems unlawful.
2. If a person fails to exercise his/her right to complain by the prescriptive period as regulated in Clause 1 of this Article due to illness, disasters, enemy-inflicted destruction, travel for business trips or study or other objective obstacles, the length of time of such objective obstacles shall not be counted into the prescriptive period for complaint.

#### **Article 8. Complaint withdrawal**

1. A complainant is entitled to withdraw his/her complaint anytime during the filing and processing of the complaint.
2. A written application for withdrawal of complaint must be made, bear the signature or fingerprints of the complainant, and be sent to the competent complaint handler.
3. Within 03 working days from the receipt of the application for withdrawal of complaint, the complaint handler shall make a decision on suspension of the complaint handling, and send it to the applicant and relevant organizations/ individuals.

#### **Article 9. Complaints to be declined to be considered as prescribed herein**

1. The decision or acts about which the complaint is filed do not involve legitimate rights and interests of the complainant.
2. The complainant neither has full legal capacity nor a legal representative.
3. The complaint is filed by an illegal representative.
4. The complaint bears neither signature nor fingerprints of the complainant.
5. The complaint is filed after the prescriptive period set forth in Clause 1 Article 7 hereof but the complainant fails to give legitimate reasons as prescribed in Clause 2 Article 7 hereof.
6. The complainant fails to continue carrying out procedures for complaint within 30 days after a competent authority has given a written notification of suspension of the complaint handling.
7. The complaint has been closed according to a complaint handling decision in force.
8. The complaint has been lawfully received or handled by the Court according to the Court's decision or sentence, except the Court's decision on suspension of resolution of the case.

## **Section 2. RIGHTS AND DUTIES OF COMPLAINANTS, DEFENDANTS, COMPLAINT HANDLERS, LAWYERS, LEGAL AID OFFICERS AND PERSONS PARTICIPATING IN LEGAL AID**

### **Article 10. Rights and duties of complainants**

1. A complainant shall be entitled to:

- a) Lodge a complaint by himself/herself or through an authorized representative;
- b) Personally attend or authorize his/her legal representative to attend talks;
- c) Access, read or make copies of documents and evidences obtained by the complaint handler during the complaint handling, except information and documents which are classified as state secrets or personal privacy of the complainant as regulated by applicable laws;
- d) Request relevant individuals/ authorities/ organizations to provide information and documents concerning the matters of the complaint within 05 working days from the receipt of the complainant's request, and then transfer them to the complaint handler, pay in registration and accuracy, except those classified as state secrets or personal privacy of the complainant as regulated by applicable laws;
- dd) Request the complaint handler to adopt emergency measures for preventing unexpected consequences that may arise from the implementation or performance of decision or acts against which the complaint is filed;
- e) Provide evidences about the complaint and explanations for such evidences;
- g) Reclaim legitimate rights and interests violated because of the implementation or performance of decision or acts against which the complaint is filed;
- h) Claim compensation for damage as per the laws;
- i) Withdraw the complaint as regulated in Article 8 herein;
- k) Make the second-time complaint;
- l) Bring the case to the court in accordance with regulations set forth in Clause 2 of this Article.

2. Right to file lawsuits in Court

a) The complainant is entitled to file a lawsuit in the Court in accordance with regulations of the Code of civil procedures in the following circumstances:

- There are grounds for presuming that the decision or acts of the employer, of the organization or individual participating in vocational education, or of the enterprise or state organization



providing Vietnamese guest worker program are unlawful and infringe the complainant's legitimate rights and interests;

- The complainant does not agree with the first-time complaint handling decision as regulated in Article 23 hereof;

- Over the time limit prescribed in Article 20 hereof, the first-time complaint remains unhandled.

b) The complainant is entitled to file a lawsuit in the Court in accordance with regulations of the Code of administrative procedures in the following circumstances:

- The complainant does not agree with the second-time complaint handling decision as regulated in Article 31 hereof;

- Over the time limit prescribed in Article 28 hereof, the second-time complaint remains unhandled.

3. A complainant shall bear the duties to:

a) Follow procedures for filing complaints set forth in this Decree;

b) Present matters in a honest manner, provide evidences about the complaint; provide relevant information and documents for the complaint handler; assume liabilities for his/her presentations and provided information and documents;

c) Obey effective complaint handling decisions.

