

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom – Happiness

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DECREE

ON RECRUITMENT, EMPLOYMENT AND MANAGEMENT OF PUBLIC EMPLOYEES

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

Pursuant to the November 15, 2010 Law on Public Employees;

At the proposal of the Minister of Home Affairs;

The Government promulgated this Decree on recruitment, employment and management of public employees,

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

This Decree provides the recruitment, arrangement, assignment, change and professional title rank promotion; training, retraining; secondment, appointment, relief from duty; evaluation; resignation, retirement and competence for management of public employees in public non-business units.

Article 2. Interpretation of terms

In this Decree, the terms below are construed as follows:

1. Probation regime means regulations relevant to the process for a newly recruited public employee to get acquainted with the working environment and learn to perform jobs of his/her working position associated with the professional title to which he/she will be appointed as stated in his/her working contract.
2. Change of professional title means the appointment of a public employee to another professional title to better suit the professional requirements of his/her current working position.
3. Professional title rank means the level showing professional qualifications and capability of a public employee in each sector or field.
4. Professional title rank promotion means the appointment of a public employee to a higher professional title rank in the same sector or field.

Article 3. Classification of public employees

1. By working position, public employees are classified as follows:

a/ Managerial public employees, including persons defined in Clause 1, Article 3 of the Law on Public Employees;

b/ Non-managerial public employees, including persons performing only professional jobs according to their professional titles in public non-business units.

2. By professional title, public employees in each professional field are classified into the following ranks in descending order:

a/ Public employees holding professional titles of rank I;

b/ Public employees holding professional titles of rank II;

c/ Public employees holding professional titles of rank III;

d/ Public employees holding professional titles of rank IV.

Chapter II

RECRUITMENT OF PUBLIC EMPLOYEES

Section 1: RECRUITMENT CONDITIONS AND COMPETENCE

Article 4. Conditions for registration for public employee recruitment

1. A person wishing to register for recruitment must possess all qualities, professional qualifications and capabilities as required by working positions and professional titles and have all the conditions for recruitment registration specified in Article 22 of the Law on Public Employees.
2. Public non-business units may add other conditions as required by working positions specified at Point g, Clause 1, Article 22 of the Law on Public Employees, provided these conditions are not contrary to law and are approved by competent agencies managing these units before application.

Article 5. Competence to recruit public employees

1. Heads of autonomous public non-business units defined at Point a, Clause 2, Article 9 of the Law on Public Employees shall organize the recruitment of public employees and may decide to recruit public employees through examination or selection.
2. For non-autonomous public non-business units defined at Point b, Clause 2, Article 9 of the Law on Public Employees, agencies or units competent to appoint or relieve from office heads of these units shall organize the recruitment or decentralize public non-business units under their management to organize the recruitment of public employees; and may decide to recruit public employees through examination or selection or authorize other persons to do so.
3. Heads of non-business units of governmental agencies shall organize the recruitment of public employees or decentralize other units to do so; and may decide to recruit public employees through examination or selection.
4. Annually, public non-business units shall work out their public employee recruitment plans, then submit them to competent authorities for approval or decide on them according to their competence before organizing the implementation.
5. The Ministry of Home Affairs shall promulgate rules and regulations on examination or selection for public employee recruitment.

Article 6. Public employee recruitment councils

1. For a public non-business unit assigned to recruit public employees, a public employee recruitment council shall be set up with 5 or 7 members, including:
 - a/ The council chairman who is the head or a deputy head of the public non-business unit;
 - b/ The council vice chairman who is the person in charge of organization and personnel work of the public non-business unit;
 - c/ The council secretary who is a public employee acting as an organization and personnel assistant of the public non-business unit;
 - d/ Other members who have professional qualifications relevant to vacant positions.
2. For a public non-business units not yet assigned to recruit public employees, a public employee recruitment council shall be set up with 5 or 7 members, including:
 - a/ The council chairman who is decided by the head of the agency competent to recruit public employees;
 - b/ The council vice chairman who is the head or a deputy head of the public non-business unit;
 - c/ The council secretary who is the representative of the organization and personnel section of the agency competent to recruit public employees;

d/ Other members who have professional qualifications relevant to vacant positions.

3. A recruitment council shall work on a collegial basis and make decisions by majority vote and has the following tasks and powers:

a/ To set up assisting divisions, including: examination question division, examination invigilation division, examination paper heading division, examination paper marking division, examination paper review division, and inspection and testing division;

b/ To collect and use recruitment fees in accordance with law;

c/ To organize the examination and marking of examination papers or to hold tests;

d/ To settle complaints and denunciations arising in the course of examination or selection for public employee recruitment in accordance with law.

Section 2: EXAMINATION FOR PUBLIC EMPLOYEE RECRUITMENT

Article 7. Contents and form of examination

1. Candidates shall take exams on general knowledge and professional knowledge and skills. Office computer skill and foreign language tests for public employee candidates shall be held according to professional title criteria and requirements of working positions.

2. General knowledge exam: Written exam on the law on public employees; the Party's undertakings, line and policies and the State's laws and basic knowledge about the sector or field in which recruited public employees will work.

3. Professional knowledge and skill exam consists of written or multiple-choice exam and practical skill test. Heads of agencies competent to recruit public employees may decide on the form and contents of examination to meet requirements of working positions.

In case working positions require foreign languages or computer skills as professional knowledge and skills and, therefore, professional knowledge and skill exams are on foreign languages or computer skills, candidates are exempt from foreign language or office computer skill tests specified in Clause 4 or 5 of this Article.

