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**THE NATIONAL ASSEMBLY***Number: 22/2008/QH12***SOCIALIST REPUBLIC OF VIET NAM****Independence - Freedom -  
Happiness***Hà Nội ,day 13  
month 11 year 2008***LAW****ON CADRES AND CIVIL SERVANTS**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Cadres and Civil Servants;

**Chapter I****GENERAL PROVISIONS****Article 1. Scope of regulation and subjects of application**

This Law provides for cadres and civil servants; election, recruitment, employment and management of cadres and civil servants; obligations and rights of cadres and civil servants, and conditions to assure public-duty performance.

**Article 2. Public duties of cadres and civil servants**

Public duties of cadres and civil servants are to perform tasks and exercise powers of cadres and civil servants under this Law and other relevant regulations.

**Article 3. Principles in public-duty performance**

1. Compliance with the Constitution and laws.
2. Protection of the interests of the State and lawful rights and interests of organizations and citizens.
3. Publicity, transparency, performance within competence, and submission to examination and supervision.
4. Assurance of systematism, uniformity, continuity, smoothness and effectiveness.
5. Assurance of administrative hierarchy and close coordination.

**Article 4. Cadres, civil servants**

1. Cadres are Vietnamese citizens who are elected, approved and appointed to hold posts or titles for a given term of office in agencies of the Communist Party of Vietnam, the State, socio-political organizations at the central level, in provinces and centrally run cities (below collectively referred to as provincial level), in districts, towns and provincial cities (below collectively referred to as district level), included in the payrolls and salaried from the state budget.

2. Civil servants are Vietnamese citizens who are recruited and appointed to ranks, posts or titles in agencies of the Communist Party of Vietnam, the State, socio-political organizations at the central, provincial and district levels; in People's Army agencies and units, other than officers, professional military personnel and defense workers; in People's Police offices and units other than officers and professional non-commissioned officers, and in the leading and managerial apparatuses of public non-business units of the Communist Party of Vietnam, the State and socio-political organizations (below collectively referred to as public non-business units), included in the payrolls and salaried from the state budget; for civil servants in the leading and managerial apparatuses of public non-business units, they are salaried from the salary funds of these units according to law.

3. Cadres of communes, wards and townships (below collectively referred to as commune level) are Vietnamese citizens who are elected to hold posts for a given term of office in People's Council standing bodies and People's Committees, as Party secretaries and deputy secretaries, and as heads of socio-political organizations. Commune-level civil servants are Vietnamese citizens who are recruited to hold specialized titles in commune-level People's Committees, included in the payrolls and salaried from the state budget.

**Article 5. Principles of management of cadres and civil servants**

1. Assurance of Party leadership and state management.
2. Combination between title criteria, working positions and payroll quotas.

3. Adherence to the principle of democratic centralism, the individual responsibility regime and clear assignment of tasks and decentralization of powers.

The employment, evaluation and grading of cadres and civil servants must be based on their political qualities, ethics and public-duty performance capability.

5. Implementation of gender equality.

#### **Article 6. Policies toward talented persons**

The State implements policies to discover, attract, foster, employ in proper positions and well treat talented persons.

The Government shall adopt specific policies towards talented persons.

#### **Article 7. Interpretation of terms**

In this Law, the terms and phrases below are construed as follows:

1. Agency employing cadres and civil servants means an agency, organization or unit assigned to manage, assign and arrange tasks and powers to cadres and civil servants and examine them in performing tasks and exercising powers.

2. Agency managing cadres and civil servants means an agency, organization or unit assigned to recruit and appoint cadres and civil servants, promote them to higher ranks and increase their salaries, permit them to discontinue work or retire, implement regimes and policies towards, and reward and discipline cadres and civil servants.

3. Working position means a job linked with a civil servant title, post, structure and rank as a basis for determining the payroll of, and arranging jobs for civil servants in, an agency, organization or unit.

4. Rank indicates the level of specialized and professional capability and qualification of a civil servant.

5. Appoint means to decide on a cadre or civil servant to hold a leading or managerial post or a rank according to law.

6. Relieve of duty means to allow a cadre or civil servant to discontinue holding a post or title before the end of the term of office or appointment.

7. Remove from office means to disallow a cadre or civil servant to hold a post or title before the end of the term of office.

8. Demote means to reduce a cadre or civil servant holding a leading or managerial post to a lower one.

9. Dismiss means to disallow a cadre or civil servant to hold a leading or managerial post before the end of the term of office or appointment.

10. Transfer means a competent agency to decide to send a cadre or civil servant from one agency, organization or unit to another.

11. Rotate means to assign or appoint a managerial or leading cadre or civil servant to hold another leading or managerial title for a given period in order to further train and retrain him/her in response to task requirements.

12. Second means to send a civil servant of one agency, organization or unit to work at another in response to task requirements.

13. Resign means a leading or managerial cadre or civil servant to ask for permission to give up his/her post before the end of the term of office or appointment.

### **Chapter II**

## **OBLIGATIONS AND RIGHTS OF CADRES AND CIVIL SERVANTS**

### **Section 1**

#### **OBLIGATIONS OF CADRES AND CIVIL SERVANTS**

#### **Article 8. Obligations of cadres and civil servants towards the Party, State and people**

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

2. To respect the people and devotedly serve the people.

3. To keep close contact with the people, listen to the people's opinions and submit to the people's supervision.

4. To strictly observe the Party's line and policies and the State's laws.

#### **Article 9. Obligations of cadres and civil servants in performing public duties**

1. To duly and fully perform tasks and exercise powers as assigned and take responsibility for their performance.

2. To have a sense of organizational discipline; to strictly abide by internal rules and regulations of agencies, organizations or units; to report to competent persons when detecting illegal acts in agencies, organizations and units; to protect state secrets.

3. To proactively and closely collaborate with one another in performing public duties; to preserve unity in agencies, organizations and units.
4. To efficiently and economically protect, manage and use state assets assigned to them.
5. To implement decisions of their superiors, When having grounds to believe that such decision is illegal, to immediately report in writing to its issuer; the issuer who upholds his/her decision shall issue a document to this effect while the implementer shall implement the decision but is not held responsible for implementation consequences, and shall report to the immediately higher authority of the decision issuer. The person who issues a decision shall take responsibility before law for his/her decision.
6. To have other obligations as prescribed by law.

