



Key tasks and key solutions relating to industrial relations in 2021

1. Implement Decision No.416/QĐ-TTg dated March 25, 2020 of the Prime Minister promulgating the plan for implementing Directive No.37-CT/TW dated September 3, 2019 of the Secretariat of the Party Central Committee on strengthening the leadership and directing the building of harmonious, stable and progressive industrial relations in the new situation.
2. Strengthen state management of industrial relations.
3. Effectively implement policies to support the building of industrial relations.
4. Monitor labour disputes and strikes; coordinate with localities to early settle strikes with complicated and prolonged developments in order to maintain social order and bring production and business activities of enterprises back to normal.

(The Ministry of Labour, Invalids and Social Affairs: Assessment Report on the implementation in 2020 and 2016-2020 – Development orientation for the period of 2021-2025, key tasks and key solutions in 2021 in the field of labour, meritorious people and society)

The settlement of labour disputes by labour mediators or the Labour Arbitration Council is only implemented at the request or consent of the disputing parties



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Functions, duties, criteria, appointment, dismissal, benefits and working conditions of labour mediators

* Standards, functions, duties and powers of labour mediators

- Functions, duties of labour mediators

Clause 1, Article 184 of the Labour Code stipulates that a labour mediator is a person appointed by the Chairperson of a Provincial People’s Committee for the purpose of mediating labour disputes and disputes over vocational training contracts, and supporting the development of industrial relations.

- Authority to settle labour disputes of labour mediators

- (1) Individual labour disputes must go through mediation before any request is made for resolution by the Labour Arbitration Council or the Court, except for certain labour disputes for which mediation is not mandatory (Clause 1, Article 188 of the Labour Code);
- (2) Right-based collective labour disputes must go through mediation procedures prior to requesting resolution by the Labour Arbitration Council or People’s Court (Clause 2, Article 191 of the Labour Code); and

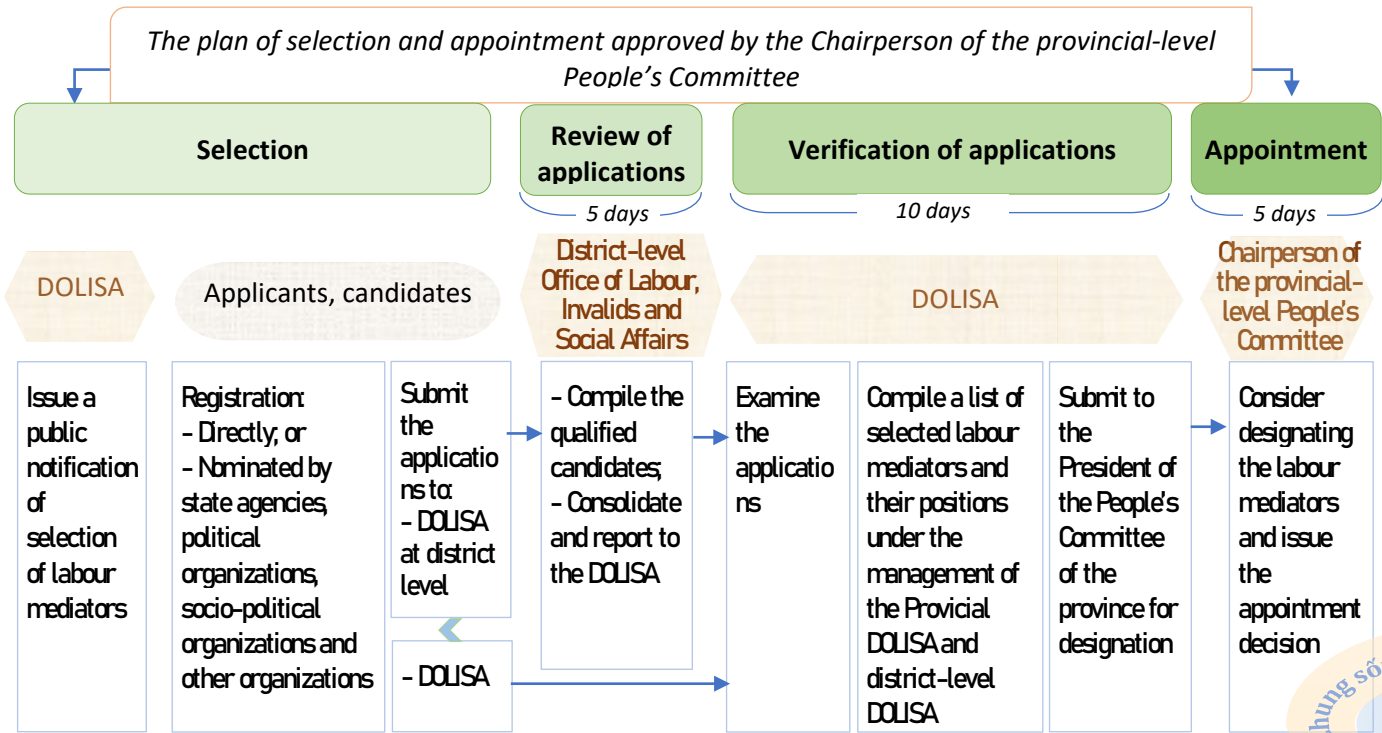
- (3) Interest-based collective labour disputes must go through mediation prior to requesting resolution by the Labour Arbitration Council or going on strike (Clause 2, Article 195 of the Labour Code).

- Labour mediator standards

Clause 1, Article 92 of Decree No.145/2020/ND-CP stipulates that labour mediators must fully meet the following criteria:

- 1. Be a Vietnamese citizen; have full legal capacity as prescribed by the Labour Code, good health and moral qualities;
- 2. Have at least a bachelor’s degree and 03 years’ experience in a field relevant to industrial relations; and
- 3. Being not subject to criminal prosecution or having served sentence but not yet having the conviction expunged.

* Procedures for selection and appointment of labour mediators
(Article 93 of Decree No.145/2020/ND-CP)



IMPLEMENTING THE LABOUR CODE

* Benefits and guaranteed working conditions of labour mediators



Benefits of labour mediators

(Clause 1, Article 96 of Decree No. 145/2020/ND-CP)

- During the settlement of labour disputes
 - Be entitled to a remuneration equivalent to 5% of the average of applicable monthly minimum wages of all regions prescribed by the Government. The provincial-level People’s Committee may propose the payment of benefits that are higher than those specified to the People’s Council of the same level.
 - Be released by their employers to perform labour mediators’ duties as per regulations.
 - Be paid with the travel allowance rate applicable to officials and public employees during the performance of labour mediators’ duties as per regulations.
- Other benefits
 - Advanced training organized by competent authorities.
 - Commendations for good performance of labour mediators' duties according to the Law on Emulation and Commendation.
 - Other benefits prescribed by law.

