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CODE OF THE REPUBLIC OF MOLDOVA

Labour Code of the Republic of Moldova

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TITLE I
GENERAL PROVISIONS

Chapter I
INTRODUCTION PROVISIONS

Article1. Basic concepts

In the present code the following basic concepts are defined:

Enterprise - establishment or organization with the status of a legal person, regardless of the kind of property, the legal organizational form and departmental subordination or branch;

Employer - juridical person (enterprise) or physical person, employing workers on the basis of an individual labour contract, concluded in accordance with the regulations of the present code;

Employee - physical person who performs a job, corresponding to a certain speciality, qualification or position, and receiving wages on the basis of the individual labour contract;

Employee representatives - trade-union, working as a rule, at the enterprise according to the current legislation and trade union's statute, but in case of its absence - other representatives elected by the employees of the enterprise, as established by the present code (article 21).

Article2. Regulation of labour relations and other relations directly connected to them

(1) The present code regulates the whole complex of individual and collective labour relations, the control over the application of norms in this area, labour jurisdiction, and also other relations directly connected with labour.

(2) Action of the present code is distributed on labour, the relations being adjusted by organic laws and other normative acts.

(3) In cases when the judicial instance determines, that the civil contract, that actually regulate the labour relations between the worker and the employer, to such relations the stipulations of the labour legislation are applied.

Article3. Domain of application of the present code

Provisions of the present code are applied to:

a) Employees- citizens of the Republic of Moldova, working on the basis of the individual labour contract in the Republic of Moldova, including the ones who have concluded a contract of continuous vocational training or a contract on professional qualification;

b) Employees - foreign citizens or persons without the citizenship of Moldova, working for the employer on the basis of the individual labour contract, the employer, carrying out activity in the Republic of Moldova;

c) Employees - citizens of the Republic of Moldova, working in diplomatic representatives abroad;

d) Employers - physical or juridical persons from the public sector, private or the mixed sector, using wage labour;

e) Workers of public bodies, religious associations, trade unions, patronages, foundations, parties and other non-commercial organizations, using wage labour.

Article 4. Labour legislation and other statutory acts, containing norms of the labour right
Labour relations and other relations directly related to them are regulated by the Constitution of the Republic of Moldova, the present code, other laws, other statutory acts containing norms of the labour right:

a) Parliament decisions;
b) Decrees of the President of the Republic of Moldova;
c) Government decisions and directions;
d) Labour acts, issued by the Ministry of Labour and Social Protection, and other authorities of public administration in the limits delegated by the Government;
e) Local public authority acts;
f) Statutory acts at the level of enterprise;
g) Collective labour contracts and collective agreements;
h) International contracts, agreements, conventions and other international acts, to which the Republic of Moldova is a part.

Chapter II
BASIC PRINCIPLES

Article 5. Basic principles of labour relations regulation and other relations directly connected to them
Basic principles of labour relations regulation and other relations directly connected to them, principles proceeding from the norms of the international law and the Constitution of the Republic of Moldova are:

a) Freedom of labour, including the right to free choice of work, the right to dispose of one's working abilities, the right to choose a trade and an occupation;
b) Prohibition of compulsory (obligatory) work and discrimination in the sphere of labour relations;
c) Protection against unemployment and providing assistance in employment;
d) Provision of the right of each worker to fair working conditions, including working conditions corresponding to the standards of occupational safety and health, and the right to rest, including regulation of working hours duration, granting annual paid holiday, daily rest, days off and non-working holidays;
e) Equality of rights and opportunities of employees;
f) Guarantee of the right of each employee to duly, full sized and fair payment, providing to him and his family a decent existence;
g) Provision of equality of employees, without any discrimination, at promotion on work in view of labour productivity, qualification and work experience, and also of vocational training, retraining and improvement of professional skill;
h) Provision of the right of employees and employers to associate for the protection of their rights and interests, including the rights of employees to associate in trade unions and be its membership;
i) Provision of the right of employees to participation in business management, carried out in the forms stipulated by the law;
j) Combination of the state and contractual regulation of labour relations and other relations directly connected to them;

k) Obligation of the employer to compensate the employee's material and mental prejudice, caused while executing his labour duties;

l) Establishment of state guarantees for provision of the rights of employees and employers, and also the control of their observance;

m) Provision of the right of each employee to protection of labour rights and freedom, including the rights to direct appeal to the bodies of supervision and control, bodies of labour jurisdiction;

n) Provision of the right to settlement of individual labour disputes and collective labour conflicts, and also the right to strike, established by the present code and other statutory acts;

o) Obligation of the parties of the collective and individual labour contracts to observe the contractual conditions, including the right of the employer to demand from employees the performance of labour duties and the careful attitude to the property of the employer and accordingly the right of the employee to demand from the employer performance of his duties in relation to employees, observance of the labour legislation and other acts containing norms of the labour right;

p) Provision of the right of trade unions to exercise control over the observance of the labour legislation;

r) Provision of the right of employees to protection of honour, dignity and professional reputation during labour activity;

s) Guarantee of the right to obligatory social insurance of employees.

Article 6. Unlimited rights to work and freedom of labour

(1) Freedom of labour is guaranteed by the Constitution of the Republic Moldova.

(2) Everyone is free in his choice of work place, trade, occupation or activity.

(3) Nobody in his lifetime can be obliged to work or not to work in a certain workplace or in a certain trade.

(4) Any juridical act concluded with infringement of provisions stipulated in paragraphs (1), (2) and (3), is null.

Article 7. Prohibition of compulsory (obligatory) work

(1) Compulsory (obligatory) work is forbidden.

(2) Compulsory (obligatory) work means any work or any service imposed to the person without his consent.

(3) Compulsory (obligatory) work is forbidden in any form, namely:

a) as means of political or educational influence or as means of punishment for support or expression of political views or beliefs opposite to the ones established by the political, social or economic system;

b) as means of mobilization and use of the labour force for the needs of the economic development;

c) as means of maintenance of labour discipline;

d) as means of punishment for participation to strikes;

e) as means of discrimination on the basis of race, nationality, creeds or social status.

(4) To compulsory (obligatory) work relevant is:

a) infringement of terms of wages payment or payment in the full size;

b) the requirement of the employer of performance by the worker of labour duties in the absence of some systems of collective or individual protection or in cases when the performance of required work can endanger the life or health of the employee.

(5) Are not considered as obligatory work:

a) Military service or other activities replacing it, performed by persons, who according to the law do not discharge obligatory military service;

b) Work of a condemned person during imprisonment or in cases of suspended sentence punishment, carried out in normal conditions;

c) Work in conditions of natural calamities or other danger, and also the work being considered as part of usual civil duties, established the law.

Article 8. Prohibition of discrimination in the sphere of labour

(1) Within the framework of labour relations operates the principle of equality of all employees. Any direct or indirect form of discrimination of the employee on the basis of sex, age, race, nationality, creeds, political convictions, social origin, place of residence, physical, intellectual or mental disability, memberships of trade unions or participation in trade-union's activity, and also on other criteria which have not been connected to professional qualities of the worker are forbidden.

(2) Is not considered discrimination the establishment of distinctions, exceptions, preferences or separate rights of the employees determined by the specific requirements of the given kind of work or stipulated the current legislation, or special care of the state towards persons, requiring an increased social and legal protection.

Article 9. Fundamental rights and responsibilities of the employee

(1) The employee has the right to:

a) conclusion, modification, suspension and termination of the individual labour contract in accordance with the present code;

b) work according to the conditions of the individual labour contract;

c) a workplace corresponding to conditions, stipulated in state standards of labour organization, occupational safety and health , in the collective labour contract and collective agreements;

d) duly and full receipt of wages in conformity with the qualification, complexity, quantity and quality of the performed work;

e) rest provided by the establishment of normal duration of working hours, reduced working hours for certain trades and categories of employees, by granting weekly days off, non-working holidays, annual paid holidays;

f) full and trustworthy information about the working conditions and the requirements referring to occupational safety and health;

g) apply to the employer, to patronages, trade unions, bodies of the central and local public administration, bodies of labour jurisdiction;

h) vocational training, retraining and improvement of the qualifications according to the present code and other normative acts;

i) free association in trade unions, including creation of trade-union organizations and joining them for the protection of the labour rights, freedom and legitimate interests;

j) participation in business administration, according to hereby code and the collective labour contract;

k) conducting collective negotiations and conclusion of a collective labour contract and collective agreements, through the representatives of the employees, and also to the information on their performance;

l) protection of the labour rights, freedom and legitimate interests in the ways not forbidden by the law;

m) settlement of individual labour disputes and collective labour conflicts, including the right to strike, in accordance with the present code and other statutory acts;

n) compensation for material and moral damage caused to him, while executing his labour responsibilities as established in the present code and other statutory acts;

o) obligatory social insurance, as stipulated in the current legislation.

(2) The worker is obliged:

a) honestly to perform the labour duties stipulated in the individual labour contract;

b) to carry out the established norms of work;

c) to observe the internal regulations of the enterprise;

d) to observe the labour discipline;

e) to observe the requirements on occupational safety and health;

f) manifest a careful attitude to property of the employer and other employees;

g) immediately to inform the employer or manager about any occurrence or situation that endangers the life and health of people or the safety of the employer's property.

Article 10. Rights and responsibilities of the employer

(1) The employer has the right:

a) to conclude, modify, suspend and terminate individual labour contracts with employees on the conditions established by the present code and other statutory acts;

b) to demand from workers performance of their labour responsibilities and a careful attitude to the employer's property;

c) to encourage workers to diligent and effective work;

d) to call the employees to account for their disciplinary and material responsibility in accordance with the present code and others statutory acts;

e) to issue statutory acts at the level of the enterprise;

f) to create patronages with a view of representation and protection of their interests and to join them.

(2) The employer is obliged:

a) to observe the laws and other statutory acts, the clauses of the collective labour contract and collective agreements;

b) to observe the clauses of the individual labour contracts;

c) annually to approve the staffs of the enterprise;

d) to provide the employees with the work, stipulated in the individual labour contract;

e) to provide the employees with working conditions which correspond to the requirements of occupational safety and health;

f) to provide the employees with the equipment, tools, technical documentation and other means necessary for the performance of the labour responsibilities;

g) to provide equal payment for work of equal value;

h) to pay the full size wages in due terms, established by the present code, collective labour contract and individual labour contract;

i) to carry on collective negotiations and to conclude collective labour contracts in the order established by the present code;

j) to give to representatives of workers full and authentic information, necessary for the conclusion of the collective labour contract and the control over its performance;

k) in due time to carry out the instructions of the state bodies on supervision and control, to pay the penalties imposed for infringements of the legislative and other statutory acts containing norms of the labour rights;

l) to examine the employees and their representatives' intimations concerning infringements of the legislative and other statutory acts containing norms of the labour right, to take measures on their elimination and to inform the specified persons about the accepted measures in the terms established by the law;

m) to create conditions for employees participation in business administration in the order established by the present code and other statutory acts;

n) to provide to employees social-sanitary conditions, necessary for the performance of the labour responsibilities;

o) to carry out obligatory social insurance of employees as stipulated by the current legislation;

p) to compensate the employee for material and moral damage caused to him while executing his labour responsibilities as established in the present code and other statutory acts;

r) to perform other responsibilities stipulated in the present code, other statutory acts, collective agreements, collective and individual labour contracts.

Article 11. Normative and contractual regulation of labour relations

(1) The minimum level of the labour rights and guarantees for employees is established by the present code and other statutory acts, containing norms of the labour right.

(2) Individual and collective labour contracts and collective agreements can established for employees additional labour rights and guarantees, beside the ones stipulated in the present code and other statutory acts.

Article 12. Nullity of clauses of individual and collective labour contracts and collective agreements worsening the situation of workers.

Clauses of the individual and collective labour contracts and the collective agreements, worsening the situation of workers in comparison with the labour legislation, are void and have no legal consequences.

Article 13. Priority of the international treaties, agreements, Conventions and other international acts.

If through international treaties, agreements, conventions or other international acts, to which the Republic of Moldova is a part, are established other provisions, beside the ones contained in the present code, the international norms have a priority.

Article 14. Calculation of the terms stipulated by the present code.

(1) Proceeding of terms to which the present code relates the conclusion or the cancellation of labour relations begins on the following day after date when the conclusion or cancellation of the labour rights and responsibilities is determined.

(2) The terms estimated for years, months, weeks, expire on the corresponding date of the last year, month or week of the term. In terms, calculated for weeks or calendar days, the days off are also included.

(3) If the end of the term estimated for months, expires in a month with a bigger or smaller number of days in comparison with the month when the current term began, then the expiration day is considers the last day of the month on which the term expires.

(4) If the last day of term is a day off, then the expiration day is considered the immediately following working day.

TITLE II

SOCIAL PARTNERSHIP IN THE SHERE OF LABOUR

Chapter I

GENERAL PROVISIONS

Article 15. Concept of social partnership

Social partnership - system of mutual relations between employees (representatives of employees), employers (representatives employers) and corresponding public authorities in the process of determination and realization of the social and economic rights and interests of the parties.

Article 16. Parties of social partnership

(1) The parties of social partnership at the level of enterprise are the employees and the employers, on behalf of their representatives, authorized in the established order.

(2) The parties of social partnership at national, branch and territorial levels, trade unions, patronages are and corresponding public authorities on behalf of their representatives, authorized in the established order.

(3) Public authorities are the parties of social partnership when they represent themselves as employers or their representatives, authorized by the law or employers.

Article 17. Basic principles of social partnership

The basic principles of social partnership are:

a) legality;

b) equality of the parties;

c) parity of representation of the parties;

d) powers of the representatives of the sides;

e) interest of the sides in participation in contractual relations;

f) observance by the sides of norms of the current legislation;

g) mutual trust between the sides;

h) an estimation of real opportunities for the accomplishment of the obligations taken by the sides;

i) priority of reconciliatory methods and procedures and compulsion of mutual consultations of the sides on questions of work and social policy;

j) refusal of the unilateral actions breaking the arrangements (collective labour contracts and collective agreements), and mutual informing of parties about the changes of the situation;

k) decision-making and undertaking actions within the framework of rules and procedures coordinated by the sides;

l) compulsion of the performance of collective labour contracts, collective agreements and other arrangements;

m) control over the performance of collective labour contracts and collective agreements;

n) responsibility of the sides for non-fulfilment of the obligations assumed;

o) creation by the state of favourable conditions for the development of social partnership.

Article 18.The system of social partnership

The system of social partnership includes the following levels:

a) the national level establishes the bases of social, economic and labour relations regulation in the Republic of Moldova;

b) the branch level establishes the bases of labour and social relations regulation in a certain branch (branches) of the national economy;

c) the territorial level establishes the bases of labour social relations regulation in administrative and territorial units at the second level;

d) the enterprise level establishes concrete mutual labour and social obligations of employees and employers.

Article 19. Forms of social partnership

The social partnership is carried out in the following forms:

a) collective negotiations regarding the development of collective labour contract projects, collective agreements and their conclusion on two and tripartite basis through representatives of the parties of social partnership;

b) participation in consideration of projects of statutory acts and offers, concerning social and economic reforms, in improvement of the labour legislation, provision of civil reconciliation and settlement of collective labour conflicts;

c) mutual consultations (negotiations) on questions of labour relations regulation and other relations directly connected to them;

d) participation of workers (their representatives) in business(enterprise) administration.

Chapter II

EMPLOYEES AND EMPLOYERS' REPRESENTATIVES IN THE FRAME OF SOCIAL PARTNERSHIP

Article 20. Employee's representatives in the frame of social partnership

(1) Employees representatives in the frame of social partnership are the trade union at a level of the enterprise, on territorial, branch and national levels, authorized according to statutes of trade unions and the current legislation.

(2) Interests of employees of the enterprise in the frame of social partnership, at carrying out collective negotiations, conclusion, change and modification of the collective labour contract, control over its performance, and also the right to participation in management of the enterprise - are represented by the trade-union of the enterprise and in case of its absence, the interests are represented by other representatives elected by the workers of the enterprise.

(3) Interests of workers in the frame of social partnership on territorial, branch and national levels at carrying out collective negotiations, conclusion, change and modification of collective agreements, settlement of collective labour conflicts, are represented by the corresponding trade-unions.

Article 21. Elected representatives of employees

(1) Employees who are not members of a trade union, have the right to commission the trade union to represent their interests in the labour relations with the employer.

(2) At enterprises, where trade unions are not created, the interests of employees can be protected by the representatives elected by them.

(3) Employees select the representatives at the general meeting of workers by a poll not less than half from the whole number of employees of the enterprise.

(4) The number of the elected representatives of employees is established by the general assembly (conference) of employees taking account of the number of staff of the enterprise.

(5) Powers of the elected representatives of employees, the modality of exercising the powers, and also the terms and limits of the mandate of representatives are established by the general meeting (conference) of the employees.

Article 22. Employer's responsibility to create conditions for the activity of the employees' representatives in the frame of social partnership

The employer is obliged to create conditions for the activity of employees' representatives according to the present code, the law about trade unions, other statutory acts, collective agreements and the collective labour contracts.

Article 23. Employers' representatives in the frame of social partnership

(1) Representatives of the employer at carrying out collective negotiations, conclusion, change or modification of collective labour contracts are the director or the persons authorised by him in conformity with the present code, other statutory acts and constituent documents of the enterprise.

