



**Vietnam General Confederation of Labour
(VGCL)**



**International Labour Office
(ILO)**

LAW ON TRADE UNIONS 2012



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Preface

The Law on Trade Unions (amended) was adopted by the XIII National Assembly of the Socialist Republic of Vietnam, at its third Session, on 20th June, 2012 and has taken effect as of 1st January, 2013.

With a view to disseminate legal information among workers, trade union officials, foreign employers and investors in Vietnam, international trade union organisations, Non-Governmental Organisations and international partners in order to strengthen mutual understandings, as well as to promote stable, sound and harmonious industrial relations for a better life of workers, the International Department of the Vietnam General Confederation of Labour (VGCL) translated this Law on Trade Unions (amended) 2012 into English. This translation is aimed at providing the most accurate rendering of the Law on Trade Unions, after giving a careful consideration of the semantics of Vietnamese language and law-writing technique as well as English terms on labour and trade union. This translation serves purely the purpose of reference and information. For legal application, the Vietnamese version is the only authoritative legal text.

We would like to express our thanks to national and international legal experts, translators who have worked on this translation for their valuable comments to improve the quality of this work.

Our special thank goes to the International Labour Organisation (ILO) Country Office for Vietnam for its technical support for the translation and the publication.

We welcome any comments, feedback on this translation from readers. They will help to produce a better translation for future editions.

VGCL's International Department

Hanoi, June 20, 2012

LAW ON TRADE UNIONS

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 now issues this Law on Trade Unions,

Chapter I

GENERAL PROVISIONS

Article 1. Trade unions

Trade unions, established on voluntary basis, are a broad socio-political organisation of the working class and workers and an integral part of the political system of the Vietnamese society under the leadership of the Communist Party of Vietnam. Trade unions represent cadres, civil servants, public employees, factory workers and other workers (hereinafter referred to as workers) and together with state agencies, economic organisations, social organisations care for and protect workers' legitimate and legal rights and interests, participate in state management, socio-economic management and in the inspection, examination, monitoring of activities of state agencies, organisations, establishments, enterprises, propagate, encourage workers to study, improve qualification, professional skill, to observe laws and to build and defend the socialist Fatherland of Vietnam.

Article 2. The scope of regulation

This law regulates the rights of workers to establish, to join a trade unions and to carry out trade unions' activities; the functions, rights and responsibilities of trade unions; the rights and responsibilities of trade union members; the responsibilities of state, state agencies, organisations, units, enterprises employing workers toward trade unions; guarantees for trade union activities; settlement of disputes and handling of violations of laws on trade unions.

Article 3. Objects of application

This Law applies to the trade unions of all levels, state agencies, political organisations, socio-political organisations, professional socio-political organisations, professional social organisations, establishments, enterprises, other organisations employing workers as prescribed by labour laws and regulations, foreign agencies, organisations, international organisations operating in the Vietnamese territory (hereinafter referred to as agencies, organisations, enterprises) with regard to the organisation and activities of trade unions, trade union members and workers.

Article 4. Interpretation of terms

In this law, the following terms shall be understood as follows:

1. *The trade union rights* mean the rights of workers and trade union members to establish and join trade unions and to carry out trade union activities and the rights of trade unions as stipulated by laws and regulations of competent authorities.

2. *The grassroots trade unions* mean primary organisation of trade unions, which unites trade union members in one or a number of agencies, organisations, enterprises and is recognised by an immediate upper-level trade union as stipulated by laws and the Statutes of Vietnamese Trade Unions.

3. *The immediate upper-level trade union* means a level in the organisational structure of trade unions which directly exercise the right of recognising a grassroots trade union, directing the operations of grassroots trade unions and connecting grassroots trade unions as stipulated by laws and the Statutes of Vietnamese Trade Unions.

4. *Fulltime trade union officials* mean persons recruited and appointed to perform regular duties in the trade union organisation.

5. *Part-time trade union officials* mean persons who are elected by trade union congress, trade union conference of delegates of different levels to work on part-time basis for trade unions or persons who are designated and appointed by an executive committee as a deputy-chief of a trade union group¹ or higher.

6. *Labour using units* mean agencies, organisations and enterprises which recruit and use labour and paying wages as prescribed by laws.

7. *Trade union rights disputes* mean disputes arising between workers, trade union members, trade union organisation and the labour using unit over trade union rights.

8. *The Statutes of Vietnamese Trade Unions* mean a document passed by the national congress of Vietnamese Trade Unions, stipulating the missions, purposes, goals, organisational principles, operations, organisational structure, apparatus of trade unions and the rights and responsibilities of trade unions of different levels and the rights and responsibilities of trade union members.