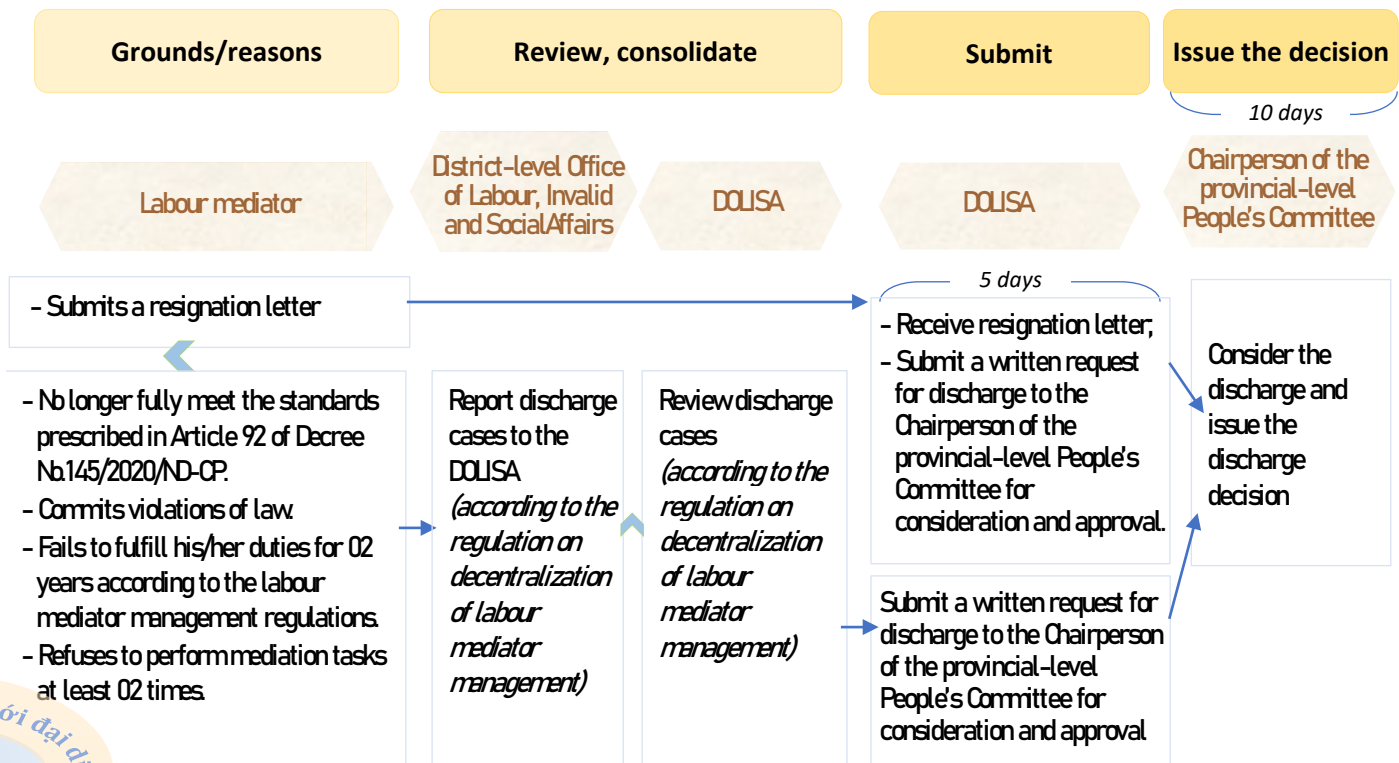


Guaranteed working conditions of labour mediators (k Clause 1, Article 96 of Decree No. 145/2020/ND-CP)

- The assigning authority shall prepare location, equipment, document, office supplies and other conditions for the labour mediators to perform their duties

The benefits and guaranteed working conditions of labour mediators will be financed by the state budget (Cause 3, Article 96 of Decree No. 145/2020/ND-CP)

* Procedures for discharging labour mediators (Article 94 of Decree No.145/2020/ND-CP)



Functions, tasks, criteria, appointment, dismissal, benefits and working conditions of labour arbitrators



* Labour Arbitration Council

- The Chairperson of the provincial-level People’s Committee shall decide on the establishment of the Labour Arbitration Council (LAC), and appoint the Chairperson, Secretary and other members of the LAC. (Clause 1, Article 185 of the Labour Code):
- Upon receiving a request for labour dispute settlement, the LAC shall make a decision to establish a Labour Arbitration Panel which include members of the LAC to resolve it (Clause 4, Article 185 of the Labour Code).

- Responsibilities of the Labour Arbitration Council

- 1) Settle labour disputes;
- 2) Settle interest-based collective labour disputes at workplaces where strikes are prohibited (Clause 1, 2 & 3, Article 107 of Decree No. 145/2020/ND-CP)
- 3) Settle other labour disputes according to the provisions of law;
- 4) Support the development of industrial relations in the province in accordance with the operating regulations of the LAC.

* Standards and requirements for labour arbitrators

Point a, Clause 3, Article 185 of the Labour Code stipulates that: Labour arbitrators are persons who have knowledge of the law, experience in industrial relations, credibility

