

## **THE PRESIDENT**

### **Order No. 15/2010/L-CTN of November 29, 2010, on the promulgation of law**

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM

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

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

*Pursuant to Article 57 of the Law on the Promulgation of Legal Documents,*

PROMULGATES:

**the Law on Public Employees,**

which was passed on November 15, 2010, by the XII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 8<sup>th</sup> session.

President of the Socialist Republic of Vietnam  
NGUYEN MINH TRIET

## **Law on Public Employees**

*(No. 58/2010/QH12)*

*Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;*

*The National Assembly promulgates the Law on Public Employees.*

### **Chapter I**

#### **GENERAL PROVISIONS**

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

This Law provides for public employees; rights and obligations of public employees; and recruitment, employment and management of public employees in public non-business units.

#### **Article 2. Public employees**

Public employees are Vietnamese citizens recruited according to working positions, working in public non-business units under working contracts and salaried from salary funds of public non-business units in accordance with law.

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

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

1. *Managerial public employee* means a person appointed to hold a managerial post for a specified period, responsible for administering and organizing the performance of one or more than one work in a public non-business unit but not regarded as a civil servant, and receiving a managerial-post allowance.
2. *Professional ethics* means standard perceptions and behaviors suitable to the specifics of each field of professional activity, which are prescribed by competent agencies or organizations.
3. *Code of conduct* means standard conducts of public employees while performing their tasks and in social relations, which are promulgated by competent state agencies and suitable to the specifics of work in each field of activity and made public for public supervision of their compliance.
4. *Recruit* means to select persons with qualities, qualifications and capabilities to work as public employee in public non-business units.
5. *Working contract* means a written agreement between a public employee or a person recruited to work as public employee and the head of a public non-business unit on the working position, salary, benefits, working conditions and rights and obligations of each party.

### **Article 4.** Professional activities of public employees

Professional activities of public employees are the performance of work or tasks requiring professional qualifications, capability and skills in a public non-business unit under the provisions of this Law and other relevant laws.

### **Article 5.** Principles in professional activities of public employees

1. Observance of law and accountability before law in the course of carrying out professional activities.
2. Devoted serving of the people.
3. Compliance with professional processes and regulations, professional ethics and code of conduct.
4. Submission to inspection, examination and supervision by competent agencies and organizations and by the people.

### **Article 6.** Principles of management of public employees

1. Assurance of the leadership by the Communist Party of Vietnam and the uniform management by the State.
2. Assurance of the right to take the initiative and enhancement of the responsibility of heads of public non-business units.
3. Recruitment, employment, management and evaluation of public employees are based on criteria of professional titles, working positions and working contracts.
4. Implementation of gender equality and preferential treatment policies of the State toward public employees who are talented people, ethnic minority people, people with meritorious services to the revolution and who work in mountainous, border, island, remote, deep-lying and ethnic minority areas and areas with extremely difficult socio-economic conditions, and other preferential treatment policies of the State toward public employees.

**Article 7.** Working positions

1. Working position is a work or task associated with a corresponding professional title or managerial post, serving as a basis for determining the number and structure of public employees to be recruited, employed and managed in a public non-business unit.
2. The Government shall stipulate principles and methods of determining working positions and the competence, order and procedures for deciding on the number of working positions in a public non-business unit.

**Article 8.** Professional titles

1. Professional title is the name expressing professional qualification and capability of public employees in each professional field.
2. The Ministry of Home Affairs shall assume the prime responsibility for, and coordinate with concerned ministries and ministerial-level agencies in, stipulating a system of lists, criteria and codes of professional titles.

**Article 9.** Public non-business units and organizational structures to manage their activities

1. Public non-business unit is an organization established under law by a competent state agency, a political organization or a socio-political organization, having the legal person status and providing public services and serving state management work.
2. Public non-business units include:
  - a/ Public non-business units assigned with absolute autonomy in task performance, finance, apparatus organization and personnel (below referred to as autonomous public non-business units);

b/ Public non-business units not yet assigned with absolute autonomy in task performance, finance, apparatus organization and personnel (below referred to as non-autonomous public non-business units).

3. The Government shall detail criteria for classification of public non-business units mentioned in Clause 2 of this Article in each non-business area based on their ability to be autonomous in task performance, finance, apparatus organization, personnel and scope of operation.

4. Depending on specific conditions and management requirements on each type of public non-business units in each sector, the Government shall stipulate the establishment, structure, functions, tasks and powers of management councils in public non-business units and relationships between management councils and heads of public non-business units.

**Article 10.** Policies on the building and development of public non-business units and the contingent of public employees

1. The State shall concentrate on building a system of public non-business units to provide public services for which the State must take main responsibility in order to serve the people in health, education, science and other fields in which the non-public sector is unable to provide these services; and shall assure provision of basic health and education services in mountainous, border, island, remote, deep-lying and ethnic minority areas and areas with extremely difficult socio-economic conditions.