¹ Translator's note: A "trade union group" is a smaller trade union structure within a grassroots trade union, which organises the workers/members usually on the basis of the work division within a workplace, like "production lines", "work team", "departments", etc.

Article 5. Rights to establish and join trade unions and to carry out trade union activities

1. All Vietnamese workers working in agencies, organisations or enterprises shall have the right to establish and join trade unions and carry out trade union activities.

2. The process and formalities for establishing and joining trade unions and carrying out trade union activities shall comply with the provisions of the Statutes of Vietnamese Trade Unions.

Article 6. Organisational principles and operations of trade unions

1. Trade unions shall be established on voluntary basis and their organisations and operations shall follow the principle of democratic centralism.

2. The organisation and operations of trade unions shall comply with the Statutes of Vietnamese Trade Unions, in accordance with the lines, guidelines, policies of the Party and state laws.

Article 7. The organisational system of trade unions

The organisational system of trade unions includes the Vietnam General Confederation of Labour and trade unions of different levels as prescribed by the Statutes of Vietnamese Trade Unions.

The grassroots trade unions are organised in state agencies, political organisations, socio-political organisations, professional socio-political organisations, professional social organisations, units, enterprises or other organisations employing workers as prescribed by labour legislation, foreign agencies, organisations, international organisations operating in the Vietnamese territory.

Article 8. International trade union cooperation

International trade union cooperation shall be carried out on the basis of ensuring the principle of equality, respect for national sovereignty and independence and in conformity with Vietnamese laws as well as international practices.

The international affiliation of trade unions of different levels must comply with Vietnamese laws and the Statutes of Vietnamese Trade Unions.

Article 9. The strictly prohibited acts

1. Hindering, causing difficulties for the exercise of trade unions rights

2. Discrimination or acts causing disadvantages to workers for reasons related to establishing and joining trade unions and carrying out trade union activities.

3. Applying economic measures or other measures causing disadvantages to trade union organisations and trade union activities.

4. Taking advantage of trade union rights to violate laws, breach the interests of the State, the legal rights and interests of agencies, organisations, enterprises and individuals.

Chapter II

RIGHTS AND RESPONSIBILITIES OF TRADE UNIONS AND TRADE UNION MEMBERS

Section 1

RIGHTS AND RESPONSIBILITIES OF TRADE UNIONS

Article 10. Representation and protection of legal and legitimate rights and interests of workers

1. Guiding and counselling workers on their rights and obligations upon concluding and implementing employment contracts, contracts of appointment² with labour using units.

2. Representing workers' collective to negotiate, conclude and supervise the implementation of collective bargaining agreement.

3. Participating with labour using units in formulating and monitoring the implementation of wage scales and wage tables, work norms, regulations of wage payment, regulations of bonuses and internal work regulations.

4. Entering into dialogue with labour using units to settle problems related to rights and obligations of workers.

5. Organising legal counselling activities for workers.

6. Taking part in settling labor disputes together with competent agencies, organisations and individuals.

7. Making recommendations to competent organisations and state agencies for consideration and settlement when the legal and legitimate rights and interests of workers' collective or workers are breached.

8. Representing workers' collective in taking legal actions at the Court upon violations of legal and legitimate rights and interest of workers' collective; representing workers in taking legal actions at the Court upon violations of legal and legitimate rights and interests of workers with their authorisation.

9. Representing workers' collective in labour, administrative lawsuits or enterprise bankruptcy court cases in order to protect the legal and legitimate rights and interest of workers' collective and workers.

10. Organising and leading strikes as stipulated by laws.

² Translator's note: this type of contract is used for employees working for Government public services.

The Government shall provide detailed provisions to guide the implementation of this Article following agreement with the Vietnam General Confederation of Labour.

Article 11. Participating in the state management and socio-economic management

1. Participating with state agencies in formulating policies and laws on socio-economic matters, labour, employment, wages, social insurance, health insurance, occupational safety and health and other policies and laws related to trade unions and rights and obligations of workers.

2. Cooperating with state agencies to study and apply science, technology and technique on occupational safety and health and to formulate standards and regulations on occupational safety and health.

3. Participating with state agencies in managing social insurance, health insurance and in settling grievances and denunciations of workers and workers' collective as prescribed by laws.

4. Participating in building harmonious, stable and progressive labour relations in agencies, organisations and enterprises

5. Participating in establishing and implementing democratic regulations in agencies, organizations and enterprises

6. Cooperating in organising emulation movements within sectors, localities, agencies, organisations and enterprises.

The Government shall provide detailed provisions to guide the implementation of this Article following agreement with the Vietnam General Confederation of Labour.