4. Foreign language test: Test in one of the five foreign languages of English, Russian, French, German and Chinese or another foreign language according to professional title criteria to meet requirements of working positions.

In case working positions require the use of ethnic minority languages, candidates shall take an ethnic minority language test instead of foreign language test. Heads of agencies competent to recruit public employees may decide on the form and contents of ethnic minority language test.

5. Computer skill test: Test of practical computer skills on computers or multiple-choice test according to professional title criteria to meet requirements of working positions.

6. Based on their practical capability and conditions, agencies, organizations or units competent to recruit public employees shall decide to give written or on-computer exams and tests.

Article 8. Conditions for exemption from some test subjects

A registered candidate may be exempt from taking a foreign language or computer skill test in the following cases:

1. He/she may be exempt from taking a foreign language test in case the professional knowledge and skill exam is not on foreign language if meeting any of the following conditions:

a/ Possessing a university or postgraduate degree in foreign languages;

b/ Possessing a university or postgraduate degree of a foreign university or a Vietnam-based institution providing training in foreign languages.

2. He/she may be exempt from taking an office computer skill test if possessing a secondary or higher-level degree in information technology.

Article 9. Marking method

1. Exam papers and tests shall be marked on a 100-point scale.
2. Points of exam papers and tests shall be calculated as follows:
 - a/ For general knowledge exam: Coefficient 1;
 - b/ For professional knowledge and skill exam: Coefficient 1 for written or multiple-choice exam, and coefficient 2 for practical skill test.
3. Examination results are total points of the general knowledge exam and professional knowledge and skill exam. For candidates taking foreign language or ethnic minority language and office computer skill tests, results of these tests are regarded as conditional points which are not counted into total examination points, unless professional knowledge and skill exams are on foreign language and computer skills.

Article 10. Identification of persons who pass examinations for public employee recruitment

1. To be regarded as passing an examination for public employee recruitment, a candidate must have taken all exams and tests specified in Article 9 of this Decree, getting 50 points or more for each exam or test, and be recruited on the following principle: Persons with higher examinations points will be recruited till the last of the number of persons to be recruited for each working position.
2. In case there are two or more persons having equal examination results for the last working position, the person with the highest total points of professional knowledge and skill exams will be recruited. If total points of professional knowledge and skill exams and test of these persons are the same, the head of the agency competent to recruit public employees shall decide to recruit one of them according to the following order of priority:
 - a/ Armed forces hero, labor hero;
 - b/ War invalid;
 - c/ Person entitled to preferential policies like war invalids;
 - d/ Fallen hero's child;
 - e/ War invalid's child;
 - f/ Child of a person entitled to preferential policies like war invalids;
 - g/ Ethnic minority person;
 - h/ Former youth volunteer;
 - i/ Voluntary youth intellectual team member who has participated in the development of rural and mountainous areas for full 24 months or more and fulfilled his/her tasks.
 - j/ Person who has fulfilled the military service;
 - k/ Female candidate.

3. In case the order of priority specified in Clause 2 of this Article does not help identify the last person to be recruited, the head of the agency competent to recruit public employees shall directly interview persons having equal examination results and decide on the person to be recruited.

4. Results of an examination are not reserved for subsequent examinations.

Section 3: SELECTION FOR PUBLIC EMPLOYEE RECRUITMENT

Article 11. Contents of selection for public employee recruitment

Consideration of study results, including study marks and graduation marks of candidates.

Examinations and tests in the form of interviews or testing of professional knowledge and practical skills of candidates.

Article 12. Marking method

1. Study marks are the average of results of study subjects in the whole study course of a candidate at the level and with professional qualifications required by the working position and converted on a 100-point scale with coefficient 1.
2. Graduation marks are the average of results of graduation examination subjects or graduation dissertation defense marks of a candidate and converted on a 100-point scale with coefficient 1.
3. For a candidate trained in the study credit system, his/her study marks are regarded as graduation marks and shall be converted on a 100-point scale with coefficient 2.
4. Interview or practical skill marks shall be given on a 100-point scale with coefficient 2.
5. Results of selection are the total of study marks, graduation marks and interview marks calculated under Clauses 1, 2 and 4 of this Article.

For candidates who have been trained in the study credit system, their selection results are total marks calculated under Clauses 3 and 4 of this Article.

Article 13. Identification of persons who are recruited through public employee selection

1. To be recruited through public employee recruitment selection, a candidate must fully satisfy the following conditions:
 - a/ Getting study, graduation and interview or practical skill marks of 50 points or higher each;
 - b/ Having better recruitment selection results till the last of the number of public employees to be recruited for each working position.
2. In case there are two or more persons having equal recruitment selection results for the last vacant working position, the person with higher interview or practical skill marks will be recruited. If these persons' interview or practical skill marks are equal, the head of the agency competent to recruit public employees shall decide to recruit one of them according to the order of priority specified in Clause 2, Article 10 of this Decree.
3. In case the order of priority mentioned in Clause 2 of this Article does not help identify the last person to be recruited, the head of the agency competent to recruit public employees shall decide on such person.
4. Results of a recruitment selection are not reserved for subsequent recruitment selections.