#### **Article 10. Obligations of cadres and civil servants in the capacity as heads**

In addition to complying with Articles 8 and 9 of this Law, cadres and civil servants who are heads of agencies, organizations or units shall perform the following obligations:

1. To direct the performance of assigned tasks and take responsibility for their agencies', organizations' or units' operation results;
2. To examine, urge and guide the public-duty performance of cadres and civil servants;
3. To organize the implementation of measures to prevent and combat bureaucracy and corruption, to practice thrift and combat wastefulness, and to take responsibility for bureaucratic, corrupt and wasteful acts in their agencies, organizations or units;
4. To organize the implementation of legal provisions on grassroots democracy and public-office culture in their agencies, organizations and units: to promptly and strictly handle cadres and civil servants under their management who commit breaches of discipline and illegal acts, show bureaucratic and authoritarian attitudes to and harass citizens;
5. To promptly and lawfully settle complaints, denunciations and proposals of individuals and organizations according to their competence or refer them to competent agencies for settlement;
6. To perform other obligations as prescribed by law.

### **Section 2**

#### **RIGHTS OF CADRES AND CIVIL SERVANTS**

##### **Article 11. Right of cadres and civil servants to be provided with conditions to assure public-duty performance**

1. To be assigned powers corresponding with tasks.
2. To be provided with working equipment and other working conditions according to law.
3. To be supplied with information concerning their assigned tasks and powers.
4. To be trained and retrained in order to raise their political, specialized and professional qualifications.
5. To be protected by law when performing public duties.

##### **Article 12. Rights of cadres and civil servants to salaries and salary-related regimes**

1. To be paid by the State salaries matching with assigned tasks and powers and suitable to national socio-economic conditions. Cadres and civil servants working in mountainous, border, islands, deep-lying, remote and ethnic minority areas and areas with especially difficult socio-economic conditions or in hazardous and dangerous sectors and occupations are entitled to allowances and incentive policies according to law.
2. To enjoy overtime and night-work pays, working trip allowances and other benefits according to law.

##### **Article 13. Rights of cadres and civil servants to rest**

Cadres and civil servants are entitled to annual leaves, holidays and leaves to deal with personal affairs according to the labor law. If, due to task requirements, cadres and civil servants do not use or have not used up annual days off, in addition to salaries, they may be paid a sum equal to salaries for days on which they still work.

##### **Article 14. Other rights of cadres and civil servants**

Cadres and civil servants are assured the rights to learn, do scientific research, participate in economic and social activities; are entitled to incentive policies concerning housing, vehicles, and social and health insurance regimes according to law; if getting injured or dying while performing public duties, they shall be considered for enjoying entitlements and policies applicable to invalids or being recognized as fallen heroes and other rights according to law.

### **Section 3**

#### **ETHICS AND COMMUNICATION CULTURE OF CADRES AND CIVIL SERVANTS**

##### **Article 15. Ethics of cadres and civil servants**

Cadres and civil servants shall practice diligence, thrift, integrity, public-spiritedness and selflessness in performing public duties.

#### **Article 16. Communication culture at public offices**

1. In communication at public offices, cadres and civil servants shall adopt a polite attitude and respect colleagues; their communication language must be standardized, clear and coherent.
2. Cadres and civil servants shall listen to opinions of colleagues; make just, impartial and objective comments and evaluations: and ensure democracy and internal unity.
3. While performing public duties, cadres and civil servants shall wear civil servant badges or cards: adopt polite manners; and preserve the prestige and honor of their agencies, organizations and units and colleagues.

#### **Article 17. Culture of communication with the people**

1. Cadres and civil servants must be close to the people; have polite, serious and modest manners and attitudes; their communication language must be standardized, clear and coherent.
2. While performing public duties, cadres and civil servants must not be overbearing and authoritarian and cause difficulties and troubles to the people.

### **Section 4**

#### **PROHIBITIONS ON CADRES AND CIVIL SERVANTS**

##### **Article 18. Prohibitions related to civil service ethics**

1. Shirking responsibility or refusing to discharge assigned tasks; sowing factionalism and disunity; quitting jobs or going on strike without permission.
2. Illegally using assets of the State and people.
3. Taking advantage of or abusing tasks and powers; using civil service-related information for self-seeking purposes.
4. Discriminating in any form against nationality, gender, social strata, beliefs and religions.

##### **Article 19. Prohibitions related to state secrets**

1. Cadres and civil servants may not disclose in any form information relating to state secrets.
2. Cadres and civil servants working in sectors or occupations related to state secrets may not, within at least 5 years after receiving decisions on their retirement or job discontinuation, perform jobs related to their former sectors or occupations for domestic and foreign organizations and individuals and foreign-invested joint ventures.
3. The Government shall issue a specific list of sectors, occupations and jobs which and time limits during which cadres and civil servants are not allowed to perform and policies towards those to whom this Article applies.

##### **Article 20. Other prohibitions on cadres and civil servants**

In addition to the prohibitions specified in Articles 18 and 19 of this Law, cadres and civil servants may not deal with affairs related to production and business and personnel work specified in the Anti-Corruption Law and the Law on Practice of Thrift and Combat of Wastefulness and other jobs as prescribed by law and competent agencies.

### **Chapter III**

#### **CADRES AT CENTRAL, PROVINCIAL AND DISTRICT LEVELS**

##### **Article 21. Cadres**

1. Cadres defined in Clause 1, Article 4 of this Law include those working in agencies of the Communist Party of Vietnam, the State and socio-political organizations at the central, provincial and district levels
2. Competent agencies of the Communist Party of Vietnam shall base themselves on the statutes of the Party and socio-political organizations and this Law to specify posts and titles for cadres working in agencies of the Communist Party of Vietnam and socio-political organizations.

The posts and titles of cadres working in state agencies shall be determined under the Law on Organization of the National Assembly, the Law on Organization of the Government, the Law on Organization of People's Courts, the Law on Organization of People's Procuracies, the Law on Organization of People's Councils and People's Committees, the Law on State Audit and other relevant laws.

