

THE STANDING COMMITTEE
OF NATIONAL ASSEMBLY

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SOCIALIST REPUBLIC OF VIET
NAM

Independence - Freedom -
Happiness

Day 26 month 02 year 1998

ORDINANCE ON PUBLIC EMPLOYEES

In order to build a contingent of public employees who are possessed of good moral qualities, professional qualifications and capabilities, devotedly serve the people and are loyal to the Fatherland of the Socialist Republic of Vietnam;

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam;

Pursuant to the Resolution of the Xth National Assembly at its second session on the 1998 law- and ordinance-making program;

This Ordinance provides for public employees,

Chapter I

GENERAL PROVISIONS

Article 1.- Public employees defined in this Ordinance are Vietnamese citizens who are on the State payroll and get paid from the State budget, including:

1. People who are elected to hold posts for a given term in State agencies, political organizations and socio-political organizations;
2. People who are recruited, appointed or assigned regular tasks in political and socio-political organizations;
3. People who are recruited, appointed or assigned a regular public duty, are categorized according to their training degrees and professional specialty, are arranged in an administrative or non-business grade in State agencies, each grade reflecting a professional position and rank as well as title according to certain specific criteria;
4. Judges of the People's Courts and prosecutors of the People's Procuracy;
5. People who are recruited, appointed, or assigned regular tasks in offices and units of the People's Army but are neither officers, professional military personnel nor defense workers;

in offices and units of the People's Police but who are neither officers nor professional non-commissioned officers.

Article 2.- Public employees are public servants of the people, submit to the supervision by the people, must constantly foster their moral qualities and study to raise their professional qualifications and working capabilities in order to well fulfill their assigned tasks and official duties.

Article 3.- Apart from abiding by the provisions of this Ordinance, public employees shall also have to adhere to the relevant provisions of the Ordinance against Corruption and the Ordinance on Thrift Practice and Wastefulness Combat as well as other legal documents.

Article 4.- The work on the public employees is placed under the uniform leadership of the Communist Party of Vietnam, ensuring the principles of collectivity and democracy in parallel with bringing into full play the sense of responsibility of the heads of agencies, organizations and units.

Article 5.-

1. The National Assembly Standing Committee, political organizations and socio-political organizations shall specify the application of this Ordinance to elected people who are not the subjects defined in Point 1, Article 1 of this Ordinance.

2. The Government shall specify the application of this Ordinance to officials of communes, wards and district towns; officers, professional military personnel and defense workers in offices and units attached to the People's Army; officers, professional non-commissioned officers in the offices and units of the People's Police; members of the managing boards, general directors, deputy general directors, directors, deputy directors, chief accountants and other managerial staff of State enterprises.

Chapter II

DUTIES AND INTERESTS OF PUBLIC EMPLOYEES

Article 6.- Public employees have the following duties:

1. To be loyal to the State of the Socialist Republic of Vietnam; safeguard the national security, honor and interests;

2. To strictly abide by the Party's lines and polices and the State's policies and laws; perform tasks and public duties as prescribed by law;
3. To devotedly serve the people and respect the people;
4. To keep close contact with the people, take part in activities of the population communities where they reside, listen to the people's opinions and place themselves under the supervision by the people;
5. To have a healthy lifestyle, be honest, diligent, thrifty, integral, fully devoted to general interests, public-minded, not to be bureaucratic, over-bearing, authoritarian and corrupt;
6. To have a sense of organizational discipline and responsibility in their work, strictly abide by the internal rules of their agencies or organizations; preserve and protect public property, and protect State secrets in accordance with the provisions of law;
7. To constantly study to raise their qualifications; be innovative, creative and cooperative in their work so as to well fulfill the assigned tasks and public duties;
8. To abide by the job transfer or assignment by the competent agencies or organizations.

Article 7.- Public employees shall be accountable before law for the performance of their tasks and official duties; public employees who hold managerial posts shall be also responsible for the performance of tasks and public duties by public employees under their management as prescribed by law.