2. The Government shall coordinate with competent agencies in directing the planning, organization and re-arrangement of the system of public non-business units in the direction of determining domains of restricted development and domains of prioritized development of these units, ensuring economical, effective and intensive utilization of human resources in order to improve the quality of non-business activities. No public non-business units shall be established to perform only commercial, for-profit services.

3. The operation mechanism of public non-business units shall be further renovated towards autonomy, self-responsibility and independent cost-accounting; and the state management functions of ministries and ministerial-level agencies shall be separated from the function of administering public non-business units.

4. The State shall adopt policies to build and develop a contingent of public employees with professional ethics, qualifications and capabilities to meet the increasing requirements of the provision of public services; and shall discover, attract, train, use in important positions and appropriately treat talented people in order to raise the quality of public services.

## Chapter II

### RIGHTS AND OBLIGATIONS OF PUBLIC EMPLOYEES

#### Section 1

#### RIGHTS OF PUBLIC EMPLOYEES

**Article 11.** Rights of public employees in professional activities

1. To be protected by law when performing professional activities.
2. To be trained and retrained in order to raise their political, specialized and professional qualifications.
3. To be provided with working equipment and working conditions.
4. To be provided with information about their assigned work or tasks.
5. To decide on professional matters related to their assigned work or tasks.
6. To decline to perform work or tasks that is/are contrary to law.
7. Other rights related to professional activities as provided by law.

**Article 12.** Rights of public employees to salaries and salary-related regimes

1. To be paid with salaries matching working positions, professional titles, managerial posts and results of work or task performance; to enjoy allowances and preferential policies when working in mountainous, border, island, deep-lying, remote and ethnic minority areas and areas with extremely difficult socio-economic conditions or in hazardous and dangerous sectors or occupations or special non-business fields.
2. To enjoy overtime and night work pays, working trip allowances and other benefits according to law and regulations of public non-business units.
3. To enjoy monetary rewards and be considered for salary raise under law and regulations of public non-business units.

**Article 13.** Rights of public employees to rest

1. To take annual leaves, holidays and leaves for personal reasons under the labor law. Public employees who do not use any or all of prescribed annual leave days due to work requirements are entitled to a sum of money for those days on which they work.
2. Public employees working in mountainous, border, island, deep-lying and remote areas and in other special cases may take leave days of 2 years at a time if they so wish. If wishing to take leave days of 3 years at a time, they shall obtain consent of the heads of their public non-business units.

3. For special non-business fields, public employees may take paid leaves as provided by law.

4. To take unpaid leaves for plausible reasons and after obtaining consent of the heads of their public non-business units.

**Article 14.** Rights of public employees to do business and work outside prescribed hours

1. To carry out professional activities after working hours stated in working contracts, unless otherwise provided for by law.

2. To sign with agencies, organizations and units other than their employing public non-business units piecework contracts which are not banned by law, provided that they accomplish their assigned tasks and obtain consent of the heads of their public non-business units.

3. To contribute capital to but be disallowed to participate in managing and administering limited liability companies, joint-stock companies, partnerships, cooperatives, and private hospitals, schools or scientific research institutions, unless otherwise provided for by law.

**Article 15.** Other rights of public employees

Public employees are entitled to commendation, reward and respect; to participate in economic and social activities; to enjoy incentive housing policies and to be provided with conditions for studying and carrying out professional activities at home and abroad under law. If getting injured or dying while performing assigned work or tasks, they shall be considered for enjoying policies applicable to war invalids or being recognized as fallen heroes under law.

Section 2

OBLIGATIONS OF PUBLIC EMPLOYEES

**Article 16.** General obligations of public employees

1. To observe the line and policies of the Communist Party of Vietnam and the laws of the State

2. To adopt healthy lifestyles, to be honest, industrious, thrifty, incorruptible, upright, public-spirited and selfless.

3. To have a sense of organizational discipline and responsibility in professional activities; to strictly comply with working regulations and rules of public non-business units.

4. To protect state secrets; to preserve and protect public assets, and effectively and thriftily use assigned assets.

5. To self-improve and self-train in professional ethics and code of conduct of public employees.

**Article 17.** Obligations of public employees in professional activities

1. To perform assigned work and tasks to meet time and quality requirements.
2. To properly collaborate with colleagues in performing their work or tasks.
3. To abide by work assignments of competent persons.
4. To constantly learn to improve their professional qualifications and skills.
5. When serving the people, to observe the following regulations:
  - a/ To be polite and respectful toward the people;
  - b/ To have a sense of cooperation and adopt modest manners;
  - c/ To refrain from being imperious and authoritarian and harassing the people;
  - d/ To observe rules on professional ethics.
6. To carry out professional activities.
7. Other obligations as provided by law.