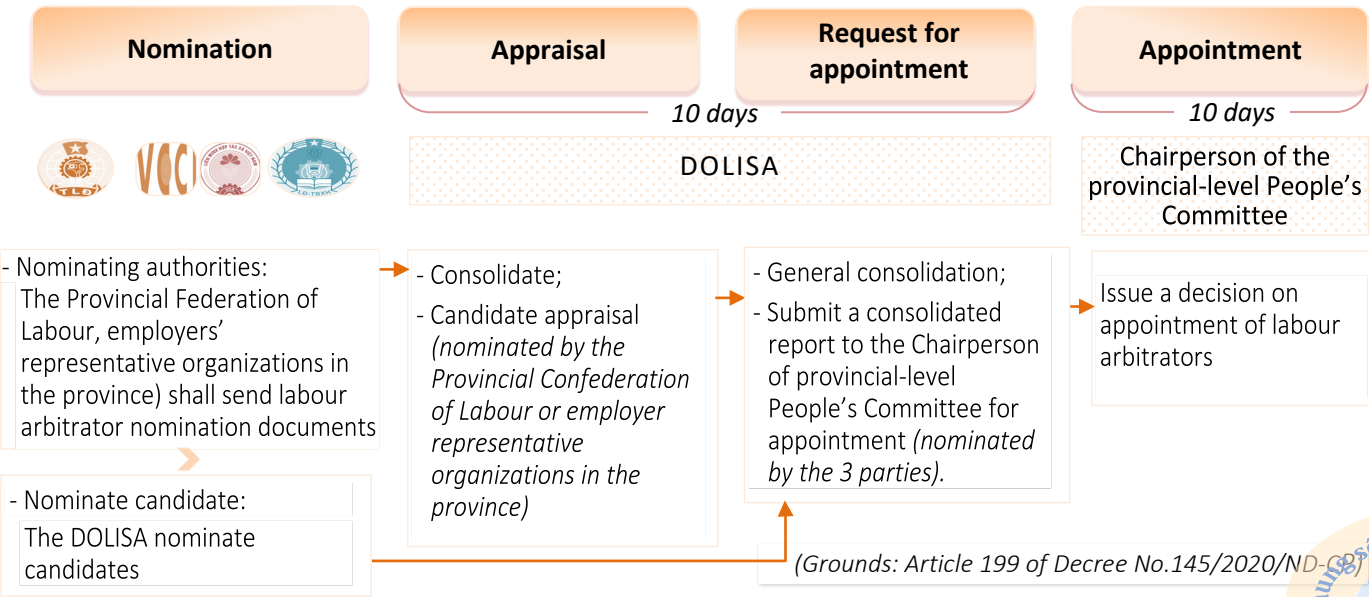
and impartiality. Details are specified as follows:

- 1) Be a Vietnamese citizen; have full legal capacity as prescribed by the Labour Code, good health, moral qualities, good reputation and sense of justice.
- 2) Have at least a bachelor’s degree, understanding of law and at least 05 years of work in a field relevant to industrial relations.
- 3) Being not subject to criminal prosecution or having served a sentence but not yet having the conviction expunged.
- 4) Be nominated as a labour arbitrator by the Provincial Department of Labour, Invalids and Social Affairs or Provincial Federation of Labour or employers' organisations as prescribed by law.
- 5) Being not a judge, prosecutor, investigator, executor or official of a People's Court, People’s Procuracy, investigation authority or judgment execution authority.

* Responsibilities of labour arbitrators

- 1) Participate in and perform duties of the Labour Arbitration Panel in the settlement of labour disputes; and
- 2) Perform other tasks specified in regulations of the LAC and as assigned by the Chairperson of the LAC.

* Procedures for appointment of labour arbitrators



IMPLEMENTING THE LABOUR CODE

• Benefits and guaranteed working conditions of labour arbitrators



Benefits of labour arbitrators

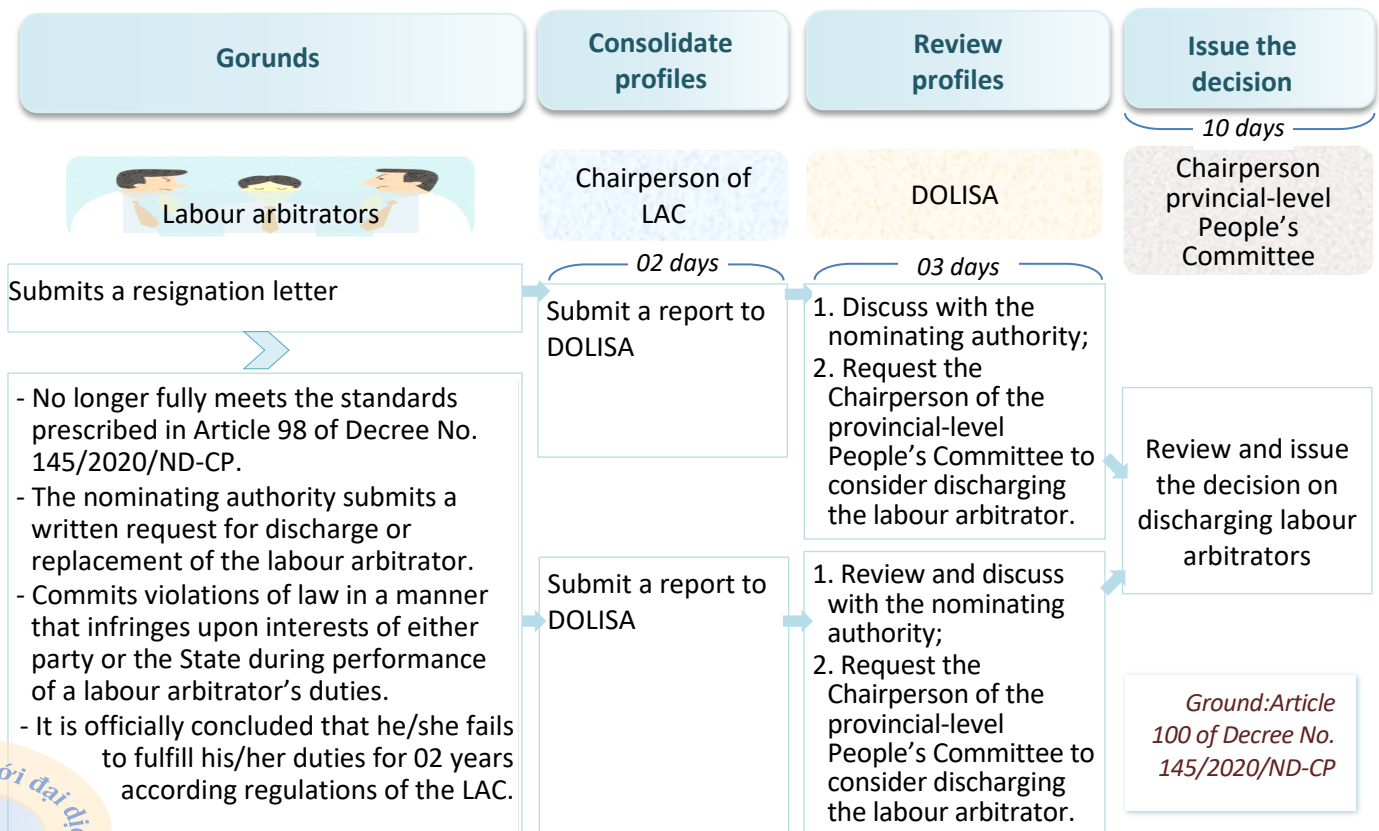
- During the settlement of labour disputes
 - 🎁 Be entitled to an allowance equivalent to 5% of the average of applicable monthly minimum wage of all regions prescribed by the Government if he/she is working under an employment contract for each day spent on studying case files, collecting evidence and attending meetings to settle labour disputes as assigned. *(The provincial-level People's Committee may propose the payment of benefits that are higher than those specified to the People's Council of the same level).*
 - 🎁 Be enabled by their employers to participate in labour arbitration councils and labour arbitration panels to settle labour disputes.
 - 🎁 Be paid with the travel allowance rate applicable to officials and public employees during the participation in labour arbitration panels to settle labour disputes.
- Other benefits
 - 🎁 Advanced training organized by competent authorities.
 - 🎁 Commendations for good performance of labour arbitrators' duties according to the Law on Emulation and Commendation.
 - 🎁 Other benefits prescribed by law.
- Secretaries of LAC will receive a responsibility allowance rate equivalent 0,5 times of the base wage.