Article 14. Exceptional selection for recruitment

1. Based on the conditions for recruitment registration specified in Article 4 of this Decree and requirements of public non-business units, heads of agencies competent to recruit public employees shall consider and decide on exceptional recruitment selection not according to the order and procedures for public employee recruitment specified in Articles 15, 16 and 17, Section 4 of this Chapter for the following candidates:
 - a/ Persons with at least 3 years' working experience in the sector or field with recruitment needs and immediately meeting requirements of vacant working positions;
 - b/ Persons possessing a university degree with distinction or a master or doctoral degree in a training discipline relevant to vacant working positions, unless vacant working positions and professional titles of to be-recruited public employees require masters or doctors;
 - c/ Talented persons or persons with special gifts for working positions in the sectors of culture, arts, physical training and sports and traditional trades or occupations.
2. The Ministry of Home Affairs shall guide the process and procedures for exceptional selection for recruitment specified in this Article.

Section 4: PUBLIC EMPLOYEE RECRUITMENT PROCESS AND PROCEDURES

Article 15. Notification of recruitment and receipt of recruitment registration dossiers

1. An agency or unit competent to recruit public employees shall publicly notify in the mass media, on its website (if any) and at its office criteria, conditions and number of public employees it needs to recruit, time limit and place for receipt of dossiers of registration for recruitment.
2. The time limit for receipt of dossiers of registration for recruitment is 20 working days after the recruitment is publicly notified in the mass media.
3. At least 10 working days before the date of examination or selection for recruitment, an agency or unit competent to recruit public employees shall draw up a list of eligible candidates for public notification at its office and on its website (if any).

Article 16. Organization of public employee recruitment

1. Based on the provisions of Articles 5 and 6 of this Decree, the head of an agency competent to recruit public employees shall decide to set up a recruitment council to organize the examination or selection for recruitment.
2. The public employee recruitment council shall set up and specifically assign its assisting divisions to perform the tasks specified in Clause 3, Article 6 of this Decree.
3. Within 20 working days after the completion of the examination or selection for recruitment, the public employee recruitment council shall organize the marking of examination papers or summarization of selection results and report it to the head of the agency competent to recruit public employees.

Article 17. Notification of recruitment results

1. Within 10 working days after receiving a report on results of examination or selection for recruitment of a recruitment council, the head of an agency or unit competent to recruit public employees shall publicly notify such results at his/her agency's office and on his/her agency's website (if any).
2. Within 10 working days after examination results are publicly notified, a candidate may file a written request for review of these results. The head of the agency or unit competent to recruit public employees shall assign the recruitment council to organize the re-marking of examination papers within 10 working days after the expiration of the time limit for receipt of a request for review specified in this Clause.
3. After conducting the activities specified in Clauses 1 and 2 of this Article, the head of the agency or unit competent to recruit public employees shall approve recruitment results and send written recruitment notices to successful candidates at their registered addresses, clearly stating the time and place for them to come to sign working contracts.

Section 5: WORKING CONTRACTS

Article 18. Contents relevant to working contracts

Recruitment of public employees of public non-business units shall be conducted under the regime of working contracts, including working contracts with a definite term and working contracts with an indefinite term as specified in Article 25 of the Law on Public Employees. A probation period must be stated in working contracts with a definite term.

The Ministry of Home Affairs shall set the form of working contract.

Article 19. Signing of working contracts and taking of working positions

1. Within 20 working days after recruitment results are publicly notified, persons who are recruited as public employees shall come to sign working contracts with the public non-business unit according to notices mentioned in Clause 3, Article 17 of this Decree.
2. Within 20 working days after signing a working contract, a recruited person shall come to take up his/her working position, unless the working contract indicates another time limit. In case a recruited person cannot come to take up his/her working position for a plausible reason, he/she shall send an

application for prolongation of this time limit before it expires to the agency or unit competent to recruit public employees.

3. In case a recruited person does not come to sign a working contract within the time limit specified in Clause 1 of this Article or comes to take his/her working position after the time limit specified in Clause 2 of this Article, the head of the agency competent to recruit public employees may cancel his/her recruitment result or terminate the signed working contract.

Section 6: PROBATION

Article 20. Probation regime

1. Persons recruited as public employees shall go through a probation period to get acquainted with the working environment and learn to perform jobs of the working positions to which they are recruited, except the case specified in Clause 1, Article 27 of the Law on Public Employees.

2. Ministries managing professional titles of specialized public employees shall coordinate with the Ministry of Home Affairs in prescribing probation periods according to professional titles of each sector or field in accordance with law.

3. Maternity leaves under the social insurance regime, sickness leaves of 3 days or more and periods of being held in custody, temporary detention or being suspended from work in accordance with law must not be counted into the probation period.

4. Probation requirements:

a/ Firmly grasping the provisions of the Law on Public Employees on the rights and obligations of public employees, prohibitions against public employees; organizational structures, functions, tasks and powers of agencies, institutions or units where probationers work, internal rules and working regulations of agencies, institutions or units and duties and tasks of the working positions for which probationers are recruited;

b/ Improving professional knowledge and capabilities and practicing operational skills to meet requirements of the working positions for which probationers are recruited;

c/ Learning to settle affairs and perform jobs of the working positions for which probationers are recruited.

Article 21. Probation instruction

1. Public non-business units shall instruct probationers to firmly grasp and learn to perform jobs according to the probation requirements specified in Clause 4, Article 20 of this Decree.

2. Within 7 working days after a public employee on probation comes to take his/her working position, the head of a non-business unit shall assign a public employee who holds an equal or a higher professional title, is professionally capable and experienced and has skills to instruct the probationer. An instructor may not be assigned to instruct two or more probationers at a time.