Article 12. Submitting law or ordinance projects and proposing laws and policies for consideration.

1. The Vietnam General Confederation of Labour has the right to submit law or ordinance projects to the National Assembly and the Standing Committee of the National Assembly for consideration.

2. Trade unions of different levels have the right to propose to competent State agencies the making, amendment and supplementation of policies and laws related to trade unions and rights and obligations of workers.

Article 13. Participating in sessions, meetings and conferences

The president of Vietnam General Confederation of Labour and the presidents of trade unions at different levels have the rights and duties to participate in sessions, meetings and conferences of relevant agencies and organisations of the same level for discussing and deciding on problems related to rights and obligations of workers.

Article 14. Participating in inspection, examination and monitoring of activities of agencies, organisations and enterprises

1. Participating and coordinating with competent State agencies to inspect, examine and

monitor the implementation of regimes, policies and laws and regulations on labour, trade unions, cadres and civil servants, public employees, social insurance, health insurance and other regimes, policies and laws related to the rights and obligations of workers and to investigate labour accidents and occupational diseases.

2. In participating and coordinating in inspection, examination and monitoring in conformity with provisions in clause 1 of this Article, trade unions have the following rights:

a) to request agencies, organisations and enterprises to provide information and documents and to explain problems concerned;

b) to propose measures to address the shortcomings, prevent violations, remedy damages and handle acts against the laws;

c) In the event of detecting factors affecting or causing danger to workers' health and life at work, trade unions have the right to demand agencies, organisations, enterprises and individuals to immediately take remedial measures to secure labour safety including temporary cease of operations.

Article 15. Propagation, mobilization, education with respect to workers

1. Propagating lines, guidelines and policies of the Party, state laws related to trade unions and workers and regulations of trade unions.

2. Propagating, mobilising and educating workers to study and improve the cultural-political knowledge, qualifications and professional skills, consciousness of compliance with law, regulations and rules of agencies, organisations and enterprises.

3. Propagating, mobilising and educating workers to practice thrift, fight waste, prevent and control corruption.

Article 16. Development of trade union membership and grassroots trade unions

1. Trade unions have the right and responsibility to develop trade union membership and organise grassroots trade unions in agencies, organisations and enterprises.

2. Immediate upper-level trade unions have the rights and responsibilities to send trade union officials to agencies, organisations and enterprises to propagate, mobilise, guide workers to establish and join trade unions and to carry out trade union activities.

Article 17. Rights and responsibilities of immediate upper-level trade unions with respect to workers in agencies, organisations, enterprises where grassroots trade unions are not yet established.

In agencies, organisations and enterprises where a grassroots trade union is not yet established, the immediate upper-level trade union shall have the right and responsibility to represent, protect legal and legitimate rights and interests of workers upon their request.

Section 2

RIGHTS AND RESPONSIBILITIES OF TRADE UNION MEMBERS

Article 18. Rights of trade union members

1. To request trade unions to represent and protect their legal and legitimate rights and interests when they are violated.
2. To be informed of and to discuss, propose and vote on the work of the trade union, to be kept informed of lines, guidelines and policies of the Party and state laws related to trade unions and workers and regulations of trade unions.
3. To self-nominate, nominate and elect the leading bodies of trade unions in conformity with the Statutes of Vietnamese Trade Unions; to question trade union leaders and to propose disciplinary sanctions against trade union officials for wrong-doings.
4. To be entitled to free trade union legal advisory and legal aid services on labour and trade union matters.
5. To be entitled to trade union guidance and assistance for job seeking and vocational training; to trade union visits and aid in the event of sickness and being caught in difficult situations.
6. To participate in cultural, sport, tourism activities organised by trade unions.
7. To raise recommendations to trade unions to request agencies, organisations and enterprises to comply with regimes, policies and laws for workers.

Article 19. Responsibilities of trade union members

1. To observe and implement the Statutes of Vietnamese Trade Unions and resolutions of trade unions; to participate in trade union activities and to build strong trade union organisations.
2. To study and improve cultural and political qualifications, professional skills; to cultivate quality of the working-class and to lead a living and working style in line with the country's Constitution and laws.
3. To be in solidarity with and help co-workers to improve professional qualifications and skills, to work efficiently and protect legal and legitimate rights and interests of workers and trade union organizations.