Guaranteed working conditions of labour arbitrators

- 🎁 The DOLISA shall prepare working location, equipment, document, office supplies and other conditions serving operations of labour arbitrators.
- 🌱 LAC shall work within the premises of DOLISA.
- 💰 Funding for the operation of LAC shall be covered by the state budget.

* Procedures for discharging labour arbitrators



Labour mediators and arbitrators in the new context – Challenges and solutions

The position and role of the labour mediators in industrial relations

The current Labour Code (LC) defines the roles of labour mediators and labour arbitrators in industrial relations (IR) as follows:

- (1) Effectively fulfill the tasks of mediation and arbitration of labour disputes, contributing to preventing labour disputes from becoming strikes or being sent to the Court for settlement;
- (2) become a reliable contact point for the parties to request assistance in both prevention and settlement of labour disputes, contributing to reducing strikes; and
- (3) be a pillar in the labour dispute settlement system and support the development of harmonious, stable and progressive IR.

The functions, duties and powers the labour mediators and arbitrators are therefore fully regulated in the Labour Code which includes many new points compared to the previous regulations:

- Labour mediators and arbitrators have the authority to settle all types of labour disputes, including individual and collective labour disputes, collective labour disputes in places where strikes are allowed or prohibited. Disputing parties may request conciliation and arbitration at all stages and processes of labour disputes (including: before and during labour disputes; before, during and after strikes).
- In addition, labour mediators undertake the additional task of "supporting IR" according to the provisions of the LC.
- Labour mediators and arbitrators are also assigned the task of supporting the management and development of IR in the locality (Decree No.145/2020/ND-CP dated 14/12/2020 of the Government elaborating and guiding the implementation of some articles

of the LC on working conditions and IR).

Difficulties and challenges that labour mediators and arbitrators are to face

Firstly, there will be changes to IR in the near future

- The 4.0 technology revolution has been taking place, changing both the quantity and quality of employment, the supply and demand in the labour market and the relationship between the parties in IR.

The trend of increased mechanisation and computer technology will lead to the disappearance of many jobs in the long term (mainly manual and assembly work), however, new jobs and new employment will be created. Therefore, the employment structure will experience great changes in nature, characteristics, qualifications, space and time, wages and benefits and working conditions of workers. Manual workers will find it more difficult to seek new jobs, while qualified workers will have more opportunities to choose new jobs with higher income and benefits. The labour market will therefore undergo more complicated developments.

- The development trend in our country in the coming years in terms of enterprises and labour force will create changes in IR toward a deeper and more complicated direction.

The number of enterprises will increase, with more medium and large sized enterprises (small and medium enterprises currently account for more than 90%). Private enterprises will account for a large proportion, while the number of SOEs will gradually decrease. In another aspect, in the coming period, labour-intensive enterprises such as textile-garment, footwear and electronics will still account for a large proportion in the structure of enterprises in Vietnam. The structure of employment will therefore experience more changes towards better quality,

however, manual labour will still play a key role in the coming years.

The number of workers with labour relations will increase in the following years. Workers quality also tends to be improved in terms of seniority, work experience as well as training and skill levels.

- The COVID-19 pandemic has caused many difficulties for enterprises and workers; many enterprises are forced to lay off their employees, meanwhile, many others still try to maintain minimum production-business operation to retain workers. In many enterprises, business owners and workers have established a cooperative relationship to jointly implement measures to overcome difficulties caused by the pandemic. However, when the COVID-19 pandemic is under control, enterprises will experience a labour shortage when they return to production-business activities. The labour demand will create competition among enterprises in attracting workers, making the IR complicated and the risk of arising labour disputes is inevitable, putting pressure on the labour market as well as on the authorities in the settlement of labour disputes.

IR change with these arising factors, are expected to create labour disputes relating to the establishment of new labour demand and standards among parties in IR and tend to be more complicated, requiring labour mediators and arbitrators to be prepared to have the capacity in promptly resolving arising conflicts.

Secondly, there may arise new issues in IR during the implementation of the LC, putting pressure on labour mediators and arbitrators in settling newly arising labour disputes

- The LC aims at raising income and working conditions, getting closer to the labour standards of the

The responsibilities of labour mediators and arbitrators



International Labour Organisation (ILO) and well implementing the labour commitments in new generation of FTAs that Vietnam has joined.

- The LC stipulates that workers have the right to establish, join and operate their representative organisations in IR at the grassroots (hereinafter referred to as the workers' representative organisations). The existence of multiple workers' representative organisations in one enterprise will create more forms of labour disputes between employers and workers' representative organisations in terms of rights and responsibilities in IR; among the workers' representative organisations over the right to representation in dialogue, bargaining and settlement of labour disputes with the employers, etc.

- The LC expands the forms of collective bargaining agreements (CBA) in enterprises, including: enterprise-level CBAs, sectoral CBAs, multi-employer CBAs. According to regulations, in case CBAs stipulate different rights, obligations and interests for workers, the contents that are most beneficial for the workers shall prevail. The application of various forms of CBAs may cause different interpretation between workers and employers, among workers' representative organisations during the implementation of CBAs.