Article 22. Entitlements and policies for probationers and probation instructors

1. During the probation period, a probationer may enjoy 85% of the salary level for the professional title corresponding to the working position to which he/she is recruited. For a probationer possessing a master or doctoral degree in a discipline meeting requirements of the working position to which he/she is recruited, he/she may enjoy 85% of the second salary level for such working position if possessing a master degree or 85% of the third salary level of such working position if possessing a doctoral degree. He/she is also entitled to allowances provided by law.

2. A probationer may enjoy 100% of the salary level and allowances of the professional title corresponding to the working position to which he/she is recruited in the following cases:

a/ He/she works in a mountainous, border, island, deep-lying, remote or ethnic minority area or an area with exceptionally difficult socio-economic conditions;

b/ He/she works in a hazardous or dangerous sector or occupation;

c/ He/she has fulfilled the military service, the termed service in the people's public security forces, once served as a military officer, career soldier, cipher officer, youth volunteer, voluntary young intellectual team member having joined in the development of rural or mountainous areas for full 24 months or more and accomplished his/her tasks.

3. The probation period is not counted into the period for salary raise.

4. In the probation instruction period, a probation instructor is entitled to a responsibility allowance equal to 0.3 of the current minimum salary level.

5. Probation instructors and probationers may also enjoy other bonus and welfare benefits (if any) as provided by the State and regulations of public non-business units.

Article 23. Order and procedures for appointment of public employees to professional titles at the end of the probation period

1. At the end of the probation period, probationers shall make report on their probation results, covering the contents specified in Clause 4, Article 20 of this Decree.

2. Probation instructors shall make written remarks on probation results of probationers, then send them to heads of public non-business units.

3. Heads of public non-business units shall assess the qualities, ethics and performance results of probationers. If probationers satisfy the probation requirements after the probation period, these heads shall issue decisions or request in writing authorities competent to manage public employees to issue decisions to appoint these probationers to professional titles. If probationers fail to satisfy the requirements after the probation period, these heads shall implement Clause 1, Article 24 of this Decree.

Article 24. Termination of working contracts with probationers

1. Probationers shall have their working contracts terminated when failing to satisfy the requirements after the probation period or being disciplined in the form of caution or a severer penalty.

2. Public employee-employing units shall request heads of public non-business units to terminate working contracts with probationers specified in Clause 1 of this Article.

3. Probationers whose working contracts are terminated after having worked for 6 months or more may be provided by employing public non-business units one month's salary together with allowances they currently enjoy and fares for traveling back to their places of residence.

Chapter III

EMPLOYMENT OF PUBLIC EMPLOYEES

Section 1: ASSIGNMENT OF TASKS, SECONDMENT APPOINTMENT AND RELIEF FROM DUTY OF PUBLIC EMPLOYEES

Article 25. Assignment of tasks

1. Heads of public non-business units or heads of units employing public employees shall assign tasks to and supervise the task performance by public employees, and ensure necessary conditions for them to perform their tasks, and implement regimes and policies toward public employees.

2. Tasks assigned to public employees must suit their professional titles or appointed managerial posts and the requirements of their working positions.

Article 26. Secondment of public employees

1. Secondment of public employees is implemented in the following cases:

a/ To perform unexpected or urgent tasks;

b/ To perform work which must be completed within a certain period of time;

2. The secondment period must not exceed 3 years. For a number of special sectors or fields requiring a longer secondment period, the secondment period complies with specialized laws.
3. Public non-business agencies or units that second public employees shall continue managing and supervising these public employees during their secondment period.
4. Agencies and units receiving secondees shall assign and arrange tasks to these secondees and evaluate and examine their task performance.
5. Secondees are entitled to the interests specified in Clauses 4, 5 and 6, Article 36 of the Law on Public Employees.

Article 27. Appointment of managerial public employees

1. Appointment of managerial public employees must be based on the needs of public non-business units and the following criteria and conditions:

- a/ Satisfying the criteria of the managerial post prescribed by a competent agency or unit;
- b/ Having complete personal records which have been clearly verified by a competent agency or unit; having a property declaration according to regulations;
- c/ Being within the age group eligible for appointment;
- d/ Being physically fit to accomplish assigned tasks and responsibilities;
- e/ Not falling into cases banned by law from holding the post.

2. The appointment period is 5 years, unless otherwise provided by a specialized law or decided by a competent agency. At the end of the appointment period, competent agencies or units shall decide whether or not to re-appoint managerial public employees.

3. The interests of public employees appointed to managerial posts comply with the provisions of Clauses 2, 3 and 4, Article 37 and Clause 3, Article 38 of the Law on Public Employees.

Article 28. Competence to appoint public employees to managerial posts, settle discontinuation of holding of managerial posts and relieve from duty managerial public employees

1. Heads of autonomous public non-business units may appoint public employees to managerial posts, settle the discontinuation of holding of managerial posts or relieve from duty managerial public employees according to decentralization.

2. For non-autonomous public non-business units, agencies competent to appoint and relieve from duty heads of these units shall decide on or decentralize the appointment of public employees to managerial posts, settlement of discontinuation of holding of managerial posts or relief from duty of public employees.

Section 2: CHANGE OF PROFESSIONAL TITLES

Article 29. Change of professional titles of public employees

1. Change of professional titles of public employees is effected as follows:

- a/ Change from a professional title to another of the same rank must be effected through professional title change consideration;
- b/ Promotion from a lower rank to an immediately higher rank in the same sector or field must be effected through professional title rank promotion examination or consideration.

2. Ministries managing professional titles of specialized public employees shall assume the prime responsibility for, and coordinate with the Ministry of Home Affairs in, prescribing specific criteria, conditions, contents and forms of professional title rank promotion examination or consideration for public employees.