**Article 18.** Obligations of managerial public employees

Managerial public employees shall perform the obligations specified in Articles 16 and 17 of this Law and the following obligations:

1. To direct and organize the performance of tasks of their units according to assigned responsibilities and competence;
2. To exercise democracy and preserve unity and professional ethics in units they are assigned to manage;
3. To take responsibility or joint responsibility for professional activities carried out by public employees under their management;
4. To build and develop human resources; to manage and effectively use physical facilities and financing sources in units they are assigned to manage;
5. To organize the implementation of measures to prevent and combat corruption and practice thrift and combat wastefulness in units they are assigned to manage.

**Article 19.** Prohibitions on public employees

1. Shirking responsibility or refusing to discharge assigned work or tasks; sowing factionalism and disunity; quitting jobs arbitrarily; going on strike.
2. Illegally using assets of agencies, organizations, units and the people in contravention of law.
3. Discriminating in any form against nationality, gender, social strata, beliefs and religions.
4. Taking advantage of professional activities to conduct propaganda against the line and policies of the Party and the laws of the State or to the detriment of the fine traditions and customs and cultural and spiritual life of the people and society.
5. Hurting the honor, dignity and prestige of others when carrying out professional activities.
6. Other prohibitions as provided by the Law Against Corruption, the Law on Thrift Practice and Wastefulness Combat and other relevant laws.

### Chapter III

## RECRUITMENT AND EMPLOYMENT OF PUBLIC EMPLOYEES

### Section 1

#### RECRUITMENT

##### **Article 20.** Recruitment bases

Recruitment of public employees must be based on work demand, working positions, criteria of professional titles and salary funds of public non-business units.

##### **Article 21.** Recruitment principles

1. Ensuring publicity, transparency, equality, objectivity and legality.
2. Ensuring competitiveness.
3. Selecting right persons who meet requirements of working positions.
4. Enhancing the responsibility of heads of public non-business units.
5. Giving priority to talented people, people with meritorious services to the revolution and ethnic minority people.

##### **Article 22.** Recruitment registration conditions

1. A person who meets all the following conditions, regardless of nationality, gender, social status, belief and religion, may register for public employee recruitment:

- a/ Bearing Vietnamese citizenship and residing in Vietnam;



- b/ Reaching full 18 years of age. For a number of areas of cultural activity, arts, physical training and sports, the age eligible for recruitment may be lower as provided by law with written consent of at-law representatives;
- c/ Filing an application for recruitment;
- d/ Having a clear personal background;
- e/ Possessing diplomas, training certificates or practice certificates or aptitude and skills relevant to the working position for which he/she applies;
- f/ Being physically fit for work or tasks;
- g/ Meeting other conditions required by the working position for which he/she applies and determined by the public non-business unit, which must not be contrary to law.

2. The following persons may not register for public employee recruitment:

- a/ Having lost civil act capacity or having such capacity restricted;
- b/ Being examined for penal liability; currently serving a criminal sentence or ruling of the court or serving the administrative measure of confinement to a medical treatment establishment, an educational institution or a reformatory.

#### **Article 23.** Recruitment methods

Recruitment of public employees shall be conducted through examination or selection.

#### **Article 24.** Organization of recruitment

1. For autonomous public non-business units, their heads may recruit public employees and take responsibility for their decisions.

For non-autonomous public non-business units, their managing agencies shall recruit public employees or authorize heads of such units to recruit public employees.

2. Based on recruitment results, heads of public non-business units shall sign working contracts with recruited public employees.

3. The Government shall detail contents of recruitment of public employees provided in this Law.

### Section 2

## WORKING CONTRACTS

#### **Article 25.** Types of working contracts

1. Working contract with a definite term is a contract whereby the two parties determine the term or time of expiration of the contract to be between full 12 months and 36 months. Working contract with a definite term applies to recruited public employees, except the cases specified at Points d and e, Clause 1, Article 58 of this Law.

2. Working contract with an indefinite term is a contract whereby the two parties do not determine the term or time of expiration of the contract. Working contract with an indefinite term applies to public employees who have completed working contracts with a definite term and to cadres and civil servants converted into public employees under Points d and e, Clause 1, Article 58 of this Law.

**Article 26.** Contents and forms of working contracts

1. A working contract has the following principal contents:

- a/ Names and addresses of the public non-business unit and its head;
- b/ Full name, address and date of birth of the recruited person, and full name, address and date of birth of the at-law representative of the recruited person, in case the recruited person is under 18 years old;
- c/ Work or tasks, working position and workplace;
- d/ Rights and obligations of the parties;
- e/ Type of the working contract, its term and conditions for its termination;
- f/ Salary, bonus and other entitlements (if any);
- g/ Working time and rest time;
- h/ Probation regime (if any);
- i/ Working conditions and matters related to labor protection;
- j/ Social insurance and health insurance;
- k/ Effect of the working contract;
- l/ Other commitments associated with the nature and characteristics of the sector or field and special conditions of the public non-business unit, which must not be contrary to this Law and other relevant laws.