Chapter III

RESPONSIBILITIES OF THE STATE, AGENCIES, ORGANISATIONS AND ENTERPRISES WITH RESPECT TO TRADE UNIONS

Article 20. Relationship between Trade Unions and the State, agencies, organisations and enterprises

The relationship between Trade Unions and the State, agencies, organisations and enterprises is a relationship of coordination and cooperation to exercise functions, rights and responsibilities of respective parties as prescribed by laws, contributing to the construction of harmonious, stable and progressive labour relations.

Article 21. Responsibilities of the State with respect to Trade Unions

1. Ensuring, assisting and facilitating trade unions to implement their functions, rights and responsibilities as prescribed by laws.

2. Propagating, disseminating and educating about laws and regulations on labour and trade unions and other laws and regulations related to trade union organisation and rights and obligations of workers; inspecting, monitoring, supervising and handling acts violating the law on trade unions; cooperating with trade unions to care for and ensure legal and legitimate rights and interests of workers.

3. Consulting trade unions upon making policies and laws directly related to trade unions and rights and obligations of workers.

4. Coordinating with and facilitating trade unions to participate in state management and socio-economic management and to represent and protect legal and legitimate rights and interests of workers.

Article 22. Responsibilities of agencies, organisations and enterprises with respect to Trade Unions

1. Cooperating with trade unions to implement functions, rights and obligations of parties as prescribed by laws.

2. Providing favourable conditions for workers to establish and join trade unions and to carry out trade union activities.

3. Coordinating with trade unions of the same level to formulate, promulgate and implement the regulation on coordination of activities.

4. Recognising and providing favourable conditions for grassroots trade unions to implement their rights and responsibilities as prescribed by laws.

5. Exchanging and providing full, exact and timely information relating to organisation

and operations of agencies, organisations and enterprises as prescribed by laws at the request of trade unions.

6. Cooperating with trade unions to organise dialogues and to negotiate, conclude and implement collective bargaining agreements and grassroots democratic regulations.

7. Consulting trade unions of the same level before deciding on issues relating to rights and obligations of workers.

8. Coordinating with trade unions to settle labour disputes and problems relating to the implementation of labour legislation.

9. Securing conditions for trade union activities, trade union cadres and paying trade union funds as prescribed in Articles 24, 25 and 26 of this Law.

Chapter IV

GUARANTEES FOR TRADE UNION ACTIVITIES

Article 23. Guarantees for organisation and cadres

1. Trade unions of different levels shall be guaranteed organisation and number of officials and employees to exercise their functions, rights and responsibilities as prescribed by laws.

2. The Vietnam General Confederation of Labour shall construct its organisational structure, machinery and positions of trade union officials to submit to competent authorities for decision or to decide on its own authority.

3. Depending on the requirements and duties of each grassroots trade union and the number of workers in agencies, organisations and enterprises, the competent agency managing trade union officials shall decide on disposition of fulltime trade union officials.

Article 24. Guarantees for conditions of trade union activities

1. Agencies, organisations and enterprises are responsible for arranging working space and necessary facilities for trade unions of the same level.

2. Part-time trade union officials are entitled to use 24 working hours per month in the case of president or vice president of a grassroots trade union; 12 working hours per month in the case of members of the executive committee, chief, deputy-chief of trade union group to do trade union work and to be paid salary by employers. Depending on the size of agencies, organisations and enterprises, the executive committee of grassroots trade union and employers may reach agreement on additional time.

3. Part-time trade union officials shall be off work and be paid salary by employers during their participation in meetings and trainings convened by upper-level trade unions. Expenses for travel, accommodations and living in such days shall be covered by upper-level trade unions

4. Part-time trade union officials are paid salary by employers and entitled to a responsibility allowance for trade union cadre in accordance with regulations of the Vietnam General Confederation of Labour.

5. Full-time trade union officials whose salary is paid by trade unions shall be guaranteed as the same collective benefits and welfares provided by employers as the workers working in the same agencies, organisations and enterprises.

Article 25. Guarantees for trade union officials

1. In the event that the employment contract or contract of appointment is expired but the worker who is a part-time trade union official still serves his/her trade union tenure,

his/her employment contract or contract of appointment shall be extended until the end of his/her tenure.

2. Labour using unit shall not unilaterally terminate the employment contract or contract of appointment of, dismiss, retrench or transfer a part-time trade union official without the consent in written form of the executive committee of the grassroots trade union or immediate upper-level trade unions. In the event of disagreement, the two parties must report to competent agencies or organisations. Within 30 working days, from the reporting date to competent agencies or organisations, the labour using unit shall be entitled to make decision and must be responsible for such a decision.