Article 30. Assignment and decentralization of organization of professional title rank promotion examination or consideration

1. Examination or consideration for promotion of public employees' professional titles from rank II to I is effected as follows:

a/ Ministries managing professional titles of specialized public employee shall organize examination or consideration according to approved plan;

b/ The Ministry of Home Affairs shall approve plans on organization of professional title rank promotion examination or consideration; appraise and decide on the list of public employees eligible for such examination or consideration; issue a decision to set up a council; and decide to recognize results and appoint professional titles of rank I.

2. Examination or consideration for promotion of public employees' professional titles from rank III to rank II is effected as follows:

a/ Ministries, ministerial-level agencies, government-attached agencies or provincial-level People's Committees shall assume the prime responsibility for, and coordinate with the Ministry of Home Affairs in, organizing professional title rank promotion examination or consideration under law and the guidance of the ministry managing professional titles of specialized public employees;

b/ The Ministry of Home Affairs shall approve plans on organization of professional title rank promotion examination or consideration, and appraise and decide on the list of public employees eligible for such examination or consideration and appraise promotion results;

3. Examination or consideration for promotion of public employee professional titles from rank IV to rank III shall be organized by ministries, ministerial-level agencies, government-attached agencies or provincial-level People's Committees or decentralized to agencies or units under law and the guidance of the ministry managing professional titles of specialized public employees.

4. Competent Party agencies shall prescribe the assignment and decentralization of the organization of examination or consideration for promotion of professional title ranks for public employees in non-public units of political organizations and socio-political organizations under law.

Article 31. Process and procedures for organizing public employee professional title rank promotion examination or consideration

1. Annually, agencies assigned or decentralized to organize public employee professional title rank promotion examination or consideration specified in Clauses 1 and 2, Article 30 of this Decree shall draw up examination or consideration plans and send them to the Ministry of Home Affairs for agreement.

2. Annually, agencies and units assigned or decentralized to organize public employee professional title rank promotion examination or consideration specified in Clause 3, Article 30 of this Decree shall draw up plans and send them to agencies with decentralizing competence (ministries, ministerial-level agencies, government-attached agencies or provincial-level People's Committees) for approval before implementation.

3. Assigned or decentralized agencies, organizations or units specified in Clauses 2 and 3, Article 30 of this Decree shall set up councils for public employee professional title rank promotion examination or consideration.

4. Tasks and powers of a council for public employee professional title rank promotion examination or consideration:

a/ To notify the plan, rules, form, content, time and place of examination or consideration;

b/ To notify the conditions and criteria for examination or consideration;

c/ To set up assisting divisions including the exam question division, the invigilation division, the examination paper heading division, the examination paper marking division and the review division;

d/ To collect examination or consideration fees and use them according to regulations;

- e/ To mark examination papers or organize consideration and review according to rules;
- f/ To summarize and report to the head of the agency or unit assigned or decentralized to organize professional title rank promotion examination or consideration for result recognition;
- g/ To settle complaints and denunciations arising in the course of examination or consideration under law.

5. Agencies or units assigned or decentralized to organize professional title rank promotion examination or consideration shall notify in writing examination or consideration results to competent agencies or units for issuance of decisions to appoint to professional titles and arrange salaries as decentralized for public employees who pass examination or consideration.

Section 3: TRAINING AND RETRAINING

Article 32. Objectives and principles of training and retraining public employees

1. Objectives of training and retraining

- a/ To update knowledge and retrain and improve skills and methods of performing assigned tasks;
- b/ To train to contribute to building a contingent of public employees with professional ethics, adequate professional qualifications and capabilities to ensure quality of their professional activities.

2. Principles of training and retraining:

- a/ Training and retraining must be based on working positions, criteria of professional titles and human resource development requirements of public non-business units;
- b/ The autonomy of public non-business units in training and retraining activities must be assured;
- c/ Public employees are encouraged to learn and study for higher professional qualifications to meet task requirements;
- d/ Publicity, transparency and effectiveness must be assured.

Article 33. Regime of training and retraining

1. The regime of training and retraining of public employees complies with Clauses 1, 2 and 3, Article 33 of the Law on Public Employees.
2. Ministries managing professional titles of specialized public employees shall compile retraining programs and materials based on professional title criteria and promulgate them after obtaining appraisal opinions of the Ministry of Home Affairs.
3. Ministries managing professional titles of specialized public employees shall promulgate, and guide the implementation of, annual compulsory retraining programs on specialized professional knowledge and skills.
4. Training and retraining certificates:
 - a/ Retraining certificates based on professional title criteria constitute a condition and criterion for appointment to or change of public employee professional titles;
 - b/ Ministries managing professional titles of specialized public employees shall provide the management and grant of certificates of retraining programs based on criteria of specialized professional titles;
 - c/ Attendance in and completion of annual compulsory retraining programs on specialized professional knowledge and skills constitute a basis for evaluating the task performance of public employees.

Article 34. Interests and responsibilities of public employees sent to training and retraining

1. The interests of public employees sent to training or retraining comply with Clause 2, Article 35 of the Law on Public Employees.

2. The responsibilities of public employees sent to training or retraining comply with Clauses 1 and 3, Article 35 of the Law on Public Employees.

Article 35. Training and retraining funds

Public employee training and retraining funds shall be paid from financial sources of public non-business units or financial aid of domestic and foreign organizations and individuals under law.

Article 36. Training and compensation for training expenses

1. Public employees may be sent to training in the following cases:

- a/ Their public non-business unit is reorganized or rearranged;
- b/ To meet the human resource building, planning and development requirements of their agency, organization or unit.

