



Notable novelties

1. The internal labour regulations must have regulations on prevention and combat of sexual harassment at the workplace
2. Enterprises must report the labour change situation before 05 June and 05 December every year
3. An employee doing a particular job and wanting to quit must give at least 120-day notice
4. Employees who arbitrarily quit 5 consecutive working days will not be entitled to severance pay
5. Female employees working on their menstrual day are entitled to an additional salary
6. Enterprises with 1000 or more female employees must have a lactation room for their use



## Notable novelties on working conditions and labour relationships

Decree 145/2020/ND-CP (“Decree 145”) issued by the Government dated 14 December 2020 has introduced many novelties on working conditions and labour relationships. Below are some special regulations that employees and employers must pay attention to when Decree 145 takes effect (from 01 February 2021).

1. The internal labour regulations must have regulations on prevention and combat of sexual harassment at the workplace

Pursuant to Article 69.2 of Decree 145, the contents of the internal labour regulations of enterprises must contain regulations on prevention and combat of sexual harassment at the workplace; the sequence and procedures for handling sexual harassment at the workplace.

Sexual harassment can be exchanges such as offering, asking, suggesting, threatening, or forcing a sexual relationship in exchange for any job related benefit; or acts of a sexual nature that are not intended to be exchanged, but cause the working environment to become uncomfortable and unsafe, or physically and mentally harm the victim and adversely affect her work effect and life.

Sexual harassment in the workplace includes:

- (1) Physical behaviours, including sexual actions, gestures, contact, physical contact or sexual suggestion.
- (2) Verbal sexual harassment, including face-to-face, over the phone or electronic means of sexual content or sexual implications.
- (3) Non-verbal sexual harassment, including body language; display, describing visual material about sexual or related to sexual activity directly or electronically.

Article 86.1.c of Decree 145 also requires employers to be responsible for promptly preventing, dealing with and protecting the confidentiality, honour, reputation, dignity and safety of the victim of sexual harassment, the complainant, the denouncer and the complained or denounced persons when complaints or denunciations about sexual harassment occur at the workplace. The broadly defined workplace is any place where an employee actually works according to the agreement or assignment of the employer, including places or spaces related to the work, such as social activities, seminars, training, official business trips, meals, phone conversations, electronic communication activities, vehicles arranged by the employer from home to destination work and vice versa, accommodation provided by the employer and any other location specified by the employer.

## **2. Enterprises must report the labour change situation before 05 June and 05 December every year**

Enterprises are responsible for reporting the labour change every 6 months before June 5 and annually before December 5 to the Department of Labour, War Invalids and Social Affairs using Form No. 01 / PLI Appendix I of Decree 145 and notify the district social insurance agency where the head office, branch, representative office are located.

The reporting can be done through either form: through the National Public Service portal or sending a paper report.

## **3. An employee doing a particular job and wanting to quit must give at least 120-day notice**

Pursuant to Article 7 of Decree 145, when the employee that works in a specific industry, occupation or job under an indefinite or definite labour contract (LC) and wants to unilaterally terminate it must notify the employer at least 120 days in advance. If the LC has a term of less than 12 months, the notice must be at least 1/4 of the term of such labour contract.

In which, specific industries, trades and jobs include:

- Aircraft crew members; aircraft maintenance technical staff, aviation repair personnel, flight dispatchers and operators.
- Enterprise managers under the Enterprise Law; Law on management and use of State capital invested in production and business in enterprises.
- Crew members working on Vietnamese ships operating abroad;

crew members hired by Vietnamese enterprises to work on foreign electric trains.

- Other cases as provided by law.

#### **4. Employees who arbitrarily quit 5 consecutive working days will not be entitled to severance pay**

Article 8.1 of Decree 145 stipulates that the employer is responsible for paying severance pay to employees who have worked for them for 12 months or more regularly when the LC ends. However, if the employee arbitrarily quit his job without a good reason for 5 or more consecutive working days, he/she will not receive severance pay. In this regard, the cases considered to have a plausible reason include natural disaster, fire, sickness on self or relatives certified by a competent medical facility and other cases specified in internal labour regulations.

#### **5. Female employees working on their menstrual day are entitled to an additional salary**

Pursuant to Article 80.3 of Decree 145, a female employee during her menstrual period is entitled to a 30-minute break per day and still receive a full salary under the LC and the employer will reach an agreement with the employee on the number of working days enjoying such break, which are required to be at least 3 days/month. However, if the employee does not have a need to take leave and is agreed by the employer to

hire the employee for work, *in addition to the paid salary, the employee will be paid additional salary according to the job that the employee has worked during leave entitlement* and this working time is not included in the employee's overtime.

In addition, Clause 4, Article 80 of Decree 145 also stipulates that female employees who are nursing children under 12 months of age if they do not have the need to take 60 minutes a day off during their work to breastfeed, milking and storing milk, rest and get the consent of the employer, they are also *paid additional salary according to the work that the employee has done during the leave.*

#### **6. Enterprises with 1000 or more female employees must have a lactation room for their use**

Pursuant to Article 80.5 of Decree 145, the State encourages employers to install lactation rooms to store breast milk in accordance with the actual conditions of the workplace, the needs of female employees and the ability of employers. *In case employers employ 1000 or more female employees, a lactation room must be installed at the workplace.* Accordingly, the lactation room is a private space, not a bathroom or a toilet; being provided with power, water, tables, chairs, refrigerators, fans or air-conditioning on a basis of ensuring a sanitary environment; being located in a convenient location, being protected from intrusion and visibility by colleagues and the public so that female workers can breastfeed or press out milk.



## CONTACT US

[info@gvlawyers.com.vn](mailto:info@gvlawyers.com.vn)

### HCMC - Head Office

8/F, Centec Tower  
72-74 Nguyen Thi Minh Khai  
Ward 6, District 3  
Ho Chi Minh City, Vietnam  
Tel: +84 (28) 3622 3555

### Ha Noi - Branch

10A/F, CDC Building  
25 Le Dai Hanh  
Hai Ba Trung District  
Ha Noi, Vietnam  
Tel: +84 (24) 3208 3555

### Da Nang - Branch

3/F, Indochina Riverside  
Tower, 74 Bach Dang  
Hai Chau District  
Da Nang City, Vietnam  
Tel: +84 (28) 3622 3555

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