2. A working contract shall be signed in writing between the head of a public non-business unit and the recruited public employee and made in 3 copies, one of which shall be handed to the public employee.

3. For professional titles required by law to be appointed by the superiors of public non-business units, the signing of working contracts must be consented to by such superiors.

**Article 27.** Probation regime

1. A recruited public employee must undergo the probation regime, except those who have at least full 12 months of performing professional work relevant to the working positions for which they are recruited.
2. The probation period may last from 3 months to 12 months and must be stated in the working contract.
3. The Government shall detail the probation regime.

**Article 28.** Change of contents, renewal, suspension and termination of working contracts

1. In the course of performing a working contract, if either party requests to change the contents of the contract, it shall inform the other party at least 3 working days in advance. When so agreed, the parties shall modify and/or supplement the relevant contents of the working contract. While conducting negotiations, the parties shall still comply with the signed working contract. If negotiations fail, the parties shall continue performing the signed working party or agree to terminate it.
2. For a working contract with a definite term, 60 days before its expiration, the head of the public non-business unit shall base himself/herself on the demand of his/her unit and his/her evaluation of the performance of the public employee concerned, to decide to renew or terminate the working contract with the public employee.
3. The suspension or termination of a working contract complies with the labor law.
4. When a public employee moves to work for another agency, organization or unit, his/her working contract will terminate and he/she will have regimes and policies settled under law.
5. When a public employee is appointed by a competent authority to hold a post in the public non-business units in which, as provided for by law, he/she will work as a civil servant, or receives a retirement decision, his/her working contract will automatically terminate.

**Article 29.** Unilateral termination of working contracts

1. Public non-business units may unilaterally terminate working contracts with public employees in the following cases:
  - a/ Public employees who have been evaluated as not accomplishing tasks for two consecutive years;
  - b/ Public employees who are sacked under Point d, Clause 1, Article 52 or Clause 1, Article 57 of this Law;
  - c/ Public employees working under working contracts with an indefinite term who fall sick and have received medical treatment for 12 consecutive

months; public employees working under working contracts with a definite term who fall sick and have received medical treatment for 6 consecutive months but still cannot rehabilitate their working capacity. When their health recovers, these public employees may be considered for renewing their working contracts;

d/ Due to natural disasters, fires or other *force majeure* events as stipulated by the Government, public non-business units cannot but narrow their scope of activity, which makes redundant working positions held by public employees;

e/ Public non-business units terminate operations under decisions of competent agencies.

2. When unilaterally terminating a working contract, except the case specified at Point b, Clause 1 of this Article, the head of the public non-business unit shall notify such to the public employee concerned at least 45 days in advance, for working contracts with an indefinite term, or at least 30 days in advance, for working contracts with a definite term. For a public employee recruited by the managing agency of a public non-business unit, the unilateral termination of his/her working contract shall be decided by the head of the public non-business unit after obtaining written consent of the managing agency.

3. The head of a public non-business unit may not unilaterally terminate the working contract with public employees in the following cases;

a/ Public employees who fall sick or have accidents or are receiving medical treatment for occupational diseases under decisions of medical treatment establishments, except the case specified at Point c, Clause 1 of this Article;

b/ Public employees who are on annual leave, leave for personal reasons and other reasons permitted by heads of public non-business units;

c/ Female public employees who are pregnant, on maternity leave or nursing under 36-months babies, except when their public non-business units terminate operation.

4. Public employees working under working contracts with an indefinite term may unilaterally terminate their contracts provided that they shall notify such in writing to the heads of their public non-business units at least 45 days in advance; for public employees who fall sick or have accidents and have received medical treatment for 6 consecutive months, such notice must be given at least 3 days in advance.

5. Public employees working under working contracts with a definite term may unilaterally terminate their contracts in the following cases:

- a/ They are employed in working positions or workplaces or provided with working conditions not as agreed in their working contracts;
- b/ They are paid with salaries lower than the level or later than the time agreed in their working contracts;
- c/ They are maltreated or forced to work;
- d/ They or their families meet so great difficulties that they cannot continue performing their contracts;
- e/ Female public employees get pregnant and have to take leave as prescribed by a medical treatment establishment;
- f/ They fall sick or have accidents and have received medical treatment for 3 or more consecutive months but cannot rehabilitate their working capacity.

6. Public employees shall notify in writing their unilateral termination of their working contracts to the heads of their public non-business units at least 3 days in advance for the cases specified at Points a, b, c, e and f, Clause 5 of this Article; or at least 30 days in advance for the cases specified at Point d, Clause 5 of this Article.

**Article 30.** Settlement of disputes over working contracts

Disputes related to the signing, performance or termination of working contracts shall be settled under the labor law.