##### **Article 22. Obligations and rights of cadres**

1. To perform the obligations and exercise powers defined in Chapter II and other relevant provisions of this Law.
2. To perform the obligations and exercise powers in accordance with the Constitution, laws and statutes of organizations of which they are members.

3. To take responsibility to the Party, State and people as well as competent agencies for the performance of obligations and exercise of powers as assigned.

### **Article 23. Election, appointment of posts and titles of cadres in agencies of the Communist Party of Vietnam and socio-political organizations**

The election and appointment of posts and title of cadres in agencies of the Communist Party of Vietnam and socio-political organizations comply with relevant statutes and laws.

### **Article 24. Election, approval and appointment of posts and titles of cadres in state agencies**

The election, approval and appointment of posts and titles of cadres working according to term of office in state agencies from the central to district level comply with the Constitution, the Law on Organization of the National Assembly, the Law on Organization of the Government, the Law on Organization of People's Councils and People's Committees, the Law on Organization of People's Courts, the Law on Organization of People's Procuracies, the Law on Election of National Assembly Deputies and the Law on Election of People's Council Deputies.

### **Article 25. Training and retraining of cadres**

1. The training and retraining of cadres must be based on cadre criteria, posts and titles, task requirements and conform to the personnel planning.

2. The cadre training and retraining regime shall be prescribed by competent agencies of the Communist Party of Vietnam, the Standing Committee of the National Assembly and the Government.

### **Article 26. Transfer and rotation of cadres**

1. Based on task requirements and personnel planning, cadres may be transferred and rotated within the system of agencies of the Communist Party of Vietnam, the State and socio-political organizations.

2. The transfer and rotation of cadres comply with laws and regulations of competent agencies.

### **Article 27. Purposes of cadre evaluation**

Evaluation of cadres aims to clearly determine their political qualities, ethics, specialized and professional qualifications and capabilities and performance of assigned tasks. Evaluation results serve as a basis for arranging, employing, training, retraining, rewarding, disciplining and implementing policies towards cadres.

### **Article 28. Contents of cadre evaluation**

1. Cadres are evaluated based on the following:

- a) Observance of the line and policies of the Party and laws of the State;
- b) Political qualities, ethics, lifestyle and working manners and style;
- c) Capabilities of leading, administering and organizing task performance;
- d) Sense of responsibility in work;
- e) Results of performance of assigned tasks.

2. Cadres shall be evaluated annually, before election, approval, appointment, planning, transfer, training and retraining and at the end of terms of office and rotation periods.

The competence, order and procedures for cadre evaluation comply with laws and regulations of competent agencies.

### **Article 29. Evaluation-based categorization of cadres**

1. On the basis of evaluation results, cadres are put into the following categories:

- a) Excellent accomplishment of tasks;
- b) Good accomplishment of tasks;
- c) Accomplishment of tasks with limited capability;
- d) Non-accomplishment of tasks.

2. Results of categorization of evaluated cadres shall be filed in cadre records and notified to evaluated cadres.

3. Cadres who accomplish their tasks for two consecutive years with limited capability or who accomplish their tasks with limited capability in a year and fail to accomplish their tasks in the subsequent year may be assigned to other jobs by competent agencies.

Cadres who fail to accomplish their tasks for 2 consecutive years may be relieved of duty or discontinued from their jobs by competent agencies or organizations.

### **Article 30. Request for job discontinuation, resignation, relief of duty**

1. A cadre may request permission to discontinue job or resign or relieve of duty in the following cases:

- a) Being physically unfit;
- b) Possessing insufficient capability and prestige;
- c) Due to task requirements;
- d) Other reasons.

2. The competence and order for permitting, and procedures for obtaining permission for. job discontinuation, resignation and relief of duty comply with laws and regulations of competent agencies.

#### **Article 31. Retirement of cadres**

1. Cadre may retire under the Labor Code.
2. Six months before the date a cadre is due to retire, his)her managing agency, organization or unit shall notify in writing the cadre of the exact time of retirement; three months before a cadre is due to retire, his)her managing agency, organization or unit shall issue a decision on his) her retirement.
3. In special cases, cadres holding the post of minister, an equivalent or higher post may have his)her working time extended under regulations of competent agencies.

### **Chapter IV**

#### **CIVIL SERVANTS AT CENTRAL, PROVINCIAL AND DISTRICT LEVELS**

##### **Section 1**

#### **CIVIL SERVANTS AND CLASSIFICATION OF CIVIL SERVANTS**

##### **Article 32. Civil servants**

1. Civil servants defined in Clause 2, Article 4 of this Law include:
  - a) Civil servants working in agencies of the Communist Party of Vietnam, socio-political organizations;
  - b) Civil servants working in state agencies;
  - c) Civil servants in the leading and managerial apparatuses of non-business units;
  - d) Civil servants working in agencies and units of the People's Army who are other than officers, professional military personnel and defense workers; civil servants working in agencies and units of the People's Police who are other than officers and professional non-commissioned officers.
2. The Government shall specify this Article.

##### **Article 33. Obligations and rights of civil servants**

1. To perform obligations and exercise powers defined in Chapter II and other relevant provisions of this Law.
2. To perform tasks and exercise powers in accordance with the Constitution and laws.
3. To take responsibility to competent agencies and organizations for the performance of tasks and exercise of powers as assigned.

##### **Article 34. Categorization of civil servants**

1. Based on their appointed ranks, civil servants are classified into:
  - a) Class A including those appointed to the senior-specialist or equivalent rank;
  - b) Class B including those appointed to the principal-specialist or equivalent rank;
  - c) Class C including those appointed to the Specialist or equivalent rank;
  - d) Class D including those appointed to the technician or equivalent rank or employee rank.
2. Based on working positions, civil servants are classified into:
  - a) Civil servants holding leading or managerial posts;
  - b) Civil servants not holding leading or managerial posts.

##### **Section 2**

#### **RECRUITMENT OF CIVIL SERVANTS**

##### **Article 35. Bases for recruitment of civil servants**

The recruitment of civil servants must be based on task requirements, working positions and payroll quotas.