3. In the event that an employee who is part time trade union officials has his/her employment contract or contract of appointment terminated, is dismissed or retrenched illegally by agencies, organisations or enterprises, trade union shall have responsibility to request competent State agencies to intervene and if authorised, trade unions may represent workers to take legal action at the Court to protect legal rights and interest of trade union officials and assist with finding new job and allowances during the pending period in accordance with regulations of the Vietnam General Confederation of Labour.

Article 26. Finance of Trade Unions

The finance of trade unions consists of the following income sources:

1. Membership dues paid by trade union members as stipulated in the Statutes of Vietnamese Trade Unions;
2. Trade union funds paid by agencies, organisations and enterprises equivalent to 2% of salary funds serving as the basis to pay premium to workers' social insurance;
3. Assistance from the State budget;
4. Other revenues from cultural, sport and economic activities of trade unions; from projects and programmes funded by the State; from aid and financial support of domestic and foreign organisations and individuals.

Article 27. Management and use of trade union finance

1. Trade unions shall manage and use trade union finance in conformity with regulations of laws and the Vietnam General Confederation of Labour.

2. Trade union finance is used for activities aimed at exercising rights and responsibilities of trade unions and maintaining operations of the trade union system, including the following tasks:

- a) Propagating, disseminating and educating on lines, guidelines and policies of the Party and state laws and improve professional qualifications and skills for workers;
- b) Organising activities to represent and protect legal and legitimate rights and interests of workers;

c) Developing trade union membership, establishing grassroots trade unions and building strong trade unions.

d) Organising emulation movements launched by trade unions;

dd) Training and supporting trade union officials; training and supporting outstanding workers as potential source of cadres for the Party, State and Trade Union organisations;

e) Organising cultural, sport and tourism activities for workers:

g) Organising activities on gender and gender equality;

h) Making visits and providing allowances to trade union members and workers in case of sickness, maternity, hardship or misfortune; organising other activities to care for workers;

i) Encouraging and awarding workers and children of workers for excelling in study and work;

k) Paying salary for full-time trade union officials and responsibility allowances for part-time trade union officials;

l) Paying for operations of trade union machinery at different levels;

m) Other expenses.

Article 28. Property of trade unions

Property obtained from contributions of trade union members or capital of trade unions; state assets transferred to become trade union ownership and other sources in accordance with laws shall be the property under trade union ownership.

The Vietnam General Confederation of Labour exercises rights and responsibilities of ownership over trade union property as prescribed by laws.

Article 29. Audit and supervision of trade union finance

1. Trade unions of upper level shall guide, audit and supervise the implementation of financial activities of trade unions at lower level as prescribed by laws and regulations of the Vietnam General Confederation of Labour.

2. The auditing agency of trade unions shall audit the management and use of trade union finance as prescribed by laws and regulations and regulations of the Vietnam General Confederation of Labour.

3. Competent State agencies shall supervise, control, inspect and audit the management and use of trade union finance as prescribed by laws.

Chapter V

RESOLUTION OF DISPUTES AND HANDLING OF VIOLATIONS OF LAWS ON TRADE UNIONS

Article 30. Settlements of trade union rights disputes

When disputes over trade union rights arise between trade union members, workers, trade unions and agencies, organisations and enterprises, the authority, process and procedures for their settlement shall follow the following stipulations:

1. In the case of disputes within the scope of rights and responsibilities of trade unions with regard to labour relations, the competent authority, process and procedures for their settlement shall comply with laws on settlement of labour disputes;

2. In the case of disputes within the scope of rights and responsibilities of trade unions with regard to other relations, the authority, process, procedures for their settlement shall comply with corresponding laws;

3. In the case of disputes relating to failure or refusal by labour using units to comply with their responsibilities with regard to trade unions, the grassroots trade unions or trade unions of immediate upper level shall request competent state agencies for settlement or take legal action at the Court as prescribed by laws.

Article 31. Handling violations of laws on trade unions.

1. Agencies, organisations and enterprises or individuals committing acts violating the provisions of this Law or other stipulations of laws relating to trade union rights, shall be, depending on the nature and extent of violations, subject to disciplinary sanction, administrative fines, compensation for damage or prosecuted for criminal liability as prescribed by laws.

2. The Government shall provide detailed provisions on administrative sanction for acts violating laws on Trade Unions.

Chapter VI

IMPLEMENTATION CLAUSE

Article 32. Effect of the Law

This law shall take effect as of January 1st, 2013

The Law on Trade Unions 1990 shall become invalid from the date this Law comes into effect.

Article 33. Detailing and guiding for implementation

The Government shall provide detailed regulations and guidance for implementation of a number of articles and clauses in this Law.

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

CHAIRMAN OF THE NATIONAL ASSEMBLY

(signed)

Nguyen Sinh Hung