

Unofficial translation



**LAO PEOPLE'S DEMOCRATIC REPLUBIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY**

Ministry of Labour and Social Welfare

**No: 043 /MLSW
Vientiane, Dated 12.01.2010**

Decision on

Establishment and Supervision of Employment Service Enterprises

- Pursuant to the Law on Labour of the Lao PDR, No 06/NA, dated 27 December 2006
- Pursuant to the Law on Enterprise of the Lao PDR, No 55/NA, Dated 9 November 2005
- Pursuant to the Prime Minister's Decree on Exportation of Lao Labour to Work Overseas, No 68/PM, dated 28 May 2002
- Pursuant to Prime Minister's Decree on Organization and Operation of Ministry of Labour and Social Welfare, No 138/PM, dated 04 May 2007

Minister of Labour and Social Welfare hereby issued a Decision:

**Section I
General Provisions**

Article 1: Objective

This Decision defines principles, regulations, measures on the establishment, and operation and supervision related to employment service enterprises in order to ensure employment, income and reducing of the poverty of Lao labour.

Article 2: Definitions

1. **Employment service enterprise** refers to an employment service unit that individuals or legal entities have been approved to provide job opportunities according to laws by the employment supervision authority.
2. **Labour market** refers to domestic and foreign labour units and other projects that need labour.
3. **Labour demand** refers to information on employment based on positions, which define working condition, salary or wage, benefit and other policies.

4. **Labour supply** refers to number of labour that is ready to work or enter labour market according to list or registered information and categorized by skilled and unskilled labour in order to supply labour based on suitable positions.
5. **Employment procedure** refers to recruitment, documentation, notifying candidate list, training, entry to work, supervisory monitoring and returning labour after contract end.
6. Employment supervision authority refers to The Department of Labour Skill Development and Employment, Ministry of Labour and Social Welfare.

Article 3: Policy and Benefit

Government encourages, promotes domestic individuals, legal entities or foreign joint venture with domestic investors in establishing employment service enterprises or joining employment service business operation in accordance with principles, regulations, measures, including providing information to facilitate employment service enterprises so that they can contribute to the national socio-economy development.

Article 4: Principles of Employment Service for Lao National

The principles of employment service for Lao national are as following:

- To ensure the benefits of government, employees, employers and employment service providers;
- Employment service shall have demand and supply information to balance between supply and demand in each region in order to avoid labour shortage or unemployment;
- Employment service shall be compliant with Laws and regulations, ensure labour safety to avoid misleading, deception or fall under human trafficking;
- Anti-discrimination by skin color, ethnic group, nationality and religion;
- Female and male shall have equal opportunity, in case of working in the same position shall receive the same wage or salary;
- Employment service for both domestic and overseas must be equal in front of the law on employment service business operation, as well as on competition, cooperation to supply labour to business units and projects;
- Every employee that is sent to work in domestic and overseas business units shall be protected about their rights and benefits according to contracts in compliant with laws and regulations;
- Employees and employers have the rights and obligations to implement the contract signed by both parties;
- Employment service shall have basic elements that follow standards and comply with laws and regulations related to labour.

Article 5. Employment Service Enterprise Standard

Employment service enterprises shall have following standard:

1. To have an office consisting of several rooms:
 - Waiting room for an interview,
 - Reception room for contacting employee,

- Information and advisory room,
 - Administrative and finance room,
 - Directors' and other working rooms,
 - Systematic document and information storage room.
2. To have staff with knowledge and capacity on administration and employment service as well as know how to utilize suitable methods, options, models and the right procedures of employment service.
 3. To have mechanism for employment service such as:
 - Business operating license;
 - Operation functions and employment service enterprise rules;
 - Capital for business operation;
 - Manual for employment service, forms and draft contracts;
 - Manual for advertisement on employment service;
 - Vehicles tools and equipment for other tasks.
 4. To have basic skill training center to supply labour that will enter domestic and foreign labour market.
 5. In case of bringing labour from provinces, remote area to work in domestic or oversea, there shall be an employment service branch in that provinces or remote area in accordance with employment service rules.

