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LAC DUY & ASSOCIATES

# NEWSLETTER



## GUIDELINES ON LABOUR DISPUTES SETTLEMENT FOR EMPLOYEES

**PUBLISHED BY LAC DUY & ASSOCIATES**

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Dear Clients,

**Lac Duy & Associates would like to send you the legal newsletter of April 2024 with some notable updates and articles as follows:**

- Guidelines on labour disputes settlement for Employees
- Legal documents in 04/2024



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## GUIDELINES ON LABOUR DISPUTES SETTLEMENT FOR EMPLOYEES

### CASES OF EMPLOYEE CONTRACT TERMINATION

“Due to a major epidemic”, the employer has to lay off employees after all possibilities have been exhausted

Point c, Clause 1, Article 36 of the LC 2019

Enterprises change in the organizational structure, enterprise rearrangement to reduce labour (also known as "restructuring")

Clause 1, Article 42 of the LC 2019

Employers terminate labour contracts with employees for economic reasons

Clause 2, Article 42 of the LC 2019

### NOTE: ALLOWANCES FOR EMPLOYEES WHEN THE CONTRACT IS TERMINATED

**Severance allowance:** Applied to employees who have worked on a regular basis for a period of at least 12 months and have their labour contracts terminated in case the agreement terminates the labor contract or the employer unilaterally terminates the labour contract

**Redundancy allowance:** Applied to employees who have worked on a regular basis for the employer for at least 12 months and have their labour contracts terminated according to Article 42; 43 of the Labor Code 2019

**Unemployment allowance:** This allowance is paid by the Unemployment Insurance Fund (UI) to employees when their labour contract is terminated; have paid unemployment insurance for full 12 months or more within 24 months before unemployment



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## STEPS TO DO WHEN EMPLOYEES THOUGHT THAT EMPLOYER ILLEGAL TERMINATE LABOUR CONTRACT

### **Step 1: Complaints**

The employee directly submits a complaint or asks for the intervention of the Trade Union at the enterprise to request the correct performance of the signed contract (Article 131 of the Labor Code 2019)

### **Step 2: Labour Mediation** (\* )

If the participation of the Trade Union is not effective, the employee shall file a request for conciliation to the labour mediator of the district-level Department of Labor - War Invalids and Social Affairs where the enterprise is headquartered. This is a mandatory procedure (except for some cases in Clause 1, Article 188 of the Labor Code 2019)

**Step 3: In cases of conciliation failure, the employee has the right to choose one of the following methods to resolve the dispute (Clause 7, Article 188 of the Labor Code 2019)**

### **\*LABOUR DISPUTES FOR WHICH MEDIATION IS NOT MANDATORY:**

1. Dismissal for disciplinary reasons; unilateral termination of employment contracts;
2. Damages and allowances upon termination of employment contracts;
3. Between a domestic worker and his/her employer;
4. Social insurance; health insurance; unemployment insurance; occupational accidents and disease insurance;
5. Damages between an employee and organization that dispatches the employee to work overseas under a contract;
6. Between the outsourced worker and the client enterprise.

Request the Labour Arbitration Council to settle the dispute.

Request the Court to settle the dispute.



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**(\*) MEDIATION PROCEDURES**

## Step 1: Send a request

When an employee and an employer have a dispute, the employee should send a request for conciliation to the mediator to conduct mediation procedures

## Step 2: Conduct mediation

The Labor Arbitration Council shall complete the mediation process within 05 working days from the receipt of the request (Clause 2, Article 188 of the Labor Code 2019)

Both disputing parties must be present at the mediation meeting. The disputing parties may authorize another person to attend the mediation meeting (Clause 3, Article 188 of the Labor Code 2019)

The labor mediator shall instruct and assist the parties to negotiate with each other (Clause 4, Article 188 of the Labor Code 2019)