4. The complainant shall perform other rights and obligations as regulated by laws.

### **Article 11. Rights and duties of a defendant**

1. A defendant shall be entitled to:

a) Present evidences on the validity of the decision or acts against which the complaint is made;

b) Access, read or make copies of documents and evidences obtained by the second-time complaint handler during the complaint handling, except information and documents which are classified as state secrets or personal privacy of the complainant as regulated by applicable laws;

c) Request relevant individuals/ authorities/ organizations to provide information and documents concerning the matters of the complaint within 05 working days from the receipt of the request for provision of such information and documents, and then transfer them to the second-time complaint handler, except those classified as state secrets or personal privacy of the complainant as regulated by applicable laws;

d) Obtain the second-time complaint handling decision;

dd) File a lawsuit in Court in accordance with applicable regulations of the Code of administrative procedures if disagreeing with the second-time complaint handling decision issued under regulations in Article 31 hereof.

2. A defendant shall bear the duties to:

a) Handle the first-time complaint within his/her competence as regulated in Clause 1 Article 15, Clause 1 Article 16, Clause 1 Article 17 and Clause 1 Article 18 hereof;

b) Personally attend or authorize his/her legal representative to attend talks;

c) Obey the decision on verification of complaint matters given by the person or authority competent to handle the second-time complaint;

d) Provide information and documents concerning the complaint matters within 05 working days from the date of receipt of the request from the second-time complaint handler;

dd) Explain the legality and truthfulness of the decision or acts against which the complaint is filed at the request of the second-time complaint handler;

e) Obey effective complaint handling decisions.

3. The defendant shall perform other rights and obligations as regulated by laws.

#### **Article 12. Rights and duties of first-time complaint handlers**

1. A person who handles the complaint for the first time shall be entitled to:

a) Request the complainant and related parties to provide information, documents and evidences within 05 working days from the date of request so as to serve the complaint handling;

b) Make decision on application or cancellation of emergency measures as prescribed in Article 26 hereof.

2. A person who handles the complaint for the first time shall bear the duties to:

a) Receive complaint and give a written notification of the complaint handling to relevant individuals, authorities and organizations as prescribed in Article 19 hereof;

b) Handle the complaint against his/her decision or acts;

c) Hold talks with the complainant and related authorities/ organizations/ individuals;

d) Send complaint handling decision to relevant individuals, authorities and organizations as regulated in Article 24 hereof;

- dd) Assume liabilities for his/her process of complaint handling;
  - e) Provide information, documents and evidences about the complaint matters at the request of the complainant;
  - g) Provide the complaint documentation at the request of the second-time complaint handler or the court.
3. The first-time complaint handler shall perform other rights and obligations as regulated by laws.

### **Article 13. Rights and duties of second-time complaint handlers**

1. A person who handles the complaint for the second time shall be entitled to:
- a) Request the complainant, defendant and related authorities, organizations and individuals to provide information, documents and evidences within 05 working days from the date of request so as to serve the complaint handling;
  - b) Make decision on application or cancellation of emergency measures as prescribed in Article 26 hereof;
  - c) Requisite expert examination which shall be used as the basis for handling the complaint.
2. A person who handles the complaint for the second time shall bear the duties to:
- a) Receive, accept and document the complaint within its handling capacity;
  - b) Consider and verify the complaint matters;
  - c) Hold talks between the complainant, defendant and related authorities/ organizations/ individuals;
  - d) Make and announce the complaint handling decision;
  - dd) Provide information and documents concerning the complaint matters at the request of the complainant or defendant;
  - e) Provide information and documents concerning the complaint matters and the second-time complaint documentation at the request of the court.
3. The second-time complaint handler shall perform other rights and obligations as regulated by laws.

### **Article 14. Rights and duties of lawyers, legal aid officers and other persons providing legal aid**

1. Lawyers, legal aid officers and persons participating in legal aid shall be entitled to:
  - a) Participate in the complaint handling process at the request of the complainant;
  - b) Exercise rights and perform duties of the complaint when being authorized;
  - c) Verify and collect evidences on the complaint matters at the request of the complainant and provide such evidences for the complaint handler;
  - d) Consider the complaint, and make copies of documents and evidences about the complaint matters to protect legitimate rights and interests of the complainant, except information and documents which are classified as state secrets or personal privacy of the complainant as regulated by applicable laws.
2. Lawyers, legal aid officers and persons participating in legal aid shall bear the duties to:
  - a) Present lawyer's card, legal aid officer's card and decision on assignment with legal aid tasks, the written request for legal aid or the power of attorney made by the complainant;
  - b) Perform acts within the scope of authorization by the complainant.
3. Lawyers, legal aid officers and persons participating in legal aid shall exercise and perform other rights and duties as per the laws.