Article 8.- Public employees shall have to execute decisions of their respective superiors; when there are grounds to believe that a decision is illegal they must immediately report to the person who makes such decision; in cases where they still have to execute such decision, they shall have to report to the immediate higher level of the person who makes such decision and shall not take responsibility for consequences resulted from the execution of such decision.

Article 9.- Public employees have the following interests:

1. To be entitled to take annual leave as prescribed in Article 74, Article 75, Clause 2 and Clause 3 of Article 76, and Article 77, and holidays as prescribed in Article 73 as well as take leave for personal reasons as prescribed in Article 78 of the Labor Code;
2. In cases where there is a justifiable reason, they can take unpaid leave after obtaining the

consent of the heads of their respective employing agencies or organizations;

3. To be entitled to allowances for social insurance, sickness, labor accidents, occupational diseases, maternity, pension and death as prescribed in Articles 107, 142, 143, 145 and 146 of the Labor Code;

4. To be entitled to the retirement or severance regime under Section 5, Chapter IV of this Ordinance;

5. Female public employees shall be also entitled to the interests prescribed in Clause 2, Article 109, Articles 111, 113, 114, 115, 116 and 117 of the Labor Code;

6. To be entitled to other benefits as prescribed by law.

Article 10.- Public employees shall receive wages according to their assigned tasks and duties, benefit from the housing and other policies and be assured the working conditions.

Public employees working in highland, remote and deep-lying areas and islands or working in hazardous and toxic industries or jobs shall be entitled to allowances and preferential treatment policies stipulated by the Government.

Article 11.- Public employees shall have the right to participate in political and social activities in accordance with the provisions of law; be provided with conditions to study and raise their professional level, have the right to do scientific research and creation; be commended for excellently fulfilling their assigned tasks and public duties.

Article 12.- Public employees shall have the right to complain, denounce or initiate lawsuits against acts of agencies, organizations or individuals, which they deem illegal, to competent agencies or organizations as prescribed by law.

Article 13.- Public employees who are on public duties shall be protected by law and by the people.

Article 14.- Public employees who die while performing their task or public duties shall be considered for recognition as martyrs under the provisions of law.

Public employees who are wounded while performing their task or public duties shall be considered for enjoying the policies and regimes similar to those for war invalids.

Chapter III

THINGS THAT PUBLIC EMPLOYEES ARE NOT ALLOWED TO DO

Article 15.- Public employees must not be lazy in their work, shirk their responsibility or refuse to discharge their tasks or public duties, must not sow factionalism, discord or departmentalism or quit their job without permission.

Article 16.- Public employees must not be authoritarian, overbearing or harassing for bribes, not cause any difficulties and troubles to organizations, agencies or individuals while settling their work.

Article 17.- Public employees shall not be allowed to establish, take part in establishing, managing or running private enterprises, limited liability companies, stock companies, cooperatives, private hospitals and private scientific research institutions.

Public employees shall not be allowed to work as consultants for enterprises, business or service organizations and other organizations or individuals inside and outside the country on the work involving State secrets, work secrets and tasks under their handling competence as well as other tasks where their consulting can probably cause damage to the national interests.

The Government shall specify the consulting work by public employees.

Article 18.- Public employees working in branches and professions related to State secrets shall not be allowed to, for at least five years from the time there is a decision on their retirement or dismissal, work for organizations or individuals inside and outside the country or joint ventures with foreign parties regarding the range of work related to their previous branch or profession.

The Government shall specify the lists of branches, professions and jobs that public employees are prohibited from doing and time limits for such prohibition as well as preferential treatment policies for public employees subject to the provisions of this Articles.

Article 19.- The heads and deputy heads of agencies, their spouse, parents or children shall not be allowed to contribute capital to enterprises operating in the branches and professions over which they directly perform the State management.