(2) At carrying out collective negotiations, conclusion, change or modification of collective agreements, and also at the settlement of collective labour conflicts concerning their conclusion, change or modification, the interests of employers are represented by the corresponding patronages (employer’s representatives).

Article 24. Other representatives of employers in the frame of social partnership

State and municipal enterprises, and also the organizations and the establishments financed from the national public budget, can be represented by the authorities of central and local public management, authorized by the law or heads (leaders) of these enterprises, organizations and establishments.

Chapter III
BODIES OF SOCIAL PARTNERSHIP

Article25. Bodies of social partnership

(1) With a view of regulating the social and economic relations in the sphere of social partnership the following structures are created:

a) at national level - the National Commission on consultations and collective negotiations;

b) at branch level - the branch commissions on consultations and collective negotiations;

c) at territorial level - the territorial commissions on consultations and collective negotiations;

d) at the level of the enterprise - the commissions on the social dialogue "employer - employees".

(2) Creation and activity of the commissions at national, branch and territorial levels, stipulated by items a) - c) paragraph (1), are regulated by the organic law and the commissions at the level of the enterprise, stipulated by item d) paragraph (1), -are regulated by the type-statute (regulations), adopted by the National Commission on consultations and collective negotiations.

Chapter IV

COLLECTIVE NEGOTIATIONS

Article 26. Conducting collective negotiations

(1) Representatives of employees and employers have the right to initiate and to participate in collective negotiations on development, conclusion, change or modification of the collective labour contract or collective agreements.

(2) The representatives of the parties, who have received the notice in writing with the offer on the beginning of collective negotiations, are obliged to enter in negotiations within seven calendar days from the date of receipt of the notice.

Article 27. Procedure of conducting collective negotiations

(1) Participants to collective negotiations are free in the choice of questions, adjustable by collective labour contracts and collective agreements.

(2) At enterprises, where a part of the employees are not members of the trade union, these employees can commission the trade-union to represent their interests on negotiations according to paragraph (1) Article 21.

(3) At enterprises, where there are no trade unions, the employees interests are represented by the representatives elected by them in conformity with paragraph (2) Article 21.

(4) In cases when at national, branch or territorial levels there are several trade-union bodies the unique representative body is created for conducting collective negotiations, development of the project of collective agreements and its conclusion. Formation of a representative body is carried out on the basis of the principle of proportional representation of trade-union bodies depending on the number of members of the trade union.

(5) The right to conducting collective negotiations, signing collective agreements on behalf of employees at national, branch or territorial levels belongs to the corresponding trade unions (to associations of trade unions). In the case when at a certain level there are several trade unions (associations of trade unions) each of them has the right to be represented in the unique representative body for conducting collective negotiations. In the absence of the agreement on creation of a unique representative body for conducting collective negotiations, the right on conducting them is given to the trade union (association of trade unions), having the greatest number of members.

(6) The parties are obliged to give each other the information necessary for conducting collective negotiations, not later than in two weeks from the moment of inquiry.

(7) Participants at collective negotiations, other persons involved in collective negotiations, are obliged not to disclose the received information, if it is a state or commercial secret. Persons, who have disclosed such information, carry disciplinary, material, administrative, civil or criminal liability in the order, established by the current legislation.

(8) Terms, place and the procedure of carrying out collective negotiations are established by the representatives of the parties participating in negotiations.

Article 28. Settlement of disagreements

If during collective negotiations a coordinated decision is not accepted on all or on separate questions, a minute about the disagreements is made. Settlement of the disagreements, which have arisen during collective negotiations on the conclusion, change or modification of the collective labour contract or the collective agreement, is made in the order established by the present code.

Article 29. Guarantees and indemnifications to participants at collective negotiations

(1) The persons participating in collective negotiations, development of the project of the collective labour contract or collective agreement, are released from the basic work with preservation of average wages for the term, established with the agreement of the parties, but not more than for three months.

(2) All expenses connected to participation in collective negotiations, are compensated as established by the current legislation, the collective labour contract or the collective agreement. The work of experts, specialists and mediators is paid by the inviting side, if in the collective labour contract or the collective agreement it is not stipulated otherwise.

(3) The representatives of employees participating in collective negotiations, while carrying out negotiations cannot be subjected to disciplinary sanctions, transferred to other work or dismissed without the preliminary consent of the body that authorized them, except for the cases of dismissal, stipulated by the present code for committing disciplinary offences.

Chapter V

COLLECTIVE LABOUR CONTRACTS AND THE COLLECTIVE AGREEMENTS

Article 30. The collective labour contract

(1) The collective labour contract - legal act regulating labour and other social relations at the enterprise, concluded in written form between employees and the employer by their representatives.

(2) The collective labour contract can be made on the enterprise as a whole, and it can also be made on its branches and representations.

(3) At the conclusion of the collective labour contract in a branch or representation of the enterprise, the party of the contract is the head of the corresponding division, authorized by the employer.

Article 31. Contents and structure of the collective labour contract

(1) The contents and structure of the collective labour contract are defined by the parties.

(2) In the collective labour contract can be included the mutual obligations of employees and the employer on the following matters:

a) forms, systems and sizes of a payment;

b) payment of grants and indemnifications;

c) the mechanism of regulation of payment in view of the rate of inflation and the achievements of the economic parameters, stipulated in the collective labour contract;

d) working hours and time of rest, and also the questions concerning the ways of granting holidays and duration of holidays;

e) improvement of working conditions and labour safety of employees, including women and youth;

f) observance of employees' interests at the privatization of the enterprise and the housing resources, which are on its balance;

g) ecological safety and health protection of employees at the manufacture;

h) guarantees and privileges to employees combining work with studies;

i) health recovery, employees rest and the rest of the members of their families;

j) control over the performance of clauses, stipulated in the collective labour contract, the procedure of its change and modification;

k) provision of normal conditions for the activity of the representatives of employees;

l) responsibility of the parties;

m) refusal to strikes, in case of performing the corresponding conditions of the collective labour contract; and also

n) other questions determined by the parties.

(3) In the collective labour contract can be stipulated, with the account of the financial and economic situation of the employer, privileges and advantages for employees, and also more favourable working conditions in comparison with the ones stipulated by the current legislation and the collective agreements.

(4) In the collective labour contract can also be included the normative clauses, if they do not contradict the current legislation.

Article 32. Elaboration of the project of the collective labour contract and its conclusion

(1) The project of the collective labour contract is developed by the parties according to the present code and other statutory acts.

(2) If within three months from the date of the beginning of the negotiations a consent was not achieved on some provisions of the project of the collective labour contract, then the parties are obliged to sign the collective labour contract on the coordinated clauses, simultaneously drawing up a report on the existing disagreements.

(3) The disagreements that haven't been settled are subjects to further collective negotiations or are resolved according to the present code and other statutory acts.

Article 33. Action of the collective labour contract

(1) The collective labour contract comes into force on the date of its signing by the both parties or since the day established by the contract.

(2) The collective labour contract keeps its effect even in the case of changing the name of the enterprise or cancellation of the individual labour contract with the director.

(3) In cases of reorganization by association (merge and takeover), splitting up (division and separation) or transformation or liquidation of the enterprise, the collective labour contract keeps its effect for the whole period of reorganization or liquidation.

(4) In the case of changing the kind of the property of the enterprise the collective labour contract keeps its effect within six months, from the date of transition of the property rights.

(5) In case of reorganization or change of the kind of property of the enterprise anyone from the parties has the right to direct to the other side the offer on the conclusion of a new collective labour contract or prolongation of the action of the former one.

(6) On expiration of the term of the collective labour contract, its action is kept till the moment of the conclusion of a new contract or until the parties make a decision on prolonging the existing collective labour contract.

(7) The action of the collective labour contract made on the enterprise as a whole, is distributed to all employees of the enterprise, its branches and representations.

Article 34. Modification and completion of the collective labour contract

Modification and completion of the collective labour contract are made according the present code for its conclusion.

Article 35. Collective agreement

(1) Collective agreement - the legal act establishing the general principles of regulating the labour relations and the social and economic relations, concluded by the representatives of employees and employers at national, territorial and branch levels within the limits of their competence.

(2) Clauses included in the collective agreement:

a) labour remuneration;

b) working conditions and labour safety;

c) work and rest regime;

d) development of social partnership;

e) other questions determined by the parties.

Article 36. Contents and structure of the collective agreement

The contents and structure of the collective agreement are defined on the agreement between the representatives of the parties, who are free in the choice of the questions to be discussed and included in the collective agreement.

Article 37. Procedure of elaborating the project of the collective agreement and its conclusions

(1) The project of the collective agreement is elaborated in the process of the collective negotiations.

(2) Negotiation, conclusion and modification of the clauses of collective agreements at the corresponding level, the clauses regarding budgetary investment, are carried out by the parties, as a rule, before the elaboration of the project of the respective budget for the fiscal year, corresponding to the validity of the collective agreement.

(3) The procedure and the terms of elaborating the project of the collective agreement and its conclusions are established by body of social partnership at the corresponding level.

(4) Unsolved disagreements are subjects to further collective negotiations or are resolved according to the present code and other statutory acts.

(5) The collective agreement is signed by the representatives of the parties.

Article 38. Action of the collective agreement

(1) The collective agreement made at the national level (General convention), comes into force from the date of its publication in the Official Monitor of the Republic of Moldova.

(2) Collective agreements of other levels come into force from the date of their registration according to Article 40 or since the day specified in the text of the respective agreement, but not earlier than the registration day.

(3) Validity of the collective agreement is established by the sides and it cannot be less than one year.

(4) In cases when the employees simultaneously are subjected to several collective agreements, priority has the provisions of the agreements, which are most favourable for them.

(5) Action of the collective agreement is distributed to employees and employers, who have authorized their representatives to participate to collective negotiations, elaborate and the conclude collective agreements, to corresponding bodies of public authority in the limits of their assumed obligations, and also to employees and employers, who joined the agreement after its conclusion.

(6) Action of the collective agreement is distributed to all the employers being members of patronage, who concluded the agreement. The discontinuance of being a member of patronate does not free the employer from the obligation of respecting the conditions of the agreement, made during his membership of patronate. The employer, who has joined the patronate during the action of the collective agreement, is obliged respect provision of the given agreement.

(7) The wayy of publishing the collective agreements made on branch and territorial levels, is established by the parties.

Article 39. Modification and completion of the collective agreement

Modification and completion of the collective agreement are made in the way established by the present code for its conclusion.

Article 40. Registration of the collective labour contract and the collective agreement

(1) The collective labour contracts are sent in for registration at the territorial labour inspection within seven calendar days from the day of their signature.

(2) The collective agreement of branch and territorial levels are sent in for registration at the Ministry of Labour and Social Protection within seven calendar days from the date of signature.

(3) The collective agreement of national level is not subject of registration.

Article 41. Control over the performance of collective labour contract and collective agreement

(1) The control over the performance of the collective labour contract and the collective agreement is accomplished by the parties of social partnership, through their representatives and Labour Inspection, according to the legislation in force.

(2) At carrying out the specified control, the representatives of the sides are obliged to exchange information, necessary for it.

Chapter VI

EMPLOYEES PARTICIPATION IN BUSINESS ADMINISTRATION

Article 42. Employees' right to participate in the management of the enterprise and forms of participation

(1) The right of employees to participate in the operation of the business, directly or through their representative bodies and forms of participation are regulated by the present code, other statutory acts, constituent documents of the enterprise and the collective labour contract.

(2) Participation of employees in the operation of business can be carried out through:

a) participation at elaboration of projects, of statutory acts in the social and economic sphere at the level of the enterprise;

b) inquiry of opinion of representatives of employees on questions regarding the rights and interests of the labour collective;

c) cooperation with the employer within the framework of social partnership; and also

d) other forms, which are not contradicting the current legislation.

Chapter VII

RESPONSIBILITY OF THE PARTIES OF SOCIAL PARTNERSHIP

Article43. Responsibility for evasion from participation in collective negotiations, and for the refusal to present information, necessary for conducting collective negotiations and exercising control over the observance of the collective labour contract and collective agreement

(1) Representatives of the parties, who shirk from participating in collective negotiations, conclusion, modification and completion of the collective labour contract either the collective agreement, or refusing to sign the collective labour contract or the collective agreement, bear responsibility, as stipulated in the current legislation.

(2) Persons guilty of not presenting the information, necessary for conducting collective negotiations and exercising control over the performance of the collective labour contract or the collective agreement, and also the persons guilty of presenting incomplete or unreliable information, bear responsibility, as stipulated in the current legislation.

Article 44. Responsibility for infringement or non-fulfilment of the collective labour contract or collective agreements

The persons guilty of infringement or non-fulfilment of the clauses of the collective labour contract or the collective agreement bear responsibility, as stipulated in the current legislation.

TITLE III

INDIVIDUAL LABOUR CONTRACTS

Chapter I

GENERAL PROVISIONS

Article 45. Concept of the individual labour contract

The individual labour contract - agreement between the employee and the employer on the basis of which the employee pledges to perform work, corresponding to a certain speciality, qualification or position, to which he is appointed, observing the regulations of the enterprises, and the employer commits himself to provide the worker with working condition, as stipulated in the present code, and other statutory acts, containing norms of the labour right, the collective labour contract, and also to pay the duly and full- size wages.

Article 46. Parties of the individual labour contract

(1) The parties of the individual labour contract are the employee and the employer.

(2) A physical person gets into work capacity at the age of sixteen.

(3) A physical person can conclude an individual labour contract at the age of fifteen, with the written approval of his parents or his legal representatives and provided that work will not cause harm to his health, development, educational and professional preparation.

(4) Employment of the persons who have not achieved the age of fifteen is forbidden, and also the persons deprived by the judicial instance of the right to occupy a certain position or to be engaged in a certain activity.

(5) As a employer, party of the individual labour contract can be any physical or legal person, regardless of the kind of property and the organizational - legal form, using hired work.

(6) The employer - legal person can conclude individual labour contracts from the moment of acquiring the status of a legal person.

(7) The employer - physical person can conclude individual labour contracts from the moment of acquiring the full capacity of work.

(8) The conclusion of an individual labour contract with the purpose of performing either an illegal or immoral activity or work is forbidden.

(9) Party of the individual labour contract can be a citizen of the Republic of Moldova, a foreign citizen or the person without citizenship, with the exception of the cases stipulated by the current legislation.

Article 47. Guarantees at employment

(1) Unreasonable refusal of employment is forbidden.

(2) Any direct or indirect restriction of the rights are forbidden or any establishment of direct or indirect advantages at the conclusion of the individual labour contract depending on sex, race, nationalities, religion, residences, political convictions or a social origin.

(3) The refusal of the employer in employment can be appealed against in the judicial instance.

Article 48. The right of the newly hired person to information about the clauses of the individual labour contract

Before the conclusion of the individual labour contract the employer is obliged to acquaint the person taking the job, with main clauses, which will be included in the individual labour contract (Article 49).

Article 49. Contents of the individual labour contract

(1) The contents of the individual labour contract is determined on the agreement of the parties, in view of the provisions of the current legislation and includes the following:

a) surname and the name of the worker;

b) identification data of the employer;

c) term of the contract;

d) date of coming into effect of the contract;

e) position, function;

f) specific risks of the position;

g) rights and responsibilities of the employee;

h) rights and responsibilities of the employer;

i) conditions of labour remuneration, including the size of the tariff rate or the official salary of the employee, the bonus, the premium and the material aid;

j) indemnifications and allowances, for heavy work and work in harmful or dangerous working conditions;

k) place of work;

l) work and rest regime;

m) probation period (in case of need);

n) duration of the annual paid holiday and the conditions for its granting

o) provisions of the collective labour contract and the internal rules of the enterprises concerning the working conditions of the employee;

p) conditions of social insurance;

r) conditions of medical insurance.

(2) The individual labour contract can contain other provisions, which are not contradicting the current legislation.

(3) It is forbidden to establish through the individual labour contract conditions that do not correspond to the working statutory acts, collective agreements and the collective labour contract.

(4) In the case when the employee should work abroad, the employer is obliged in due time to give him all the information stipulated in paragraph (1) and also information regarding:

a) the operation time abroad;

b) currency in which the work will be paid, and also the form of payment;

c) indemnifications and advantages in monetary or natural expression, connected to moving abroad;

d) special conditions of insurance.

Article 50. Prohibition to demand performance of work, not stipulated in the individual labour contract.

The employer has no right to demand from the employee performance of work, not stipulated in the individual labour contract, with the exception of cases stipulated in the present code.

Article 51. Special clauses of the individual labour contract

(1) Except for the general provisions stipulated by Article 49, the sides can discuss during negotiations and include in the individual labour contract the following special clauses:

a) mobility;

b) confidentiality;

c) other special conditions which are not contradicting the legislation in force.

(2) For performance of the special conditions stipulated in paragraph (1), the employee can benefit from the right to a special compensation or other rights according to the individual labour contract. In the case of infringement of these clauses, the employee can be deprived from the given to him rights, and on the occasion, he can be forced to indemnify the damage caused to the employer.

Article 52. Mobility clause

The mobility clause gives to the employer the opportunity to use the worker for the work, which by virtue of the specificity does not, assumes a stable workplace.