Article 6. Employment Service Information

Employment service information includes:

- Information related to legislation of our own country and other countries to ensure employment service;
- Location of companies/enterprises and other information that are necessary for coordinating with employment supervision authority and other relevant government authorities;
- The labour demand from domestic and international markets that collected from business units, investment projects and other businesses;
- The supply of labour that collected from the registration of labour and categorized by skilled and unskilled labour;
- Information for giving advice, consultation and dissemination on safety at workplace, job security for employee such as: manuals, leaflets, posters, magazines and others;
- Information for reporting and planning for employment service in order to develop labour database to be connected to employment service network from other partner countries.

Article 7. Types of Employment Service

There are two types of employment service in Lao PDR as following:

1. To find job opportunities for job seekers to be employed domestically or internationally according to demand and supply;
2. To create job opportunities on sites by working from home or freelance.

Article 8. Options of Employment Service

There are 4 options of employment service as following:

- Option 1: Find job opportunities within the country;
- Option 2: Find job opportunities overseas;
- Option 3: Bring job opportunities to people's or labour's home
- Option 4: Promote freelance jobs to labour or change from low income jobs to producing goods.

Article 9. Forms of Employment Service

There are 5 forms of employment service:

1. Government exports Lao labour to work or to train overseas according to direct contract with the government of partner countries;
2. Employment service enterprises which are entitled to provide employment service within country or to provide both employment service in Laos and to export the workers to other countries;
3. Company branches or a company members located in Lao PDR that are allowed to export workers to headquarters in other countries;
4. Individuals who apply for jobs themselves or their relatives operate business within Lao or in other countries that are allowed by employment supervision authority.
5. The government promotes freelance jobs or working with business units to bring jobs to workers to work from home.

Article 10. Balancing Employment Service

Balancing the employment service should be implemented as following:

- Workers in the area that business units are located will be prioritized.
- In case where there are inadequate workers in area, the Office of Labour and Social Welfare of that district shall report to the Division of Labour and Social Welfare of that province to mobilize workers from other districts to work in that district and after the end of the contracts the workers shall be return to their hometown.
- In case where there are inadequate workers in province that business units located, the employment service enterprises can be used to mobilize workers from other provinces in collaboration with the Division of Labour and Social Welfare of relevant provinces and once the contracts end workers shall be return to their hometown.

Section II

The Employment Service Enterprise Establishment Approval

Article 11. The Establishment of Employment Service Enterprises

Individuals or legal entities with Lao nationality, including foreign investors that join venture with Lao investors are entitled to establish employment service enterprises in accordance with relevant laws of the Lao PDR and this Decision.

Article 12. Application for the Establishment

The establishment of employment service enterprises shall go through a single window, the Department of Skill Development and Employment, which approves the application under the agreement of the Minister of Labour and Social Welfare.

Individuals and legal entities wish to establish employment service enterprises shall submit an application to employment supervision authority via Division of Labour and Social Welfare of provinces or Vientiane Capital.

Article 13. Types of Employment Service Enterprises

The types of employment service enterprises are as following:

- Private enterprises can choose to establish and operate under the types and forms of enterprises that are specified in Article 13, 14 of the Law on Enterprise of the Lao PDR;
- State enterprises, mixed enterprises and cooperative enterprises can establish and operate their businesses in the form of a company only. State enterprises are called “State company” and mixed enterprises are called “Mixed companies”

Article 14. Criteria for the Establishment

Individuals or legal entities wish to establish an employment service enterprise shall meet following criteria:

- Be Lao national or foreigners join venture Lao national;
- Be at age from 25 years old;
- Complete at least high school;
- Have good health;
- Have a good background;
- Have collateral for sending workers to work overseas and registered capital for the establishment;
- Must submit application in person;
- Must not be in the period of business bankruptcy;
- Have experience in any business operation and technical knowledge about labour.