Article 20.- The heads and deputy heads of agencies and organizations shall not be allowed to let their spouse, parents, children or siblings hold leading positions in charge of organizational

and personnel affairs, accounting and finance; work as cashiers or storekeepers in their agencies or organizations or undertake the purchase and sale of supplies and goods, transactions or signing of contracts for such agencies or organizations.

Chapter IV

ELECTION, RECRUITMENT AND USE OF PUBLIC EMPLOYEES

Section 1. ELECTION

Article 21.- The election of deputies to the National Assembly, deputies to the People's Councils and other posts in the system of State agencies shall be conducted in accordance with the Constitution, the Law on Election of National Assembly Deputies, the Law on Election of Deputies of the People's Councils, the Law on Organization of the National Assembly, the Law on Organization of the Government, the Law on Organization of the People's Councils and the People's Committees and other legal documents.

The election of people to the posts in political organizations and socio-political organizations shall comply with the statutes of such organizations.

Article 22.- When the elected people defined in Point 1, Article 1 of this Ordinance discontinue their posts, they shall be given a job suited to their capabilities, strengths and specialized professions and assured to enjoy policies and regimes towards public employees.

Section 2. RECRUITMENT

Article 23.- When recruiting public employees as stipulated in Points 2, 3 and 5, Article 5 of this Ordinance, the recruiting agencies or organizations shall base themselves on their working requirements, working positions of the titles of public employees in their respective agencies or organizations and their assigned payroll quotas. To be recruited, people must be possessed of good moral qualities, meet the professional criteria and pass recruitment examinations as prescribed by law.

The recruits must be subject to the probation regime. Upon the expiry of the probation duration, the heads of the agencies, organizations or units that employ public employees shall assess their moral qualities and working results; and propose, if they satisfy the requirements, the agencies or organizations competent to manage public employees to make decisions to officially appoint them to the appropriate job grades.

Article 24.- The selection and appointment of judges of the people's courts and prosecutors of the people's procuracy shall comply with the Law on Organization of the People's Court, the Ordinance on Judges and Jurors of the People's Court, the Law on Organization of the People's Procuracy and the Ordinance on Prosecutors of the People's Procuracy.

Section 3. TRAINING AND FOSTERING

Article 25.- Agencies or organizations competent to manage public employees shall have to elaborate the general planning and plans for and organize the training and fostering of public employees in order to create sources thereof and raise their qualifications and capabilities.

Article 26.- The training and fostering of public employees shall be based on the general planning, plans and criteria for each post and professional criteria for each job grade.

Article 27.- The training and fostering of public employees is funded by the State budget. The training and fostering regime shall be prescribed by the competent agencies or organizations

Section 4. JOB TRANSFER, SECONDING

Article 28.- Agencies or organizations competent to manage public employees shall be entitled to transfer public employees to work at central or local agencies or organizations according to the requirements of the task or public duty.

Article 29.- Agencies or organizations competent to manage public employees shall be entitled to second public employees for a special duty within a given time limit at another agency or organization according to the requirement of the task or public duty.

The seconded public employees shall obey the job assignment by the agency or organization where they are sent to. The agency or organization that seconds their public employees for a special duty shall have to pay wages and ensure other interests for the seconded public employees.

Section 5. RETIREMENT AND JOB DISCONTINUATION

Article 30.- Public employees who fully meet the conditions regarding age and period of social insurance contribution as prescribed in Article 145 of the Labor Code shall be entitled to the retirement and other regimes as prescribed in Article 146 of the Labor Code.

Article 31.-

1. In cases where some branches, occupations or working posts require, the working period of public employees who are eligible for the retirement regime may be prolonged. The prolonged time shall not exceed five years; in special cases this time limit may be longer.

2. Competent agencies or organizations shall make a detailed list of branches, occupations and working posts where the working period of public employees can be prolonged.

3. The prolongation of the working period of public employees must ensure the following principles:

a/ The employing agency or organization actually needs to employ the public employees;

b/ The public employees have sufficient health conditions and voluntarily continue to work.