Article 53. Confidentiality clause

(1) Confidentiality clause, states that the parties have agreed not to disclose during the action of the individual labour contracts and not more than for three months (not more than one year for persons, occupying responsible positions) after its termination, the data or the information, known to him during the action of the given contract in conformity with regulations of the enterprise, the collective or individual labour contract.

(2) Non-observance of the confidentiality clause requires compensation for damage from the guilty party.

Article 54. Term of the individual labour contract

(1) The individual labour contract is concluded, as a rule, on an indefinite term.

(2) The individual labour contract can be made on fixed term which does not exceed five years, according to requirements of the present code.

(3) If the term is not specified in the individual labour contract, then the contract is considered to be concluded for an indeterminate term.

Article 55. The fixed-date individual labour contract

The individual labour contract can be made on fixed terms according to paragraph (2) Article 54 only for the performance of work, having a temporary character, in the following cases:

a) for the period of performing the labour responsibilities of the employee, whose individual labour contract is suspended, except for the cases when the employee is on strike;

b) for the period of performing some temporary work with the duration up to two months, and also in the cases of seasonal work, when by virtue of natural conditions the work can be done only during the certain period of the year;

c) with the persons transferred temporarily to work outside of the Republic of Moldova;

d) for the period of probation and vocational training of the worker at another enterprise;

e) with the persons studying at institutions with day time forms of training;

f) with the persons, who have retired on pension age, for a term up to two years;

g) with scientific workers from institutions engaged in scientific research and development, pedagogical workers and rectors of higher educational institutions, and also with directors of colleges – on the basis of the results of the competition, which has been conducted according the legislation in force;

h) for the period of electing the worker for a certain term on an elective position in the central and local bodies of public authority, and also in trade-union bodies, bodies of patronage, other non-commercial organizations, economic companies and societies;

i) with heads (managers) of the enterprises, their assistants and accountants general of the enterprises;

j) for the period of performance by the unemployed of paid public work in the way established by the Government;

k) for the period of performing a certain work;

l) with creative workers from the field of art and culture;

m) with workers of religious associations; and also

n) in other cases stipulated by the current legislation.

Chapter II

CONCLUSION AND PERFORMANCE OF THE INDIVIDUAL LABOUR CONTRACT

Article 56. Conclusion of the individual labour contract

(1) The individual labour contract is concluded on the basis of the negotiations between the employee and the employer. The conclusion of the individual labour contract can be preceded by specific circumstances (carrying out competition, election on a position and so forth).

(2) The worker has the right to conclude simultaneously individual labour contracts with other employers (combining jobs), if it is not forbidden by the current legislation.

(3) The individual labour contract is made in duplicate, each of the copies is signed by the parties and has the seal of the enterprises, and is assigned a number from the register of the enterprise. One copy of the individual labour contract is entrusted to the worker; the other is kept at the employer.

Article 57. Documents submitted at the conclusion of the individual labour contract

(1) At the conclusion of the individual labour contract the person, requiring a job, submits to the employer:

a) the identification card or other document certifying the person;

b) the work-record card, except for the cases when the person starts work for the first time or is engaged in more than one job (holds more than one office);

c) documents of the military account - for recruits and reservists;

d) diploma of education, the certificate of competency, confirming the special preparation, - for professions demanding special knowledge or qualities;

e) medical certificate - in the cases stipulated in the legislation.

(2) employers are forbidden to demand from the applicants, other documents, except for the ones stipulated in a paragraph (1).

Article 58. Form and coming into force of the individual labour contract

(1) The individual labour contract is concluded in writing.

(2) The individual labour contract comes into effect from the date of its signing, if in the contract it is not stipulated otherwise.

(3) If the individual labour contract has not been made in writing, it is considered to be concluded for an indefinite term and generates legal consequences since the day, when the worker has been admitted to work by the employer or other official of the enterprise. If the worker proves the fact of his admission to work, the written registration of the individual labour contract is subsequently made by the employer and it is obligatory.

Article 59. Preliminary check

(1) The conclusion of the individual labour contract can preceded by the preliminary check of professional abilities and personal data of the candidate, except for the cases stipulated in items a)-h) Article 62, and also in cases, when the parties have agreed upon the establishment of a trial period according to Article 60.

(2) The form of the check stipulated by paragraph (1), is established by the employer according to the provisions of the collective labour contracts, the certificates determining the professional status, and the internal regulations of the enterprise.

(3) The data required in any form by the employer from the candidate in connections with the preliminary check, cannot serve other purposes, than to estimate the ability of the candidate to hold the corresponding position and his professional qualities.

(4) The employer has the right to request from the third parties data on the candidate, only with prior notification of the employee.

(5) On the basis of the results of the preliminary check of professional abilities and the personal data of the candidate, the employer takes the decision of employing or not employing the candidate.

(6) In case of refusal, the candidate has the right to demand from the employer a written substantiation of the refusal.

Article 60. Probation period

(1) With the purpose of checking the professional abilities of the employee, at the conclusion of the individual labour contract, there can be established a probation period for about three months, and for officials - up to six months. While employing unqualified workers the probation period is established as an exception and cannot exceed 15 calendar days.

(2) In the probation period are not included the period of being on a sick leave and other periods, when the worker was absent from work for valid reasons, documentary confirmed.

(3) The clause regarding the probation period should be stipulated in the individual labour contract. If there is no such clause in the contract, it is considered that the worker has been hired without the probation period.

(4) During the probation period the worker benefits from all the rights and performs the responsibilities, stipulated in the labour legislation, the regulations of the enterprise, collective and the individual labour contracts.

(5) During the term of the individual labour contract there can be only one probation period.

Article 61. Probation period of employees hired on the basis of a fixed-date individual labour contract

The trial period for the employees, who have been hired on the basis of a fixed-date individual labour contract, cannot exceed:

a) 15 calendar days at the conclusion of an individual labour contract for a term between three to six months;

b) 30 calendar days at the conclusion of an individual labour contract for a term of more than six months.

Article 62. Prohibition of probation period application

Application of the probation period is forbidden at the conclusion of the individual labour contract with:

a) young specialists, graduates from professional schools and vocational schools;

b) persons under the age of eighteen;

c) persons hired for work on the basis of competition;

d) persons, who have been transferred from another enterprise;

e) pregnant women;

f) invalids;

g) persons elected on an elective position;

h) persons employed on the basis of the individual labour contract for a term up to three months;

i) persons employed on the basis of the results of the preliminary check, according to Article59.

Article 63. Result of the probation period

(1) If during the probation period the individual labour contract has not been stopped on the bases stipulated by the present code, action of the contract proceeds and its subsequent termination is possible only in accordance with the general practice.

(2) In the case of unsatisfactory results of the probation period, dismissal of the worker is made by the employer before the expiration of the given probation term, without the severance pay. The worker has the right to appeal the dismissal in the judicial instance.

Article 64. Performance of the individual labour contract

(1) Rights and responsibilities connected to labour relations between the employer and the employee, are established by the negotiations and are fixed in collective and individual labour contracts, with the exception of the cases stipulated by the law.

(2) Employees cannot refuse the rights established by the present code. Any agreement directed on the refusal of the recognized rights of employees or their restriction, is void.

(3) In cases of full or partial transferring of the property right of the enterprise, the successor assumes the rights and the responsibilities, existing at the moment of transferring, devolving from collective and individual labour contracts.

Article 65. Registration of employment

(1) Employment is officially registered by the order (decision, disposition) of the employer, issued on the basis of the individual labour contract, negotiated and signed by the parties.

(2) The order (decision, disposition) of the employer about the employment is brought to the notice of the employee under signature, within three working days from the date of signing by the parties of the individual labour contract. On demand of the employee the employer is obliged to give out to him a copy of the order (decision, disposition), certified in the established order.

(3) At employment or while transferring the employee to another work, in conformity with the provisions of the present code the employer is obliged:

a) to acquaint the employee with the work charged to him, working conditions, his rights and responsibilities;

b) to acquaint the employee with regulations of the enterprise and the collective labour contract;

c) to instruct the employee about the safety measures, work hygiene, measures of fire-prevention and other rules of labour safety.

Article 66. Work-record card

(1) Work-record cards are kept for all employees, who have worked at the enterprise for more than five days.

(2) In the work-record card are written the data about the employee, the work carried out by him, the received wages, and also the encouragements for the success in the work at the enterprise. Data on disciplinary punishments are not registered in the work-record book.

(3) Record about the reasons of the termination of the individual labour contract is made in strict conformity with the provisions of the legislation in force, with reference to the corresponding article of the law, its paragraph and item (letter).

(4) In case of the termination of the individual labour contract on the initiative of the employee for reasons with which the legislation connects the opportunity of granting certain privileges and advantages, record about the termination of the individual labour contract is made with the indication of these reasons.

(5) At the termination of the individual labour contract the work-record card is given back to the employee on the day of dismissing from work.

(6) The way of keeping, storage and the record of the work-record cards is established by the government.

Article 67. Certificate on work and wages

The employer is obliged to give out to the employee upon his requirement the certificate about the work at the given enterprise, indicating the speciality, qualification, position, working term and the size of the wages.

Chapter III

MODIFICATION OF THE INDIVIDUAL LABOUR CONTRACT

Article 68. Modification of the individual labour contract

(1) The individual labour contract can be modified only on the basis of an additional agreement signed by the parties, which is enclosed to the contract and is a component of it.

(2) Modification of the individual labour contract is considered any change concerning:

a) the term of the contract;

b) the places of work;

c) specificity of work (heavy work, work in harmful or dangerous working conditions, introduction of the special clauses stipulated in Article 51, etc.);

d) the size of payment;

e) work and rest regime;

f) specialities, trades, qualifications, positions;

g) character privileges and their granting.

(3) Modification of the individual labour contract by the employer in unilateral order is possible by way of exception, only in cases and on the conditions stipulated by the present code. In these cases the employee should be informed on necessity of changing the individual labour contract, two months prior to the change.

Article 69. Temporary change of the work place

(1) The place of work can be temporarily changed by the employer in the case of sending the employee on an official journey or when he is sent out on business to another place of work, according to Articles 70 and 71.

(2) For the period of the official journey or while sending out on business to another place of work, the position, the average wage payment and other rights, stipulated in collective and individual labour contract, are kept for the employee.

Article 70. Sending out on an official journey

The employee can be sent on an official journey for a term of not more than 60 calendar days in the way and on the conditions stipulated in Articles 174 - 176.

Article 71. Detachment

(1) Detachment of the employee to another work place can be made only with the written approval of the employee for a term of not more than one year.

(2) If necessary the term of the detachment can be prolonged upon to the agreement of the sides, but not more than for one year.

(3) Some categories of employees, as stipulated in Article 302, can be detached for a term, exceeding the one specified in paragraph (1).

(4) The detached worker has the right to compensation for transport charges and charges on accommodation, and also to a special allowance according to the provisions of the current legislation, conditions of the collective or individual labour contracts.

(5) Detachment can change the specificity of work, but only with the written approval of the employee.

Article 72. Remuneration at detachment

(1) Remuneration at detachment to another work place is made by the enterprise at which the employee is going to work. In case of insolvency of this enterprise the responsibility for payment of the executed works is assigned to the enterprise, which detached the employee.

(2) If at the new workplace the conditions of payment or rest time differ from the ones that the worker used to benefit from at the enterprise that made the detachment, then more favourable conditions will be applied to the employee.

Article 73. Temporary change of the work place and specificity of work

In case of occurrence of situations stipulated by items a) and b) paragraph (2) Article 104, the employer can temporarily, for a term not exceeding one month, change the place and specificity of the employee's work without his consent and without entering respective modification in the individual labour contract.

Article 74. Transference to another work and displacement

(1) Transference of the employee to another permanent job within the same enterprise, changing the individual labour contract in conformity with Article 68, and also the transference to a permanent job at another enterprise or in another district, is possible only with the written approval of the parties.

(2) The employee, who according to the medical conclusion (certificate) requires an easier job, the employer is obliged to transfer him, upon his written approval to another work, which is not contra-indicated for him. In case of the employee's refusal of transference, the individual labour contract is terminated according to item x) paragraph (1) Article 86. In case of absence of the necessary workplace the individual labour contract is terminated on the basis of item d) paragraph (1) Article 86.

(3) While transferring to another job according to paragraphs (1) and (2) the parties are to make the necessary modifications in the individual labour contract, according to Article 68, on the basis of the order (decision, disposition) of the employer.

(4) Displacement is not transference and does not demand the consent of the employee to move to another workplace at the same enterprise, to another structural division of the enterprise, which is situated in the same district, the assignment to work at another mechanism or aggregate within the limits of his speciality, qualifications or position, stipulated in the individual labour contract. In case of moving the employer issues an order (disposition, decision,), which is brought to the employee's notice.

Chapter IV

SUSPENTION THE INDIVIDUAL LABOUR CONTRACT

Article75. General provisions

(1) Action of the individual labour contract can be suspended on circumstances, not dependent on the will of the parties, on the agreement of the parties or under the initiative of one of the parties.

(2) Suspension of the individual labour contract assumes the suspension of work performance by the employee and payment of compensations (wages, bonuses, and other payments) by the employer.

(3) For the period of suspending the individual labour contract, the rights and responsibilities of the parties, except for the ones specified in paragraph (2), continue to operate, if it is not stipulated otherwise in the current statutory acts, collective agreements, collective and individual labour contracts.

Article 76. Suspension of the individual labour contract on circumstances, not dependent on will of the parties

Action of the individual labour contract stops on the following circumstances, not dependent on will of the parties:

a) maternity leave (holiday);

b) illness or traumatism;

c) Detachment;

d) Quarantine;

e) military service, reduced military service or civil service;

f) force-majeur circumstances, confirmed in the established order, not imposing the termination of the labour relations;

g) taking to the judicial instance of a criminal case, a crime committed by the employee, incompatible with the performed work - until the final decision of the judge;

h) delay of the term of undergoing the medical examination, on the fault of the employee;

i) ascertainment according to the medical conclusion, the contra-indications, which do not allow the performance of the work specified in the individual labour contract;

j) requirement of control or law enforcement bodies in conformity with the current legislation;

k) coming to work in the condition of alcoholic, narcotic or toxic intoxication, established by the conclusion of the competent medical institution or the act of the commission formed from a equal number of representatives of the employer and employees;

l) participation to strike, declared according to the present code;

m) establishment for a certain term, of the group of physical inability due to a working accident or occupational disease;

n) other circumstances stipulated by the legislation in force.

Article 77. Suspension of individual labour contracts under the agreement of parties

Action of the individual labour contract stops on the agreement of the parties, which has been made out in writing, for the following reasons:

a) granting a non-paid holiday for a term of more than one month;

b) having a vocational training or probation and being out of work for a term of more than 60 calendar days;

c) technical idle time;

d) taking care of a sick child under the age of seven;

e) taking care of an invalid -child under the age of sixteen; and also

f) for other reasons stipulated in the legislation.

Article 78. Suspension of individual labour contracts on the initiative of one of the parties

(1) Action of the individual labour contract stops on the initiative of the worker for the following reasons:

a) holiday for taking care of a child under the age of six;

b) holiday for taking care of a sick member of the family with a duration up to one year, according to the medical conclusion;

c) having a vocational training outside the enterprise, according to paragraph (3) Article 214;

d) employment in an elective office in the body of public authority, trade union or patronage;

e) unsatisfactory conditions of labour safety; and also

f) for other reasons stipulated in the current legislation.

(2) Action of the individual labour contract can be suspended on the initiative of the employer:

a) for the period of the service investigation, made according to the requirements of the present code;

b) for the term of detachment;

c) in other cases stipulated in the current legislation.

Article 79. Modality of disputes settlement regarding the suspension of the individual labour contract

Disputes regarding the suspension of individual labour contracts are resolved in the order established by Articles 354 - 356.

Article 80. Technical idle time

(1) The technical idle time means the temporary impossibility of the employer to continue the industrial activity for objective economic reasons.

(2) Duration of the technical idle time cannot exceed three months within the limits of one calendar year.

(3) During the technical idle time, the employees are at the disposal of the employer, so that he has the opportunity to resume the activity at any time.

(4) For the period of the technical idle time, the employees benefit from an allowance, which in size is not less than 75 percent from the basic wages, with the exception of the cases of suspension of the individual labour contract in conformity with item c) Article 77.

(5) The way the employees will perform the duty of being at the disposal of the employer, and also the concrete size of the allowance during the technical idle time are established by the collective labour contract and the collective agreements.

Chapter V

TERMINATION OF THE INDIVIDUAL LABOUR CONTRACT

Article 81. Bases of the individual labour contract termination

(1) The individual labour contract can be stopped:

a) on circumstances, not dependent on the will of the parties (Article 82, 305 and 310);

b) on the initiative of one of the parties (Article 85 and 86).

(2) In all cases stipulated in a paragraph (1), the day of the termination of the individual labour contract is considered the last working day of the employee.