##### **Article 36. Conditions for registration for civil servant recruitment**

1. A person who meets all the following conditions, regardless of nationality, gender, social status, belief and religion, may register for civil servant recruitment:

- a) Bearing the sole nationality of Vietnamese;
- b) Reaching full 18 years of age;
- c) Filing an application for recruitment; having a clear personal record;
- d) Possessing relevant diplomas and/or certificates;
- e) Possessing political qualities and good ethics;
- f) Being physically fit for the job;
- g) Meeting other conditions required by the working position for which he/she applies.

2. The following persons may not register for civil servant recruitment:

- a) Not residing in Vietnam;
- b) Having lost civil act capacity or having such capacity restricted;
- c) Being examined for penal liability; currently serving a criminal sentence or court ruling or having completely served such a sentence or ruling but such criminal record has not yet been remitted, or serving the administrative measure of confinement to a medical treatment establishment or a reformatory.

#### **Article 37. Methods of civil servant recruitment**

1. Civil servants shall be recruited through examinations, except for cases specified in Clause 2 of this Article. The form and contents of examination to recruit civil servants must be suitable to each sector and occupation, ensuring that persons with appropriate qualities, qualifications and capabilities are selected.
2. Persons who meet all conditions specified in Clause 1, Article 36 of this Law and commit to voluntarily work for at least 5 years in mountainous, border, island, remote, deep-lying or ethnic minority or special socio-economic difficulty-hit areas may be recruited through selection.
3. The Government shall specify the recruitment of civil servants through examination or selection.

#### **Article 38. Principles for civil servant recruitment**

1. Ensuring publicity, transparency, objectivity and legality.
2. Ensuring competitiveness.
3. Selecting proper persons who meet task and working position requirements.
4. Prioritizing recruitment of talented persons, persons with meritorious services to the country and ethnic minority persons.

#### **Article 39. Agencies recruiting civil servants**

1. The Supreme People's Court, the Supreme People's Procuracy and the State Audit may recruit, and decentralize the recruitment of, civil servants in agencies, organizations and units under their respective management.
2. The Office of the National Assembly and the Office of the President may recruit civil servants in agencies and units under their respective management.
3. Ministries, ministerial-level agencies and government-attached agencies may recruit, and decentralize the recruitment of, civil servants in agencies, organizations and units under their respective management.
4. Provincial-level People's Committees may recruit, and decentralize the recruitment of, civil servants in agencies, organizations and units under their respective management.
5. Agencies of the Communist Party of Vietnam and socio-political organizations may recruit, and decentralize the recruitment of, civil servants in agencies, organizations and units under their respective management.

#### **Article 40. Probation for civil servants**

Persons recruited to work as civil servants are subject to the probation regime under the Government's regulations.

#### **Article 41. Recruitment and appointment of judges and procurators**

The recruitment and appointment of judges of People's Courts and procurators of People's Procuracies comply with the law on organization of People's Courts and the law on organization of People's Procuracies.

### **Section 3**

## **PROVISIONS ON RANKS OF CIVIL SERVANTS**

#### **Article 42. Civil servant ranks and rank appointment**

1. Civil servant ranks include:

- a) Senior specialist and equivalent;
- b) Principal specialist and equivalent;
- c) Specialist and equivalent;
- d) Technician and equivalent;
- e) Employee.

2. Rank appointment must ensure the following conditions:

- a) Appointed persons meet all professional criteria of the rank;
- b) Rank appointment is decided by competent persons and ensure the civil servant structure of the agency, organization or unit.

3. Rank appointment shall be made in the following cases:

- a) The recruited person has completed the probation regime;
- b) The civil servant has passed a rank promotion examination;
- c) The civil servant is shifted to an equivalent rank.

#### **Article 43. Shift of civil servant ranks**

1. Rank shift means the appointment of a civil servant holding a rank in a profession to a rank of the same specialized or professional level of another profession.

2. To be shifted to another rank, a civil servant must possess all specialized or professional qualifications as required by the rank he/she is shifted to and relevant to the assigned tasks and powers.

3. A civil servant who is assigned tasks irrelevant to the specialized or professional qualifications of the rank he/she is holding shall be shifted to a suitable rank.

4. No rank promotion and salary raise are allowed upon rank shift.

#### **Article 44. Civil servant rank promotion**

1. Rank promotion must be based on working positions, suitable to the civil servant structure of the agency, organization or unit concerned, and made through examination.

2. Civil servants who meet all criteria and conditions for assuming working positions of a higher rank may register for rank promotion examination.

3. Rank promotion examinations shall be organized on the principles of competitiveness, publicity, transparency, objectivity and legality.

#### **Article 45. Criteria and conditions for registration for rank promotion examinations**

1. When agencies, organizations and units need to employ civil servants in working positions of ranks for which examinations are organized, their civil servants may register for sitting such examinations.

2. Civil servants registering for rank promotion examinations must possess political qualities, ethnics and specialized or professional qualifications and capabilities meeting the requirements of ranks for which examinations are organized.

#### **Article 46. Organization of rank promotion examinations**

1. The contents and forms of civil servant rank promotion examinations must suit the specialized or professional levels of the ranks for which examinations are organized, ensuring the selection of civil servants with specialized or professional capabilities and qualifications relevant to the criteria for ranks for which examinations are organized and meeting task requirements.

2. The Ministry of Home Affairs shall assume the prime responsibility for, and coordinate with concerned agencies and organizations in, organizing civil servant rank promotion examinations.

3. The Government shall issue specific regulations on civil servant rank promotion examinations.

### **Section 4**

## **TRAINING AND RETRAINING OF CIVIL SERVANTS**

#### **Article 47. Civil servant training and retraining regime**

1. The contents, program, forms and durations of civil servant training and retraining must be based on criteria for leading and managerial titles and posts, criteria for civil servant ranks and suitable to task requirements.

2. Civil servant training and retraining include:

- a) Retraining based on civil servant rank criteria;
- b) Training and retraining according to leading and managerial titles.

3. The contents, programs and durations of civil servant training and retraining shall be stipulated by the Government.

#### **Article 48. Responsibilities of agencies, organizations and units for civil servant training and retraining**

1. Agencies, organizations and units managing civil servants shall formulate and publicize training and retraining plans and plans to create sources and raise specialized or professional capabilities and qualifications for civil servants.