2. Conditions for a public employee to be sent to training:

- a/ The training major is relevant to his/her working position and professional title;
- b/ The public employee is committed to performing his/her tasks and duties at the public non-business unit after completing the training program for a period at least doubling the training period.

3. A public employee sent to training under a cooperation program with a foreign country which is concluded or acceded to on behalf of the State of the Socialist Republic of Vietnam shall, in addition to satisfying the conditions specified in Clauses 1 and 2 of this Article, comply with the provisions of the Law on Conclusion, Accession to and Implementation of Treaties and meet other requirements of the cooperation program.

4. A public employee sent to domestic or overseas training shall compensate for training expenses in the following cases:

- a/ During the training period, he/she drops out without permission or unilaterally terminates his/her working contract;
- b/ He/she has completed the training course but is not granted a graduation diploma or training certificate by the training institution;
- c/ He/she has completed the training course and obtained a graduation certificate at intermediate or higher level but has not worked for a committed period stated at Point b, Clause 2 of this Article.

5. The Ministry of Home Affairs shall guide in detail the calculation of compensated expenses and the process and procedures for compensating for training expenses mentioned in this Article.

Section 4: EVALUATION OF PUBLIC EMPLOYEES

Article 37. Order and procedures for annual evaluation of public employees

1. For managerial public employees:

- a/ A public employee shall self-evaluate his/ her work performance based on his/ her assigned tasks and comment on his/her strengths and weaknesses in work;
- b/ The collective in which he/she works shall hold a meeting to contribute opinions. Contributed opinions shall be recorded in a minutes to be adopted at the meeting;
- c/ The person with competence to evaluate public employees shall make evaluation and decision on the category of the public employee and, after referring to the minutes of contributed opinions of the collective in which the managerial public employee works, notify such decision to the managerial public employee.

2. For public employees not holding managerial posts:

- a/ A public employee shall self-evaluate his/ her work performance based on his/her assigned tasks;

b/ The collective in which he/she works shall hold a meeting to contribute opinions. Contributed opinions shall be recorded in a minutes to be adopted at the meeting;

c/ The person with appointing competence shall comment on the self-evaluation of the public employee, evaluate his/her strengths and weaknesses in his/her work and decide on his/ her category.

3. Notification of evaluation and categorization results of public employees complies with Article 44 of the Law on Public Employees.

4. Cases of evaluation of public employees are specified in Clause 3, Article 41 of the Law on Public Employees. Evaluation of public employees prior to appointment, reappointment, planning, training, retraining or completion of the secondment period shall be conducted by heads of public non-business units according to the order and procedures of appointment, re-appointment, planning, training, retraining or secondment work.

5. Ministries managing professional titles of specialized public employees shall assume the prime responsibility for, and coordinate with the Ministry of Home Affairs in, issuing a regulation on evaluation and providing detailed guidance on the procedures and content of evaluation of specialized public employees.

Section 5: PROVISIONS ON JOB DISCONTINUATION AND RETIREMENT PROCEDURES

Article 38. Settlement of job discontinuation

1. A public employee may be allowed for job discontinuation in the following cases:

a/ He/she makes a voluntary written request for job discontinuation which is approved in writing by a competent agency or unit;

b/ He/she unilaterally terminates his/her working contract under Clause 4 or 5, Article 29 of the Law on Public Employees;

c/ His/her public non-business unit unilaterally terminates the working contract signed with him/her in a case specified at Point c, d or e, Clause 1, Article 29 of the Law on Public Employees.

2. A public employee is not allowed for job discontinuation in any of the following cases:

a/ He/she is being examined for disciplining or penal liability;

b/ He/she has not worked for the full period he/she committed to the public non-business unit when being sent to training or selected for recruitment;

c/ He/she has not yet fulfilled money and property responsibilities toward the public nonbusiness unit;

d/ It is due to work requirement and a substitute has not been arranged yet.

3. Procedures for settlement of job discontinuation

a/ A public employee who aspires to discontinue his/her jobs shall file a written request with the head of his/her public nonbusiness unit;

b/ Within 20 working days after receiving a written request, if allowing the public employee to discontinue his/her jobs, the head of the public non-business unit shall issue a decision to terminate his/her working contract; if disagreeing, the head of the public non-business unit shall issue a written reply clearly stating the reason under Clause 2 of this Article to the public employee concerned;

c/ In case a public non-business unit unilaterally terminates the working contract with its public employee under Point c, Clause 1 of this Article, it shall concurrently settle the job discontinuation regime for the public employee under this Decree.

Article 39. Job discontinuation allowance

1. Job discontinuation allowance applicable to working periods of public employees from December 31, 2008, back shall be calculated as follows:

a/ For every working year, a public employee is entitled to a half of his/her current salary, including the salary level based on professional title, leadership allowance, extra-seniority allowance, professional seniority allowance and salary reservation difference coefficient (if any);

b/ The minimum level of this allowance is equal to the monthly salary currently paid to the public employee;

c/ For public employees recruited before July 1, 2003, the working period used for calculating job discontinuation allowance is the total working time (accumulated) from the time the public employee receives his/her recruitment decision through December 31, 2008;

d/ For public employees recruited from July 1, 2003, on, the working period used for calculating job discontinuation allowance is the total working time under the working contract (accumulated) from the time the public employee receives his/her recruitment decision through December 31, 2008.

2. Job discontinuation allowances for working periods of public employees from January 1, 2009, to the present time comply with the law on unemployment allowance.