Section 3

APPOINTMENT, CHANGE OF PROFESSIONAL TITLES, CHANGE OF WORKING POSITIONS OF PUBLIC EMPLOYEES

**Article 31.** Appointment and change of professional titles

1. Appointment of public employees to hold professional titles must adhere to the following principles:

- a/ Professional title matches working position;
- b/ The public employee satisfies all criteria of the professional title which he/she is appointed to hold.

2. Change of professional titles of public employees shall be effected through examination or selection on the principles of equality, publicity, transparency, objectivity and legality.

3. Public employees may register for examination or selection to change their professional titles if their public non-business units so need and they meet all conditions and criteria as provided by law.

4. The Government shall specify the process and procedures for examination or selection and appointment of public employees to hold professional titles; and assign and delegate the examination, selection or appointment of public employees to professional titles.

Ministries and ministerial-level agencies assigned to perform the state management of fields of operation of public employees shall assume the prime responsibility for, and coordinate with the Ministry of Home Affairs in, specifying criteria of professional titles and conditions for examination or selection to change professional titles of public employees.

#### **Article 32.** Change of working positions

1. When their public non-business units need, public employees may change to new working positions if they meet all professional criteria of such working positions.
2. The selection of public employees for vacant working positions shall be performed by heads of public non-business units or agencies competent to manage public non-business units on the principles of equality, publicity, transparency, objectivity and legality.
3. When a public employee changes to a new working position, his/her working contract shall be modified and/or supplemented or his/her professional title changed under Clause 1, Article 28, and Article 31 of this Law.

#### Section 4

### TRAINING AND RETRAINING

#### **Article 33.** Regime of training and retraining of public employees

1. Training and retraining shall be provided for public employees before appointment to managerial posts or change of professional titles or in order to supplement and update knowledge and skills necessary for professional activities.
2. The contents, program, forms and durations of training and retraining public employees must be based on criteria of managerial posts, professional titles and requirements of supplementing and updating knowledge and skills necessary for professional activities.
3. Forms of training and retraining:
  - a/ Training and retraining based on criteria of managerial posts;
  - b/ Retraining based on criteria of professional titles;
  - c/ Retraining to supplement and update knowledge and skills necessary for professional activities.

4. Ministries and ministerial-level agencies assigned to perform the state management of fields of operation of public employees shall detail the contents, program, forms and durations of training and retraining for public employees working in sectors and fields under their respective management.

**Article 34.** Responsibilities for training and retraining public employees

1 Public non-business units shall make and implement public employee training and retraining plans.

2. Public non-business units shall create conditions for public employees to attend training and retraining.

3. Public employee training and retraining funds shall be assured by public employees, financial sources of public non-business units and other sources.

**Article 35.** Responsibilities and benefits of public employees in training and retraining

1. Public employees attending training and retraining shall strictly observe training and retraining regulations and submit to the management of training and retraining institutions.

2. Public employees attending training and retraining are entitled to salaries and allowances in accordance with law and regulations of public non-business units; the training and retraining durations may be included in the continuous working period considered for salary raise.

3. If, after training, public employees, who are sent by public non-business units to attend such training, unilaterally terminate their working contracts or arbitrarily give up their work, they shall compensate training and retraining expenses according to the Government's regulations.

Section 5

SECONDMENT, APPOINTMENT AND RELIEF OF DUTY

**Article 36.** Secondment of public employees

1. Secondment of public employee is the transfer of a public employee of a public non-business unit to work at another agency, organization or unit according to task requirements for a specified period. Heads of public non-business units or competent agencies managing public non-business units shall decide on the secondment of public employees.

2. The period of secondment is 3 years at most, except for a number of sectors and fields as stipulated by the Government.

3. Secondees shall comply with work assignment and management by agencies, organizations or units they are seconded to.
4. During the period of secondment, seconding public non-business units shall assure salaries and other benefits for secondees.
5. Secondees working in mountainous, border, island, deep-lying, remote, ethnic minority areas or areas with extremely difficult socio-economic conditions are entitled to support policies as stipulated by the Government.
6. At the end of the period of secondment, secondees may return to their former units. Heads of seconding public non-business units shall receive them back and arrange jobs suitable to their qualifications and skills.
7. Secondment is not applicable to female public employees who are pregnant or nursing under 36-months-old babies.

**Article 37.** Appointment of managerial public employees

1. Appointment of managerial public employees must be based on needs of public non-business units, criteria and conditions of managerial posts and ensure the competence, order and procedures prescribed for appointment.
2. Based on specific conditions of public non-business units, appointed public employees may hold managerial posts for 5 years at most. While holding managerial posts, public employees are entitled to managerial-post allowance, and may participate in professional activities according to their appointed professional titles.
3. At the end of the period of holding managerial posts, public employees may be considered for reappointment. In case public employees are not reappointed, authorities with appointing competence shall arrange them in working positions according to their work demand and suitable to their professional qualifications and skills.
4. Public employees who are transferred to other working positions or appointed to new managerial posts will automatically stop holding the current managerial posts, except for cases of holding both concurrently.
5. Heads of public non-business units shall decide or propose competent authorities to decide according to management decentralization to appoint public employees to managerial posts.
6. The Government shall detail this Article.