2. Agencies, organizations and units employing civil servants shall create conditions for civil servants to attend training and retraining to raise their specialized or professional capabilities and qualifications.

3. Civil servant training and retraining funds are covered by the state budget and other sources in accordance with law.

#### **Article 49. Responsibilities and benefits of civil servants in training and retraining**

1. Civil servants attending training and retraining shall strictly observe training and retraining regulations and submit to the management of training and retraining institutions.

2. Civil servants attending training and retraining are entitled to full salaries and allowances, with the training and retraining durations included in the continuous seniority period and considered for salary raise in accordance with law.

3. Civil servants with excellent performance in training or retraining courses are entitled to praise and reward.

4. Trained or retrained civil servants who give up or discontinue their jobs without permission shall refund training and retraining expenses in accordance with law.

### **Section 5**

#### **TRANSFER, APPOINTMENT, ROTATION, SECONDMENT, RESIGNATION AND RELIEF OF DUTY OF CIVIL SERVANTS**

##### **Article 50. Transfer of civil servants**

1. Transfer of civil servants must be based on task requirements and political qualities, ethics, and specialized or professional capabilities and qualifications of civil servants.

2. Transferred civil servants must meet specialized or professional requirements of new working positions.

##### **Article 51. Appointment of civil servants to leading or managerial posts**

1. The appointment of civil servants to leading or managerial posts must be based on:

- a) Needs and tasks of agencies, organizations or units;
- b) Criteria and conditions for leading or managerial posts.

The competence, order and procedures for appointing civil servants to leading or managerial posts comply with laws and regulations of competent agencies.

2. The term of appointment of civil servants to leading or managerial posts is 5 years; at the end of the term, competent agencies, organizations or units shall consider whether or not to appoint them.

3. Civil servants who are transferred to other agencies, organizations or units or appointed to a new leading or managerial post will automatically stop holding the current leading or managerial one, except for cases of holding both concurrently.

##### **Article 52. Rotation of civil servants**

1. Based on task requirements and civil servant employment plans and plans, leading or managerial civil servants may be rotated within the system of agencies of the Communist Party of Vietnam, the State and socio-political organizations.

2. The Government shall issue specific-regulations on rotation of civil servants.

##### **Article 53. Secondment of civil servants**

1. Agencies, organizations or units managing civil servants may second civil servants to work in other agencies, organizations or units to meet task requirements.

2. The period of secondment is 3 years at most, except for a number of sectors and domains as stipulated by the Government.

3. Seconded civil servants shall obey work assignment by agencies, organizations or units they are seconded to.

4. Civil servants seconded to work in mountainous, border, island, deep-lying, remote, ethnic minority areas or areas with especially difficult socio-economic conditions are entitled to incentive policies as prescribed by law.

5. Agencies, organizations or units managing seconded civil servants shall arrange appropriate jobs for these civil servants at the end of the secondment period.

6. Secondment is not applicable to female civil servants who are pregnant or rearing under 36-month babies.

#### **Article 54. Resignation or relief of duty for civil servants**

1. Leading or managerial civil servants may resign or be relieved of duty in the following cases:

- a) Being physically unfit;
- b) Having insufficient capability and prestige;
- c) Due to task requirements;
- d) Other reasons.

2. Leading or managerial civil servants who resign or are relieved of duty may be arranged jobs suitable to their trained specialized or professional qualifications, or retire or discontinue their jobs.

3. Leading or managerial civil servants who seek for permission to resign or be relieved of duty shall, pending the approval of competent authorities, continue performing their tasks and exercising their powers.

4. The competence, order and procedures for considering and deciding on resignation or relief of duty of leading or managerial civil servants comply with laws and regulations of competent agencies.

### **Section**

## **6 EVALUATION OF CIVIL SERVANTS**

#### **Article 55. Purpose of civil servant evaluation**

Civil servant evaluation aims to clearly determine the political qualities, ethics, specialized and professional capabilities and qualifications, and results of performance of assigned tasks. Evaluation results serve as a basis for arranging, employing, appointing, training, retraining, rewarding, disciplining and implementing policies towards civil servants.

#### **Article 56. Contents of civil servant evaluation**

1. Civil servants are evaluated based on the following:

- a) Observance of the line and policies of the Party and laws of the State;
- b) Political qualities, ethics, lifestyle and working style and manners;
- c) Specialized or professional capabilities and qualifications;
- d) Task performance progress and results;
- e) Sense of responsibility and collaboration in work;
- f) Attitude in serving the people.

2. In addition to the contents provided in Clause 1 of this Article, leading and managerial civil servants shall be evaluated based on:

- a) Results of operation of agencies, organizations or units they are assigned to lead and manage;
- b) Leading and managerial capabilities;
- c) Capability of mobilizing and uniting civil servants.

3. Civil servants are evaluated annually, before appointment, planning, transfer, training and retraining and at the end of the period of rotation or secondment.

4. The Government shall stipulate the order and procedures for civil servant evaluation.

#### **Article 57. Civil servant evaluation responsibility**

1. Heads of agencies, organizations or units employing civil servants shall evaluate civil servants under their management.

2. Heads of agencies, organizations and units shall be evaluated by heads of immediately superior agencies or organizations.

#### **Article 58. Evaluation-based categorization of civil servants**

1. On the basis of evaluation results, civil servants are put into the following categories:

- a) Excellent accomplishment of tasks;
- b) Good accomplishment of tasks;
- c) Accomplishment of tasks with limited capability;

d) Non-accomplishment of tasks.

2. Results of evaluation of civil servants shall be filed in civil servant records and notified to evaluated civil servants.

3. Civil servants who accomplish their tasks for 2 consecutive years with limited capability or who accomplish their tasks with limited capability in a year and fail to accomplish their tasks in the subsequent year may be assigned to other jobs by competent agencies.

Civil servants who fail to accomplish their tasks for 2 consecutive years will be disallowed to continue their work by competent agencies, organizations or units.