Article 32.-

1. Public employees specified in Points 2, 3, 4 and 5, Article 1 of this Ordinance may discontinue their job and shall be entitled to the job discontinuation regime in the following cases:

a/ Due to the organizational restructuring or payroll reduction by decision of a competent agency or organization;

b/ Wishing to discontinue their job and it is so approved by a competent agency or organization.

The Government shall stipulate the job discontinuation regime and policies for the cases under this Clause.

2. Public employees who quit their job without permission shall be disciplined, not be entitled to the job discontinuation regime and other benefits and have to refund the training costs in accordance with the provisions of law.

3. During the time a public employee is considered for discipline or examined for penal liability, he/she shall not be allowed to discontinue his/her job before a handling decision is issued.

Chapter V

MANAGEMENT OF PUBLIC EMPLOYEES

Article 33.- The contents of the management of public employees include:

1. Issuing legal documents, statutes and regulations on public employees;
2. Elaborating the general planning and plans on the building of the contingent of public employees;
3. Defining the titles and criteria for public employees;
4. Deciding the payroll of public employees;
5. Organizing the management, use and assignment of the management of public employees;
6. Issuing regulations on recruitment examinations and job-grade promotion tests;
7. Training, fostering and evaluating public employees;
8. Directing and organizing the implementation of the wage regime and preferential treatment, commendation as well as discipline regimes and policies for public employees;
9. Conducting statistics on the public employees;
10. Inspecting and supervising the observance of the provisions on public employees;
11. Directing and organizing the settlement of complaints and denunciations against public employees.

Article 34.-

1. The management of public employees shall comply with the Vietnam Communist Party's and the State's regulations on the assignment of such management
2. The management of elected employees shall comply with the provisions of the Law on Organization of the National Assembly, the Law on Organization of the Government, the Law on Organization of the People's Councils and the People's Committees, and the statutes of political and socio-political organizations.
3. The management of judges and prosecutors shall comply with the provisions of the Law on Organization of the People's Courts, the Ordinance on Judges and Jurors of the People's

Courts, the Law on Organization of the People's Procuracy and the Ordinance on procurators of the People's Procuracy.

4. The Supreme People's Court and the Supreme People's Procuracy shall manage public employees in accordance with their jurisdiction.

Article 35.-

1. The National Assembly Standing Committee shall decide the of public employee payrolls of the Supreme People's Court and the Supreme People's Procuracy; and the numbers of judges of courts.

2. The public employee payroll of the Office of the National Assembly shall be decided by the National Assembly Standing Committee.

3. The public employee payroll of the Office of the State President shall be decided by the State President.

4. The payroll of public employees working in political and socio-political organizations shall be decided by the competent organizations.

Article 36.-

1. The Government shall decide the payroll of and manage public employees working at State administrative and non-business agencies.

2. The agency assigned the task of the Government's organization and personnel shall assist the Government in managing public employees defined in Clause 1 of this Article.

3. The ministries, the ministerial-level agencies, the agencies attached to the Government and the People's Committee of the provinces and cities directly under the Central Government shall manage public employees according to the Government's assignment and the provisions of law.

Chapter VI

COMMENDATION AND HANDLING OF VIOLATIONS

Article 37.-

1. Public employees who make achievements in performing their tasks and public duties shall be considered for commendation in the following forms:

a/ Commendation papers;

b/ Commendation certificates;

c/ State honorary titles;

d/ Medals;

e/ Orders.

2. The commendation of public employees shall comply with the provisions of law.

Article 38.- Public employees prescribed in Points 2, 3, 4 and 5, Article 1 of this Ordinance who have made outstanding achievements in performing their tasks and public duties shall be considered for job-grade promotion or wage rise ahead of schedule as stipulated by the Government.

Article 39.-

1. Public employees prescribed in Points 2, 3, 4 and 5, Article 1 of this Ordinance who violate the provisions of law but not to the extent of being examined for penal liability shall be, depending on the nature and seriousness of violation, subject to one of the following forms of discipline:

a/ Reprimand;

a/ Warning;

c/ Wage reduction;

d/ Demotion;

e/ Removal from office;

e/ Sack.

The disciplining shall fall under the jurisdiction of the agency or organization that manages

the subject public employees.

2. The removal from office or discipline of public employees prescribed in Point 1, Article 1 of this Ordinance shall comply with the provisions of law and the statute of the concerned political or socio-political organization.

3. Public employees who commit law violations that show signs of a criminal offense shall be examined for penal liability in accordance with the provisions of law.

4. Public employees who cause loss or damage to equipment and furniture or commit other acts of damaging State property shall have to make compensation in accordance with the provisions of law.

5. Public employees who commit law-breaking acts while performing their task or public duties, thus causing damage to another person shall have to reimburse to the agency or organization the amount of money the latter has compensated for the damage in accordance with the provisions of law.

Article 40.- The disciplining of a public employee must be considered and proposed by the Disciplinary Council of the agency or organization employing such public employee to a competent agency or organization for decision.

The composition and operational regulations of the Disciplinary Council shall be stipulated by the Government, the political organizations and/or the socio-political organizations.

Article 41.- During the time a public employee is considered for discipline, the competent agency or organization may issue a decision to temporarily suspend his/her work if it deems that his/her continued work may cause difficulties to the verification of his/her violation or he/she may continue to commit another violation. The time limit for such temporary suspension shall not exceed fifteen days and may be extended in special cases but not more than three months; past this time limit if the public employee is not handled, he/she shall be entitled to continue to work. During the time of temporary work suspension the public employee shall still receive wage in accordance with the Government's stipulations.

Public employees who are found not guilty shall be arranged to their former work after temporarily being suspended therefrom; in cases where a public employee is disciplined in the form of reprimand, warning, wage reduction or demotion, he may be, depending on the nature and seriousness of the violation, either arranged back to the former work or transferred to

another one. The public employee who is disciplined in the form of dismissal from office shall be arranged to another work.

Article 42.- Public employees defined in Points 2, 3, 4 and 5, Article 1 of this Ordinance who are disciplined shall have the right to complain about the disciplinary decision against him/her to a competent agency or organization as prescribed by law.

Public employees defined in Points 2, 3 and 5, Article 1 of this Ordinance who hold the post of director of a department or an equivalent or lower post and are forced to discontinue their work shall have the right to initiate an administrative lawsuit at a court as prescribed by law.

Article 43.- Public employees defined in Points 2, 3, 4 and 5, Article 1 of this Ordinance who are disciplined in the form of reprimand, warning or removal from office shall have their wage-rise period prolonged for one more year, if they are disciplined in the form of from reprimand to removal from office they shall not be appointed to a higher post for a period of at least one year from the time the disciplinary decision is issued.

In cases where a public employee is disciplined for corruption, the disciplining shall comply with the provisions of the Ordinance against Corruption, other provisions of law, and the statute of the concerned political organization or socio-political organization.

Article 44.- Public employees who commit offenses and are sentenced to imprisonment by the Court shall be automatically forced to leave his/her work from the date the Court's verdict or decision takes legal effect.

Article 45.- Public employees who are disciplined or examined for penal liability but such discipline or examination is wrong upon the conclusion of a competent agency or organization shall have his honor and interests restored and be compensated for any damage as prescribed by law.

Article 46.- The commendation and discipline decisions shall be kept in the files on public employees.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 47.- This Ordinance takes effect from May 1, 1998.

The earlier provisions which are contrary to this Ordinance are hereby annulled.

Article 48.-

1. The Government shall detail and guide the implementation of this Ordinance.
2. On the basis of this Ordinance, the political organizations and socio-political organizations shall detail the application of this Ordinance to the public employees under their management.

On behalf of the National Assembly Standing Committee

Chairman

NONG DUC MANH