Article 15. Application Documents

Relevant documents for applying to establish employment service enterprises are as following:

- Application form for the establishment of employment service enterprises stating clearly whether applying for domestic employment or domestic recruitment for exporting labour to work overseas;
- Business-technical plan about employment service;
- Curriculum Vitae of the director;
- Must complete at least high school or have a technical skills;
- Have organization structure or board of directors;

- Employment service enterprise location, telephone number, fax;
- Business operation rules;
- Rules for management and labour usage (to manage workers);
- Certificate of residence;
- Criminal record letter No.3;
- Photocopy of personal Identification and Family Book;
- 4 Photographs size 4x6;
- Other relevant documents.

Article 16. Registered Capital and Collateral

Employment service enterprises shall have registered capital and deposit as following:

- Registered capital and operating capital for domestic employment service is 200,000,000 Kip (Two hundred million Kip) and deposit is equivalent to 2000 US Dollar;
- Both domestic and overseas employment service shall have registered capital and operating capital at least 2,000,000,000 kip (Two billion Kip) and deposit is equivalent to 20,000 US Dollar;
- Such deposit is to be transferred to the account of Ministry of Labour and Social Welfare for emergency spending, resolving conflicts from implementing employment service contracts such as: compensation for losses of service users with written certification from related organizations. In case there is no conflict or problem, the deposit will be returned to the employment service enterprise owners at the time of employment service enterprise business operation is officially terminated;
- The deposit shall be paid before receiving the license.

Article. 17 Consideration and Approval Duration

Consideration and approval of the license for the establishment of employment service enterprises for domestic employment is no later than 30 working days, from the day of receiving application (exclude the time of application passing through Division of Labour and Social Welfare of provinces or Vientiane Capital);

Consideration and approval for the establishment of employment service enterprises for domestic employment and exporting labour overseas is no later than 60 working days, from the date of receiving application.

Article. 18 License Period for Employment Service Enterprises

License on the establishment of employment service enterprises has 2 years validity and the license can be extended, but the employment supervisory authority shall be informed 30 days in advanced, otherwise it will be terminated.

Article. 19 The Employment Service Enterprise License Renewal

Employment service enterprises that wish to renew their license need to meet following conditions:

- Follow laws and regulations;
- Operate employment service and manage workers effectively;
- Never cause losses or damages to socio-economy;
- Fulfill all obligations to the government;
- Report regularly on employment service information to the employment supervision authority.

Section III

Scope of Employment Service Enterprise Operation

Article. 20 The Scope of Rights for Employment Service Enterprises

Employment service enterprises have following rights:

- Operate employment service business for Lao labour to work within country or to export Lao labour to work overseas according to the approval under the direction and supervision of governmental employment supervision authority;
- Collect information on labour demand and supply to plan for labour training according to the demand in domestic and foreign labour markets;
- Recruit workers based on types, options and forms according to ability and potential of their enterprises based on the approval of governmental employment supervision authority;
- Attend meetings, provide comments and share experience with other employment service enterprises or government organizations as invited;
- Collect fees for documents and employment service as specified in regulations;
- Participate or organize labour fair between employers and employees, provide advice and consultation to applicants and build confidence of employers by explaining systems, procedures, labour quality that employment service enterprises will supply to such employers;
- Participate and support testing, competition of skills within country and abroad.

Article 21. The Duties of Employment Service Enterprises.

Employment service enterprises have following duties:

- To inform about their location, hang enterprise sign and submit the list of their employees including employees in their branches to employment supervision authority for the convenience of contact and coordination;
- To issue an employee ID to every employee for the convenience in labour recruitment and coordination with local authorities and the employee ID shall be returned after not working as an employee of an employment service enterprise;
- To research, coordinate and seek information on market demand in country and abroad, create contracts with business units to supply labour according to the demand of labour market in country and abroad;