## Section 7

### JOB DISCONTINUATION AND RETIREMENT OF CIVIL SERVANTS

#### Article 59. Job discontinuation of civil servants

1. Civil servants are entitled to the job discontinuation regime if falling into one of the following cases:

- a) Due to reorganization;
- b) They make a petition for job discontinuation, which is approved by competent authorities;
- c) As prescribed in Clause 3, Article 58 of this Law.

2. A civil servant who wishes to discontinue his/her job shall send a petition to a competent agency, organization or unit for consideration and decision. Within 30 days after receiving such petition, the competent agency, organization or unit shall issue a written reply: if disagreeing with the petition, it shall clearly state the reason; a civil servant who quits his/her job without the consent of the competent agency, organization or unit is not entitled to the job discontinuation regime and shall refund training and retraining expenses in accordance with law.

3. Job discontinuation is not allowed for civil servants who are being examined for disciplining or penal liability.

4. Job discontinuation is not allowed for female civil servants who are pregnant or nursing under-36-month babies, except those so wishing.

#### Article 60. Retirement of civil servants

1. Civil servants may retire under the Labor Code.

2. Six months before the date a civil servant is due to retire, his/her managing agency, organization or unit shall notify in writing the civil servant of the exact time of retirement; three months before a civil servant is due to retire, his/her managing agency, organization or unit shall issue a decision on his/her retirement.

## Chapter V

### COMMUNE-LEVEL CADRES AND CIVIL SERVANTS

#### Article 61. Posts and titles of commune-level cadres and civil servants

1. Commune-level cadres and civil servants defined in Clause 3, Article 4 of this Law include commune-level cadres and commune-level civil servants.

2. Posts of commune-level cadres include:

- a) Party committee secretary and deputy secretary;
- b) People's Council chairman and vice chairman;
- c) People's Committee president and vice president;
- d) Vietnam Fatherland Front Committee president;
- e) Ho Chi Minh Communist Youth Union secretary;
- f) Vietnam Women's Union president;
- g) Vietnam Peasants Association president (applicable to communes, wards and townships with agricultural, forestry, fishery and salt-making activities and Vietnam Peasants Association chapter);
- b) Vietnam Veterans' Association president

3. Posts of commune-level civil servants include:

- a) Chief police officer;
- b) Military chief commander;
- c) Administrative-statistics clerk;
- d) Land-construction-urban area and environment officer (for wards and townships) or land-agriculture-construction and environment officer (for communes);

e) Financial controller-accountant:

f) Justice-civil status officer;

g) Culture- social affairs officer.

Commune-level civil servants are managed by the district level.

4. Commune-level cadres and civil servants defined in Clauses 2 and 3 of this Article include also cadres and civil servants rotated, transferred or seconded to commune level.

5. On the basis of local socio-economic conditions, size and characteristics, the Government shall specify the numbers of commune-level cadres and civil servants.

#### **Article 62. Obligations and rights of commune-level cadres and civil servants**

To perform obligations and exercise rights defined in this Law, other relevant laws and statutes of organizations of which they are members.

2. Incumbent commune-level cadres and civil servants are entitled to salary and insurance regimes; when ceasing to hold their posts, if meeting conditions and criteria as prescribed by law, they may be considered for being employed as civil servants, in this case, they are exempt from the probation regime and enjoy regimes and policies without interruption. If they are not employed as civil servants and not eligible for retirement, they may no longer receive salaries and shall pay voluntary insurance premiums under law; if they are transferred, rotated or seconded cadres or civil servants, competent agencies shall provide them with appropriate jobs or entitlements under law.

The Government shall specify this Clause.

#### **Article 63. Election, recruitment, training and retraining of commune-level cadres and civil servants**

1. Commune-level cadres shall be elected under the Law, on Organization of People's Councils and People's Committees, the Law on Election of People's Council Deputies, statutes of concerned organizations, other laws and regulations of competent agencies.

2. Commune-level civil servants shall be recruited through examination; for mountainous, border, island, deep-lying, remote and ethnic minority areas and areas with especially difficult socio-economic conditions, they may be recruited through selection.

District-level Peoples Committee presidents shall organize recruitment of commune-level civil servants under the Government's regulations.

3. The training and retraining of commune-level cadres and civil servants must be based on criteria for each post and title, task requirements and in line with cadre and civil servant planning.

The training and retraining regime applicable to commune-level cadres and civil servants shall be prescribed by competent agencies of the Communist Party of Vietnam and the Government.

Funds for training and retraining cadres and civil servants shall be covered by the slate budget and other sources under law.

#### **Article 64. Evaluation, categorization, request for job discontinuation, resignation, relief of duty, job discontinuation and retirement of commune-level cadres and civil servants**

The evaluation, categorization, request for job discontinuation, resignation, relief of duty, job discontinuation and retirement of commune-level cadres and civil servants shall be conducted under relevant provisions of this Law applicable to cadres and civil servants, other relevant legal provisions and statutes.

### **Chapter VI**

#### **MANAGEMENT OF CADRES AND CIVIL SERVANTS**

#### **Article 65. Management of cadres and civil servants**

1. Management of cadres and civil servants covers:

a) Promulgating, and organizing the implementation of. legal documents on cadres and civil servants;

b) Elaborating plannings and plans on cadres and civil servants:

c) Prescribing titles and structure of cadres;

d) Prescribing ranks, titles and codes of civil servants; descriptions, working positions and structure of civil servants for determining payrolls;

e) Other affairs related to the management of cadres and civil servants under this Law.

2. Competent agencies of the Communist Party of Vietnam, the Standing Committee of the National Assembly and the Government shall specify the contents of management of cadres and civil servants prescribed in this Article.

**Article 66. Competence to decide on payrolls of cadres and civil servants**

1. The competence to decide on cadre payrolls complies with laws and regulations of competent agencies of the Communist Party of Vietnam.
2. The Standing Committee of the National Assembly shall decide on civil servant payrolls of the Office of the National Assembly, the State Audit, the Supreme People's Court and the Supreme People's Procuracy.
3. The President shall decide on the civil servant payroll of the Office of the President.
4. The Government shall decide on civil servant payrolls of ministries, ministerial-level agencies, government-attached agencies, provincial-level agencies, and public non-business units of the State.
5. On the basis of decisions on payroll quotas assigned by the Government, provincial-level People's Councils shall decide on civil servant payrolls of agencies of People's Councils and People's Committees, and public non-business units of People's Committees at all levels.
6. Competent agencies of the Communist Party of Vietnam shall decide on civil servant payrolls of agencies and public non-business units of the Party and socio-political organizations.

