

## THE GOVERNMENT

**DECREE No. 93/2002/ND-CP OF NOVEMBER 11, 2002 AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE GOVERNMENT'S DECREE No. 196/CP OF DECEMBER 31, 1994 WHICH DETAILS AND GUIDES THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE LABOR CODE REGARDING COLLECTIVE LABOR AGREEMENTS**

### THE GOVERNMENT

*Pursuant to the Law on Organization of the Government of December 25, 2001;*

*Pursuant to the June 23, 1994 Labor Code; the April 2, 2002 Law amending and supplementing a number of articles of the Labor Code;*

*At the proposal of the Minister of Labor, War Invalids and Social Affairs,*

### DECREES:

**Article 1.-** To amend and supplement a number of articles of the Government's Decree No. 196/CP of December 31, 1994 detailing and guiding the implementation of a number of articles of the Labor Code regarding collective labor agreements, based on the Law amending and supplementing a number of articles of the Labor Code (hereinafter referred collectively to as the amended and supplemented Labor Code) as follows:

**1. To amend and supplement Clause 1 of Article 1 as follows:**

**"Article 1.-**

1. Subjects and scope of application of collective labor agreements are enterprises and organizations having grassroots trade union organizations or provisional trade union executive committees,

including:

a) Enterprises established and operating under the State Enterprise Law, the Enterprise Law, and the Law on Foreign Investment in Vietnam;

b) Production, business and/or service establishments of administrative and non-business units, political organizations or socio-political organizations;

c) Cooperatives established under the Cooperative Law which employ laborers under labor contracts;

d) Non-public education, healthcare, cultural and sport establishments set up under the Government's Decree No. 73/1999/ND-CP of August 19, 1999 on socialization-encouraging policies;

e) Vietnam-based international or foreign agencies and organizations, which employ contractual laborers being Vietnamese, except where otherwise provided for by the international treaties which Vietnam has signed or acceded to."

**2. To amend Article 3 as follows:**

To replace the phrase "provisional trade union organization" with the phrase "provisional trade union executive committees."

**3. To amend and supplement Article 5 as follows:**

**"Article 5.-** The registration of collective labor agreements prescribed in Article 47 of the amended and supplemented Labor Code shall be as follows:

Within 10 days as from the date of signing the collective labor agreements, the employers shall have to send such collective labor agreements to the provincial/municipal Labor, War Invalids and Social Affairs Services of the localities where the enterprises or organizations are headquartered, for registration. Enterprises in export-processing zones, industrial parks or high-tech parks (referred collectively to as industrial parks) shall make registration at the Industrial Park Management Boards under the

authorization of the provincial/municipal Labor, War Invalids and Social Affairs Services where such Management Boards are headquartered."

**4. To add Article 5a as follows:**

"**Article 5a.**- Rights, obligations and interests of the involved parties inscribed in the collective labor agreements which are declared invalid as prescribed in Clause 3, Article 48 of the amended and supplemented Labor Code shall be settled as follows: for the contents declared invalid, the rights, obligations and interests of the involved parties shall be settled according to corresponding contents of the current legislation and lawful agreements in personal contracts (if any)."

**5. To amend and supplement Article 6 as follows:**

"**Article 6.**- Clause 1, Article 52 of the amended and supplemented Labor Code is as follows:

1. For cases of merger of enterprises, the collective labor agreements shall continue to be valid if the number of laborers of the to-be-merged enterprises, who are still employed after the merger, accounts for more than 50% of the total laborers.

2. For cases of enterprise consolidation, separation and splitting, transfer of the rights to own, manage or use the enterprises' properties, and enterprise merger not under the provisions in Clause 1 of this Article, the two parties shall have to negotiate in order to sign new collective labor agreements within six months."

**Article 2.**- This Decree takes effect as from January 1, 2003.

**Article 3.**- The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government, the presidents of the provincial/municipal People's Committees and the directors of the concerned enterprises and organizations shall have to implement this Decree.

**On behalf of the Government**  
**Prime Minister**  
**PHAN VAN KHAI**