- To be a lead to create labour supply contracts, obligated contracts and contracts between their enterprises and other parties, between their enterprises and labour and between employers and each worker;
- To monitor, manage in order to protect rights and benefits of workers who use their employment services for having safety and be responsible for returning workers to their hometown after completion of contracts; in case of labour conflicts or any problems happen to workers, there shall be prompt resolution and report to the employment supervision authority;
- To disseminate, provide advice and consultation to applicants in order for them to understand employment service system and safety at work, to have income and reduce poverty;
- To pay for training, food, accommodation, documents, travel expenses for the preparation to send labour to work;
- To organize training and improve skills for workers who did register with their enterprises in order to prepare for supplying to labour market in country and abroad;
- To summarize and report their activities and monthly, quarterly and yearly business operating plan to employment supervision authority and relevant organizations regularly;
- To fulfill all obligations related to business operation as specified by laws and regulations in timely manner;
- In case of establishing a new branch, relocating office, closing business or changing board of directors, the employment supervision authority and relevant organizations shall be informed.
- To operate according to functions and other duties as assigned by the government.

Article 22. Obligation of employment service enterprise

Employment service enterprises are obligated to operate its business according to its objectives, implement their obligations to the government, protect rights and benefits of labour, protect environment and respect relevant laws and regulations of Lao PDR.

Article 23. Allowing others to use the enterprise name or license

Allowing others to use the enterprise name and license to operate business shall be done in writing and follow the Law on Contract of Lao PDR.

In case the owner does not transfer the rights to use enterprise name or license in written, but there is evidence that the owner knows and does not take any actions or disagree or support the transfer, it will be deemed that such transfer of rights is legitimate.

Article 24. Enterprise Branches

- Enterprise registration officers where a branch of an employment service enterprise located shall be informed to proceed according procedures of laws and regulations.
- The establishment of an enterprise branch in other country shall follow laws and regulations of such country.

Article 25. Enterprise Group

If it is necessary to strengthen employment services and enabling more employment opportunities for Lao people, employment service enterprises can be established as a group, but shall follow the Law on Enterprise of Lao PDR.

Article 26. Business Termination.

Employment service enterprises can be terminated as following cases:

- To receive an order from the government or the authority that approves the operation of employment service enterprises;
- To have business bankruptcy;
- To have continuous loss in business operation and without possibility to turn into profit, but employment service enterprises shall be responsible for all obliged payment according to relevant laws;
- In all cases of business termination, employment service enterprises shall solve problems on debts, worker issues and other problems.

Article 27. Rights and Duties of Service Users

Service users of employment service enterprises have following rights and duties:

- To follow conditions, regulations and other laws related to employment service in country and other countries;
- To receive salary or wages and protection of rights, benefits as stated in the contract and relevant laws;
- To be responsible for their own expenses when using services from employment service enterprises;
- To participate in training, consultation and dissemination from employment service enterprises;
- To create a contract and fulfill all obligations in the contract that has been signed within provided timeframe;
- To strictly follow labour regulations and customs of the place where they are working;
- To fulfill other obligations according to laws and regulations.
-

Section IV

The Employment Service Enterprise Supervision

Article 28. Supervision by the Government

Employment service enterprises including state and private enterprises located in central and provincial are under the direction and supervision of the employment supervision authority of the government, Ministry of Labour and Social Welfare.

Article 29. Rights and Duties of Employment Supervision Authority on Employment Service

- To consider application form for the establishment of employment service enterprises that provide service within country and abroad in order to request for approval from Minister of Labour and Social Welfare;
- To supervise and monitor activities of employment service enterprises as stated by laws and regulations;
- To provide advice, direction, training plan for improving skills of employees of employment service enterprises;
- To improve the system and employment service mechanism to meet with labour market demand and National Socio - Economic Plan in each period;
- To consider approval for extension or termination of employment service enterprises which cannot meet standards or conditions;
- To consider a list and approval for sending Lao labour to work overseas;
- To perform other rights and duties according to their functions and responsibilities and other laws and regulations.

Article 30. Rights and Duties of Division of Labour and Social Welfare of Provinces-Vientiane Capital on Employment Services

Division of Labour and Social Welfare of Provinces-Vientiane Capital has following rights and duties:

- To consider application form for the establishment of employment service enterprises that provide service within country and abroad in order to request for approval from higher level;
- To follow up and monitor activities of employment service enterprises in order to report to higher level in each period;
- To coordinate with employment service enterprises for recruiting labour working in their area or working overseas in order to balance labour to avoid labour shortage and unemployment in their provinces or Capital City;
- To provide advice and information dissemination to workers about working safety, have income and reduce poverty;
- To research and propose methodology to improve employment service mechanism to meet with local labour market;
- To consider and request for approval for extension or termination of employment service enterprises in their area;
- To perform other rights and duties according to their function and as assigned by higher level.