**Article 67. Management of cadres and civil servants**

1. The management of cadres and civil servants complies with this Law, other relevant laws, the Statutes of the Communist Party of Vietnam and socio-political organizations, and documents of competent agencies and organizations.
2. The Government performs the unified management of civil servants.

The Ministry of Home Affairs shall take responsibility to the Government for performing the state management of civil servants.

Ministries, ministerial-level agencies and provincial-level People's Committees shall, within the scope of their tasks and powers, perform the state management of civil servants according to the Government's assignment and decentralization.

District-level People's Committees shall, within the scope of their tasks and powers, perform the state management of civil servants according to provincial-level People's Committees' assignment and decentralization.

3. Competent agencies of the Communist Party of Vietnam and socio-political organizations shall, within the scope of their tasks and powers, perform the state management of civil servants according to competent authorities decentralization and the Government's regulations.

**Article 68. Cadre and civil servant management reporting regime**

1. Annually the Government shall report to the National Assembly on cadre and civil servant management.
2. The preparation of the Government's reports on cadre and civil servant management is prescribed below:
  - a) Ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees shall report on the management of cadres and civil servants under their respective management;
  - b) The Supreme People's Court, the Supreme People's Procuracy, the State Audit, the Office of the National Assembly and the Office of the President shall report on the management of cadres and civil servants under their respective management;
  - c) Competent agencies of the Communist Party of Vietnam and socio-political organizations shall report on the management of cadres and civil servants under their respective management.

Reports mentioned at Points a, b and c of this Clause shall be sent to the Government before September 30 every year for sum-up and preparation of reports to the National Assembly.

3. The preparation of reports on the management of cadres in agencies of the Communist Party of Vietnam and socio-political organizations complies with laws and regulations of competent agencies.
4. Reports on cadre and civil servant management have the contents as prescribed in Article 65 of this Law.

**Article 69. Management of cadre and civil servant records**

1. Competent agencies, organizations and units shall manage records of cadres and civil servants under their management. Cadre and civil servant records must fully contain prescribed documents to accurately reflect the working process of cadres and civil servants.
2. Competent agencies of the Communist Party of Vietnam shall guide the compilation and management of records of cadres and civil servants under their respective management.
3. The Ministry of Home Affairs shall guide the compilation and management of cadre and civil servant records, except for the case mentioned in Clause 2 of this Article.

**Chapter VII****CONDITIONS TO ASSURE PUBLIC-DUTY PERFORMANCE**

**Article 70. Public offices**

1. Public offices are working offices of agencies of the Communist Party of Vietnam, the State, socio-political organizations and public non-business units, have own names and specific addresses, including construction works and other assets within the premises of working offices.
2. The State invests in building public offices for agencies of the Communist Party of Vietnam, the State and socio-political organizations.
3. The size, location and design criteria of public offices shall be prescribed by competent agencies to suit the functions, tasks and organizational apparatuses of each agency, organization and unit already approved by competent state agencies and use standards and norms.

**Article 71. Public-duty houses**

1. The State invests in building public-duty houses for lease to cadres and civil servants during the period of transfer, rotation or secondment. At the end of this period, cadres and civil servants shall return public-duty houses to agencies, organizations and units managing these houses.
2. Agencies, organizations and units managing public-duty houses shall ensure the management and use of these houses for proper purposes and users.

**Article 72. Working equipment in public-offices**

1. The State ensures working equipment in public offices to serve public-duty performance: attaches importance to investing in and applying information technology to increase the effectiveness of public-duty performance.
2. On the basis of task requirements, agencies, organizations and units shall procure working equipment according to standards and norms for and regulations on management and use of state assets.
3. Heads of agencies, organizations and units shall formulate regulations on management of working equipment in public offices, ensuring efficiency and thrift.

**Article 73. Vehicles for travel in public-duty performance**

The State arranges vehicles for travel of cadres and civil servants to perform public duties in accordance with the law on management and use of state assets; if vehicles cannot be arranged, cadres and civil servants may be paid for travel expenses according to the Government's regulations.

**Chapter VIII****PUBLIC-DUTY INSPECTION****Article 74. Scope of public duty inspection**

1. To inspect the performance of tasks and exercise of powers by cadres and civil servants in accordance with this Law and relevant regulations.
2. To inspect the recruitment, appointment, training, retraining, transfer, rotation, secondment, relief of duty, evaluation, job discontinuation, retirement, rewarding and disciplining of cadres and civil servants, ethics and communication culture in public-duty performance of civil servants, and conditions to assure public-duty performance.

**Article 75. Public duty inspection**

1. The inspectorates of ministries and provincial-level services, provincial-level and district-level inspectorates shall, within the ambit of their tasks and powers, inspect the performance of tasks and exercise of powers by cadres and civil servants.
2. The inspectorates of the Ministry of Home Affairs and provincial-level Services of Home Affairs shall conduct specialized inspection within the scope defined in Clause 2, Article 74 of this Law.
3. The Government shall issue specific regulations on public-duty inspection.

**Chapter IX****COMMENDATION. AND HANDLING OF VIOLATIONS****Article 76. Commendation of cadres and civil servants**

1. Cadres and civil servants with outstanding public duty performance may be commended in accordance with the law on emulation and commendation.
2. Cadres and civil servants who are commended for excellent achievements or merits are entitled to salary raise ahead of time and priority appointment to higher posts if so needed by agencies, organizations or units.

The Government shall specify this Clause.

**Article 77. Relief of cadres and civil servants from responsibility**

Cadres and civil servants are relieved from responsibility in the following cases:

1. Having to implement illegal decisions of superiors after reporting to decision issuers;
2. In *force majeure* circumstances as prescribed by law.

#### **Article 78. Forms of disciplining cadres**

1. Cadres who violate this Law and other relevant laws are, depending on the nature and seriousness of violation, subject to one of the following disciplinary forms:

- a) Reprimand;
- b) Caution;
- c) Demotion;
- d) Removal from office.

2. Demotion is applicable only to cadres approved to hold posts according to term of office.

3. Cadres who commit a criminal offense, are convicted by a court and their sentences or rulings have taken effect will be automatically disallowed to continue their elected, approved or appointed posts; if they are subjected to an imprisonment sentence which is not suspended, they will be automatically sacked.

4. The application of disciplinary forms to, and the competence, order and procedures for disciplining cadres comply with legal provisions, the statutes of the Communist Party of Vietnam and socio-political organizations, and documents of competent agencies and organizations.

#### **Article 79. Forms of disciplining civil servants**

1. Civil servants who violate this Law or other relevant laws are, depending on the nature and seriousness of violation, subject to one of the following disciplinary forms:

- a) Reprimand;
- b) Caution;
- c) Salary reduction;
- d) Demotion;
- e) Removal from office;
- e) Sack.

2. Demotion and removal from office are applicable only to civil servants holding leading or managerial posts.

3. Civil servants who are subject to an imprisonment sentence which is not suspended will be automatically sacked on the date their sentences or rulings take effect: leading or managerial civil servants who are convicted by a court and their sentences or rulings have taken effect will automatically be removed from their appointed posts.

4. The Government shall stipulate the application of disciplinary forms, and the order, procedures and competence to discipline civil servants.

#### **Article 80. Statute of limitations and time limits for disciplining**

1. The statute of limitations for disciplining is a time limit prescribed by this Law at the end of which a cadre or civil servant who has committed a violation will not be disciplined.

The statute of limitations for disciplining is 24 months, counting from the date of committing a violation.

2. The time limit for disciplining a cadre or civil servant is a period from the time of detecting a cadre or civil servant's breach of discipline to the time of issuance by a competent agency or organization of disciplining decision.

The time limit for disciplining is 2 months; if a case involves complicated circumstances which need further verification, this time limit may be prolonged but must not exceed 4 months.

3. For an individual against whom a criminal case was instituted or who was prosecuted or decided to be brought to trial according to criminal procedures but then his/her investigation or trial is terminated under a decision, if his/her act of violation shows signs of breach of discipline, he/she shall be disciplined within 3 days after the date the investigation or trial termination decision is issued. The decision issuer shall send the decision and the case file to the competent agency, organization or unit for disciplining.

#### **Article 81. Suspension of cadres and civil servants from working**

1. While considering disciplining a cadre or civil servant, the agency, organization or unit managing him/her may issue a decision to suspend his/her work if it deems that his/her continued work may cause difficulties to the handling of his/her violation. The time limit for such suspension is 15 days and may be extended in special cases but not for another 15 days. If a cadre or civil servant is seized or detained to serve investigation, prosecution or trial activities, the period of

seizure or detention is regarded as a time of justified leave; past this time limit if the cadre or civil servant faces no discipline, he/she may resume his/her work.

2. During the time of work suspension or seizure or detention to serve investigation, prosecution or trial activities, a cadre or civil servant may still receive salaries under the government's regulations.

### **Article 82. Other provisions concerning disciplined cadres and civil servants**

1. For cadres or civil servants who are reprimanded or cautioned, their salary raise period will be prolonged for 6 months from the date their disciplining decisions take effect; if being demoted or removed from office, their salary raise period will be prolonged for 12 months from the date their disciplining decisions take effect.

2. For cadres or civil servants who are disciplined in the form of reprimand to removal from office, they are not entitled to rank promotion, planning, training and appointment for 12 months from the effective date of their disciplining decisions; past this time limit, if they commit no violations subject to discipline, they are again entitled to rank promotion, planning, training and appointment according to law.

3. Cadres and civil servants who are being examined for disciplining, investigated, prosecuted or tried may not stand as candidates, be nominated, appointed, transferred, rotated, seconded, trained or retrained, sit rank promotion examinations, retire or give up their jobs.

4. Cadres and civil servants who are removed from office due to corruption may not be appointed to leading or managerial posts.

### **Article 83. Management of commendation and disciplining records of cadres and civil servants**

The commendation and disciplining of cadres and civil servants shall be filed in their records.

## **Chapter X**

### **IMPLEMENTATION PROVISIONS**

### **Article 84. Application of the Law on Cadres and Civil Servants to other subjects**

1. Competent agencies of the Communist Party of Vietnam, the Standing Committee of the National Assembly and the Government shall specify the application of this Law to elected persons who are other than those defined in Clause 1. Article 4 of this Law; and the allowance regime for retired persons who are elected to hold cadre posts or titles.

2. Competent agencies of the Communist Party of Vietnam and the Government shall specify the application of the Law on Cadres and Civil Servants to those who are transferred and assigned by the Party or the State and those who are recruited and appointed according to assigned payroll quotas to work in socio-politico-professional organizations, social organizations and socio-professional organizations.

3. The Government shall specify the application of the Law on Cadres and Civil Servants to chairmen of management boards, members of management boards, directors general, deputy directors general, directors, deputy directors, chief accountants and holders of other leading and managerial posts in state enterprises; and those who are appointed by the state as owner representatives of state capital portions in state-invested enterprises.

4. The Government shall prescribe the frame quantities, regimes and policies towards commune-level persons working on a part-time basis.

### **Article 85. Transitional provisions applicable to persons working in public non-business units**

Current legal provisions concerning those working in public non-business units other than cadres and civil servants defined in this Law continue to apply pending the promulgation of the Law on Public Employees.

### **Article 86. Effect**

1. This Law takes effect on January 1, 2010.

2. The February 26, 1998 Ordinance on Cadres and Civil Servants; the April 28, 2000 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Cadres and Civil Servants; and the April 29, 2003 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Cadres and Civil Servants cease to be effective on the effective date of this Law.

### **Article 87. Implementation detailing and guidance**

The Standing Committee of the National Assembly, the Government and other competent agencies shall detail and guide articles and clauses of this Law as assigned; and guide other necessary provisions of this Law to meet state management requirements.

*This Law was passed on November 13, 2008, by the 12<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 4<sup>th</sup> session.*