- The LC fully respects the self-determination of the parties in IR, all support can only be provided with the consent of the parties. Stemming from the practical conditions of Vietnam, the provisions of the LC encourage the

parties to request for support from labour mediators and arbitrators to reduce as well as to prevent the occurrence of labour disputes, strikes in case of unsuccessful dialogue and negotiations.

- The need for support from third parties (labour mediators and arbitrators) in resolving labour disputes is likely to increase in the coming period, as IR contain new arising factors and the parties face difficulties and need the support of an intermediary party in the process of dialogue, negotiation and building IR at enterprises.

Thirdly, the new labour dispute settlement system is under the consolidation process

- The tasks of labour mediators and arbitrators are quite heavy while this workforce in the localities is insufficient in terms of quantity, and mostly work on a part-time basis; their professional mediation and arbitration skills are limited, rarely updated and improved. The team of labour mediators and arbitrators will face difficulties in dealing with newly arising labour disputes; at the same time, there will be a lot of pressure in separating their role as an intermediary party and as state administrative management officials (or as representatives of the nominating agency/organisation) in the process of resolving labour disputes.

- The working conditions to serve their operations are still inadequate, the remuneration is still limited which has not facilitated and encouraged labour mediators and arbitrators to operate effectively.

Fourthly, it is challenging for labour mediators and arbitrators to become a reliable contact point for the parties in IR to request for support in resolving labour disputes as well as building harmonious and stable IR at enterprises

Recommended solutions

The LC has been promulgated and takes effect from January 2021, therefore, solutions need to focus on preparing conditions to ensure that the labour mediators and arbitrators well fulfill their duties when a dispute occurs.

1. Gaining trust from disputing parties

- Introduce widely about the roles of labour mediators and arbitrators and the benefits of disputing parties when having their labour dispute settled by labour mediators and arbitrators.

- Publicly and widely provide information about labour mediators and arbitrators in the localities for the parties to easily access them should they need support.

- Select well labour mediators and arbitrators; focus on the selection and nomination of staff by relevant agencies to act as labour mediators and members of labour arbitration councils.

- Develop sets of criteria to evaluate the results of labour dispute settlement by labour mediators and labour arbitration council in general and labour arbitrators in particular. These data will build more trust among the parties in IR when requesting for support.

(to be continued on page 9)

Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92) of International Labour Organisation



Ảnh: ILO

The Voluntary Conciliation and Arbitration Recommendation (No. 92), was adopted at the 34th International Labour Conference in Geneva, 6 June 1951¹. This recommendation is a part of the International Labour Organisation (ILO) system of instruments to promote freedom of association, collective bargaining and industrial relations.

Recommendation 92 is an instrument to promote free and voluntary collective bargaining

Collective bargaining is a fundamental right in industrial relations.

In order to promote free and voluntary collective bargaining, the ILO has adopted a system of key standards and principles that are instrumental in dealing directly or indirectly with collective bargaining and related issues, including R092 together with R091-Collective Agreement which was also adopted by the ILO in 1951.

With regard to the collective bargaining process, the ILO encourages nations (mentioned in R092) to establish procedures for the settlement of disputes arising in the course of collective bargaining and to provide services to assist the parties in resolving their disputes and return to negotiations. At the same time, the voluntary conciliation and arbitration apparatus can also support in resolving disputes arising from the application or interpretation of collective bargaining agreements.

R092 is also an instrument to guide and support the member states in

seeking for measures to promote collective bargaining².

In addition it is an instrument to guide the member states to build an effective labour dispute management system

Articles 1 and 3 stated that a free and voluntary conciliation machinery, appropriate to national conditions, should be made available to assist in the settlement of labour disputes between employers and workers.

R092 mentioned the building of labour dispute settlement procedures that will cover both types of disputes, with a greater focus on collective labour disputes over interests, specifically aimed at the following objectives: (1) preventing labour disputes; (2) dispute resolution through mediation and intermediary mediation and/or voluntary arbitration; (3) and resolve when disputes lead to strikes and other collective actions.

Regarding the content of building a mechanism to settle labour disputes, nations should focus on the principle of maximum respect for the self-negotiation and agreement of the parties.

R092 added that if a dispute has been submitted to conciliation procedure with the consent of all the parties concerned, the latter should be encouraged to abstain from strikes and lockouts while conciliation is in progress.

Regarding the labour dispute settlement of labour arbitrators, R092 emphasized that if a dispute has been submitted to arbitration

for final settlement with the consent of all parties concerned, the latter should be encouraged to abstain from strikes and lockouts while the arbitration is in progress and to accept the arbitration award.

Finally, all agreements which the parties may reach during conciliation procedure should be drawn up in writing and be regarded as equivalent to agreements concluded in the usual manner.

R092 is an instrument to evaluate the effectiveness of the labour dispute management system based on the following criteria

The ILO encourages and guides nations based on the criteria mentioned in R092³, including two groups of criteria:

- Elements of a dispute management system, including: Emphasis on the preventive nature; provision of a variety of services and interventions; free services; voluntariness, informality, innovation; professionalism; independence; resource-related support and trust by users.

- Common characteristics of good governance, including: Stakeholder involvement; law compliance; transparency; timeliness; towards consensus; equality and comprehensiveness; efficiency, performance and accountability.

3. Labour dispute prevention and resolution systems-Guide to improve performance.

1. Vietnam ratified this Recommendation

2. Collective bargaining- Policy guide, ILO

The main contents of Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92)



The governments should establish a voluntary, free and timely conciliation machinery/mechanism, to assist in the prevention and settlement of labour disputes

“Recommendation No. 092, paragraph 1 & 3:

1. Voluntary conciliation machinery, appropriate to national conditions, should be made available to assist in the prevention and settlement of industrial disputes between employers and workers.

3. (3.1) The procedure should be free of charge and expeditious; such time limits for the proceedings as may be prescribed by national laws or regulations should be fixed in advance and kept to a minimum.

3.2) Provision should be made to enable the procedure to be set in motion, either on the initiative of any of the parties to the dispute or ex officio by the voluntary conciliation authority.”



Disputing parties should be encouraged to abstain from strikes and lockouts while mediation or arbitration is in progress

“Recommendation No. 092, paragraph 4 & 6:

4. If a dispute has been submitted to conciliation procedure with the consent of all the parties concerned, the latter should be encouraged to abstain from strikes and lockouts while conciliation is in progress.