**Article 38.** Resignation from managerial posts or relief of duty for public employees

1. Managerial public employees may ask for permission to resign from their managerial posts or be relieved of duty in the following cases:



- a/ Being physically unfit;
- b/ Having insufficient capability and prestige;
- c/ Due to task requirements;
- d/ For other reasons.

2. Pending approval of heads of their public non-business units or competent authorities, managerial public employees who ask for permission for resignation shall continue discharging their tasks and powers.

3. Heads of public non-business units or competent authorities shall arrange public employees who have been permitted for resignation or relief of duty in working positions according to their work demand and suitable to their professional qualifications and skills.

4. The competence, order and procedures for considering and deciding on resignation or relief of duty of managerial public employees comply with the provisions of law.

## Section 6

### EVALUATION OF PUBLIC EMPLOYEES

#### **Article 39.** Purpose of public employee evaluation

Public employee evaluation aims to provide a basis for further arranging, employing, appointing, relieving of duty, training, retraining, commending, rewarding, disciplining and implementing regimes and policies towards public employees.

#### **Article 40.** Public employee evaluation bases

Public employee evaluation shall be conducted on the following bases:

- 1. Commitments in signed working contracts;
- 2. Regulations on professional ethics and code of conduct of public employees.

#### **Article 41.** Contents of public employee evaluation

1. Public employees shall be evaluated based on the following:

- a/ Performance of work or tasks under signed working contracts;
- b/ Observance of rules on professional ethics;
- c/ Sense of responsibility, attitude in serving the people and sense of collaboration with colleagues, and observance of the code of conduct of public employees;
- d/ Performance of other obligations of public employees.

2. In addition to the contents provided in Clause 1 of this Article, managerial public employees shall be evaluated based on:

- a/ Capabilities of leadership, management, administration and organization of task performance;
- b/ Results of operation of units they are assigned to lead and manage.

3. Public employees shall be evaluated annually; upon the end of the probation period; before renewal of working contracts, change of working positions, consideration for commendation, disciplining, appointment, reappointment, planning, training and retraining.

**Article 42.** Evaluation-based categorization of public employees

Annually, based on evaluation contents, public employees shall be put into the following categories:

- 1. Excellent accomplishment of tasks;
- 2. Good accomplishment of tasks;
- 3. Accomplishment of tasks;
- 4. Non-accomplishment of tasks.

**Article 43.** Public employee evaluation responsibility

- 1. Heads of public non-business units shall evaluate public employees under their management.
- 2. Depending on specific conditions, heads of public non-business unit may personally evaluate public employees under their management or assign or delegate such evaluation. Persons assigned to evaluate public employees shall take responsibility for evaluation results before heads of public non-business units.
- 3. Persons with appointing competence shall evaluate managerial public employees in public non-business units.
- 4. The Government shall detail the order and procedure for evaluating public employees under this Article.

**Article 44.** Notification of results of evaluation and categorization of public employees

- 1. Contents of evaluation of public employees shall be notified to public employees concerned.
- 2. Results of categorization of public employees shall be made public in public non-business units.
- 3. If disagreeing with evaluation and categorization results, public employees may lodge complaints with competent authorities.

## Section 7

### JOB DISCONTINUATION AND RETIREMENT REGIMES

#### **Article 45.** Job discontinuation regime

1. When terminating working contracts, public employees are entitled to job discontinuation allowance, job loss allowance or social insurance benefits under the labor law and social insurance law, except the cases specified in Clause 2 of this Article.
2. Public employees are not entitled to job discontinuation allowance if falling into any of the following cases:
  - a/ Being sacked;
  - b/ Unilaterally terminating working contracts in violation of Clauses 4, 5 and 6, Article 29 of this Law;
  - c/ Terminating working contracts under Clause 5, Article 28 of this Law.

#### **Article 46.** Retirement regime

1. Public employees are entitled to the retirement regime under the labor law and social insurance law.
2. Six months before the date a public employee is due to retire, his/her managing agency, organization or unit shall notify in writing the public employee of the time of his/her retirement; three months before a public employee is due to retire, his/her managing agency, organization or unit shall issue a decision on his/her retirement.
3. Public non-business units may sign piecework contracts with retired persons if they need and such person aspire; when performing such contracts, in addition to contractual remuneration, such persons are entitled to a number of regimes and policies on management mechanism and assurance of conditions for professional activities as stipulated by the Government.