Funds for payment of job discontinuation allowances come from financial sources of public non-business units.

When discontinuing his/her jobs, a public employee is entitled to job discontinuation allowance under Clause 1 or 2 of this Article and has his/she period of paying social insurance premiums certified under law.

Article 40. Retirement procedures

1. The time of retirement is the first day of the month following the month when the public employee reaches the prescribed retirement age.

2. The time of retirement can be delayed in any of the following cases:

a/ Not more than one month in any of the following cases: The time of retirement coincides with the traditional new year holidays; the public employee's spouse, parent (of his/ her own or of his wife or her husband) or child dies or is declared to be missing by a court; he/ she and his/her family suffer damage caused by natural disaster, enemy sabotage or fire;

b/ Not more than 3 months in case the public employee suffers a serious disease or has an accident certified by a hospital;

c/ Not more than 6 months in case the public employee is receiving medical treatment for a disease on the Ministry of Health-issued list of diseases requiring a long treatment period, which is certified by a hospital.

3. A public employee whose time of retirement can be delayed in many cases specified in Clause 2 of this Article is only entitled to the longest delay duration in these cases.

4. The head of the agency or unit managing the public employee shall decide on the delay of the time of his/her retirement specified in Clause 2 of this Article.

5. In case a public employee does not aspire to delay his/her time of retirement under Clause 2 of this Article, the head of the agency or unit managing the public employee shall allow him/ her to retire under this Article.

6. Six months before the time of retirement specified in Clause 1, 2, 3 or 4 of this Article, the head of the agency or unit managing the public employee shall notify in writing the time of retirement to the public employee concerned and prepare a replacement person.

7. Provisions relating to retirement decision:

a/ Three months before the time of retirement specified in Clause 1, 2, 3 or 4 of this Article, the head of the agency or unit managing the public employee shall issue a retirement decision;

b/ On the basis of the retirement decision stated at Point a of this Clause, the agency or unit managing the public employee shall coordinate with the social insurance organization in carrying out

procedures according to regulations for the public employee to enjoy social insurance benefits when he/she retires;

c/. Inspecting and examining the implementation of the law on public employees.

d/. Settling complaints and denunciations related to public employees.

Article 45. Tasks and powers of the Ministry of Home Affairs

The Ministry of Home Affairs shall take responsibility before law for performing the state management of public employees, and have the following tasks and powers:

1. To formulate, amend and supplement the law on public employees for submission by the Government to the National Assembly and National Assembly Standing Committee.

2. To elaborate and submit to the Government and Prime Minister for stipulation strategies, master plans, plans and programs on development of the contingent of public employees; to assign and decentralize the management of public employees; to identify working positions and structures of public employees according to professional titles; to formulate strategies and plans on training and retraining of public employees; salary regimes, policies to talented public employees; and regulations on appointment, re-appointment, secondment, resignation, relief from duty, commendation, disciplining, termination of working contracts, job discontinuation and retirement of public employees.

3. To assign codes to professional titles of public employees; appraise the elaboration and examine the implementation of criteria of public employees' professional titles; to issue regulations on organization of examination and selection for public employee recruitment; to coordinate with ministries managing professional titles of specialized public employees in issuing regulations on professional title rank promotion examination and consideration for public employees; to appraise framework programs on retraining based on public employees' professional titles; to provide the implementation or application of civil servant titles to public employees working in administrative, general, office administration, planning and finance sections of public nonbusiness units.

4. To assume the prime responsibility for, and coordinate with ministries managing professional titles of specialized public employees in, providing the compilation and management of records, identification numbers, cards and card wearing of public employees.

5. To assume the prime responsibility for, and coordinate with ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees in, making statistics on the quantity and quality of public employees.

6. To coordinate with ministries managing professional titles of specialized public employees in organizing examination or consideration and recognizing examination results or consideration for promotion of public employee professional titles from rank II to rank I; to supervise and examine the examination or consideration for promotion of public employee professional titles; to appoint public employees to professional titles of rank I.

7. To guide and organize the implementation of the regime of reporting on management of public employees.

8. To inspect, examine and supervise the implementation of the law on public employees.

Article 46. Tasks and powers of ministries, ministerial-level agencies, government-attached agencies and organizations established by the Government or the Prime Minister other than public non-business units

1. To manage numbers, criteria, recruitment and employment of public employees within their management as assigned or decentralized; to decide on or decentralize the competence to decide on salary raises on a regular basis and ahead of schedule and extra-seniority allowances for public employees; to appoint, relieve from duty and arrange salary levels for public employees holding professional titles of rank II or lower.

2. To manage working positions as assigned or decentralized and as prescribed by law.

3. To assume the prime responsibility for, and coordinate with the Ministry of Home Affairs and ministries managing professional titles of specialized public employees in, organizing examination or consideration for promotion of professional titles from rank III to rank II.
4. To assume the prime responsibility for or authorize the organization of examination or consideration for promotion of professional titles from rank IV to rank III for public employees under their management.
5. To make statistics and report on statistics on public employees according to regulations.
6. To settle complaints and denunciations as decentralized and as prescribed by law.
7. Ministries and ministerial-level agencies shall guide, inspect, examine and supervise the implementation of the law on public employees under their management.
8. Government-attached agencies and organizations established by the Government or the Prime Minister other than public non business units shall examine the implementation of the law on public employees under their management.