Article 82. Termination of the individual labour contract, dependent on will of the parties

The individual labour contract stops in the following circumstances, not dependent on the will of the parties:

a) death of the employee, declaration of his death or disappearance by the decision of the judicial instance;

b) death of the employer - the physical person, declaration of his death or disappearance by the decision of judicial instance;

c) declaration of the nullity of the contract by the decision of judicial instance- from the date of the taking of the decision, except for cases stipulated in art. 84 paragraph (3);

d) withdrawal of the license of the enterprise, by competent authorities- from the date of the withdrawal of the corresponding license;

e) deprivation of the right to occupy certain positions or to engage in certain activities, - from the date of the validity of the decision of the judicial instance regarding the deprivation;

f) expiration of the term of action of the fixed-date individual labour contract - since the day specified in the contract, except for cases, when labour relations actually proceed and none of the parties has demanded their discontinuance;

g) completion of the work stipulated in the individual labour contract concluded for the period of performing a certain work;

h) end of season, in case of the conclusion of individual labour contracts for performing seasonal work;

i) force-majeur circumstances, confirmed in the established order, which exclude the possibility of continuing the labour relations;

j) other reasons, stipulated in art. 305 and 310.

Article 83. Termination of the fixed-date individual labour contract

(1) In case of the termination of the fixed individual labour contract in connections with the expiration of the term of its action, the employee should be informed in written form about it, by the employer, not less than 10 working days before the expiration.

(2) The fixed individual labour contract can be stopped ahead of schedule only under the agreement of the parties, made out in written form, in cases and the order, stipulated by the contract, except for the cases specified in items b) - e) paragraph (1) art. 86.

(3) The fixed individual labour contract concluded with the employee for the period of performing his labour responsibilities, and whose individual labour contract is suspended (item a) art. 55), A stop on the day of the employee's returning to work.

(4) If at expiration of the individual labour contract none of the parties has demanded its termination and the labour relations actually proceed, the contract is considered prolonged for an indefinite term.

Article 84. Nullity of the individual labour contract

(1) Non-observance of any of the clauses established by the present code for the conclusion of the individual labour contract brings to its invalidity.

(2) Recognition of the nullity of the individual labour contract has consequences for the future.

(3) Nullity of the individual labour contract can be eliminated by accomplishing the corresponding conditions stipulated in the present code.

(4) In the case, when one of clauses of the individual labour contract is void, because it establishes for the employee rights beyond the limits of the legislation in force, the collective agreements or the collective labour contract, this condition is automatically replaced by minimal applicable conventional or contractual legal provisions concerning this case.

(5) Nullity of the individual labour contract is established by the decision of the judicial instance.

Article 85. Resignation

(1) The employee has the right to resign -to terminate the individual labour contract on his own initiative, having informed the employer in a written application, 14 calendar days before that.

(2) In case of the employee's resignation in connection with his leaving on pension, establishment of the group of physical inability, holiday on child nursing, transfer to an educational institution, moving to another district, infringement by the employer of the individual and-or collective labour contract and the labour legislation in force, the employer is obliged to accept resignation in the term, specified in the application.

(3) After expiration of the term specified in paragraph (1), the employee has the right to stop work, and the employer is obliged to pay the worker all the due salary and to give him the work-record card and other documents, connected to his labour activity at the enterprise.

(4) Before the expiration of the term specified in paragraph (1), the employee has the right to withdraw the application at any time or to submit a new application about cancellation of the first one. In this case the employer has the right to release the worker, only if until the cancellation of the application, a new individual labour contract was made with another worker, in conformity with the requirements of the present code.

Article 86. Dismissal

(1) Dismissal - cancellation under the initiative of the employer of the individual labour contract made for an indefinite term, and the fixed individual labour contract - is admitted on the following bases:

a) unsatisfactory results of the probation period of the employee paragraph (2) art. 63);

b) liquidation of the enterprise or the termination of the activity of the employer- the physical person;

c) reduction of number of workers or staff of the enterprise;

d) establishment of the fact that the worker does not correspond to the position or carried out work for health reasons according to the medical conclusion;

e) establishment of the fact that the worker does not correspond to the position or carried out work, due to insufficient qualification, confirmed by the decision of the attestation commission;

f) change of the proprietor of the enterprise (concerning the head of the enterprises, his assistants and the chief accountant);

g) numerous infringement within one year of the labour responsibilities, if disciplinary punishments were earlier applied;

h) absence from work without a valid excuse for more than four hours successively within the working day;

i) coming to work in the condition of alcoholic, narcotic or toxic intoxication established in the way, stipulated in
item k) art. 76;

j) committing an embezzlement at the work place (even in small proportions) from the property of the enterprises, established by the decision of judicial instance or body, in whose competence is the application of the administrative sanctions;

k) committing culpable actions by the employee, who is directly serving monetary or material assets, if these actions can serve as a basis for the employer's loss of trust in the given employee;

l) numerous gross infringements of the charter of the educational institutions within one year by the pedagogical worker (art. 301);

m) committing by the worker who is carrying out educational functions, an immoral offence incompatible with his position;

n) application (even only once) by the pedagogical worker of physical or mental violence to pupils (art. 301);

o) signing by the director of the enterprise (branch, division), by his assistants or the chief accountant of an unreasonable legal act causing material damage to the enterprise;

p) single gross infringement of the labour responsibilities by the director, his assistants or the chief accountant;

r) submission by the worker to the employer at the conclusion of the individual labour contract of false documents (par. (1) art. 57);

s) concerning employees holding more than one office,- conclusion of an individual labour contract with another person, who will execute the respective profession, speciality or position as the basic speciality or position (art. 273);

t) restoration to work on the decision of the judicial instance, of the person, who earlier carried out this work, if dislocation or transference of the worker to another work, according to the present code are impossible;

u) transference of the employee to another enterprise with his consent and with the consent of both employers;

v) refusal of the employee to continue work in connection with the change of the proprietor or reorganization of the enterprise, and also transition of the enterprise in the submission of another body;

x) refusal of the employee to transfer to another work for health reasons, on the basis of the medical conclusion (par. (2) art.74);

y) refusal of the employee to transfer to another district in connection with the moving of the enterprise to this district (par. (1) art. 74);

z) on other bases stipulated by the present code and other laws.

(2) Dismissal of the worker is not admitted during his sick leave, annual paid holiday, educational holiday, holiday for taking care of a child under the age of six, and also during the period of detachment, except for the case of enterprise liquidation.

Article 87. Prohibition of dismissal without the consent of the trade union

(1) Dismissal of employees - members of trade union in cases, stipulated by items c), d), e), g) and h) par. (1) art. 86, is admitted only with the preliminary consent of the trade union from the enterprises. In other cases, dismissal is admitted after the preliminary consultation of the trade-union body from the enterprises.

(2) Dismissal of the person elected in the trade-union body and not released from the basic work place, is admitted with observance of the general (common) mode of dismissal and only with the preliminary consent of the trade-union body, a member of which the given person is.

(3) Heads of the primary trade union organization (trade-union organizers), unreleased from the basic work place, cannot be dismissed without the preliminary consent of the higher trade-union body.

(4) Trade-union bodies (trade-union organizers), specified in par. (1) - (3), are obliged to inform the employer within 10 working days since the day of the requirement, the consent or disagreement (advisory opinion) concerning the dismissal of the employee. In case of non receipt by the employer of the answer in the specified term, the consent (advisory opinion) of the corresponding body is presumed.

Article 88. Procedure of dismissal in case of enterprise liquidation, reduction of the number of workers or staff

(1) The employer has the right to dismiss employees in connection with the enterprises liquidation or reduction of the number of workers or staff, (items b) and c) par. (1) art. 86) only under the condition of:

a) issuing an order (decision, disposition) legally motivated about the liquidation of the enterprise or the reduction of the number of workers or staff;

b) issuing an order (decision, disposition) about the notice of the liquidation of the enterprise or reduction of the number of employees or staff, which is made two months prior to the liquidation or reduction. In case of reduction of the number of workers or staff of the enterprise, are informed only the persons, whose workplaces are reduced;

c) offers to the employee simultaneously with the notice on dismissal in connections with reduction of the number of employees or staff of the enterprise, another workplace at the enterprise;

d) reducing first of all the vacant workplaces;

e) cancellation of the individual labour contract first of all with the employees, working part-time;

f) granting to the employee, subject to dismissal, one working day a week with preservation of the average wages, for searching another job;

g) presenting to the employment agency the information regarding the employees subject to dismissal, two months before the dismissal;

h) addressing the trade-union body for obtaining the consent to dismissal of employees, as established by the present code;

i) informing the trade-union bodies of the enterprise and the corresponding branch, not less than three months before the reorganization or liquidation of the enterprises, and conducting with them

negotiations regarding the observance of the rights and interests of the employees. Criteria of mass reductions of workplaces are established by the collective agreements.

(2) In case of not issuing the order (decision, disposition) about the dismissal of the employee, after a two-months term after the preliminary notice, this procedure cannot be repeated during one calendar year. In the two-months term are not included the periods of the employee's annual paid holiday, educational holiday and sick leave.

(3) The reduced workplace can be restored in the staff of the enterprises not earlier than in one year from the date of the dismissal of the employee, who held this place.

Article 89. Restoration to work

(1) The employee illegally transferred to another work or illegally released from work, can be restored to work with the decision of the judicial instance.

(2) Examining the individual labour dispute by the judicial instance, the employer is obliged to prove the necessity and to point out the bases for transference or dismissal of the employee. In case of dismissal of a member of the trade union, without the consent of the trade-union body, when the respective consent is obligatory according to (art. 87), the judicial instance, through a decision restores the employee to work.

Article 90. Responsibility of the employer for illegal transference or dismissal of the employee.

(1) At restoration to work of the employee illegally transferred to another work or illegally dismissed from work, the employer is obliged to compensate the damage brought to him.

(2) Compensation for the damage brought to the worker by the employer, includes:

a) obligatory indemnification for the whole period of compelled absence from work, in size not less than the average wages of the employee for this period;

b) compensation for the extra expenses connected to the appeal of transference to another work or dismissal (consulting experts, court costs, etc.);

c) compensation for the moral prejudice caused to the employee;

(3) The size of the sum of compensation for the moral prejudice is defined by the judicial instance in view of an estimation of the actions of the employer, but cannot be less than the monthly average wages of the employee.

(4) Instead of restoration to work the judicial instance can collect from the employer, for the benefit of the worker, upon his consent additional indemnification, in size not less than his three average monthly wages.

Chapter VI

EMPLOYEE'S PERSONAL DATA PROTECTION

Article 91. General requirements at analysing the personal data of the employee and the guarantee of their protection

With a view of maintaining the rights and freedom of the person and the citizen, the employer and his representatives at processing the personal data of the worker are obliged to observe the following general requirements:

a) personal data processing of the employee can be carried out exclusively with the view of observing the stipulations of the current legislation, assistance in employment, training and promotion on work, provision of personal safety of the employee, control over the quantity (amount) and quality of the executed work and provision of the integrity of the enterprise property;

b) the employer is obliged to follow the legislation in force at determining the volume and content of the personal data of the employee, that are to be processed;

c) all the personal data of the employee should be received from him or from the source specified by him;

d) the employer has no right to receive and process personal data of the employee regarding his political and religious beliefs, and also his private life. In the cases stipulated by the law, the employer has the right to request and process the data on the private (individual) life of the employee only with his written approval;

e) the employer has no right to receive and process personal data of the employee regarding his membership in trade union, public and religious associations, parties and other political organizations, with the exception of the cases stipulated by the law;

f) at the decision-making, touching the interests of the employee, the employer has no right to count on the personal data of the employee, received exclusively as a result of their automated processing or through the electronic way;

g) protection of the personal data of the employee from illegal use or losses is provided by the employer at his own expense;

h) employees and their representatives should be acquainted, under signature, with the documents regarding the modality of processing and storage of the personal data of the employees of the enterprise, and also to be informed about their rights and responsibilities in this area;

i) employees should not refuse the rights to storage and protection of the personal data;

j) employers, employees and their representatives should elaborate together measures to protect the personal data of the workers.

Article 92. Employee's personal data submission

On submission of the personal data of the employee, the employer should observe the following requirements:

a) not to inform a third party about the personal data of the employee without his written approval, except for the cases, when it is necessary for the prevention of the life or health danger of the employee, and also in the cases stipulated by law;

b) not to communicate the personal data of the employee for commercial reasons without his written approval;

c) to warn the persons receiving the personal data of the employee, that these data can be used only with the purpose for which they were communicated, and to demand from these persons a written confirmation, that the rule will be observed. The persons receiving the personal data of the employee, are obliged to observe the confidentiality, except for the cases, stipulated by the law;

d) to allow access to the personal data of the employee only to specially authorized persons, thus the specified persons have the right to request only those personal data of the employee, which are necessary for the realization of concrete commissions;

e) not to request the information on the state of health of the employee, with the exception of the data concerning the employee's capacity to perform his labour responsibilities;

f) to transmit to the representatives of workers, the personal data of the employee as stipulated in the present code and to limit this information only to those personal data of the employee, which are necessary for specified representatives to accomplish their commissions.

Article 93. Employee's rights regarding the provision of protecting the personal data kept at the employer

With a view of providing protection of the personal data kept at the employer, the employee has the right to:

a) receive full information on the personal data and the way of their processing;

b) have unrestricted and free-of-charge access to the personal data, including the right to a copy of any legal certificate (act) containing his personal data, except for the cases stipulated in the present legislation;

c) define the representatives for the protection of his personal data;

d) access to the medical data concerning him, also through the medical worker, depending on his choice;

e) require the exclusion or correction of incorrect and-or incomplete personal data, and also the data processed with infringement of requirements of the present code. At the refusal of the employer to exclude or correct the employee's incorrect personal data, the employee has the right to declare in written his motivated disagreement to the employer;

f) appeal in the judicial instance any wrongful action or illegal activity of the employer, committed at the receipt, storage, processing and protection of the personal data of the employee.

Article 94. Responsibility for infringement of the norms regarding receipt, storage, processing and protection of the employee's personal data

The persons guilty of infringement of the norms, regarding receipt, storage, processing and protection of the personal data of the employee, bear responsibility in conformity with the current legislation.

TITLE IV

WORKING HOURS AND RESTING TIME

Chapter I

WORKING HOURS

Article 95. Concept of working hours. Normal duration of working hours

(1) Working hours - time, during which employees in conformity with the regulations of the enterprise, clauses of the individual and collective labour contracts execute their labour responsibilities.

(2) Normal duration of working hours of employees from enterprises cannot exceed 40 hours per week.

Article 96. Reduced duration of working hours

(1) For separate categories of employees, depending on age, state of health, working conditions and other circumstances, in conformity with the current legislation and the individual labour contract, the reduced duration of working hours is established.

(2) The reduced week duration of working hours makes:

a) 24 hours - for employees between the age of fifteen to sixteen;

b) 35 hours - for employees between the age of sixteen to eighteen;

c) 35 hours - for the employees performing work in harmful conditions, according to the list authorized by the Government.

(3) For separate categories of employees, whose work demands increased intellectual and psycho-emotional efforts, the duration of working hours is established by the Government and it can not exceed 35 hours per week.

(4) For invalids of the I and II groups (not having the right to high privileges) is established the reduced duration of working hours - 30 hours per week;

Article 97. Incomplete working hours

(1) At employment, and subsequently under the agreement between the worker and the employer, can be established the incomplete working day or incomplete working week. Upon the request of the pregnant woman, the employee, who has in her care children under the age of fourteen or children - invalids under the age of sixteen , or the employee who is taking care of a sick member of the family in conformity with the medical conclusion, the employer is obliged to establish for him the incomplete working day or incomplete working week.

(2) remuneration in the cases stipulated by par. (1), is made proportionally to the time worked or depending on amount of the executed work.

(3) Work in conditions of incomplete working hours does not involve any restrictions of the employee's rights concerning calculation of the seniority, duration of annual paid holiday or other labour rights.

Article 98. Distribution of working hours within the limits of a week

(1) Working hours are distributed within the limits of a week, as a rule, in regular intervals and it makes 8 hours per day within five days with two days off.

(2) At enterprises, where in view the of specificity of work introduction of the five-day working week is irrational, as an exceptions the establishment of the six-day working week with one day off is admitted.

(3) Distribution of working hours can be made within the limits of a compressed working week, consisting of four or four and a half days, provided that the duration of the week working hours will not exceed the maximum permissible duration stipulated by (par. (2) art. 95). The employer introducing the compressed working week is obliged to observe the special norms concerning the duration of the daily working time for women and youth.

(4) Duration of working week, work regime - duration of daily work (shift), time of beginning and finishing work, breaks, alternation of working days and days off - are established by the internal rules of the enterprise, collective and-or individual labour contracts.

Article 99. Global record of working hours

(1) At enterprises the global record of the working hours can be introduced, provided that its duration does not exceed the number of working hours established by the present code. Thus the registration period should not exceed one year, and daily duration of working hours (shifts) cannot exceed 12 hours.

(2) The modality of applying the global record of working hours is defined (determined) by the regulations of the enterprise and the collective labour contract, taking into consideration the restrictions established for separate trades (professions) by the collective agreements at national and branch levels, and also the international acts, to which the Republic Moldova is a party.

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Article 100. Duration of daily work

(1) Normal duration of daily work makes 8 hours.

(2) For employees under the age of sixteen the duration of daily work cannot exceed 5 hours.

(3) For employees aged sixteen to eighteen and for the employees performing working activities in harmful working conditions, the duration of daily work cannot exceed 7 hours.

(4) For invalids the duration of daily work is established according to the medical conclusion within the limits of daily normal duration of working hours.

(5) The maximum duration of daily work cannot exceed 10 hours within the limits of normal duration of 40 hours a week.