## Chapter IV

### MANAGEMENT OF PUBLIC EMPLOYEES

#### **Article 47.** State management of public employees

1. The Government shall perform the uniform management of public employees.
2. The Ministry of Home Affairs shall take responsibility before the Government for performing the state management of public employees, and have the following duties and powers:

- a/ Elaborating and promulgating according to its competence or submitting to competent agencies for promulgation legal documents on public employees;
- b/ Assuming the prime responsibility for, and coordinating with ministries and ministerial-level agencies in, elaborating plannings and plans on the building and development of the contingent of public employees and submitting them to competent authorities for decisions;
- c/ Assuming the prime responsibility for, and coordinating with ministries and ministerial-level agencies in, promulgating a system of lists, criteria and codes of professional titles;
- d/ Managing statistical work on public employees; guiding the elaboration and management of public employee files; developing and operating the national database on public employees;
- e/ Inspecting and examining the state management of public employees;
- f/ Annually reporting to the Government on the contingent of public employees.

3. Ministries and ministerial-level agencies shall, within the scope of their respective tasks and powers, perform the state management of public employees.

4. Provincial-level People's Committees shall, within the scope of their tasks and powers, perform the state management of public employees.

#### **Article 48.** Management of public employees

1. Contents of management of public employees include:

- a/ Determining working positions;
- b/ Recruiting public employees;
- c/ Signing working contracts;
- d/ Appointing to and changing professional titles;
- e/ Changing working positions, seconding, terminating working contracts, settling job discontinuation;
- f/ Appointing and relieving of duty managerial public employees; arranging and employing public employees based on work demand;
- g/ Evaluating, commending and disciplining public employees;
- h/ Implementing the salary regime, entitlements and training and retraining regime for public employees;

i/ Compiling and managerial public employee files, implementing the regime of reporting on management of public employees within the scope of management.

2. Autonomous public non-business units shall perform the contents of management specified in Clause 1 of this Article. Heads of public non-business units shall report to their superiors on the management and employment of public employees in their units.

3. For non-autonomous public non-business units, agencies competent to manage such units shall manage their public employees or delegate the contents of management specified in Clause 1 of this Article to such public non-business units.

4. The Government shall detail this Article.

**Article 49.** Complaints and settlement of complaints about decisions related to public employee management

Complaints and settlement of complaints lodged by public employees about decisions of heads of public non-business units or competent authorities involved in public employee management comply with the provisions of law.

**Article 50.** Examination and inspection

1. Agencies competent to manage public non-business units shall inspect and examine the recruitment, employment and management of public employees in public non-business unit assigned to them for management.

2. The Ministry of Home Affairs shall inspect the recruitment, employment and management of public employees in accordance with this Law and other relevant laws.

3. Ministries and ministerial-level agencies shall inspect professional activities performed by public employees in sectors and fields under their respective management.

Chapter V

COMMENDATION, AND HANDLING OF VIOLATIONS

**Article 51.** Commendation

1. Public employees who record merits, make achievements and contributions in work and professional activities shall be commended and honored under the law on emulation and commendation.

2. Public employees who are commended for special merits or achievements shall be considered for ahead-of-schedule or special salary raise according to the Government's regulations.

**Article 52.** Forms of disciplining public employees

1. Public employees who violate law in the course of performing work or tasks shall, depending on the nature and seriousness of violations, face any of the following disciplinary forms:

- a/ Reprimand;
- b/ Caution;
- c/ Demotion;
- d/ Sack.

2. Public employees who are disciplined in any of the forms specified in Clause 1 of this Article may be also restricted from carrying out professional activities under relevant provisions of law.

3. Demotion applies only to managerial public employees.

4. Disciplining decisions shall be filed in public employee files.

5. The Government shall stipulate the application of disciplinary forms, and the order, procedures and competence to discipline public employees.

**Article 53.** Statute of limitations and time limits for disciplining

1. Statute of limitations for disciplining is a time limit prescribed by this Law at the end of which a public employee who has committed a violation will not be disciplined.

The statute of limitations for disciplining is 24 months, counting from the date of committing a violation.

2. The time limit for disciplining a public employee is a period from the time of detecting a public employee's violation to the time of issuance of a disciplining decision by competent authorities.

The time limit for disciplining is 2 months. For a case involving complicated circumstances which take a longer time for inspection and examination to verify, this time limit may be prolonged but must not exceed 4 months.

3. For a public employee against whom a criminal case was instituted or who was prosecuted or decided to be brought to trial according to criminal procedures but then his/her investigation or criminal case is terminated under a decision, if his/her act of violation shows signs of breach of discipline, he/she shall be considered for being disciplined; within 3 working days after the date the investigation or case termination decision is issued, the decision issuer shall send the decision and related documents to the unit managing such public employee for considering disciplining him/her.

**Article 54. Work suspension**

1. While considering disciplining a public employee, if seeing that his/her continued work may cause difficulties to the consideration and disciplining, the head of the public non-business unit may issue a decision to suspend his/her work. The time limit for work suspension is 15 days and may be extended in necessary cases but must not exceed 30 days. Past the period of work suspension, if the public employee is not disciplined, he/she shall be arranged back to his/her old working position.
2. In the period of work suspension, public employees are still entitled to salaries under the Government's regulations.