6. If a dispute has been submitted to arbitration for final settlement with the consent of all parties concerned, the latter should be encouraged to abstain from strikes and lockouts while the arbitration is in progress and to accept the arbitration award.”



All agreements which the parties may reach during conciliation procedure should be drawn up in writing and “be regarded as equivalent” to agreements concluded in the usual manner

“Recommendation No. 092, paragraph 5:

5. All agreements which the parties may reach during conciliation procedure or as a result thereof should be drawn up in writing and be regarded as equivalent to agreements concluded in the usual manner.”

Continued from page 7

2. Labour mediators and arbitrators are fully equipped with necessary knowledge and professional skills

- Labour mediators and arbitrators are to be fully equipped with necessary knowledge and professional skills in labour dispute settlement; decision-making skills when dealing with a labour dispute (for a labour arbitrator). For a labour mediator, besides the knowledge and skills to resolve labour disputes, it is necessary to have skills and knowledge to perform the task of "supporting IR". This is defined as the duty of agencies and organisations which assign staff to act as labour mediators and participate in the labour arbitration council.
- Develop sets of guidance documents, sample documents, and manuals for the team of labour mediators and arbitrators to improve their qualifications, self-exploit the necessary

information and knowledge to serve the process of conciliation and arbitration in labour dispute resolution. In particular, it is necessary to pay attention to the development of specific operational guidance documents for labour mediators and arbitrators in dealing with each type of labour disputes (individual labour disputes, collective labour disputes over rights and collective labour disputes over interests).

- Develop annual training programs and plans to improve the capacity of labour mediators and arbitrators to perform well the intermediary role in labour disputes settlement; support IR and support the state management of IR according to regulations.
- Build an IR data system to help labour mediators and arbitrators to look up and collect further necessary information in the process of labour disputes settlement and

implementing other tasks.

3. Ensure the working conditions for labour mediators and arbitrators

- Prepare adequate facilities and working conditions for labour mediators and arbitrators.
- Well implement the remuneration regime, ensure that labour mediators and arbitrators operate properly and comply with the principles in labour conciliation and arbitration activities, towards the professional resolution of labour disputes according to the market principles.
- Research and deploy many forms of encouragement and reward for the team of labour mediators and arbitrators in order to encourage and motivate them both materially and spiritually, help them to be more dedicated, responsible and engaged with their assigned work.

Labour mediators in Dong Nai – Some highlights



Dong Nai province is a gateway to the Southeast economic region, gathering many industrial zones and attracting a large number of workers from all over the country to live and work. Therefore, the situation of industrial relations here is considered to be very active and sometimes complicated. To ensure the stability of the industrial relations situation, one of the forces that play an important role is the labour mediators.

Currently, Dong Nai has 33 mediators, active in districts and cities of the province. Most of them are the staff of specialized divisions of the Provincial Department of Labour, Invalids and Social Affairs, Trade Union who act as part-time labour mediation, while others are qualified individuals.

From 2018-2020, 1,657 of enterprise human resource officers, trade union officials, and labour mediators have been trained through 33 training courses on dissemination of labour policies and laws, 442 labour mediators, trade union officials, enterprise human resources officers

are trained in skills of dialogue, negotiation and conciliation of labour disputes through 3 skill training courses.

According to the statistics of the Dong Nai Provincial Department of Labour, Invalids and Social Affairs, from 2018 to 2020, the number of annual individual labour disputes tended to decrease gradually, the rate of resolved cases is maintained at over 80%. Although the labour mediators basically meet the requirements and demands of individual labour dispute resolution, the resolution of collective labour disputes and strikes is still a great challenge. In the current situation

when 100% of the strikes are not in accordance with the stipulated order and procedures, and the Labour Arbitration Council has not been completed, the labour mediators can only participate in the settlement of labour disputes and strikes through joining inter-sectoral delegations for labour dispute settlement.

Besides the advantages and attentions of the province, the labour mediators are still facing many difficulties. With most of them working on a part-time basis, the time to focus on conciliation and labour disputes settlement is very limited. The requirements for

As of December 31, 2020, in Dong Nai:

- ❖ 38,669 organizations and enterprises are granted with business registration licenses
- ❖ 1,217,530 workers are employed with 54% being female workers (658,408 workers)
- ❖ Average salary in all types of businesses: 7,556 million VND/person/month
- ❖ Number of enterprises with grassroots trade unions: 1,475 enterprises
- ❖ Number of enterprises with grassroots trade unions that have signed collective bargaining agreements: 1,214/1,475 (82.3%)

Source: The Dong Nai Provincial Department of Labour, Invalids and Social Affairs

LOCAL PRACTICE

knowledge and skills of the labour mediators are very high, requiring great dedication of the mediators. In addition, the allowance for labour mediators is still low, thus does not motivate labour mediators in their work.

An exemplary mediators

Currently, Dong Nai has a number of labour mediators who are retired officials, have a lot of time, knowledge and skills, and compassion for workers and labourers. They act as full-time mediators and have produced obvious effects in mediation of individual labour disputes. A typical example is the case of the labour mediator of Nhon Trach district – Ms. Phan Thi Hieu. She is a trade union official with more than 20 years of working closely with businesses and workers, providing practical support to both partners and is widely known. Hence she has received much trust and cooperation from both sides in resolving labour disputes.

Nhon Trach district has arranged a separate labor mediation office in its one-stop reception unit where there is always someone on duty and receiving requests for support/settlement of labour disputes during office hours. Upon receiving a case, she finds out the causes, works with each party, and arranges a mediation session. Most of individual labour disputes are successfully settled. Ms. Hieu's activities can be considered as not only mediating labour disputes but also supporting the development of industrial relations. In many cases where the conflicts are not serious enough to become disputes, upon receiving information, Ms. Hieu actively supports to handle them promptly. This helps businesses and workers limit the formation and development of individual labour disputes as well as collective labour disputes.

Over the years, hundreds of individual labour disputes have been resolved, however, Ms. Hieu has not received any allowance. It

can be said that Ms. Hieu is a very special labour mediator in Dong Nai province.

The issue

From the current situations, advantages, difficulties and highlights, it is time to consider the building of a team of full-time labour mediators to ensure effective labour dispute mediation.

To achieve that goal, it is necessary to develop a mechanism to attract qualified and skilled people to work as full-time labour mediators with decent remuneration, specific and easily accessible workplaces.