Article 31. Rights and Duties of Labour and Social Welfare Office in Districts and Municipalities on Employment Service

- To disseminate, monitor, inspect the implementation of regulations on employment service in their responsible area;

- To coordinate with other offices, organizations, employment service enterprises for recruiting labour working in their area or working overseas in order to balance labour to avoid labour shortage and unemployment in their districts or municipalities;
- To monitor and support the operation of employment service enterprises in their responsible area;
- To collect data regarding labour demand and supply;
- To summarize employment service work and report to the higher level in each period;
- To perform other rights and duties according to their function and as assigned by higher level.

Section V

Fees and Service Charges

Article 32. Fees

Fees and service charges for employment service are to be collected as followings:

- Application fee including employment application form and approval signature in the local level is 10,000 kip per set;
- Fee for issuance of license for the establishment of an employment service enterprise to provide service within country is 500,000 Kip per application;
- Fee for issuance of license for the establishment of an employment service enterprise to provide service in country and abroad is 1,000,000 Kip per application.
For license extension fee is 50% of the approval for establishment fee.

Article 33. Service Charges of Employment Service Enterprises

Service charges of employment service enterprises are to be collected as followings:

- Service charge for sending labour to work overseas is 5% of worker's salary each month or charge once by at the beginning or at the end of the contract upon an agreement between workers and employment service enterprises;
- Service charge for employment service for workers to work in country collected by employment service enterprises is 50% of the first month salary and to be charged one time only;
- Collection of fees and service charges for employment service shall have a receipt every time.

Section VI

Awards for Good Performance and Violator Measure

Article 34. Awards for Good Performance

Employment service enterprises with outstanding performance in implementing this Decision which certified by Board of Directors and Employment Supervision Authority will receive compliments, and policy according to regulations.

Article 35. Violator Measure

Individuals or legal entities that operate employment service business without an official approval in accordance with laws and regulations will be educated and fine 300 US Dollar per person per time and be ordered to terminate their activities, in case of damages, there will be legal actions according to laws and regulations.

- Employment service enterprises with an official approval to operate employment service business within Lao or abroad violate this Decision if fall under following cases:
 1. To employ labour from provinces without informing provinces;
 2. To advertise on employment service that is not compliant with laws and regulations, mislead workers, not create contract with workers;
 3. To collect or charge service fees, assets or other expenses over the rate provided by government;
 4. Not return labour to their hometown or Laos after contract completion or workers receive lower wages or employment position, rights and benefits that do not match up with the contract and workers want to return to their hometown;
 5. To send Lao labour to work overseas without an official approval from the employment service authority.
- Any employment service enterprises that violate this Decision as cases above will be implemented measures as followings:
 - 1st time: will receive education, to pay compensation and fine at 10% of the compensation amount;
 - 2nd time: to pay compensation and fine of 30% of the compensation amount;
 - 3rd time: to pay compensation and fine of 60% of the compensation amount;
 - 4th time: to temporary suspend of business;
 - 5th time: to terminate employment service enterprise license.

In case of damages, there will be legal actions according to laws and regulations.

Service users of employment service enterprises who violate this Decision will receive measures of education, payment for damages or result in legal proceeding.

Any employment service enterprise partners that employ labour if do not follow the contracts will pay for compensation or result in law suit judged by the court.

Section VII Final Provision

Article 36. Implementation

The Department of Labour Skill Development and Employment, Division of Labour and Social Welfare in provinces, Vientiane Capital are assigned to elaborate and direct the strict implementation of this Decision.

Article 37. Effectiveness

This Decision is effective 30 days after the date of signature. All Decisions, regulations which are effective before if contradict with this Decision they are terminated.

Minister of Labour and Social Welfare

(Signature and Seal)

Onechanh THAMMAVONG