## Step 3: Make a record mediation

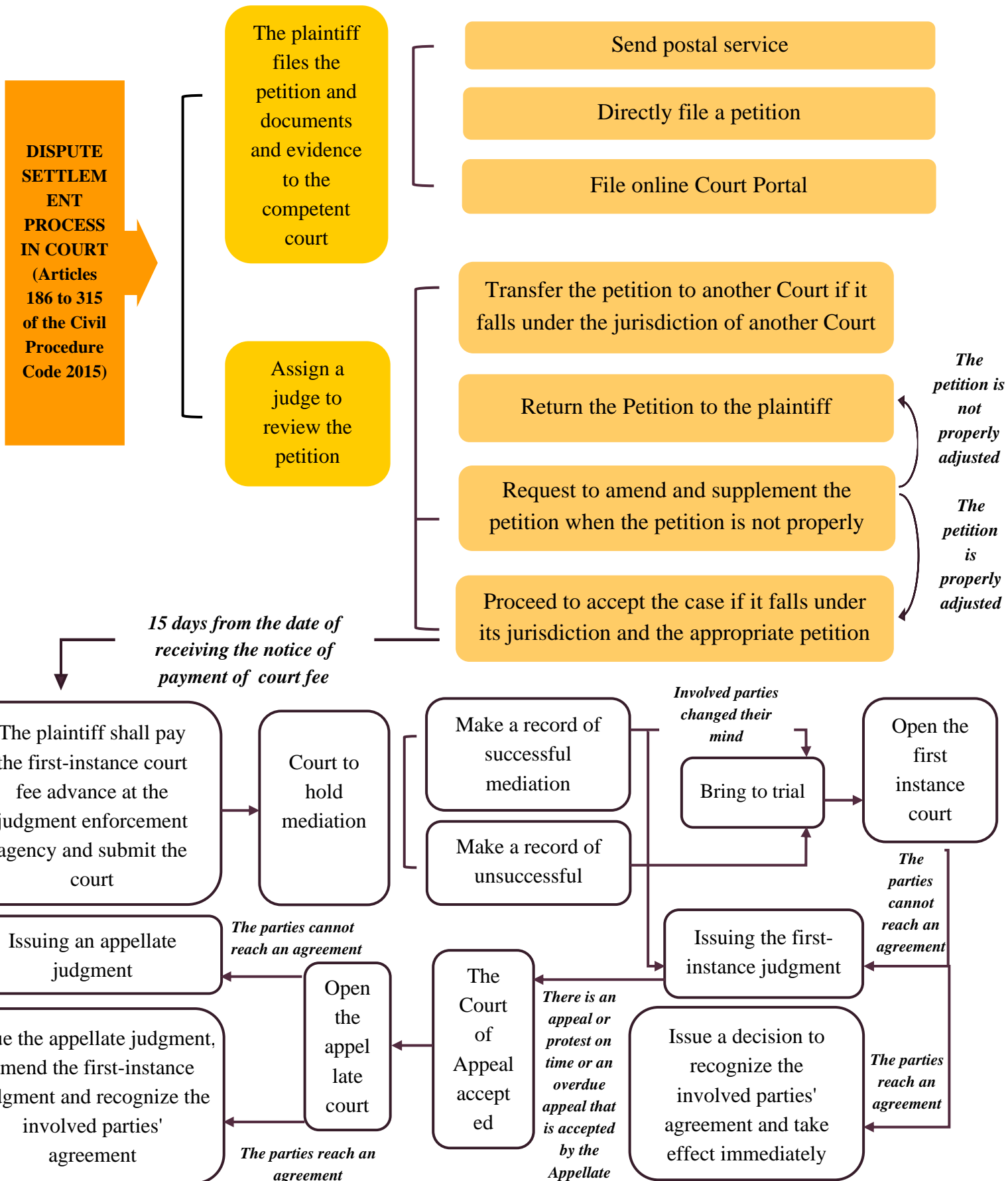
The mediator makes a record of successful or unsuccessful mediation, depending on each specific case

## Step 4: Send the record mediation

Copies of the record of successful mediation or unsuccessful mediation shall be sent to the disputing parties within 01 working day from the date on which it is made (Clause 5, Article 188 of the Labor Code 2019)