(6) For separate kinds of activities, enterprises or trades, it is possible to establish, through the collective agreement a 12-hour duration of daily work with a subsequent rest of not less than 24 hours.

(7) The employer can establish, with the written approval of the employee, individual working schedules with a flexible regime of working hours, if such an opportunity is stipulated by the regulations of the enterprises or the collective labour contract.

(8) To those activities where, due to their special character, the working day can be divided into parts, as established by law, provided that the general duration of the working hours does not exceed the normal duration of daily work.

(9) The working day can also be divided into two parts: a fixed part, during which the employee is at the workplace, and a flexible (mobile) part, during which the worker chooses the time of arrival and leaving, respecting the normal duration daily work.

Article 101. Shift work

(1) Shift work - work in two, three or four shifts- is applied when the duration of the production exceeds the allowed duration of the working day, and also with a view of a more effective utilization of the equipment, increase of production volume or rendered services.

(2) In conditions of shift work, each group of employees should do work in the limits of the working hours, established according to the schedule of working in shifts.

(3) The schedule of working in shifts is approved by the employer, as agreed with representatives of employees, taking into account the specificity of work.

(4) Work during two shifts successively is forbidden.

(5) The schedules of working in shifts is brought to the notice employees not less than one month before its introduction into practice.

(6) Duration of break between shifts cannot be less than the double duration of the working hours of the previous shift (including the break for meal).

Article 102. Duration of working hours on the eve of non-working holidays

Duration of the working day (shift), directly on the eve of a non-working holiday, decreases with not less than one hour for all employees, except for those, for whom have been established the

reduced duration of working hours, according to art. 96 or incomplete working hours according to art. 97.

Article 103. Night work

(1) Work at night -work performed from 22 till 6 o'clock.

(2) Duration of working hours (shift) at night is reduced with one hour.

(3) Duration of working hours (shift) at night is not reduced for employees for whom the reduced duration of the working hours was established, and also for the employees hired especially for work at night, if the collective labour contract does not establish otherwise.

(4) Each employee, who within six months has fulfilled not less than 120 hours of night work, will have to undergo a medical examination at the account of the employer.

(5) To night work are not admitted: persons under the age of eighteen, pregnant women, women who are on postnatal holiday, women having children under the age three, and also persons, for whom such work is contra-indicated, according to the medical conclusion.

(6) Invalids of the I and II groups, women having children aged three to six (children - invalids under the age of sixteen), persons combining holidays on child care, stipulated by (art. 126 and par. (2) art. 127), with work, and the employees, who are taking care of the sick member of the family, on the basis of the medical conclusion, can perform night work only with their written approval. Thus the employer is obliged to acquaint in writing the specified workers with their right to refuse work at night.

Article 104. Overtime work

(1) Overtime work is considered the work performed over the normal duration of working hours stipulated by (art. 95).

(2) Overtime work is decided by the employer without the consent of the worker:

a) to perform work with a view of the country defence, prevention of industrial accidents or elimination of consequences of industrial accidents or natural calamity;

b) to perform work on elimination of unforeseen situations, that might prevent the normal functioning of water and electricity supply services, post services, communication and information services, means of communication and public transport and fuel-distributive installations.

(3) Engagement in overtime work is made by the employer with the written approval of the worker:

a) in case of need to finish the started work, which because of some unforeseen delay connected to the technical conditions of the production process, could not been finished during normal duration of working hours, and if stopped this work can entail damage or destruction of the property of the employer or the proprietor, of the municipal
or the state property;

b) to perform temporary work on the repair and restoration of mechanisms or installations, if their malfunction could cause cessation of work for an indefinite period of time and for a big number of persons;

c) to perform work in circumstances, that might entail damage or destruction of property of the enterprise, including raw materials, other materials and finished goods;

d) to continue work in case of absence of the shift worker, if the work does not suppose a break. In these cases the employer is obliged immediately to arrange the replacement of the respective worker.

(4) In other cases, not stipulated by par. (2) and (3), engagement in overtime work is admitted with the written approval of the employee and the representatives of employees.

(5) On demand of the employer the employees can perform overtime work not more than 120 hours within one calendar year. In unusual cases the duration of overtime work can be increased with the consent of the representatives of employees till 240 hours within one calendar year.

(6) In cases when the employer requests the performance of overtime work, he is obliged to provide the employees with normal working conditions, including the occupational and health safety.

(7) Engagement in overtime work is carried out on the basis of order (decision, disposition) of the employer, which is brought to the notice of employees under signature.

Article 105. Restriction of overtime work

(1) Engagement in overtime work is not admitted for employees under the age of eighteen, pregnant women, women who are on postnatal holiday, women having children under the age of three, and also persons for whom such work is contra-indicated, according to the medical conclusion.

(2) Invalids of I and II groups, women having children aged three to six years (children - invalids under the age of sixteen), persons, combining holidays on child care, stipulated by (art. 126 and par. (2) art.127), with work, and the employees who are taking care of sick member of the family on the basis of the medical conclusion, can work overtime only with their written approval. Thus the employer is obliged to acquaint in writing the specified workers with their right to refuse overtime work.

(3) Performance of overtime work cannot serve as a reason to increase the duration of daily work for more than 12 hours.

Article 106. Working hours record

The employer is obliged to keep record of the working hours, performed by each employee, including the performance of overtime work, work performed on days off and on non-working holidays.

Chapter II

RESTING TIME

Article 107. Meal break and daily rest

(1) Within the working day the employee should be given a break for meal of not less than 30 minutes.

(2) Concrete duration of the break and time of its granting are established by the collective labour contract or the internal regulations of the enterprise. Breaks for meal are not included in working time, except for the cases stipulated in the collective labour contract or regulations of the enterprise.

(3) At continuously working enterprises the employer is obliged to provide the employee with condition for having the meal during the working time at the workplace.

(4) Duration of the daily rest, covering time between the termination (ending) of the last working day and the beginning of the next working day, should be not less than the double duration of the daily work.

Article 108. Breaks for feeding children

(1) Women having children under the age of three, besides the break for meal, are given additional breaks for feeding children.

(2) Additional breaks are not less than 30 minutes every three hours. Women, having two or more children under the age of three, are given breaks, the duration of which should not be less than one hour.

(3) Breaks for feeding children are included in the working hours and are paid proceeding from the average wages.

(4) One of the parents (tutor, guardian), bringing up an invalid child, is given under his written application a day off per month, preserving the average wages.

Article 109. Weekly rest

(1) Weekly rest is given for two days successively, as a rule on Saturday and Sunday.

(2) If simultaneous granting to all workers of the enterprise days off on Saturday and Sunday, can harm public interests or compromise the normal functioning of the enterprise, the weekly rest can be given on other days of the week, established by the collective labour contract or internal regulations of the enterprise, provided that one of the days off is Sunday.

(3) At enterprises, where the specificity of work does not allow to give the days off on Sundays, then the employees will benefit of two days off within a week and an increase in the wages, established by the collective or individual labour contract.

(4) Duration of weekly rest in any case cannot be less than 42 hours, except for cases of six-day working week.

Article 110. Work on days off

(1) Work on days off is forbidden.

(2) In deviation from the provisions of par. (1) engagement of employees in labour activities on days off is admitted in the way and the cases stipulated in par. (2) and (3) art. 104.

(3) Engagement of employees in labour activities on the days off is not admitted for employees under the age of eighteen, pregnant women, women who are on postnatal holiday, and women having children under the age of three.

(4) Invalids of I and II groups, women having children of three to six years (children - invalids under the age of sixteen), persons, combining holidays on child care, stipulated by article 126 and par. (2) art. 127, with work, and the employees who are taking care of sick member of the family on the basis of the medical conclusion, can work on days off only with their written approval. Thus the employer is obliged to acquaint in writing the specified employees with their right to refuse work on days off.

Article 111. Non-working holidays

(1) In the Republic of Moldova non-working holidays with preservation of the average wages are:

a) January, 1 - New Year Day;

b) January, 7 and 8 - Christmas;

c) March, 8 - International Women's Day;

d) The first and second days of Easter according to the church calendar;

e) The second Monday after Easter (Remembrance Day);

f) May, 1 - May Day (International Solidarity Day of Workers);

g) May, 9 - Victory Day (to honour the heroes who fought for the independence of the Native land);

h) August, 27 - Day of Republic (Independence Day);

i) August, 31 - the holiday " Limba Nastra "(Our Language);

j) City (town, village) Day, declared and established by the mayoralty of the city, town, village.

(2) On non-working holidays, activities are carried on at enterprises where it is impossible to stop work, in connection with the technological and production conditions (continuously working enterprises), work necessary for the consumer service, and also urgent repair and cargo handling work.

(3) Engagement in work on non-working holidays is not admitted for employees under the age of eighteen, pregnant women, women on postnatal holiday, and women having children under the age of three.

(4) Invalids of I and II groups, women having children of three to six years (children - invalids under the age of sixteen), persons, combining holidays on child care, stipulated by article 126 and par. (2) art. 127, with work, and the employees who are taking care of sick member of the family on the basis of the medical conclusion, can work on days off only with their written approval. Thus the employer is obliged to acquaint in writing the specified employees with their right to refuse work on days off.

(5) With a view of rational use by workers of the days off and non-working holidays, the Government has the right to transfer the days off (working) days for other days.

Chapter III

ANNUAL HOLIDAYS

Article 112. Annual paid holiday

(1) The right to annual paid holiday is guaranteed to all employees.

(2) The right to annual paid holiday cannot be a subject to concessions, refusal or restriction. Any agreement about full or partial refusal of this right is void.

(3) Any employee, working on the basis of an individual labour contract has the right to an annual paid holiday.

Article 113. Duration of annual paid holiday

(1) All employees have the right to an annual paid holiday, with duration of not less than 28 calendar days without taking into account the non-working holidays.

(2) Employees of separate branches of the national economy (education, health service, public service, etc.) through the organic law can be grunted annual paid holiday with a different duration.

Article 114. Calculation of work experience, giving the right to annual paid holidays

(1) In the work experiences, giving the right to annual paid holidays, are included:

a) time of actual work;

b) time when the worker actually did not work, but his workplace, position and full or partial average wage were kept;

c) time of compelled absence from work- in the case of illegal dismissal or illegal transference to another work and the subsequent restoration to work;

d) time when the employee actually did not work, but his workplace and position were kept and he received various payments from the budget of the state social insurance, except for time of the partially paid holiday on child care under the age of three;

e) other periods of time stipulated by the collective agreements, the collective or individual labour contract, the internal regulation of the enterprise.

(2) If collective agreements, collective or individual labour contracts do not stipulate otherwise, then in the work experience, giving the right to annual paid holidays, are not included:

a) time of absence of the employee from work without a valid excuse;

b) time of being on holiday on child care under the age of six;

c) time of being on holiday for more than 14 calendar days, without preservation of wages;

d) the period of suspension of the individual labour contract.

Article 115. Modality of granting annual paid holiday

(1) Paid holiday for the first year of work is given to the employee after six months of his continuous work at the enterprise.

(2) Paid holiday for the first year of work is given under the written application, before the expiration of six months of work at the enterprise, to the following categories of workers:

a) to women - before the maternity holiday or directly after it;

b) to employees under the age of eighteen;

c) to other employees, according to the current legislation.

(3) Employees transferred from one enterprise to another, the annual paid holiday can be given before the expiration of six months of work after the transference.

(4) Holiday for the next year's work can be given to employees, on the basis of a written application, at any time of the year in conformity with the schedule of holidays.

(5) Annual paid holiday can be given completely or under the written application of the employee, it can be divided into two parts, one of which should be not less than 14 calendar days.

(6) The annual paid holiday is granted to the employee on the basis of the order (decision, disposition) of the employer.

Article 116. Schedule of holidays

(1) The schedule of annual paid holidays on the following year is made by the employer, as agreed with the representatives of employees, not less than two weeks before the end of each calendar year.

(2) At scheduling holidays, is taken into account the desire of the employees, as well as the necessity of providing the normal activity of the enterprises.

(3) To working husbands, whose wives are on maternity holiday, annual paid holidays are given on the basis of their written application, simultaneously with the holidays of their wives.

(4) To workers under the age of eighteen, to women having two or more children under the age of sixteen, and to single parents, having a child under the age of sixteen, annual paid holiday are given in summertime or upon their written application in any other season.

(5) The schedule of holidays is obligatory for the employer, as well as for the employees. The employee should be informed (notified) about the time of the beginning of holiday not less than two weeks prior to its beginning.

Article 117. Holiday grant (allowance)

(1) For the period of annual paid holiday, a holiday allowance is due to the employee, the size of which cannot be less than the wages, increases and, on occasion, the severance pay for the corresponding period.

(2) The way of calculating the holiday grant is established by the Government.

(3) The holiday grant is paid by the employer to the employee not less than three calendar days prior to the beginning of holiday.

(4) In case of death of the employee the holiday grant due to him, including the unused holidays, is paid in full size to the spouse, to full age children or to parents of the dead person, in case of their absence - to other successors according to the legislation in force.

Article 118. Annual granting of paid holidays, exceptional cases of its transference

(1) Paid holiday is given the employee annually, according to the schedule stipulated by art. 116. The employer is obliged to take all necessary measures, in order that employees use their paid holidays every calendar year.

(2) Annual paid holiday can be transferred or prolonged in cases, when the employee is on sick leave, while executing state duties or in other cases stipulated by the law.

(3) In unusual cases, when granting of holiday to the employee in the current working year, can adversely be reflected on the activity of the enterprises, with the consent of the worker and the representatives of employees, the holiday can be transferred to the next working year. In this case in the following year the employee will have the right to two holidays, which can be combined or divided into parts under his written application.

(4) Non-granting of the annual paid holiday for two years consecutively, and also non-granting of the annual paid holiday to employees under the age of eighteen and to the employees having the right to additional holiday in connection with work in harmful conditions, is forbidden.

(5) Replacement of the unused annual paid holidays by monetary indemnification is not admitted, except for the cases of termination of the individual labour contract of the employee who was not using the holiday.

(6) Duration of medical leave (holidays), maternity holidays and educational holidays are not included in the annual paid holiday.

Article 119. Indemnification for the unused paid holidays

(1) In case of suspension or termination of the individual labour contract the employee has the right to indemnification for all the unused annual paid holidays.

(2) The employee can use under his written application the annual paid holiday for one year with the subsequent termination of the individual labour contract and to receive the indemnification for other unused holidays.

Article 120. Unpaid holidays

(1) On family circumstances and other valid reasons the employee under his written application, with the consent of the employer can be on holiday without preservation of wages with a duration up to 60 calendar days for what the employer issues an order (decision, disposition).

(2) Women having two or more children under the age of fourteen (or a child - invalid under the age of sixteen), single parents, who are not married, having one child of the same age, are granted annually holiday, under their written application without preservations of wages, with a duration of not less than 14 calendar days. This holiday can be attached to the annual paid holiday or it can be used separately (completely or in parts) during the established periods, as agreed with the employer.

Article 121. Annual additional paid holidays

(1) Employees working in harmful conditions, blind persons and youth under the age of eighteen, benefit from the right to an annual paid holiday, with duration of not less than 4 calendar days.

(2) For employees working in harmful conditions, the concrete duration of the additional annual paid holiday, is established by the collective labour contract on the basis of the corresponding list authorized by the Government.

(3) Employees working in some branches of the national economy (industry, transport, construction, etc.), are given additional annual paid holidays for work experience at the enterprise and for shift work, according to the current legislation.

(4) Women having two or more children under the age of fourteen (or a child - invalid under the age of sixteen) are given additional annual paid holiday with a duration of 4 calendar days.

(5) In the collective agreements, collective or individual labour contracts can be stipulated other categories of employees, who are given additional annual paid holidays, and also with other duration, than the ones stipulated in par. (1), (3) and (4).

Article 122.Recall from holiday

(1) The worker can be recalled from his annual paid holiday by the order (decision, disposition) of the employer only with the written approval of the employee and only in unforeseen working situations, demanding his presence at the enterprise. In this case the employee is not obliged to return the grant for the unused days of the holiday.

(2) A payment of the worker recalled from annual paid holidays, is made in accordance with the general practice.

(3) In case of recalling, the employee has the right to use the remaining days of the paid holiday, after the end of a corresponding situation or at other time within the limits of the same calendar year, established on the agreement with the employer.

(4) Granting to the worker the unused part of his annual paid holiday, is carried out on the basis of an order (decision, disposition) of the employer.

Chapter IV

SOCIAL HOLIDAYS

Article 123. Medical holiday (Sick-leave)

(1) Paid medical holiday is given to all employees and apprentices, on the basis of the medical certificate (document), given according to the legislation in force.

(2) Procedure of establishing, calculating and paying the grants in connection with the medical holiday from the budget of the state social insurance, is stipulated by the current legislation.

Article 124. Maternity holiday (leave) and partially paid holiday on child nursing

(1) Women employees and women apprentices, and also the wives in the care of the employees, are granted maternity holidays, including prenatal holiday with a duration of 70 calendar days and postnatal holiday with a duration of 56 calendar days (in cases of the complicated births or births of two or more children - 70 calendar days), with payment of grants as stipulated in par. (2) art. 123.

(2) Persons specified in par (1), after the maternity holiday, under their written application, are granted a partially paid holiday on child care, until the child reaches the age of three. The grant is paid for this period from the budget of the state social insurance.

(3) The partial paid holiday on childcare can be used in full size or partially at any time, until the child reaches the age of three years. This holiday is included in the seniority, including the work experience, and in the insurance experience.

(4) Partially paid holiday on childcare can be also used by the father of the child, grandmother, grandfather or other relative, who takes care of the child.

Article 125. Attachment of the annual paid holiday to maternity holiday and holiday on child nursing

(1) The woman employee, under her written application, can be given an annual paid holiday before the maternity holiday, stipulated in par.(1) art.124, or immediately after it or after the termination of the holiday on child care.

(2) Persons specified in par. (4) art. 124 and art. 127, are given under their written application, on the termination of the holiday on child care, annual paid holiday.

(3) Employees, who adopted new-born children or have established above them trusteeship, can use under their written application annual paid holiday upon termination of any of the holidays given, in conformity with art. 127.

(4) Annual paid holidays according to par. (1) - (3) are given to employees, irrespective of their work experience at the enterprise.

Article 126. Additional unpaid holiday on child nursing aged three to six years

(1) Except for maternity holiday and partially paid holidays on child nursing under the age of three, woman and also the persons specified in par. (4) art. 124, are given under the written application, additional unpaid holiday on child nursing, aged three to six years with preserving the workplaces (position).

(2) During additional unpaid holiday on child nursing, the woman or the persons specified in par. (4) art. 124, under their written application can work on conditions of incomplete working hours or at home.

(3) Duration of the additional unpaid holiday is included in the seniority, and also including the experience of work on speciality, if the individual labour contract has not been suspended in conformity with a par. (1) art. 78.

(4) Duration of the additional unpaid holiday is not included in the work experience, giving the right to next annual paid holiday, and also in the insurance experience according to the law.

Article 127. Holidays to employees, who have adopted or established guardianship over a newborn child

(1) The employee, who has adopted a new-born child directly from the maternity hospital or established guardianship over him, is given a paid holiday for the period from the date of adoption (establishment of guardianship) and before the expiration of 56 calendar days from the birth of the child (in case of simultaneous adoption of two or more children - 70 calendar days), and also under his written application, a partially paid holiday on child nursing until the age of three. Grants to specified holidays are paid from the budget of the state social insurance.

(2) The employee, who has adopted a new-born child directly from the maternity hospital or established guardianship over him, is given under his written application additional unpaid holiday on child nursing, aged three to six years, according to art. 126.

TITLE V

REMUNERATION AND WORK QUOTA SETTING

Chapter I

GENERAL PROVISIONS

Article 128. Wages

(1) Wages - compensation or earnings in terms of money, paid to the employee by the employer on the basis of the individual labour contract, for the executed or subject to performance work.

(2) At the establishment of the size and payment of wages are not admitted any discrimination on the basis of sex, age, intellectual or mental deviations, social origin, marital status, ethnic origin, race or nationality, political views or religious beliefs, trade-union membership or participation in trade-union activity.

(3) Wage is confidential and guaranteed.

Article 129. State guarantees in the field of a payment

State guarantees in the field of payment include the minimum wage established by the state, remuneration state tariffs, and also the increases and bonuses, guaranteed by the state and regulated by the current legislation.

Article 130. Structure of wages, conditions and systems of payment

(1) Wages include the basic wages (tariff rate, official salary), additional wages (increases and bonuses to the basic wages) and other stimulating and compensating payments.

(2) Employee's remuneration depends on labour demand and its supply on the labour market, quantity, quality and complexity of work, working conditions, professional skills of the employee, results of his work and-or results of the economic activity of the enterprise.

(3) Work is paid by hour or other payment systems.

Chapter II

GUARANTEED MINIMUM WAGE

Article 131. Minimum wage

(1) Each employee has the right to guaranteed minimum wage.

(2) The minimum wage is the minimum size of a payment in national currency, size established by the state for simple, unqualified work, below the level of which, the employer has no right to pay for the monthly or hour norm of work.

(3) The minimum wage does not include bonuses, increases, stimulating and compensating payments.

(4) The size of the minimum wage is obligatory for all employers - legal and physical persons using wage labour, regardless of the kind of the property and the organizational - legal form. This size cannot be reduced neither by the collective, nor the individual labour contract.

(5) The size of the minimum wage is guaranteed to employees only under the condition of performing the assigned labour responsibilities (norms of work) within the limits of working hours, established by the current legislation.

Article 132. Procedure of minimum wages establishment and reconsideration

(1) The minimum monthly wage and minimum hour wage, estimated proceeding from the monthly norm of working hours are established by the decision of the Government after consulting the patronages and trade unions.

(2) The size of the minimum wage is determined and is reconsidered depending on the concrete economic conditions, level of average wages on the national economy, predicted rate of inflation, and also other social and economic factors.

Article 133. Increase of the level of the real content of wages

(1) Increase of the level of the real content of wages is provided with its indexation in connection with the growth of consumer prices on goods and services.

(2) The guaranteed minimum wage is indexed annually depending on the dynamics of the parameter on consumer prices, in conformity with the current legislation.

Article 134. State tariffs of remuneration

(1) The state tariffs of remuneration are the wage rates and the official salaries, which determine the minimum level of payment on concrete professional groups and qualifying categories for the performance by employees of their labour responsibilities within the limits of the working hours, established by the legislation.

(2) State tariffs of remuneration are defined (determined):

a) for employees of the real sector of the economy - on the basis of minimum wage and tariff coefficients of the established scale of tariffs;

b) for other categories of employees (auxiliary and serving personnel, clerks, experts and executives) - at the level of wage rates and the official salaries, corresponding to the lowest limits of salaries established for the corresponding categories of employees from the budgetary sector.

(3) State tariffs of remuneration, as minimum guarantees of payment of employees of corresponding qualification, are obligatory for all enterprises, and they also serve as the minimal limit at establishing the tariff rates, concrete official salaries, and also the compensating payments, guaranteed to workers in case of insolvency of the enterprise.

(4) State tariffs of remuneration are guaranteed to employees on the condition that they will perform the labour responsibilities, established by the collective and individual labour contracts.

(5) State tariffs of remuneration are modified in terms of revision of the size of the minimum wage in the country or minimum wage rates and official salaries of employees from the budgetary sector.

Chapter III

PROCEDURE OF WAGES ESTABLISHMENT AND PAYMENT

Article 135. Procedure of wages establishment

(1)The system of remuneration on the basis of which are defined (determined) the wages rates and the official salaries of workers, is established by the law or other statutory acts depending on the organizational - legal form of the enterprises, financing and the character of its activity.

(2) Concrete wages rates and official salaries, and also other forms and conditions of remuneration at the self-supporting enterprises are established by the collective or the individual negotiations between the employer and the employees or their representatives, depending on the financial opportunities of the employer, and are fixed in collective and individual labour contracts.

(3) The system and conditions of payment of employees from the budgetary sector are established by law.

(4) The basic wages, the procedure and the conditions of remunerating the heads (managers) of the enterprises are established by persons or bodies, authorized to appoint these heads, and are fixed in the individual labour contracts made with them.

Article 136. Tariff system of remuneration

(1) The tariff system of remuneration includes the tariff scales, wages rates, circuits of official salaries and tariff-qualifying directories.

(2) Work tariff and assigning qualifying categories (classes) to employees and experts are carried out according to tariff-qualifying directories of professions or trades and positions.

(3) The main and obligatory element of the tariff system is the wage rate for the I qualifying category (I category of payment) of the tariff scale, serving as a basis for establishing in the collective and individual labour contracts of concrete wages rates and official salaries. The wages rate for the I qualifying category is established on national, branch, territorial and enterprise level in the way, stipulated by the law.

(4) The tariff scale is established in the following way:

a) For employees from self-supporting enterprises - on the basis of qualifying categories established for workers, wages rate for the I qualifying category and tariff factors;

b) For workers from the budgetary sector - on the basis of categories of payment of the unique tariff scale, wages rate for the I category of payment and the official salaries, established on categories of payment.

(5) The wages rate for the I qualifying category (I category of remuneration) is reconsidered as often as required depending on concrete social and economic conditions, growth of the production efficiency, cost of life, financial possibilities of the enterprise and other conditions.

Article 137. Stimulating payments

(1) The employer has the right to establish various systems of awards, additional payment and bonuses to the basic wages, other stimulating payments after consulting the representatives of employees. The specified systems can be established also by the collective labour contract.

(2) Procedure and conditions of applying the stimulating and compensating payments at the enterprises from the budgetary sector are established by law and other statutory acts.

Article 138. Compensation for annual work results

(1) In addition to the payments stipulated by the systems of remuneration, a compensation on annual work results can be established for the employees, from the fund formed due to the profit of the enterprise.

(2) Regulations concerning the procedure of compensation payment for annual work results are adopted by the employer upon the agreement of representatives of employees.

Article 139. Remuneration of labour, performed in harmful conditions

(1) Employees who perform labour activities in adverse conditions at the same enterprise, are granted compensations, unique in size for any qualification..

(2) The concrete sizes of compensations are established by the collective negotiations, depending on the working conditions (heavy and extremely heavy work, work in unfavourable and extremely harmful working conditions), but cannot be less than the ones stipulated by the Law on Remuneration and other statutory acts. The negotiated sizes of compensations are specified in the collective labour contract.

(3) Lists of heavy and extremely heavy working activities, and also workplaces in unfavourable and extremely harmful conditions are adopted by the Government after consulting the patronages and trade- unions.

Article 140. Introduction of new conditions of remuneration and modification of the existing ones

(1) Reduction of wages rates or official salaries, stipulated in individual labour contracts, collective labour contracts and/or collective agreements, is not admitted before the expiration of one year from the date of their establishment.

(2) The employer is obliged to inform (notify) the employees about the introduction of new conditions of remuneration or the modification of the existing ones, two months before according to the positions stipulated in art. 68.

Article 141. Forms of wages payment

(1) Wages are paid in national currency.

(2) With the written approval of the employee, payment of wages is possible through bank establishments or post offices, the services being paid by the employer. The procedure of wages payment through bank establishments or post offices is established by the Government together with National Bank of Moldova.

(3) Payment of wages in kind is forbidden.

Article 142. Terms, periodicity and place of wages payment

(1) Wages are paid on a regular basis directly to the employee or to his authorized representative on the basis of a certified warrant, at the employee's workplace, on the working days established in the collective or individual labour contract, but:

a) not less than two times a month - for workers, who get hourly or piece -work payment;

b) not less than once a month - for workers, who are paid on the basis of monthly or official salaries

(2) The employer is obliged to notify the employee about the size of the wage payments, the form of payment, the procedure of calculation of wages, periodicity and place of payment, other conditions of wages payment and their modifications.

(3) At wages payment the employer is obliged, to inform in writing each employee about the components of the wages due to him for the corresponding period, the size and the bases of deduction made, the total sum due to him, and also to introduce the corresponding records in accounting registers and annually - in the work-record cards of employees.

(4) Payment of wages for occasional work, continuing for more than two weeks, is made immediately upon the termination of work.

(5) In case of death of the employee, wages and other payments due to him are paid in full size to the spouse, to full age children or parents of the dead person, and in case of their absence- to other successors according to the current legislation.

Article 143. Terms of pay-off in case of termination of the individual labour contract

(1) If there is no dispute concerning the sizes of all sums due to the employee from the enterprises, the pay-off is made:

a) in case of termination of the individual labour contract with the employee, continuing to work until the release day, - on the release day;

b) in case of termination of the individual labour contract with the employee who is not working until the day of release (in case of medical holidays(sick-leave)), absence from work without a valid excuse, imprisonment and etc.), - not later than the next day after the released worker, required pay-off.

(2) If there is a dispute concerning the sizes of all sums due to the employee, the employer is obliged to pay the incontestable sum, in the terms specified in paragraph (1).

Article 144. Priority payment of wages

(1) Payment of wages is made by the employer in priority to other payments, including the case of insolvency of the enterprise.

(2) Means for payment of employees are guaranteed by the income and property of the employer.

(3) Employers take measures to protect the employees from the risk of non-payment by him of the due sums in connection with execution of the individual labour contract or in case of its termination.

Article 145. Indemnification of losses in connection with delayed payment of wages

(1) Indemnification of losses in connection with delayed payment of wage is made by means of obligatory indexation in full size of the sums of the calculated wages if its delay constitutes at least one calendar month, since the day established for the monthly payment of wages.

(2) Indemnification stipulated by paragraph (1), is made separately for each month by increase of wages according to the coefficient of inflation.

(3) Indemnification of the losses caused by the delayed payment of wages, is made in the case, when the coefficient of inflation during the period of non-payment of wages exceeded 2 percents.

(4) Procedure of calculating the sum of indemnification for loss of a part of wages in connection with infringement of the terms of its payment is established by the Government in coordination with patronages and trade unions.

Article 146. Responsibility for delayed payment of wages

(**1**) In cases when on current and settlement accounts of the enterprises are available the respective means and the necessary documents on reception of money for wages payment have been submitted in time, and the banks have not provided the clients with cash, the banks pay a fine on their account in the size of 0,2 percent from the sum of debts per every day of delay.

(2) Bank officials, bodies of public authority and the enterprises, guilty of delayed payment of wages, carry material, disciplinary, administrative and criminal liability in conformity with the law.

Article 147. Prohibition of restricting the employee in free disposal of the earned means

It is forbidden to limit the employee in free disposal of the means earned by him, except for the cases stipulated in the current legislation.

Article 148. Deduction from wages

(1) Deduction from employee's wages can be made only in the cases stipulated by the present code and other normative acts.

(2) Deduction from employee’s wages for his repayment of debts to the employer can be made under the order (decision, disposition) of the employer:

a) for returning the advance payment given on account of wages;

b) for returning the sums unduly paid to the employee due to some accounting mistakes;

c) for repayment of the unspent advance and not returned in due time, given in connection with the official journey or transference to another district or for household needs, if the employee does not contest the bases and the size of deductions;

d) for compensation of the material damage caused to the enterprise onto the fault of the employee art. 338.

(3) In the cases specified in paragraph (2), the employer has the right to issue an order (decision, disposition) about the deduction from wage payments of the employee not later than one month from the date of the termination of the term, of the advance payment established for returning or

repayment of debts, since the day of realization of wrongly estimated payment or establishment of the material damage. If this term has been missed or the employee contests the basis or the size of deduction, recovery of debts is made by the judicial instance.

(4) In case of the employee release before the expiration of the working year, for which he has already received a holiday, the employer can keep from his wages the sum paid for the uncovered days of the holiday.

Deduction for these days is not made, if the worker has stopped or has suspended the activity on the bases specified in item e) art.76, item d) paragraph (1) art. 78, items b) - e) and u) paragraph (1) art. 86, in case of leaving on pension or transfer to an educational institution according to paragraph (2) art. 85, and also in other cases stipulated in the collective or individual labour contract or under the agreement of the parties.

(5) Wages unduly paid to the employee by the employer (including the case of wrong application of the legislation in force), cannot be collected from him, except for cases of accounting mistake.

Article 149. Restriction on the size of deduction from wages

(1) The general (common) size of all deductions from each payment of wages cannot exceed 20 percent, and in the cases stipulated by the legislation, - 50 percent of the wages due to the employee.

(2) In case of deduction from wages on several executive documents, the employee anyway should be kept 50 percent of his wages.

(3) The restrictions established by paragraph (1) and (2), are not applied to deduction from wages in cases of the alimony for minor children. Thus the sum deducted cannot exceed 70 percent of the wages due to the employee.

(4) If the sum received by recovery from wages, is not enough to satisfy all the requirements of creditors, it is distributed between them according to the provisions stipulated in the legislation in force.

Article 150. Prohibition on deduction from some payments, due to the employee

Deductions are not admitted from the severance pay, compensating and other payments, on which according to the law recovery cannot be imposed.

Article 151. Responsibility for delay in delivering the work-record card

If delay in delivering the work-record card is the fault of the employer, the employee is paid the average wages for all period of compelled absence for work, caused by the impossibility to be employed at another enterprise for the lack of his work -record card.

Chapter IV

SPECIAL CONDITIONS OF LABOUR REMUNERATION

Article 152. Remuneration of employees under the age of eighteen and other categories of employees with reduced duration of daily work

(1) In cases of time (hour, day, week, month) - work payment, employees under the age of eighteen are paid wages with a view of reduced duration of daily work.

(2) Work of minors, who are performing piecework, is paid according to the piecework quotations, established for adult employees.

(3) Payment of pupils and students of educational institutions of the system of secondary education, specialized secondary education and vocational education under the age of eighteen, working during free time from their study, is made proportionally to the time of work performance or by piece -work.

(4) In the cases stipulated by paragraphs (1) - (3), the employer can establish on the account of his own means, an increase to the wage rate for the time, on which the duration of daily work of minors is reduced in comparison with the duration of daily work of adult employees.

(5) Payment of other categories of employees, for whom in conformity with art. 96, the reduced duration of daily work is established, is carried out according to the conditions of payment of work, established by the Government.

Article 153. Remuneration of work of various qualifications

(1) Performing work of various categories of qualification, the employee remunerated by time (hour, day, week, month) - wage payment, is paid by the work of the higher qualification.

(2) Work of the employees remunerated by piecework payment is paid under the tariff of the work performed by him. In cases, when in connection with the specificity of production, the employees working by piece-work are entrusted with the performance of work, of a lower level tariff in comparison with the categories of qualification given to them, the employer is obliged to pay them the difference between the categories of qualification.

(3) The norm regarding the payment of the difference between the categories of qualification, stipulated by par. (2), is not applied, when by virtue of specificity of production, performance of work of various qualification make the permanent duties of the employee.

Article 154. Remuneration of instructors and apprentices

Procedure and conditions of payment of instructors and apprentices are established by the Government.

Article 155. Remuneration of part-time employees

(1) Payment of part-time employees is made for the really executed work or actually the time spent on performing a specific work.

(2) Establishment of the size of the wage rate or the official salary for part-time employees, and also their awarding, pay rises, bonuses and others compensations, stipulated by the conditions of labour payment, are carried out in the same way as for the other employees of the corresponding the enterprises.

Article 156. Remuneration for combining trades (positions) and performing the duties of temporarily absent employee

(1) Employees, who along with their basic work, stipulated by the individual labour contract, carry out at the same enterprise additional work, other trade (position) or perform the labour

responsibilities of a temporarily absent worker without being released of their basic work, are paid a bonus for combining trades (positions) or performance of labour responsibilities of the temporarily absent worker.

(2) The size of the bonus for combining trades (positions) or performance of labour responsibilities of the temporarily absent employee is established by the parties of the individual labour contract, but it can not be lower than 50 percent of the wage rate (official salary). Payment for combining trades (positions) is made without restrictions in limits of the means intended for payment.

Article 157. Remuneration of overtime work

(1) In cases of time (hour) -wage payment, overtime work art. 104 for the first two hours is paid in the size not less than 1,5 of the wage rate (monthly wage) established for the employee, and for the next hours - not less than in the double size.

(2) In case of piecework payment, overtime work is paid in the size not less than 50 percent of the wage rate of the employee of the corresponding category with a time- wage payment for first two hours and at a rate of 100 percent of this wage rate in the next hours.

(3) Compensation of overtime work with free time is not admitted.

Article 158. Indemnification for work performed on days-off and non-working holidays

(1) With a view of preserving the average wages stipulated by a paragraph (1) art.111, work on days-off and non-working holidays is paid:

a) to employees with piece-work payment - not less than on double piece-work tariffs;

b) to employees whose work is paid on hour or day time rates, - in the size of not less than the double hour or day time rate;

c) to employees receiving a monthly salary, - in the size not less than one hour or day time rate over the salary, if the work on the day off or non-working holiday was performed within the limits of the monthly norm of working hours, and in the size of not less than the double hour or day time rate over the salary if the work was performed over the monthly norm.

(2) On the request of the employee, who performed work on days-off or non-working holidays, can be offered another day of rest. In this case work on non-working holidays is paid in ordinary size, and the day of rest is not subject to payment.

(3) The procedure of payment for work performance on days-off and non-working holidays by professional sportsmen, creative workers of theatres, circuses, cinema, theatre and concert organizations, and also other persons participating in creation and/or performance of works of art, can be established by the collective agreements, collective or individual the labour contract.

Article 159. Remuneration of night work

For work performed at night is established a bonus in the size not less than 0,5 of the wage rate (official salary) established for the hour rate employee.

Article 160. Employer's right to establish stimulating and compensating payments

The employer has the right to raise the size of bonuses, increases and compensations, stipulated by art. 138, 156, 157, 158, in comparison with their minimum size established by the current

legislation, and also to establish other kinds of stimulating and compensating payments, in the limits of the allocated means stipulated for these purposes in the collective labour contract or in the estimate of charges on the maintenance of the enterprise financed from the budget.

Article 161. Procedure of payment at default of production standards

(1) In case of default of production standards on the fault of the employer payment is made for the work actually executed by the employee, but is not lower than the rate of average wages for the same period.

(2) In case of default of production standards not on the fault of the employee or the employer, the employee is paid not less than two thirds of wage rate.

(3) In case of default of production standards on the fault of the employee, payment is made according to the performed work.

Article 162. Procedure of payment at manufacturing defective goods

(1) Manufacture of defective goods not on the fault of the employee is paid in the same way with the good (suitable) products.

(2) Manufacture of defective goods on the full fault of the employee is not subject to payment.

(3) Manufacture of defective goods on the partial fault of the employee is paid on lowered tariffs, depending on the degree of the validity of the product.

(4) The lowered tariffs specified in paragraph (3), are established by the collective labour contract.

Article 163.Procedure of payment of the idle time and work while implementing new methods of production

(1) Payment of the idle time not on the fault of the employee or for the reasons, not dependent on the employer or the employee, in the case when the employee has informed (notified) the employer in writing about the beginning of the idle time, is made in the size not less than 2/3 of the hour wage rate (official salary), established for the employee, but not less than one minimum hour rate, established by the current legislation, for each hour of the idle time.

(2) Procedure of registration of the idle time, not on fault of the employee and the concrete size of payment are established by the collective and/or individual labour contracts.

(3) Idle time on the fault of the employee is not paid.

(4) The collective or individual labour contract can stipulate the payment of the average wages for the period while the employee is learning to apply the new methods of production.

Article 164. Preservation of wages at detachment or transference to another permanent workplace

In case of detachment or transference of the employee to another permanent workplace at the same enterprise, with a lower payment or to another district together with the enterprise according to paragraph (1) art. 74, he is preserved the former average wages within one month from the day of detachment (transference) with preliminary observance of the provisions of art. 68.

Article 165. Average wages

(1) Average wages include all kinds of payment, from which according to the current legislation are charged the payments on the obligatory state social insurance.

(2) Average wages are guaranteed to employees in cases, stipulated by the current legislation, collective and/or individual labour contracts.

(3) Procedure of calculating the average wages of the employee is unique and is established by the Government.

Chapter V

WORK QUOTA SETTING

Article 166. Guarantees in the field of work quota setting

Employees are guaranteed:

a) Methodological assistance of the state in the organization of the work quota setting

b) Application of the systems of work quota setting, determined by the employer together with the representatives of the employees and stipulated in the collective labour contract or other statutory act at the level of the enterprises.

Article 167. Norms of work

(1) Norms of work - rates of output, time, service, number of employees - established by the employer for the employees, according to the achieved level of the technical equipment, technology, manufacture and labour organization, so that they correspond to the concrete conditions of the enterprise and don't create an excessive working-load for the employees.

(2) In conditions of collective forms of organization and payment, the combined and complex norms, can also be applied.

(3) Norms of work can be reconsidered in the process of introducing the new technical equipment and implementing the new technologies, or improving the existing ones, carrying out some organizational measures or other actions providing growth of the labour productivity, and also in the cases of using physically and moral obsolete equipment.

(4) Achieving a high level of manufacturing by separate employees or separate brigades due to the application on their own initiative of new working methods and advanced practices, improving by their own forces the workplaces, is not a real basis for the revision of the norms of work.

Article 168. Elaboration, approbation, replacement and revision of unique and type- norms of work

(1) For certain homogeneous work can be developed and established unique and type-norms (inter-branch, branch, professional and other) of work. Type-norms of work are elaborated by the central branch bodies of public administration (management) as agreed with the corresponding patronages and trade unions and are ratified in the procedure established by the Government.

(2) Replacement and revision of the unique and type- norms of work are carried out by the bodies which have ratified them.

Article 169. Introduction, replacement and revision of norms of work

(1) If the norms of work do not any more correspond to conditions, for which they have been authorized, or do not provide full employment of employees in the normal duration of working hours, they can be subjected to revision or replacement.

(2) Procedure of revising or replacing the norms of work, and also the actual situations in which it can be applied, are defined (determined) by the collective labour contract.

(3) Employees should be informed (notified) in written form about the introduction of the new norms of work, on receipt, not less than two months before this.

Article 170. Establishment of tariffs for piece-work payment

(1) Piece-work payment tariffs are established proceeding from the categories of work, wage rates (official salaries) and current output rates (norms of time).

(2) Piece-work payment tariff is established by dividing the hour (day) wage rate, corresponding to the category of performed work, to the hour (day) performance standard. The piece-work payment tariff can be established also by multiplying the hour (day) wage rate, corresponding to the category of performed work, by the established norm of time on hours or days.

Article 171. Provisions of normal working conditions for accomplishing the production (service) standards

The employer is obliged to provide constantly technical and organizational conditions, proceeding from which have been developed the norms of work, and to create normal conditions for accomplishing the production (service) standards. The conditions are:

a) working condition of machines, machine- tools and appliances;

b) duly provision with the technical documentation;

c) appropriate quality of materials and tools necessary for the performance of work, and their duly provision;

d) duly supply of the manufacture with electric power, gas and other energy sources;

e) observance of the requirements of labour safety and production safety .

TITLE VI

GUARANTEES AND INDEMNIFICATIONS

Chapter I

GENERAL PROVISIONS

Article 172. Concept of guarantees and indemnifications

(1) Guarantees - means, ways, conditions, which ensure the realization of the rights given to employees in the sphere of labour and other social relations connected to them.

(2) Indemnification - monetary payments established with a view of compensating the expenses connected to the performance by the employee of his labour and other responsibilities stipulated by the current legislation.

Article 173. Cases of granting guarantees and indemnifications

Besides the general guarantees and indemnifications stipulated by the present code (guarantees at employment, transference to another work, in the field of payment and other), the employees are given guarantees and indemnifications in the following cases:

a) official journey;
b) moving to work in another district;
c) combining work with study;
d) termination of the individual labour contract; and also
e) other cases stipulated by the present code and other statutory acts.

Chapter II

GUARANTEES AND INDEMNIFICATIONS IN CASE OF AN OFFICIAL JOURNEY AND TRANSFERENCE TO WORK IN ANOTHER DISTRICT

Article 174. Official journey

(1) Official journey (business trip) is the delegation of the employee according to the order (decision, disposition) of the employer, on a certain term to perform labour duties outside his permanent workplace.

(2) Trips of employees, whose permanent job has a mobile or travelling character, and also performance of prospecting, geodetic and topographical work in the field are not considered as business trips.

Article 175. Guarantees in case of an official journey

Employees delegated on official journeys, are guaranteed preservation of the work place (position) and average wages, and also the reimbursement of expenses, connected to the business trip.

Article 176. Reimbursement of expenses, connected to the official journey

(1) In case of delegation on an official journey the employer is obliged to compensate the employee:

a) travelling expenses there and back;
b) accommodation expenses;
c) subsistence (daily) allowance;
d) other expenses connected to the business trip.

(2) Procedure and sizes of the reimbursement, connected with the business trips, are approved by the Government. Self-supporting enterprises can establish in the collective labour contract higher sizes of compensation.

Article 177. Reimbursement of expenses in case of transference to work in another district

(1) Transferring the employee, on the basis of a preliminary written arrangement with the employer to work in another district, the employer is obliged to compensate the employee:

a) expenses for transferring the employee, the members of his family, and also the transportation of property (except for cases when the employer gives to the employee the necessary transport);

b) expenses on settling down in the new residence.

(2) The sizes of the reimbursement, stipulated in paragraph (1), are defined by the agreement of the parties of the individual labour contract, but cannot be lower than the sizes established by the Government.

Chapter III

GUARANTEES AND INDEMNIFICATIONS TO EMPLOYEES, COMBINING WORK WITH STUDIES

Article 178. Guarantees and indemnifications to the employees combining work with studies in the higher and specialized secondary educational institutions

(1) Employees directed to study by the employer or who have entered independently a higher or specialized secondary educational institution, accredited according to the law, under correspondence and evening forms of study and have great success, are granted by the employer reduced working hours, additional holidays with full or partial preservation of the average wages and other privileges in the order established by the Government.

(2) For the employees specified in paragraph (1), additional privileges due to the means of the enterprise, can be stipulated in the collective labour contract and collective agreements.

Article 179. Guarantees and indemnifications to employees combining work with study in the specialized post-university system of education

1) Employees studying for the muster's degree, doctor's degree, those who take courses for the improvement of the professional skills in educational institutions accredited according to the law, or in institutions of scientific research and development, are given guarantees and indemnifications in the procedure established by the Government.

(2) The employer and the representatives of employees can provide in the collective labour contract, on the account of the enterprise, additional guarantees and indemnifications to the ones established by the current statutory acts.

Article 180. Guarantees and indemnifications to the employees combining work with studies in secondary vocational educational institutions

(1) Employees, studying successfully in secondary vocational institutions without discontinuing work, irrespective of their kind of the property and the organizational - legal form, accredited according to the law, are granted additional holidays with full or partial preservation of average wages in the way established by the Government.

(2) Employees combining work with study in secondary vocational institutions, not having accreditation, are established guarantees and indemnifications by the collective or individual the labour contract.

Article 181. Guarantees and indemnifications to employees combining work with studies in educational institutions of the system of general secondary education

Employees studying in educational institutions of the system of the general secondary education (grammar schools, lyceums, an secondary comprehensive school), are granted reduced duration of working hours, additional holidays with full or partial preservation of average wages, depending on the circumstances, and also other guarantees and indemnifications in the way established by the Government.

Article 182. Procedure of granting guarantees and indemnifications to employees combining work with studies

(1) Employees combining work with studies are given guarantees and indemnifications at receiving education of the respective level for the first time.

(2) To the additional holidays given to employees, combining work with study, can be attached the annual paid holidays, under the written agreement between the employer and the employee.

(3) Employees combining work with study in educational institutions for receiving the second or third speciality (trade), can be given certain guarantees and indemnifications in the way, stipulated by the collective or individual labour contract.

Chapter IV

GUARANTEES AND INDEMNIFICATIONS TO EMPLOYEES IN CONNECTION WITH THE TERMINATION OF THE INDIVIDUAL LABOUR CONTRACT

Article 183. Priority right to maintain the workplace in case of reduction of the number employees or staff.

(1) In case of reduction of the number employees or staff, the priority right to maintain his workplace is given to the employees, who have a higher qualification and work productivity.

(2) In case of equal qualification and labour productivity the priority right to be kept on work have:

a) employees who have a family and have two or more persons to take care of;

b) employees in whose families there are no other persons with an independent income;

c) employees having a greater work experience at the enterprise;

d) employees who had to suffer because of a production accident or got an occupational disease at the given enterprise;

e) employees raising their qualification in higher and secondary specialized educational institutions without work discontinuance;

f) war invalids and members of the military men families who died or have disappeared without any trace;

g) participants to military operations for the protection of the territorial integrity and independence of the Republic of Moldova;

h) inventors;

i) persons who got or have suffered from radiation sicknesses or others diseases connected to the irradiation, because of the accident at the Chernobyl atomic power station;

j) Invalids for whom there has been established the causal relationship between their physical inability and the accident at the Chernobyl atomic power station, participants at the liquidation of the consequences of the failure on the Chernobyl atomic power station in the zone of alienation in 1986-1990;

k) employees who have more encouragements for successes in work and don't have disciplinary sanctions art. 211;

l) employees who have no more than two years up to the pension on age.

Article 184. Guarantees in case of termination of the individual labour contract

(1) The employer is obliged to inform (notify) the employee by order (decision, disposition) on receipt, about the intention to terminate the individual labour contract made on a fixed or indefinite term, in the following terms:

à) not less than two months before it - in case of dismissal in connection with the liquidation of the enterprise or the termination of the activity of the employer- the physical person, reduction of number workers or staff items b) and c) paragraph (1) art. 86;

b) not less than one month before it- in case of dismissal as a result of establishing the fact of discrepancy of the worker of the position or to perform work because of his state of health according to the medical conclusion or due to the insufficient qualification, confirmed with the decision of attestation commission items d) and e) paragraph (1) art. 86.

(2) For the periods specified in paragraph (1), the employee is given not less than one free day per week with preservation of average wage payments for searching another job.

(3) In case of termination of the individual labour contract due to infringements by the employee of the labour responsibilities items g) - k), m), o) - r) paragraph (1) art. 86,notice is not obligatory.

Article 185. Guarantees in case of the termination of the individual labour contract in connection with the change of the proprietor of the enterprise

In case of the termination of the individual labour contract made with the director, his assistants, the chief accountant, in connection with the change of the proprietor of the enterprise item f) paragraph (1) articles 86, the new proprietor pays to each of them additional indemnification, if it is stipulated by the individual labour contract.

Article 186. Severance pay

(1) Employees dismissed from the enterprise in connection with its liquidation or the discontinuance of the activity of the employer - the physical person, item b) paragraph (1) art. 86 or reduction of the number of workers or staff, item c) paragraph (1) art. 86, is guaranteed:

a) payment of the severance pay at the rate of the average week wage payments for every year worked at the given enterprise, but it should not be less than one average monthly wages;

b) preservation of the average monthly wages for the period of looking for another job, but no more than three months, including the severance pay. For the third month the average wages are kept provided that, the employee in a fortnight term after the dismissal has applied to the employment agency, has been enlisted as unemployed and has not been employed, confirmed by the corresponding certificate.

(2) Severance pay in the size of the average fortnight wages, is paid to the employee at the termination of the individual labour contract in connection with:

a) ascertainment of the fact of the discrepancy of the employee for the position or carried out work, because of his state of health, according to medical conclusion or because of insufficient qualification confirmed by the decision of the attestation commission, items d) and e) paragraph (1) art. 86;

b) restoration to the workplace, according to the judicial decision of the employee, who performed the given work before item t) paragraph (1) art. 86;

c) refusal of the employee to be transferred to another district in connection with moving to this district of the enterprise item y) paragraph (1) art. 86.