In addition, it is necessary to invest in regular training activities as well as connect the system of labour mediators to share experience, knowledge and jointly support dispute resolution if necessary. Only in this way can the mediators fulfill their important roles set out by the 2019 Labour Code.

Situation of reception and settlement of individual labour disputes by labour mediators in the period of 2018-2020



Source: The Dong Nai Provincial Department of Labour, Invalids and Social Affairs

ANNOUNCEMENT OF NEWLY PROMULGATED, AMENDED, SUPPLEMENTED, ANNULLED ADMINISTRATIVE PROCEDURES IN THE FIELD OF LABOUR AND WAGES

On March 17, 2021, the Minister of Labour, Invalids and Social Affairs issued Decision No. 338/QĐ-LĐTBXH announcing newly promulgated, amended, supplemented and annulled administrative procedures in the field of labour and wages within the scope of state management functions of the Ministry of Labour, Invalids and Social Affairs.

02 newly promulgated administrative procedures

1. Establishment of the Collective Bargaining Council
2. Change of the Chairperson of the Collective Bargaining Council, the representative of the People's Committee of the province, functions, responsibilities, plans and term of the Collective Bargaining Council.

06 amended and supplemented administrative procedures

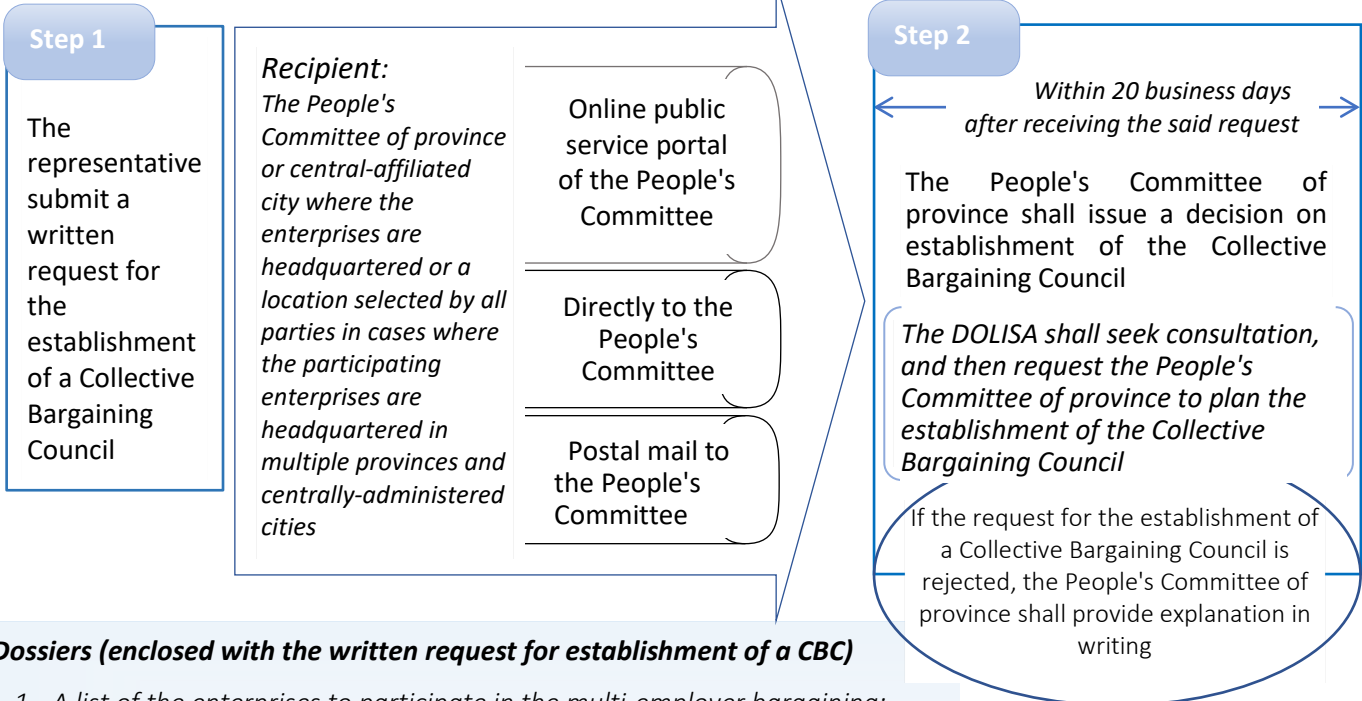
1. Registration of the enterprise's internal work regulations
2. Issuance of labour dispatch license
3. Renewal of labour dispatch License
4. Re-issuance of labour dispatch License
5. Withdrawal of labour dispatch License
6. Deposit withdrawal of labour dispatch enterprises

02 annulled administrative procedures

1. Submission of enterprise-level collective bargaining agreement
2. Submission of wage scale, payroll, labour norm of the enterprise

ACCOMPANYING ENTERPRISES

The procedures for establishing a Collective Bargaining Council



Dossiers (enclosed with the written request for establishment of a CBC)

- 1. A list of the enterprises to participate in the multi-employer bargaining;
- 2. Full name, position/ title of the person who, by consensus of the parties, is appointed as the chairperson of the Council, accompanying with the written consent of that person (if any);
- 3. A list of representatives of the parties in the Council;
- 4. The contents expected to be agreed by the parties, including: issues for bargaining, performance duration of the Council, collective bargaining plan, support activities of the Council (if any).

(Legal basis:
Labour Code;
Circular No.
10/2020/TT-
BLDTBXH)

The procedures for registration of internal work regulations

An employer employing 10 or more workers

- Prepare dossiers for registration of internal work regulations
- 1.An application for registration of the internal work regulations;
 - 2.The internal work regulations;
 - 3.Comments from workers’ representative organisations at the grassroots level (where such organisations exist);
 - 4.Documents related to labour discipline and material liability (if any);
- * Number of dossiers: 01 set.

- Recipient of dossiers: the specialized labour agency
- Online public service portal; or
 - Directly; or
 - Postal mail.
- (The specialized labour agency of the Provincial People’s Committee where the employer’s business is registered or the authorised specialized labour agency of the District People’s Committee)

Receiving the dossier for registration of the internal work regulations of businesses

If any element of the internal work regulations is contrary to the law, the specialized labour agency receiving the dossier shall notify and guide the employer to make the necessary amendments or supplementation and to resubmit the dossier for registration (within 07 working days from the date of receipt of the dossier).