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## LEGAL DOCUMENTS 04/2024

NO.	EFFECTIVE DATE	NAME
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### SCIENCE AND TECHNOLOGY

1.	10/04/2024	Decree No. 18/2024/ND-CP dated February 21, 2024 of the Government on Ho Chi Minh Prize, State Prize and other awards in science and technology.
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### TRANSPORTATION

1.	01/04/2024	Circular No. 56/2023/TT-BGTVT dated December 31, 2023 of the Ministry of Transport amending and supplementing a number of articles of Circular No. 23/2017/TT-BGTVT dated July 28, 2017 of the Minister of Transport regulating the functions of names and duties according to the crew members' titles and registration of crew members working on Vietnamese ships.
2.	10/04/2024	Decree No. 20/2024/ND-CP dated February 23, 2024 of the Government amending and supplementing a number of articles of Decree No. 05/2021/ND-CP dated January 25, 2021 of the Government on management and operation of airports and airports aircraft and Decree No. 64/2022/ND-CP dated September 15, 2022 of the Government amending and supplementing a number of articles of Decrees related to business activities in the field of civil aviation.
3.	10/04/2024	Decision No. 229/QD-BGTVT dated March 8, 2024 of the Ministry of Transport on announcing amended and supplemented administrative procedures in the field of aviation within the scope of management functions of the Ministry of Transport.



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4.	15/04/2024	Circular No. 03/2024/TT-BGTVT dated February 21, 2024 of the Ministry of Transport amending and supplementing a number of articles of Circular No. 27/2011/TT-BGTVT dated April 14, 2011 of the Minister of Transport regulating the year 2002 Application on amendments and supplements to the 1974 International Convention for the Safety of Life at Sea issued together with the International Code on Ship and Seaport Security.
5.	15/04/2024	Circular No. 51/2023/TT-BGTVT dated December 31, 2023 of the Ministry of Transport regulating the list of fields and the period when people with positions and powers are not allowed to establish, hold titles, management positions, or operate private company, limited liability company, joint stock company, partnership company, cooperative in the field that he or she was previously responsible for managing after resigning from his position in the field under the Ministry of Transport's management scope.
6.	15/04/2024	Decision No. 233/QD-BGTVT dated March 12, 2024 of the Ministry of Transport on announcing amended, supplemented and abolished administrative procedures in the field of registration within the scope of management functions of the Ministry of Transport.

## MEDICAL

1.	15/04/2024	Decree No. 25/2024/ND-CP dated February 27, 2024 of the Government regulating consideration for awarding the titles "People's Doctor" and "Physician of Merit".
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## LABOUR

1.	10/04/2024	Decree No. 21/2024/ND-CP dated February 23, 2024 of the Government amending and supplementing a number of articles of Decree No. 51/2016/ND-CP dated June 13, 2016 of the Government regulating the management on labor, salaries and commissions for employees working in single-member limited liability companies
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with 100% charter capital held by the State and Decree No. 52/2016/ND-CP dated June 13, 2016 of the Government regulating salaries, remunerations, and commissions for managers of single-member limited liability companies with 100% charter capital held by the State.

## TOURISM

- |    |            |   |
|----|------------|---|
| 1. | 10/04/2024 | Decree No. 19/2024/ND-CP dated February 23, 2024 of the Government amending and supplementing a number of articles of Decree No. 48/2019/ND-CP dated June 5, 2019 of the Government regulating the management of operations of service vehicles used for water entertainment. |
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## FINANCE

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|----|------------|---|
| 1. | 01/04/2024 | Circular No. 03/2024/TT-BTC dated January 18, 2024 of the Ministry of Finance regulating the System of statistical indicators for the Finance sector.   |
| 2. | 01/04/2024 | Circular No. 05/2024/TT-BTC dated January 18, 2024 of the Ministry of Finance amending and supplementing a number of articles of Circular No. 84/2018/TT-BTC dated September 13, 2018 of the Ministry of Finance regulating reporting and disclosing information forms about public debt. |