### **Section 3. AUTHORITY TO HANDLE COMPLAINTS**

#### **Article 15. Authority to handle complaints related to labour, and occupational safety and hygiene**

1. Employers shall have the power to handle complaints for the first time with regard to complaints against their decisions on or acts of labour or occupational safety and hygiene.
2. Chief Inspector of Department of Labour, War Invalids and Social Affairs of province where the employer's head office is located shall have the power to handle complaints related to labour or occupational safety and hygiene for the second time in case the complainant disagrees with the first-time complaint handling decision as regulated in Article 23 or over the time limit prescribed in Article 20, the complaint remains unhandled.
3. Authority to handle complaints about occupational accident investigation shall follow provisions set forth in Article 17 of the Government's Decree No. 39/2016/ND-CP dated May 15, 2016.

#### **Article 16. Authority to handle occupational education-related complaints**

1. Heads of vocational education institutions shall have the power to handle complaints against their decisions or acts for the first time.

2. Each Director of Provincial Department of Labour, War Invalids and Social Affairs shall have the power to handle complaints against vocational education institutions to whom it issued certificates of vocational education registration for the second time; the Director General of the Directorate of Vocational Education and Training shall have the power to handle complaints against vocational education institutions to whom it issued certificates of vocational education registration for the second time.

#### **Article 17. Authority to handle Vietnamese guest worker-related complaints**

1. Heads of organizations providing Vietnamese guest worker programs shall have the power to handle complaints against their decisions or acts for the first time.

2. The Director of the Department of Overseas Labour shall have the power to handle Vietnamese guest worker-related complaints for the second time in case the complainant disagrees with the first-time complaint handling decision as regulated in Article 23 hereof or over the time limit prescribed in Article 20 hereof, the complaint remains unhandled.

#### **Article 18. Authority to handle employment-related complaints**

1. Heads of employment service providers (including employment service centers and enterprises) and heads of organizations conducting examination and issuance of national-level vocational certificates shall have the power to handle complaints against their decisions or acts for the first time.

2. Each Director of Department of Labour, War Invalids and Social Affairs of province where the head office of the employment service provider, or of the organization conducting examination and issuance of national-level vocational certificates, is located shall have the power to handle employment-related complaints for the second time in case the complainant disagrees with the first-time complaint handling decision as regulated in Article 23 hereof or over the time limit prescribed in Article 20 hereof, the complaint remains unhandled.

### **Section 4. PROCEDURES AND TIME LIMITS FOR FIRST-TIME COMPLAINT HANDLING**

#### **Article 19. Accepting first-time complaints**

1. Accepting complaints related to labour, and occupational safety and hygiene for resolution

a) Within a duration of 07 working days from the receipt of a complaint under his/her handling capacity, the first-time complaint handler must consider accepting the complaint and give a written notification of accepting the complaint for resolution to the complainant and the Chief Inspector of the Department of Labour, War Invalids and Social Affairs of province where the employer's head office is located;

b) If a complaint is transferred from an authority, organization or individual, apart from the sending of notification as prescribed in Point a Clause 1 of this Article, the first-time complaint

handler must send a written notification of accepting the complaint for resolution to that transferring authority, organization or individual.

c) Complaints about occupational accident investigation shall be resolved according to provisions set forth in Article 17 of the Government's Decree No. 39/2016/ND-CP dated May 15, 2016.

## 2. Accepting vocational education-related complaints for resolution:

a) Within a duration of 07 working days from the receipt of a complaint under his/her handling capacity, the first-time complaint handler must consider accepting the complaint and give a written notification of accepting the complaint for resolution to the complainant and the Director of Provincial Department of Labour, War Invalids and Social Affairs if the complaint is filed against a vocational education institution to whom it issued the certificate of vocational education registration or the Director General of the Directorate of Vocational Education and Training if the complaint is filed against a vocational education institution to whom it issued the certificate of vocational education registration;

b) If a complaint is transferred from an authority, organization or individual, apart from the sending of notification as prescribed in Point a Clause 2 of this Article, the first-time complaint handler must send a written notification of accepting the complaint for resolution to that transferring authority, organization or individual.

## 3. Accepting Vietnamese guest worker-related complaints for resolution:

a) Within a duration of 07 working days from the receipt of a complaint under his/her handling capacity, the first-time complaint handler must consider accepting the complaint and give a written notification of accepting the complaint for resolution to the complainant and the Director of the Department of Overseas Labour;

b) If a complaint is transferred from an authority, organization or individual, apart from the sending of notification as prescribed in Point a Clause 3 of this Article, the first-time complaint handler must send a written notification of accepting the complaint for resolution to that transferring authority, organization or individual.

## 4. Accepting employment-related complaints for resolution:

a) Within a duration of 07 working days from the receipt of a complaint under his/her handling capacity, the first-time complaint handler must consider accepting the complaint and give a written notification of accepting the complaint for resolution to the complainant and the Director of the Department of Labour, War Invalids and Social Affairs of province where the employment service provider's head office is located;

b) If a complaint is transferred from an authority, organization or individual, apart from the sending of notification as prescribed in Point a Clause 4 of this Article, the first-time complaint

handler must send a written notification of accepting the complaint for resolution to that transferring authority, organization or individual.

#### **Article 20. Time limits for resolution of first-time complaints**

1. The time limit for first-time complaint handling is not exceeding 30 days after the complaint is accepted. The time limit for handling a complicated complaint may be extended but must not exceed 45 days after it is accepted for handling.

2. The time limit for first-time complaint handling in remote and isolated areas is not exceeding 45 days after the complaint is accepted. The time limit for handling a complicated complaint in such areas may be extended but must not exceed 60 days after it is accepted for handling.

#### **Article 21. Considering and verifying first-time complaint matters**

1. Within the time limit prescribed in Article 20 hereof, the first-time complaint handler must directly or assign a specialized department to consider and verify the complaint matters.

2. Considering and verifying the complaint matters must ensure objectiveness, accuracy and punctuality.

3. The person in charge of considering and verifying the complaint matters shall have the following rights and duties:

a) Request the complainant, and relevant authorities/ organizations/ individuals to provide information, documents and evidences about the complaint matters;

b) Request the complainant, and relevant authorities/ organizations/ individuals to provide written explanations about the complaint matters;

c) Summon the complainant and related authorities/ organizations/ individuals;

d) Requisite expert examination which shall be used as the basis for handling the complaint;

dd) Adopt appropriate verification methods as per the laws;

e) Provide and assume liabilities for results of consideration and verification of the complaint matters.

4. A report on consideration and verification of the complaint matters includes:

a) Subjects of the consideration and verification;

b) The period of consideration and verification;

c) The person in charge of considering and verifying the complaint matters;

- d) Contents of consideration and verification;
- dd) Consideration and verification results;
- e) Conclusions and recommendations;
- g) Other contents (if any).

### **Article 22. Holding first talk**

1. During the resolution of the first-time complaint, the complaint handler must meet and talk with the complainant, persons having related rights and duties, and relevant authorities/ organizations/ individuals about the complaint matters, the complainant's expectations and solutions for handling the complaint if it deems necessary; such talk must be conducted in a public and democratic manner.
2. The complaint handler must clearly state the contents of the talk; results of consideration and verification of the complaint matters; participants in the talk shall have the right to present their ideas and evidences on their complaint and their expectations.
3. The contents of the talk must be recorded; the record of the talk must include ideas given by participants, results of the talk, and bear signatures or fingerprints of participants; this record of talk must be consolidated in the complaint documentation.
4. Results of the talk are considered as grounds for resolving the complaint.

### **Article 23. First-time complaint handling decision**

1. The first-time complaint handler must make a decision on complaint handling results.
2. A first-time complaint handling decision includes:
  - a) Date of the decision;
  - b) Name and address of the complainant, and of the defendant;
  - c) The complaint matters;
  - d) Results of consideration and verification of the complaint matters;
  - dd) Results of the talk (if any);
  - e) Legal grounds for handling the complaint;
  - g) Conclusions; resolution of each complaint matter;



h) Compensation for damage suffered by the aggrieved party (if any);

i) The right to file the second-time complaint, the right to initiate the lawsuit in court.

3. If there are two or more persons file complaint about the same matter, the first-time complaint handler shall consult the conclusions on the complaint to make complaint handling decision to each complainant or make a complaint handling decision accompanied with the list of complainants.

#### **Article 24. Sending first-time complaint handling decision**

1. Within 03 working days from the date of the complaint handling decision, the first-time complaint handler shall send such decision to relevant parties. To be specific:

a) A decision on handling of a complaint related to labour or occupational safety and hygiene shall be sent to the complainant, the Chief Inspector of the Department of Labour, War Invalids and Social Affairs of province where the defendant's head office is located and relevant authorities/ organizations/ individuals;

b) A decision on handling of a vocational education-related complaint shall be sent to the complainant, the Director of Provincial Department of Labour, War Invalids and Social Affairs if the complaint is filed against a vocational education institution to whom it issued the certificate of vocational education registration or the Director General of the Directorate of Vocational Education and Training if the complaint is filed against a vocational education institution to whom it issued the certificate of vocational education registration, and relevant authorities/ organizations/ individuals;

c) A decision on handling of a Vietnamese guest worker-related complaint shall be sent to the complainant, the Director of the Department of Overseas Labour, and relevant authorities/ organizations/ individuals;

d) A decision on handling of an unemployment-related complaint shall be sent to the complainant, the Director of the Department of Labour, War Invalids and Social Affairs of province where the employment service provider's head office is located, and relevant authorities/ organizations/ individuals.2. If a complaint is transferred from an authority, organization or individual, apart from the sending of the complaint handling decision as prescribed in Clause 1 of this Article, the complaint handler must also send the complaint handling decision to that transferring authority, organization or individual.

#### **Article 25. First-time complaint documentation**

1. The complaint must be documented. Complaint documentation includes:

a) The written complaint or the written record of the complaint;

b) The written notification of accepting the complaint for resolution;

- c) Documents and evidences collected during the complaint handling process;
- d) Report on results of consideration and verification of the complaint matters;
- dd) Examination results given by the expert (if any);
- e) The record of the talk (if any);
- g) The complaint handling decision;
- h) Relevant documents.

2. Documents included in the complaint documentation must be numbered in chronological order and retained in accordance with applicable laws.

3. The complaint documentation prescribed in Clause 1 of this Article must be transferred to the second-time complaint handler or the competent court as requested.

#### **Article 26. Application of emergency measures**

During the complaint resolution, if the complaint handler deems that the implementation or performance of decision or acts against which the complaint is filed shall result in adverse consequences, he/she must make decision on suspension of the implementation or performance of such decision or acts. The length of time of such suspension must not exceed the remaining time limit for handling the complaint. Such decision on suspension must be sent to the complainant, persons having related rights and duties, and other responsible persons. Such decision on suspension must be annulled where it deems that the events resulting in such suspension no longer exist.

### **Section 5. PROCEDURES FOR SECOND-TIME COMPLAINT HANDLING**

#### **Article 27. Accepting second-time complaints for resolution**

1. Within 30 days from the end of the time limit for handling complaints prescribed in Article 20 hereof, if the first-time complaint remains unresolved, or from the receipt of the first-time complaint handling decision, if the complainant disagrees with that decision, he/she shall have the right to file the complaint to the person competent to handle second-time complaint; in remote and isolated areas, this time limit may be extended but shall not exceed 45 days.

2. Within a duration of 07 working days from the receipt of a complaint under his/her handling capacity, the second-time complaint handler must consider accepting the complaint and give a written notification of accepting the complaint for resolution to the complainant.

3. If a complaint is transferred from an authority, organization or individual, apart from the sending of a notification to the complainant as prescribed in Point a Clause 2 of this Article, the

second-time complaint handler must send a written notification of accepting the complaint for resolution to that transferring authority, organization or individual.

4. If a complaint is refused, legitimate reasons for such refusal must be given.

#### **Article 28. Time limits for resolution of second-time complaints**

1. The time limit for handling the second-time complaint is not exceeding 45 days after it is accepted. The time limit for handling a complicated complaint may be extended but must not exceed 60 days after it is accepted for handling.

2. The time limit for handling a second-time complaint in remote and isolated areas is not exceeding 60 days after it is accepted. The time limit for handling a complicated complaint in such areas may be extended but must not exceed 90 days after it is accepted for handling.

#### **Article 29. Considering and verifying second-time complaint matters**

1. Within the time limit prescribed in Article 28 hereof, the second-time complaint handler must personally or assign a specialized department to consider and verify the complaint matters. Consideration and verification of the complaint matters shall be carried out in accordance with regulations laid down in Clause 2, Clause 3 and Clause 4 Article 21 hereof.

2. Apart from rights and duties of the person responsible for considering and verifying the complaint matters prescribed in Clause 3 Article 21 hereof, the person responsible for considering and verifying the second-time complaint matters shall have the right and duties to request the complainant to provide information, documents and evidences on the complaint matters as well as written explanations about such complaint matters.

#### **Article 30. Holding second talk**

1. During the resolution of the second-time complaint, the complaint handler shall hold a talk between the complainant, the defendant, persons having related rights and duties, and relevant authorities/ organizations/ individuals.

2. The second talk shall be held in accordance with regulations in Clause 2 and Clause 3 Article 22 hereof.

#### **Article 31. Second-time complaint handling decision**

1. The second-time complaint handler must make a decision on complaint handling results.

2. In addition to the contents prescribed in Clause 2 Article 23 hereof, the second-time complaint handling decision must include:

a) Complaint handling results given by the first-time complaint handler (if any);

b) Right to file a lawsuit in Court.

3. If there are two or more persons file complaint about the same matter, the second-time complaint handler shall consult the conclusions on the complaint to make complaint handling decision to each complainant or make a complaint handling decision accompanied with the list of complainants.

### **Article 32. Sending of second-time complaint handling decision**

Within 03 working days from the date of issue of the second-time complaint handling decision, the second-time complaint handler must send that decision to the complainant, the defendant, persons having related rights and duties, and the authority, organization or individual that transferred such complaint.

### **Article 33. Second-time complaint documentation**

Second-time complaint documentation is prepared according to regulations in Article 25 hereof, and includes the first-time complaint documentation (if any).

## **Section 6. Effect of a complaint handling decision and implementation thereof**

### **Article 34. Effect of a complaint handling decision**

1. The first-time complaint handling decision shall come into effect

a) 30 days after the date on which it is made if the complainant does not file the second-time complaint or bring a lawsuit in court as prescribed in Point a Clause 2 Article 10 hereof; or

b) 45 days after the date on which it is made if the complaint arises in a remote and isolated area and the complainant does not file the second-time complaint or bring a lawsuit in court as prescribed in Point a Clause 2 Article 10 hereof.

2. The second-time complaint handling decision shall come into effect

a) 30 days after the date on which it is made if the complainant does not file a lawsuit in court as prescribed in Point b Clause 2 Article 10 hereof or the defendant does not bring a lawsuit in court prescribed in Point dd Clause 1 Article 11 hereof; or

b) 45 days after the date on which it is made if the complaint arises in a remote and isolated area and the complainant does not bring a lawsuit in court as prescribed in Point b Clause 2 Article 10 hereof.

3. The complaint handling decision must be implemented immediately after it comes into effect.

### **Article 35. Persons bearing duties to implement an effective complaint handling decision**

1. The complaint handler.
2. The complainant.
3. The defendant.
4. Persons having related rights and duties.
5. Relevant authorities, organizations and individuals.

### **Article 36. Implementation of an effective complaint handling decision**

1. The complaint handler shall, within the ambit of his/her duties and powers, instruct authorities/ organizations/ individuals under his/her management to organize the implementation of an effective complaint handling decision; request competent authorities to adopt measures for ensuring the implementation of that effective complaint handling decision, where necessary; put in responsibility and adequacy; organize the implementation or take charge and cooperate with authorities/ organizations that may concern to implement measures for restoring legitimate rights and interests for the complainant; request other authorities/ organizations to settle issues concerning the implementation of the complaint handling decision (if any).
2. Within the scope of duties and powers, relevant authorities/ organizations/ individuals shall comply with decisions by competent authorities on implementation of an effective complaint handling decision; cooperate with competent authorities/ organizations/ individuals to organize the implementation of an effective complaint handling decision as requested.

## **Chapter III**

### **DENUNCIATIONS AND DENUNCIATION SETTLEMENT**

#### **Section 1. RIGHTS AND DUTIES OF DENOUNCER, DENOUNCED PARTY AND DENUNCIATION HANDLER**

##### **Article 37. Rights and duties of a denouncer**

1. A denouncer shall have the right to make either written or oral denunciations of violations against regulations on labour, vocational education, Vietnamese guest workers, employment or occupational safety and hygiene to competent authorities/ persons as prescribed in Articles 39, 40, 41 and 42 hereof.
2. Other rights and duties of a denouncer are prescribed in the Law on denunciation and relevant laws.

##### **Article 38. Rights and duties of denounced party and denunciation handler**

Rights and duties of a denouncer and those of a denunciation handler shall be performed in accordance with applicable regulations of the Law on denunciation and relevant soft laws.

## **Section 2. AUTHORITY TO SETTLE DENUNCIATIONS**

### **Article 39. Chief Inspectors of Provincial Departments of Labour, War Invalids and Social Affairs**

Each Chief Inspector of the Provincial Department of Labour, War Invalids and Social Affairs shall settle denunciations of violations against regulations on labour and occupational safety and hygiene under the management of that Provincial Department of Labour, War Invalids and Social Affairs.

### **Article 40. Director of Department of Overseas Labour**

The Director of the Department of Overseas Labour shall settle denunciations of violations against regulations on Vietnamese guest worker programs under the state management of the Ministry of Labour, War Invalids and Social Affairs.

### **Article 41. Chief Inspector of the Ministry of Labour, War Invalids and Social Affairs**

The Chief Inspector of the Ministry of Labour, War Invalids and Social Affairs shall consider and settle denunciations which have been settled by a Provincial Department of Labour, War Invalids and Social Affairs but the denouncer is unsatisfactory and makes further denunciation, or over the time limit for settling a denunciation but it remains unsettled; and settle denunciations as assigned by the Ministry of Labour, War Invalids and Social Affairs.

### **Article 42. Minister of Labour, War Invalids and Social Affairs**

The Minister of Labour, War Invalids and Social Affairs shall consider and settle denunciations which have been settled by the Director of the Department of Overseas Labour but the denouncer is unsatisfactory and makes further denunciation, or over the time limit for settling a denunciation but it remains unsettled.

### **Article 43. Authority to settle denunciations of violations against regulations on vocational education or employment**

Denunciations of violations against regulations on vocational education or employment shall be settled in accordance with applicable regulations of the Law on denunciation.

### **Article 44. Delegation of authority to settle denunciations**

Denunciations of the matter under the state management of multiple authorities, denunciations under the jurisdiction of multiple authorities and denunciations of suspected criminal violations shall be settled in accordance with applicable regulations of the Law on denunciation.

### **Section 3. PROCEDURES FOR SETTLING DENUNCIATIONS**

#### **Article 45. Procedures for settling denunciations**

1. Procedures for receiving, classifying, verifying, giving conclusions and making decision on settlement of a denunciation of violations against regulations on labour, vocational education, Vietnamese guest workers, employment or occupational safety and hygiene, shall conform to applicable regulations of the Law on denunciation.
2. If the denounced party is found to commit an administrative violation against regulations on labour, vocational education, Vietnamese guest workers, employment or occupational safety and hygiene, penalties for such administrative violation must be imposed in accordance with the Law on actions against administrative violations.
3. Denunciation documentation shall be prepared according to applicable regulations of the Law on denunciation.

#### **Chapter IV**

### **IMPLEMENTATION PROVISIONS**

#### **Article 46. Effect**

This Decree comes into effect from April 15, 2018.

The Government's Decree No. 119/2014/ND-CP dated December 17, 2014 shall be repealed from the date of entry into force of this Decree.

Regulations on complaints and denunciations by employees provided in the Government's Decree No. 75/2012/ND-CP dated October 03, 2012 and the Government's Decree No. 76/2012/ND-CP dated October 03, 2012 shall be annulled from the date of entry into force of this Decree.

#### **Article 47. Responsibility for implementation**

Ministers, heads of ministerial-level agencies, heads of the Government's affiliates, Chairpersons of People's Committees of provinces and central-affiliated cities and relevant agencies, organizations and individuals shall implement this Decree.

The Minister of Labour, War Invalids and Social Affairs shall, within the ambit of assigned functions and duties, provide guidance on the implementation of this Decree.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

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