NEW DOCUMENTS RELATED TO INDUSTRIAL RELATIONS

Decision No. 673/QĐ-TTg dated 07 May, 2021 of the Prime Minister approving of the implementation plan of the International Labour Organization (ILO) Convention No. 98 concerning the right to organise and collective bargaining

1	Internally legalize the provisions of Convention No. 98, complete the system of relevant legal documents	<ul style="list-style-type: none">- Issue decrees detailing and guiding the implementation of the 2019 Labour Code on the following contents: collective bargaining, collective labour agreement; workers' representative organizations; labour dispute settlement- Amend and supplement the Government's Decree No. 28/2020/ND-CP, provide administrative sanctions in the field of labour, social insurance, and sending Vietnamese workers to work overseas under contract+ improve regulations related to applicable sanctions as well as remedial measures for acts of interference and manipulation of workers' representative organizations+ improve regulations related to applicable sanctions as well as remedial measures for violations of collective bargaining
2	Propagate and disseminate the contents of Convention No. 98 to employers, relevant agencies and organizations	
3	Effectively perform the tasks according to the Implementation Plan of Directive No. 37-CT/TW of the Secretariat of the Party Central Committee on strengthening the leadership and direction of building harmonious, stable and progressive industrial relations in the new situation (promulgated as attachment of the Prime Minister's Decision No. 416/QĐ-TTg dated March 25, 2020)	
4	Build and provide information and data on labour market and industrial relations to support effective collective bargaining	
5	Strengthen capacity of labour inspectors and competent agencies, organizations and individuals to settle labour disputes	

*** The Prime Minister promulgated the Program to support the development of the labour market until 2030**

(attached to Decision 176/QĐ-TTg 2021 dated 05 February, 2021)

Well implement the task of effectively organizing information work, forecasting, connecting supply - demand and developing the labour market so that the parties have a basis for dialogue and negotiation. Implement the direction of the Secretariat of the Party Central Committee at Directive No. 37-CT/TW date 3 September, 2021 on strengthening the state management on industrial relations as well as effectively implementing supporting policies on the building of industrial relations.

The Program to support the development of the labour market until 2030 set out objectives and tasks on industrial relations, including: (1) Improve legal institutions, policies related to labour supply - demand in accordance with labour market rules, international conventions and standards, in line with the legal and legitimate interests of workers and employers; (2) Improve the efficiency of the organization and operation of the labour market, including the task of propagating, disseminating and raising awareness on labour law, industrial relations.....

Establishment of the National Wage Council

On March 26, 2021, the Prime Minister issued Decision No. 449/QĐ-TTg establishing the National Wage Council under the provisions of Clause 2, Article 92 of the Labour Code.

The Council performs the advisory function to the Government on minimum wages established by region (including minimum monthly wages and hourly minimum wages) and wage policies applicable to workers (Article 49 Decree 145/2020/ND-CP).

The National Wage Council consists of 17 members, including: 05 representative members of the Ministry of Labour, Invalids and Social Affairs, 05 representative members of the Vietnam General Confederation of Labour, 05 representative members of a number of workers’ representative organisations at central level and 02 members who are independent experts (according to Article 51 of Decree No. 145/2020/ND-CP dated December 14, 2020 of the Government).



The Chairman of the National Wage Council- Mr. Le Van Thanh, Deputy Minister of the Ministry of Labour, Invalids and Social Affairs

Organogram of the National Wage Council

(Decision No. 449/QĐ-TTg dated 26 March, 2021 of the Prime Minister on the establishment of the National Wage Council)

Chairman of the Council

Mr. Le Van Thanh
Deputy Minister of the Ministry of Labour, Invalids and Social Affairs

Vice Chairman of the Council

Mr. Ngo Duy Hieu,
Vice President of VGCL

Vice Chairman of the Council

Mr. Hoang Quang Phong,
Vice President of VCCI

Vice Chairman of the Council

Mr. Nguyen Van Thinh,
Vice Chairman of VCA

04 members

Representative members
of VGCL

04 members

Representative
members of MOLISA

03 members

Representative
members of VCCI

02 independent members

(excluding experts and scientists working at units under the MOLISA,
VGCL and workers’ representative organizations at central level)

Technical department

Permanent help desk

HEADLINE DATA

Some indicators of socio-economic development, labour and industrial relations

Socio-economic target in 2021	GDP ~ 6%	CPI 4%	TFP ~45-47%	Social labour productivity ~4.8%	(Resolution No.124/2020/QH14, dated 11 November, 2020 of the National Assembly)
Labour-employment target in 2021					
Rate of trained workers	66%				(Resolution No.01/NQ-CP, dated 01 January, 2021 of the Government)
<i>In which: with degree, certificate of 3 months or over</i>	25.5%				
Rate of labour force of working age participating in social insurance	35%				
Rate of labour force of working age participating in unemployment insurance	28%				

Objectives of developing the Vietnam Trade Union organization in the new situation

(Resolution No.02-NQ/TW, dated 12 June, 2021 of the Political Bureau)

By 2025	13.5 million union members (12 million by 2023)	Most enterprises with 25 workers or more have trade union organization	80% or more of enterprises and units with trade unions have signed CBAs (By 2023, the rate will reach over 70%)
By 2030	16.5 million union members	The majority of workers are gathered and participate in some activities of the Vietnam TU (where workers' representative organizations have not been established)	85% or more of enterprises and units with trade unions have signed
By 2045	Most of the workers at grassroots are Vietnam TU members		99% of enterprises and units with TUs have signed CBAs

INTRODUCTION OF PUBLICATION

New contents of the Labour Code 2019

The Labour Code No. 45/2019/QH14 was passed at the 8th session of the XIV National Assembly on November 20, 2019 and took effect from January 1, 2021.

The 2019 Labour Code had many great and important amendments and supplements to meet the new requirements of labour market management in the context of international integration of our country.

The Ministry of Labour - Invalids and Social Affairs (Legal Department) has compiled and introduced the book: "The new contents of the 2019 Labour Code" with two main parts. The first part introduces the revised and supplemented contents, showing the innovations and progresses of the Labour Code (2019). The next part introduces the full text of the Labour Code No. 45/2019/QH14 for readers' easy reference in the process of researching, studying and implementing legal provisions on labour.

We are pleased to introduce this book to our readers.



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