**Article 55. Compensation and refunding responsibilities**

1. Public employees who cause loss of or damage to equipment or otherwise cause damage to assets of their public non-business units shall pay compensations for such damage.
2. Public employees who, while performing assigned work or tasks, are at fault in causing damage to other persons for which their public non-business units have to pay compensations, are obliged to refund such compensations to their public non-business units.

The Government shall detail the determination of amounts to be refunded by public employees.

**Article 56. Other provisions concerning disciplined public employees**

1. For public employees who are reprimanded or cautioned, their salary raise period will be prolonged for 3 months or 6 months, respectively; if being demoted, their salary raise period will be prolonged for 12 months while their public non-business units shall change them to other working positions as appropriate.
2. Public employees who are disciplined in the form of from reprimand to demotion are not entitled to personnel planning, training, retraining and appointment for 12 months from the effective date of their disciplining decisions.
3. Public employees who are being examined for disciplining, investigated, prosecuted or tried may not be appointed, seconded, trained or retrained, retire or discontinue their work.
4. Managerial public employees who have been demoted on the ground of acts of corruption or a court sentence for acts of corruption may not be appointed to managerial posts.
5. For public employees who are banned or restricted from carrying out professional activities for a specified period under decisions of competent

agencies but are not sacked, their public non-business units shall place them in other working positions not related to banned or restricted professional activities.

6. Public employees who are disciplined, suspended from work or are obliged to pay compensations or refunds under decisions of their public non-business units may lodge complaints, denunciations or request settlement thereof according to law-established order if they see that such decisions are unsatisfactory.

**Article 57.** Provisions on public employees examined for penal liability

1. Public employees who are sentenced to imprisonment by courts and do not have such sentences suspended or are convicted by the court for acts of corruption shall be sacked from the date the court judgments or rulings take legal effect.

2. Managerial public employees who are declared guilty by courts will automatically cease to hold their managerial posts from the date the court judgments or rulings take legal effect.

Chapter VI

IMPLEMENTATION PROVISIONS

**Article 58.** Conversion between public employees and cadres and civil servants

1. Conversion between public employees and cadres and civil servants shall be effected as follows:

a/ Recruitment of public employees to work as civil servants must comply with the law on cadres and civil servants. A public employee who has worked at a public non-business unit for full 5 years or longer may be considered for conversion into a civil servant without having to sit any examination;

b/ For a public employee who is admitted and appointed to a working position for which he/she is regarded under law as a civil servant, his/her admission and appointment is concurrently the recruitment decision;

c/ A public employee who is appointed to hold a post in the leading and managerial apparatus of a public non-business unit for which he/she is regarded under law as a civil servant shall be appointed to a civil servant rank corresponding to his/her working position and enjoy a salary he/she is receiving under the salary regime of the public non-business unit while still retaining his/her appointed professional title, and may carry out professional activities under this Law and other relevant laws.



d/ Cadres and civil servants may be converted into public employees at public non-business units when meeting the conditions specified in this Law;

e/ Civil servants in the leading and managerial apparatus of a public non-business unit who are not re-appointed at the end of the period of appointment but still work in such public non-business units, may change to work as public employees in working positions relevant to their professional qualifications and skills;

f/ The process of contribution and working period of public employees before changing to work as cadres or civil servants and vice versa, shall be taken into account when implementing the contents related to training, retraining, commendation and other benefits.

2. The Government shall detail this Article.

**Article 59.** Transitional provisions

1. Public employees who were recruited before July 1, 2003, have the rights and obligations and shall be managed like public employees working under working contracts with an indefinite term provided in this Law. Public non-business units shall complete procedures to ensure the interests, benefits and policies on job stabilization, salary regime and other interests which they are enjoying.

2. Public employees who are recruited from July 1, 2003, to the effective date of this Law, continue to perform working contracts already signed with their public non-business units, and have the rights and obligations and shall be managed under this Law.

3. The Government shall detail this Article.

**Article 60.** Application of the Law on Public Employees to other entities

The Government shall stipulate the application of the Law on Public Employees to those working in public non-business units belonging to socio-politico-professional organizations, social organizations, socio-professional organizations, public non-business units and one-member limited liability companies owned by the State.

**Article 61.** Effect

This Law takes effect on January 1, 2012.

**Article 62.** Implementation detailing and guidance

The Government shall detail and guide articles and clauses of this Law as assigned; and guide other necessary provisions of this Law to meet state management requirements.

*This Law was passed on November 15, 2010, by the XII<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 8<sup>th</sup> session.-*

Chairman of the National Assembly  
*NGUYEN PHU TRONG*

[www.LuatVietnam.vn](http://www.LuatVietnam.vn)