Article 47. Tasks and powers of ministries managing professional titles of specialized public employees

Ministries managing professional titles of specialized public employees have, in addition to the tasks and powers specified in Clauses 1, 2,3,5,6,7 and 8, Article 46 of this Decree, the following tasks and powers:

1. To specify contents, programs, forms and duration of retraining based on criteria of professional titles of specialized public employees.
2. To assume the prime responsibility for, and coordinate with the Ministry of Home Affairs and related agencies in, formulating regimes and policies for public employees working in special sectors or fields, and submit them to the Government or the Prime Minister.
3. To assume the prime responsibility for, and coordinate with related agencies in, elaborating and promulgating criteria of professional titles of public employees in the sectors or fields under their management after obtaining appraisal opinions of the Ministry of Home Affairs.
4. To assume the prime responsibility for, and coordinate with the Ministry of Home Affairs in, organizing examination or consideration for promotion of public employees' professional titles from rank III to rank II.
5. Ministries managing professional titles of specialized public employees include:
 - a/ The Ministry of Home Affairs managing professional titles of public employees in the archival sector;
 - b/ The Ministry of Justice managing professional titles of public employees in the justice sector;
 - c/ The Ministry of Agriculture and Rural Development managing professional titles of public employees in the agriculture, forestry, irrigation and fisheries sectors;
 - d/ The Ministry of Construction managing professional titles of public employees in the construction appraisal and architecture sectors;
 - e/ The Ministry of Science and Technology managing professional titles of public employees in the science and technology sector;
 - f/ The Ministry of Natural Resources and Environment managing professional titles of public employees in the natural resources, environment, meteorology, hydrology, metrology, mapping, sea and island sectors;
 - g/ The Ministry of Education and Training managing professional titles of public employees in the education and training sector;

h/ The Ministry of Health managing professional titles of public employees in the medicine and pharmacy sector;

i/ The Ministry of Labor, War Invalids and Social Affairs managing professional titles of public employees in the vocational training, labor and social affairs sector;

j/ The Ministry of Culture, Sports and Tourism managing professional titles of public employees in the culture, arts, physical training, sports and tourism sector;

k/ The Ministry of Information and Communications managing professional titles of public employees in the information and communications sector.

Article 48. Tasks and powers of provincial-level People's Committees

1. To perform the state management of the recruitment and employment of public employees under their management as assigned and decentralized; to raise salary levels regularly and ahead of schedule and extra-seniority allowances for public employees; to appoint, relieve from duty and arrange salaries for public employees of professional levels from rank II and below.

2. To decentralize the recruitment, employment, training and retraining of public employees in public non-business units under their management.

3. To manage working positions and numbers of public employees as decentralized and as prescribed by law.

4. To assume the prime responsibility for, and coordinate with the Ministry of Home Affairs in, organizing examination or consideration for promotion of professional titles from rank III to rank II. To assume the prime responsibility for organizing or decentralizing the organization of examination or consideration for promotion of professional titles from rank IV to rank III.

5. To commend and discipline public employees according to their competence or propose competent authorities to commend and discipline them according to regulations.

6. To make statistics and report on statistics on public employees according to regulations.

7. To inspect, examine and supervise the implementation of the law on public employees under their management.

8. To settle complaints and denunciations as decentralized and as prescribed by law.

Article 49. Tasks and powers of public nonbusiness units

1. For non-autonomous public non-business units

a/ To implement the State's regimes and policies toward public employees as decentralized;

b/ To recruit, sign and terminate working contracts with and second public employees as decentralized;

c/ To arrange and assign tasks to public employees and examine their task performance, appoint, re-appoint, relieve from duty, evaluate, train and retrain public employees as decentralized;

d/ To commend and discipline public employees according to their competence or propose competent authorities to commend and discipline them according to regulations.

e/ To compile and archive personal records of public employees under their management according to regulations;

f/ To settle the job discontinuation and retirement of public employees as decentralized;

g/ To sign piecework contracts with retired public employees;

h/ To make statistics on and report to superior agencies and organizations on quantity and quality of public employees under their management according to regulations;

i/ To settle complaints and denunciations in accordance with law.

2. For autonomous public non-business units, in addition to the tasks and powers defined in Clause 1 of this Article, they are also assigned with the following tasks and powers:

a/ To organize professional title rank promotion examination or consideration as decentralized or authorized;

b/ To decide to send public employees to attend workshops and conferences and study and learn experiences overseas as decentralized.

Chapter V

IMPLEMENTATION PROVISIONS

Article 50. Application of the Decree to other employees

The management of employees of non-business units of socio-professional organizations, social organizations, socio-professional organizations, non-business units of public non-business units, non-business units of state-owned single-member limited liability companies can apply the provisions of this Decree.

Article 51. Effect

1. This Decree takes effect on June 1, 2012.

2. To annul the Government's Decree No.116/2003/ND-CP of October 10, 2003, on recruitment, employment and management of cadres and civil servants in state-owned nonbusiness units, and Decree No. 121/2006/ND-CP of October 23, 2006, amending and supplementing a number of articles of Decree No. 116/2003/ND-CP.

This Decree replaces the following provisions:

a/ Provisions on job discontinuation and compensation for training expenses applicable to public employees in the Government's Decree No. 54/2005/ND-CP of April 19, 2005, on the regime of job discontinuation and the regime of compensation for training expenses applicable to cadres and civil servants;

b/ Provisions on retirement procedures applicable to public employees in the Government's Decree No. 143/2007/ND-CP of September 10, 2007, stipulating retirement procedures for cadres and civil servants eligible for retirement.

Article 52. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and related agencies, organizations and persons shall implement this Decree.-

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung