

Law No. 12/2012/QH13

Hanoi, June 20, 2012

**LAW**

**ON TRADE UNION**

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

*The National Assembly promulgates Law on Trade Unions,*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Trade Union**

Trade Union means a great socio-political organization of the working-class and laborers. Trade Unions are founded on the voluntary basis and are a component part of the political system of the Vietnamese society, placed under the leadership of the Communist Party of Vietnam. Trade Unions are representatives of cadres and civil servants, public employees, workers and other laborers (hereinafter referred to as laborers), together with state agencies, economical organizations, social organizations shall care and protect for laborers' legitimate and legal rights and interests. Trade Unions join in state management, eco-social management, inspection; examination, supervision of activities of state agencies, organizations, units, enterprises; and mobilization, propagation for laborers to study, improve knowledge, professional skill, observe law, build and defend the socialist fatherland of Vietnam.

**Article 2. The scope of adjustment**

This law stipulates on rights of laborers of establishing and participating in and operating of Trade Union; function, powers, duties of Trade Union; rights and obligations of trade union members; duties of state, state agencies, organizations, units, enterprises employing laborers with respect to Trade Union; assurance of activities of Trade Union; settlement of disputes and handling of violations of law on Trade Union.

**Article 3. Subjects of application**

This Law applies to the Trade Unions at all levels, state agencies, political organizations, socio-political organizations, profession-socio-political organization, profession-social organizations, units, enterprises, other organizations employing laborers as prescribed by law on labor, foreign

agencies, organizations, international organizations operating in the Vietnamese temporary related to organization and activity of Trade Unions (hereinafter referred to as agencies, organizations, enterprises), Trade Union members and laborers.

#### **Article 4. Interpretation of terms**

In this law, the following terms shall be construed as:

1. *The rights of Trade Unions mean* rights of establishing, participating in and operating of Trade Unions and Trade Union members; and rights of Trade Union organizations as prescribed by law and provisions of competent authorities.
2. *The primary trade unions mean* primary organization of Trade Unions, which gathering members of Trade Unions in one or a number of agencies, organizations, enterprises and be recognized by Trade Unions at their directly higher level as prescribed by law and charter of Vietnamese Trade Union.
3. *Trade Union at the directly higher level of primary one means* a level in the system of Trade Union organization, directly implement right of reorganization for a primary Trade Union, right of directing activities of primary Trade Unions and connect primary Trade Unions as prescribed by law and charter of Vietnamese Trade Union.
4. *Fulltime trade union cadres mean* persons employed, appointed to be in charge of regular jobs in Trade Union organization.
5. *Part-time trade union cadres mean* persons work on a part-time and be voted by Trade Union congress, conference of Trade Union at levels or persons being appointed as a sub-chief of group or higher.
6. *Units employing laborers include agencies, organizations, and enterprises employing, using laborers and paying salary as prescribed by law.*
7. *Disputes of Trade Union right means* disputes arising between laborers, Trade Union's members, and Trade Union organization with unit employing laborers in relating to implementation of Trade Union rights.
8. *The charter of Vietnamese Trade Union mean* document passed by Vietnamese Trade Union Congress, regulating on guideline, purpose, principle of organization and operation, organizational structure of Trade Union machine; powers and duties of Trade Union at levels; rights and obligations of Trade Union members.

#### **Article 5. Rights of establishing, participating in and operating of Trade Union**

1. Laborers are Vietnamese persons working in agencies, organizations, enterprises shall have rights to establish, participate in and operate Trade Union.
2. Order, procedures of establishment, participation and operation of Trade Union shall comply with provisions in the charter of Vietnamese Trade Union.

## **Article 6. Principle of Trade Union organization and operation**

1. The Trade Unions shall be established in the voluntary basis, organized and operated under the principle of Democratic centralism.
2. The Trade Unions shall be organized and operated under the charter of Vietnamese Trade Union in accordance with lines, guidelines, policies of the Party and law of state.

## **Article 7. The system of organization of Trade Union**

The system of organization of Trade Union includes Vietnam General Confederation of Labour and Trade Unions at levels as prescribed by The charter of Vietnamese Trade Union.

The primary Trade Unions are constituted in state agencies, political organizations, socio-political organizations, profession-socio-political organization, profession-social organizations, units, enterprises, other organizations employing laborers as prescribed by law on labor, foreign agencies or organizations, international organizations operating in the Vietnamese temporary.

## **Article 8. International cooperation on Trade Union**

International cooperation on Trade Union shall perform on the basis of ensuring the principle of equality, respect for national sovereignty and independent, and conformity with the laws of Vietnam as well as international practices.

The accession of the trade union at levels to the international trade union must comply with laws and The charter of Vietnamese Trade Union.

## **Article 9. The strictly prohibited acts**

1. Hindrance, causing difficulties in implementation of Trade Unions' rights
2. Discrimination or acts causing disadvantages to laborers because reasons related to establishment, participation and operation of Trade Union
3. Applying economical measurers or other measures causing disadvantages to Trade Union organization and operation.
4. Taking advantage of Trade Union rights for breaching laws, interests of satet, legal rights and interests of agencies, organizations, enterprises, and individuals.

## **Chapter II**

### **RIGHTS AND DUITIES OF TRADE UNON AND TRADE UNION MEMBERS**

#### **SECTION 1: RIGHTS AND DUITIES OF TRADE UNON**

#### **Article 10. Representation, protection of legal and legitimate rights and interests of laborers**

1. Guiding, consulting laborers on their rights and obligations upon concluding, performing labor contracts, working contracts with units employing laborers.
2. Representing for labor collective in agreement of, conclusion and supervision of the implementation of collective labor accord.
3. Participating with units employing laborers to formulate and supervise the implementation of wage scales and wage groups, the labor standards, regulations of wave paying, regulations of reward, labor regulation.
4. Talking with units employing laborers to settle problems related to rights and obligations of laborers.
5. Organizing of law consulting activities for laborers.
6. Taking part in settle labor disputes together with agencies, organizations, competent personals
7. Proposing to organizations, competent state agencies for consideration, settlement upon the legal and legitimate rights and interest of labor collective or laborers are breached.
8. Representing labor collective to suing at the Court upon the legal and legitimate rights and interest of labor collective are breached; representing laborer to suing at the Court upon the legal and legitimate rights and interest of laborer are breached and being authorezed by laborer.
9. Representing labor collective to participate in legal proceeding related to cases of labor, administration, enterprise bankruptcy in order to protect the legal and legitimate rights and interest of labor collective and laborers
10. Organization and leadership of strikes as prescribed by law.

The Government shall detail this article after unifying with Vietnam General Confederation of Labour.

#### **Article 11. Participating in the state management and eco-social management**

1. Participating with state agencies in formulating policies, law on economy, social, labor, jobs, wage, social insuarence, health insuarance, labor protection and other policies, laws related to Trade Unions, rights and obligations of laborers
2. Cooperating with state agencies to study and apply science, technology, technique on labor protection, formulating standards, regulations on labour security and hygiene.
3. participating with sate agencies in managing on social insuarance, health insurance; settlement of complaints, denunciations of laborers, labor collective as prescribed by law.
4. Participating in establishing harmonious, stable and progressive labor relations in agencies, organizations and enterprises
5. Participating in establishing and implementing Democratic regulation in agencies, organizations and enterprises
6. Cooperating to organizate emulation movements in the scope of branches, localities, agencies, organizations and enterprises

The Government shall detail this article after unifying with Vietnam General Confederation of Labour.

### **Article 12. Submitting law or ordinance projects and proposing for development of law and policy**

1. The Vietnam General Confederation of Labour is entitled to submit law or ordinance projects to the National Assembly, The Standing Committee of National Assembly.
2. Trade Union at levels are entitled to propose to competent State agencies for elaboration, admendment, supplementation of policies, laws related to Trade Union, rights and obligations of laborers.

### **Article 13. Participating in session, meetings, and congress**

The president of Vietnam General Confederation of Labour, Presidents of trade unions at different levels have rights and duties to participate in session, meetings, and congress of concerned agencies, organizations at the same level upon discussing and deciding on problems related to rights and obligations of laborers

### **Article 14. Participating in inspection, examination and supervision of activities of agencies, organizations and enterprises**

1. Participating, coorporating with competent State agencies to inspect, exeminate, supervise implementation of regimes, policies, laws on labor, trade union, cadres and civil servants, public employees, social insurance, health insurance and other regimes, policies and laws related to rights and obligations of laborers; investigation of labor accident and professional diseases
2. Upon participating, coordinating to inspect, exeminate, supervise according to provisions in clause 1 of this article, Trade Union have the following rights:
  - a) Requesting agencies, organizations and enterprises to supply information, diocuments and analyse concerned problems;
  - b) Proposing measures to repair shortcomings, prevent violations, remedy damages and handle acts violating to laws
  - c) In case detecting working place where elements affecting or causing danger to healthy, life of laborers exist, the trade unions are entitled to request agencies, organizations and enterprises, individuals have to immediately implement remedial measures, labor safety assurance; even case operation must provisional interrupted.

### **Article 15. Propagation, mobilization, education with respect to laborers**

1. Propagating lines, guideilines, policies of the Party, state laws related to Trade Union, laborers; regulation of Trade Unions.

2. Propagating, mobilizing, educating laborers to study, improve the cultural-political level, specialized and professional skills, consciousness of compliance with law, regulations, rules of agencies, organizations and enterprises.
3. Propagating, mobilizing, educating laborers in practicing saving, waste fighting, corruption prevention

#### **Article 16. Development of Trade Union members and primary Trade Unions**

1. The Trade Union is entitled to develop Trade Union members and primary Trade Unions in agencies, organizations and enterprises.
2. The Trade Union at directly higher level have rights and responsibilities to appoint cadres come agencies, organizations, enterprises to propagate, mobilize, guide laborers in establishment, participation and operation of Trade Union.

#### **Article 17. Rights and responsibilities of Trade Unions at directly higher level with respect to laborers in agencies, organizations, enterprises where primary Trade Union has not yet been established.**

In agencies, organizations, enterprises where primary Trade Union has not yet been established, the Trade Union at directly higher level shall have rights and responsibilities to present, protect the legal and legitimate rights and interests of laborers upon being requested by such laborers.

### **SECTION 2: RIGHTS AND DUTIES OF TRADE UNION MEMBERS**

#### **Article 18. Rights of trade union members**

1. Requesting Trade Union to represent, protect legal and legitimate rights and interests upon being violated.
2. Being informed, discussing. Proposing and voting affairs of Trade Union, being informed of lines, guidelines, policies of the Party and law of state related to Trade Union, laborers; regulations of Trade Union.
3. Self-nominating, nominating, and voting the agency of Trade Union leaders under regulations of charter of Vietnamese Trade Union.
4. Being consulted of law, free legal aiding on labor, Trade Union.
5. Being guided, helped by Trade Union to find jobs, learn a trade; being care, help upon getting sick or meeting difficult situations.
6. Participating in activities of culture, sport, travel organized by Trade Union.
7. Suggesting Trade Union to recommend agencies, organizations and enterprises related to implementation of regimes, policies, laws for laborers.

### **Article 19. Duties of trade union members**

1. Complying and performing the charter of Vietnamese Trade Union, resolutions of Trade Union; participating in activities of Trade Union, developing Trade Union organization firmly and strongly.
2. Studying and improving cultural and political level, professional and specialized skills; training quality of the working-class; living and working under Constitution and laws.
3. Uniting, helping mates to improve professional level and skill, work effectively and protect legal and legitimate rights and interests of laborers and Trade Union organizations.

## **Chapter III**

### **DUTIES OF STATE, AGENCIES, ORGANIZATIONS AND ENTERPRISES WITH RESPECT TO TRADE UNIONS.**

### **Article 20. Relation between Trade Unions with state, agencies, organizations and enterprises**

The relation between Trade Unions with State, agencies, organizations and enterprises is relation of coordination, cooperation to implement functions, powers and responsibilities of parties as prescribed by law, contribute in establishing harmonious, stable and progressive labor relation.

### **Article 21. Duties of state with respect to trade union**

1. Ensuring, assisting and facilitating Trade Unions to implement their functions, powers and duties as prescribed by law.
2. Propagating, spreading, educating on labor law, Trade Union law and other provisions of laws related to Trade Union organization, rights and obligations of laborers; inspecting, examining, supervising and handling acts violating law on Trade Union; cooperating with Trade Union to care, ensure legal and legitimate rights and interests of laborers.
3. Consulting from Trade Union upon formulating policies, laws directly related to Trade Union organization, rights and obligations of laborers.
4. Coordinating and facilitating Trade Union to participate in state management, socio-social management, represent and protect legal and legitimate rights and interests of laborers.

### **Article 22. Duties of agencies, organizations and enterprises with respect to trade unions**

1. Coordinating to Trade Unions to implement functions, powers and obligations of parties as prescribed by law
2. Facilitating laborers to establish, participate in and operate Trade Union.
3. Coordinating to Trade Unions at the same level to formulate, adopt and implement regulation on coordination for operation.

4. Recognizing and facilitating Trade Unions to implement their powers and duties as prescribed by law.
5. Exchanging, supplying full, exact and timely information relating to organization, operation of agencies, organizations and enterprises as prescribed by law upon having request of Trade Union.
6. Coordinating trade union to organize talking, negotiating, signing, conducting the collective labor accord and regulation of grassroots democracy.
7. Getting opinions of Trade Union at the same level before deciding problems relating to rights and obligations of laborers.
8. Coordinating to Trade Union to settle labor disputes and problems relating to implementation of law on labor.
9. Ensuring conditions for activities of Trade Union, Trade Union cadres and paying Trade Union fund as prescribed in articles 24, 25 and 26 of this law.

## **Chapter IV**

### **ASSURANCES FOR ACTIVITIES OF TRADE UNION**

#### **Article 23. Assurance of organization and cadres**

1. Trade Union at different levels shall be assurance of organization and quantity of cadres public officials to implement their functions, powers and duties as prescribed by law.
2. Vietnam General Confederation of Labour shall elaborate organizational structure of machine and job title of Trade Union cadres to submit to competent authority for decision or to decide under its authority.
3. Depending on requirement of duties of each primary Trade Union and quantity of laborers in agencies, organizations and enterprises, the competent agency of Trade Union cadre management shall decide to arrange fulltime Trade Union cadre.

#### **Article 24. Assurances for conditions of trade union activities**

1. Agencies, organizations and enterprises are responsible for arrange working place and facility of necessary working devices for Trade Union at the same level
2. The part time Trade Union cadre may use 24 working hours in every month for president; deputy president; 12 working hours in every month for members of the committee, chief of, sub-chief of Trade Union group to do Trade Union missions and be paid salary by unit employing laborers. Depending on scale of agencies, organizations and enterprises, the primary Trade Union committee and unit employing laborers may reach agreement of added time.
3. The part time Trade Union cadre may out of work and be paid salary by employing laborers during days which he participate in meetings, trainings called to by Trade Union at the higher level; expenses for moving, accommodation and living in such days shall be paid by Trade Union at the higher level



4. The part time Trade Union cadres who are paid salary by unit employing laborers shall be entitled to enjoy liability allowance for Trade Union cadre as prescribed by Vietnam General Confederation of Labour.

5. The fulltime Trade Union cadres who are paid salary by Trade Union, shall be ensure collective interests and welfares like as laborers working in agencies, organizations and enterprises by unit employing laborers.

#### **Article 25. Assurance of Trade Union cadres**

1. Case labor contract or working contract is expired but laborer being part-time Trade Union cadre and being his tenure, he shall be prolong labor contract or working contract till the end of his tenure.

2. Unit employing laborers shall not unilaterally terminate the labor contract or working contract, dismissal, enforce to quit or transfer jobs with respect to part-time Trade Union cadre if the primary trade union committee or trade union committee of directly higher level had no agreement idea in written. Case not reaching agreement, two parties must report to competent agency, organization. Within 30 working days, from of reporting to competent agency, organization, Unit employing laborers shall be entitled to decide and must be responsible for its such decision.

3. Case employee being part time Trade Union cadre is terminated labor contract or working contract, enforce to quit or unlawful dismissal, Trade Union shall have responsibility to require competent State agencies to interfere; if being authorized, Trade Union may represent to sue at Court to protect legal rights and interest of Trade Union cadre; and support to find new job and pay allowances in period of interrupted work as prescribed by Vietnam General Confederation of Labour.

#### **Article 26. Finance of Trade Union**

Finance of Trade Union included the following revenues:

1. Trade Union fee is paid by Trade Union members as prescribed in charter of Vietnamese Trade Union

2. Trade Union funds are paid by agencies, organizations and enterprises in 2% salary funds based to pay social insurance for laborers.

3. State budget allowances for assistance;

4. Other revenues from activities of culture, sport, economy of Trade Union; from projects, plans assigned by state; from aid, funding of domestic and foreign organizations, individuals

#### **Article 27. Management and use of Trade Union Finance**

1. The Trade Unions shall manage and use Trade Union finance as prescribed by laws and provisions of Vietnam General Confederation of Labour.

2. Trade Union finance is used for activities that perform powers and duties of Trade Union and maintain operation of Trade Union system, including the following missions:

- a) Propagating, spreading, educating on lines, guidelines, policies of the Party, law of state; improve professional level, professional skill for laborers;
- b) Organizing activities that represent, protect legal and legitimate rights and interests of laborers;
- c) Developing Trade Union members, establishing primary Trade Union, making Trade Union firm and strong;
- d) Organizing emulation movements that are mobilized by Trade Union;
- dd) Training, fostering Trade Union cadres; Training, fostering elite laborers to have source of cadre for the Party, state and Trade Union organizations;
- e) Organizing activities of culture, sport, travel serving laborers;
- g) Organizing activities of gender and gender equality;
- h) Visiting, caring, allowing for Trade Union members and laborers upon getting sick, maternity, or difficulties; organizing other activities to care laborers
- i) Mobilizing, awarding laborers. Children of laborers having record in studying and working;
- k) Paying salary for full time Trade Union cadres; liability allowance for part time Trade Union cadres;
- l) Paying for operation of Trade Union machine at different levels;
- m) Other paying missions.

### **Article 28. Assets of Trade Union**

Assets being obtained from contribution of Trade Union members, capital of Trade Union; assets being transfer the ownership by state and other sources in accordance to law shall be assets belonging to property of Trade Union

Vietnam General Confederation of Labour implement rights and duties of ownership with respect to assets of Trade Union as prescribed by law.

### **Article 29. Examination and supervision of Trade Union Finance**

1. The Trade Union at the higher level shall guide, examine, and supervise implementation finance work of Trade Unions at lower level as prescribed by laws and provisions of Vietnam General Confederation of Labour.

2. The examination agency of Trade Union shall examine management, use Trade Union finance as prescribed by laws and provisions of Vietnam General Confederation of Labour.

3. The competent State agencies shall supervise, examine, inspect, audit management, use Trade Union finance as prescribed by laws.

## Chapter V

### SETTLEMENTATION OF DISPUTES, HANDLING VIOLATIONS OF LAW ON TRADE UNION

#### Article 30. Settlementation of disputes on trade union right

When arising disputes on trade union rights between trade union members, laborers, trade union organization with agencies, organizations and enterprises, authority, order, procedures to settle disputes shall be implemented under the following provisions:

1. Disputes within scope of rights and duties of Trade Union in labor relation, authority, order, procedures to settle shall comply with law on settlement of labor disputes;
2. Disputes within scope of rights and duties of Trade Union in other relations, authority, order, procedures to settle shall comply with correspondence concerned law;
3. Disputes relating to not performing or refusing to perform liabilities of unit employing laborers with respect to trade union, trade union of directly higher level or primary trade union shall propose to competent state agencies for settlement or sue at Court as prescribed by law.

#### Article 31. Handling violations of law on Trade Union

1. Agencies, organizations and enterprises or individuals have act violating provisions of this Law or other provisions of law relating to Trade Union right, shall depending on nature and extent of violations, be handled disciplinary, sanctioned administrative violation, compensation or prosecuted for criminal liability as prescribed by law.
2. The Government shall detail sanction of administrative violation for acts violating law on Trade Union

## Chapter VI

### ARTICLE FOR IMPLEMENTATION

#### Article 32. Effect of implementation

This law effects from January 01, 2013

The 1990 Trade Union shall be invalid from the effect day of this Law.

#### Article 33. Detailing and guiding for implementation

The Government shall detail and guide implementation of articles assigned in Law .

*This Law was passed by the XIII National Assembly of the Socialist Republic of Vietnam at its Third Session on the 20th of June, 2012.*

**THE NATIONAL  
ASSEMBLY  
CHAIRMAN**

**Nguyen Sinh Hung**