(3) Employees, whose individual labour contract is suspended in connection with the call up for the military service, reduced military service or civil service, item e) art. 76) or has resigned in connection with infringement by the employer of the individual or collective labour contracts paragraph (2) art. 85 benefit from the indemnification, stipulated by par. (2).

(4) Payment of the severance pay and average monthly wages is carried out at the former place of work of the employee.

(5) In the individual or collective labour contract can be included other cases of payment of the severance pay, its increased sizes, and also longer terms of preservation of wages.

Chapter V

OTHER GUARANTEES AND INDEMNIFICATIONS

Article 187. Guarantees to employees elected on elective offices

The employee, whose individual labour contract has been suspended in connection with his election on an elective office, according to the legislation in force, item d) paragraph (1) art. 78, after the termination of his commission on the elective office, the former work (position) is given to him, and in case of its absence - other equivalent work (position) at the same or at another enterprise is given, with the consent of the employee,.

Article 188. Guarantees for the period of performing state or public duties

(1) For the period of performing state or public duties, if according to the current legislation these duties should be carried out during the working hours, the employee is guaranteed preservation of the workplace (position) and the average wages according to par. (2).

(2) The employees are kept the average wages in the case of performing the following state and public duties:

a) presence on summon in the bodies of criminal prosecution, to the public prosecutor, in the judicial instance as a witness, victim, expert, translator, procedure assistant;

b) participation as a member of a voluntary fire brigade in the liquidation of fire or accident; and also

c) in cases of performing other state or public duties stipulated by the current legislation.

Article 189. Guarantees and indemnifications to employees called on military service, reduced military service or civil service

Employees called on military service, reduced military service or civil service, benefit from guarantees and indemnifications, stipulated by the current legislation.

Article 190. Guarantees to employees - donors

(1) The employer is obliged to release (let off) employees - donors to go to establishments of public health services on the fixed day for donations of blood or its components for their usage in therapeutic purposes, preserving the average wages of donors and in case of need providing them with means of transport.

(2) Employees - donors are granted directly after the day of donation of blood or its components, a day off preserving the average wages.

(3) In case of donation of blood or its components during the annual paid holiday or on a day-off or non-working holiday, the employer is obliged to give to the employee - donor another free paid day, which with his written approval can be attached to the annual paid holiday.

Article 191. Guarantees and indemnifications to employees - inventors and rationalizers

Employees inventors or rationalizers, benefit from guarantees and indemnifications stipulated in the current legislation, collective and/or individual labour contracts.

Article 192. Indemnifications for depreciation of the employee's property

(1) Employee using with his consent or with the employer’s knowledge and in his interests, his personal property, is paid indemnification for the use and depreciation of the vehicles belonging to the worker, tools, equipment and other materials and technical devises.

(2) The size and the order of payment of compensation are defined (determined) in the written agreement of the parties (sides) of the individual labour contract.

Article 193. Guarantees to employees obliged to undergo medical examinations

Employees, who according the provisions of the present code and other statutory acts, are obliged to undergo the medical examination, are preserved the average wages at the workplace during the period of time of the medical examination.

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Article 194. Guarantees in connection to medical holidays (sick-leave)

In case of granting to the employee of a medical holiday the employer is obliged to pay him the grant according to paragraph (2) art. 123.

Article 195. Guarantees and indemnifications to employees, directed to vocational training courses on the initiative of the employer

(1) Employees directed by the employer to do a vocational training course with discontinuance of work, are kept the workplace (position) and average wages, and are given other guarantees and indemnifications, stipulated by the current legislation.

(2) Employees directed by the employer to do a vocational training course with discontinuance of work in another district, get compensations for travelling and living expenses in the way and on conditions, stipulated for employees directed on official journey.

Article 196. Guarantees and indemnifications in cases of production accidents and occupational diseases

(1) In case of health harm or death of the employee, due to accident on manufacture or occupational disease the employee is compensated the missed wage (earnings), and also the additional charges on medical, social and professional rehabilitation, connected to the health harm or the corresponding charges in connection with the death of the employee, which are given to the family of the dead person. .

(2) The size and conditions of granting guarantees and indemnifications, stipulated by part (1), are established by the legislation in force.

Article 197. Guarantees in the field of the state social insurance

Employees are subject to the state social insurance and benefit from all guarantees, indemnifications and other payments, stipulated by the system of the state social insurance in conformity with the current legislation.

TITLE VII
INTERNAL REGULATIONS OF THE ENTERPRISE. DISCIPLINE OF WORK

Chapter I
INTERNAL REGULATIONS

Article 198. General provisions

(1) Internal regulation of the enterprise - the legal act, made at each enterprise after consulting the representatives of employees and confirmed by the order (decision, disposition) of the employer.

(2) Internal regulations of the enterprise cannot contain provisions contradicting the current legislation, the clauses of the collective agreements and the collective labour contract.

(3) Enterprise cannot establish restrictions of the individual or collective rights of employees through the internal regulations.

Article 199. Contents of the internal regulations of the enterprise

(1) Internal regulations of the enterprise should contain provisions concerning:

a) health and occupational safety at the enterprise;

b) observance of the principle non-discrimination and elimination of any form of dignity infringements in the sphere of labour;

c) employer and employees' rights and responsibilities;

d) work discipline at the enterprise;
e) minor offences and the applicable sanctions, according to the current legislation;
f) disciplinary procedure;
g) work and rest regime.

(2) internal regulations of the enterprise can also contain other provisions concerning other questions of labour relations regulation at the enterprise.

(3) Internal regulations of the enterprise are brought to the notice of the employee by the employer, under signature and have legal effect from the date of acquainting the employees with rules.

(4) Obligation of the employer to acquaint the employee, under signature with the contents of the internal regulations of the enterprise, should be executed within five working days from the date of their statement.

(5) Procedure of acquainting each employee with the contents of internal rules of the enterprise is established directly in its text.

(6) Internal regulations of the enterprise are displayed in all its structural divisions.

(7) Any change or addition to the internal regulations of the enterprise is carried out with observance of provisions of art. 198.

Article 200. Disciplinary charters and regulations

In some branches of the national economy, to separate categories of employees are applied disciplinary charters and regulations, authorized by the Government.

Chapter II

WORK DISCIPLINE

Article 201.Work discipline

Work discipline represents the obligation of all employees to submit to certain rules of behaviour established in conformity with the present code, other statutory acts, collective agreements, collective and individual labour contracts, and also statutory acts at the level of the enterprise, including rules of the internal regulation of the enterprise.

Article 202. Ensuring work discipline

Work discipline is ensured at the enterprise through the creation by the employer of economic, social, legal and organizational conditions, necessary for performing high-efficiency work, through cultivating a conscious attitude to work, through the applications of encouragements and compensations for conscientious work, and also through disciplinary sanctions in case of some disciplinary infringements.

Article 203. Encouragements for success in work

(1) For success in work the employer can apply the following kinds of encouragements:
à) announcement of gratitude;
b) premium(bonus);

ñ) costly presents;

d) certificate(diploma) of honour.

(2) Internal regulations of the enterprise, disciplinary charters and regulations can also provide other forms of stimulations for employees.

(3) For special success in work, merits for the society and the state, employees can be submitted to state awards (medals, honorary titles), and can be awarded state premiums.

Article 204. Procedure of applying encouragements

(1) Encouragements are applied by the employer, as agreed with the representatives of employees.

(2) Encouragements are made by an order (decision, disposition) and are brought to the notice of the whole collective of workers and are recorded in the work-record card of the employee.

Article 205. Advantages and privileges to employees, who diligently and effectively perform their labour responsibilities

Employees, who diligently and effectively perform their labour responsibilities, have the priority to benefit from different advantages and privileges in the sphere of social- cultural, living and housing services (permit in sanatorium establishments, rest home, etc.). Such employees also have the priority right to promotion. on work.

Article 206. Disciplinary sanctions

(1) For infringement of the labour discipline, the employer has the right to apply the following disciplinary punishments:

a) warning;

b) reprimand;

c) severe reprimand;

d) dismissal (on the bases stipulated by items g), k), m), o) and r) paragraph (1) art. 86.

(2) The legislation in force can also provide for some categories of employees other disciplinary punishments.

(3) It is forbidden to apply fines or any other monetary disciplinary punishments for infringement of the labour discipline.

(4) For the same minor offence cannot be applied more than one disciplinary punishment.

(5) Imposing the disciplinary punishment, the employer should take into account the gravity of the offence and other objective circumstances.

Article 207. Bodies, proxy to apply disciplinary sanctions

(1) Disciplinary punishment is applied by the body, that is granted the right of employment (election, confirmation or appointment for a position) of the employee.

(2) Employees bearing disciplinary responsibility according to disciplinary charters or provisions and other statutory acts, can be imposed disciplinary punishments also by bodies, higher in relation to the ones specified in paragraph (1).

(3) Employees occupying elective offices can be dismissed, item d) paragraph (1) art. 206) only with the decision of the body, that has elected them and only on lawful bases.

Article 208. Procedure of applying disciplinary sanctions

(1) Before applying the disciplinary punishment the employer is obliged to require from the employee an explanation in writing about the committed offence. In case of the employee's refusal to give the demanded explanation, a corresponding act is made, which is signed by a representative of the employer and a representative of employees.

(2) Depending on the gravity of the offence committed by the employee, the employer has the right to organize a service investigation. In the course of the investigation the employee has the right to explain his position and present to the person, authorized to conduct the investigation, all the proofs and justifications which he considers necessary.

Article 209. Terms of applying disciplinary sanctions

(1) Disciplinary punishments are applied, as a rule, at once after the detection of the offence, but not later than one month from the date of detection, without taking into account the time, when the employee was on his annual paid holiday, educational or medical holiday.

(2) Disciplinary punishment cannot be applied after six months from the date of committing the offence, and as result of an inspection or checking of the financial and economic activity - after two years from the day of committing the offence. The specified terms do not include the time of the legal procedure.

Article 210. Application of disciplinary sanctions

(1) The disciplinary punishment is applied through an order (decision, disposition) in which are specified:

a) the actual reasons and legal grounds for applying the disciplinary punishment;

b) term in which the sanction can be contested;

c) body in which, it is possible to contest the sanction.

(2) The order (decision, disposition) of the employer concerning the sanction is brought to the employee's notice under signature, not later than five working days from the date of issuing the order and it has effect from the date of the announcement. In case of the employee's refusal to confirm with signature the announcement of the order, a corresponding act is made, which is signed by a representative of the employer and a representative of employees.

(3) The order (decision, disposition) regarding the application of a disciplinary punishment can be appealed against by the employee in judicial instance in the procedure stipulated by art. 355.

Article 211. Validity term and the consequences of disciplinary sanctions

(1) Validity term of a sanction cannot exceed one year, from the date of its application. If during this term the worker will not be subjected to new disciplinary punishments, it is considered that he didn’t have a disciplinary punishment.

(2) The employer who has applied disciplinary punishments has the right to remove it before the expiration of the year, under his own initiative, at the request of the employee, onto the petition of the representatives of employees or the direct head (manager) of the employee.

(3) During the validity term of the disciplinary punishment the employee, who has been under sanction, cannot benefit from encouragements stipulated in art. 203.

TITLEVIII

VOCATIONAL TRAINING

Chapter I

GENERAL PROVISIONS

Article 212. Basic concepts

(1) Vocational training - training process, at the end of which the employee gets the qualification, certified by a certificate or diploma, given in the procedure established by the law.

(2) Continuous vocational training - training process, during which the employee, who already has a certain qualification or trade, enriches his professional skills by improving his knowledge in the certain area of the major (basic) speciality or by learning to apply new methods or procedures, used in the field of this speciality.

(3) Technical training - system of training, during which the employee masters the methods of applying technical and technological means in the working process.

Article 213. Employer's rights and responsibilities in the area of vocational training

(1) The employer is obliged to create necessary conditions and to promote the professional and technical training of the employees, who are doing the training at the manufacture, improve their professional skills or study in educational institutions without discontinuance of work.

(2) At each enterprise, the employer together with the representatives of employees, annually make and approve vocational training plans.

(3) Conditions and forms of the vocational training, its duration, the rights and the responsibilities of the parties, and also the volume of the financial means allocated for these purposes (not less than 2 percent of the wage payments fund of the enterprise), are defined by the collective labour contract or the collective agreement.

(4) In the case when the employee is taking a vocational training course on the initiative of the employer, all the corresponding charges are carried by the employer.

(5) In case of releasing the employee from work for a short period of time, with a view of taking a vocational training course his individual labour contract proceeds with preservation of the average wages. If the specified period exceeds 60 calendar days, action of the individual labour contract is suspended, and the employee receives, thus the grant paid by the employer according to the provisions of the collective labour contract.

Article 214. Employee's rights and responsibilities in the area of vocational training

(1) The employee has the right to vocational training, including the right to a new trade or speciality. This right can be realized by concluding in writing contracts on vocational training art. 215, 216 paragraph (3) and (4), being additional to the individual labour contract.

(2) The employee who took a vocational training course according to the present code, cannot submit a resignation during the period established by the contract of vocational training, except for the special cases stipulated in the contract

(3) In the case when the employee comes with the initiative of participating in a form of professional training organized outside the enterprise with work discontinuance, the employer examines his written application together with the representatives of employees.

(4) Within 15 calendar days from the date of registration of the employee's applications, the employer will makes a decision on what conditions he can allow the employee have the vocational training in conformity with paragraph (3) and whether the expenses in this situation will be covered by him in full or partially.

Chapter II

CONTRACT OF PROFESSIONAL QUALIFICATION

Article 215. Contract of professional qualification

(1) The contract of professional qualification is the special contract, additional to the individual labour contract, concluded in writing, on the basis of which the employee undertakes vocational training organized by the employer, to get a professional qualification.

. (2) Vocational training at the level of the enterprise, according to the contract of professional qualification is carried out by the instructor or the master (expert) of the training, appointed by the employer from the number of qualified employees having professional experience and authorization, according to the law.

Chapter III

APPRENTICESHIP CONTRACT AND THE CONTRACT OF CONTINUOUS VOCATIONAL TRAINING

Article 216. Apprenticeship contract and the contract of continuous vocational training

(1) The employer has the right to conclude an apprenticeship contract with a person under the age of 25 years, who is in search of a job and doesn't have a professional qualification.

(2) Apprenticeship contract concluded in writing is a civil-law contract and is regulated by the Civil Code and other statutory acts, containing norms of the civil law.

(3) The employer has the right to conclude a contract of continuous vocational training with any employee of the enterprise.

(4) The contract of continuous vocational training is concluded in written form, is an additional act to the individual labour contract and is regulated by the labour legislation and other normative acts, containing norms of the labour right.

Article 217. Contents of the apprenticeship contract and continuous vocational training contract

(1) Apprenticeship contract and the contract of continuous professional training should contain:

a) the surname and first name or the name of the parties;

b) indication of the trade, speciality, qualification which the apprentice or the employee will receive;

c) employer's responsibilities regarding the creation of conditions for training in conformity with the provisions of the contract;

d) term of the contract;

e) responsibility of the person to take the vocational training course and to work according to the trade, speciality and qualification obtained during the term established by the contract;

f) conditions of remuneration during the period apprenticeship or continuous vocational training.

(2) Apprenticeship contract and the contract of continuous professional training can also contain other conditions determined by the parties, not contradicting the current legislation.

Article 218. Duration of apprenticeship and continuous vocational training

(1) Duration of the apprenticeship and the continuous vocational training within the limits of a week should not exceed the duration of working hours established by the present code for the corresponding age and trade, performing the corresponding work.

(2) Time necessary for the apprentice to participate in theoretical activities, connected to the vocational training, is included in the working hours.

(3) Employees, who are taking a continuous vocational training course at the enterprise, can temporarily be released from work stipulated by the individual labour contract, or can perform this work on conditions of incomplete working hours, with the written approval of the employer.

(4) In the case when the employees are taking a continuous professional training, is forbidden:

a) heavy work and work performed in harmful and/or dangerous working conditions;

b) overtime work;

ñ) work at night;

d) detachment which is not connected to the vocational training.

(5) Action of the apprenticeship contract, the contract of continuous vocational training begins with the day specified in the contract, with the prolongation for the period of the medical holiday and other cases, stipulated by the contract.

Article 219. Application of the labour legislation during the period of apprenticeship and continuous vocational training

(1) Labour legislation, including the legislation of labour safety is applied to apprentices and employees, who have concluded a contract of continuous vocational training,

(2) Clauses of apprenticeship contracts and contracts of continuous vocational training, contradicting the provisions of the legislation in force, the conditions of collective agreements and collective labour contracts, are considered void and cannot be applied.

(3) The employer ensures by an appropriate control, carried out together with the representatives of employees, the effectiveness of the apprenticeship system and any other systems of professional training of employees and their adequate protection.

Article 220. Termination of the contract of continuous professional training

The contract of continuous vocational training can be stopped on the bases stipulated by the present code for the termination of the individual labour contract.

Article 221. Termination (cancellation) of the apprenticeship contract
The apprenticeship contract is terminated on the bases, stipulated in the Civil Code.

TITLE IX

LABOUR SAFETY

Chapter I

GENERAL PROVISIONS

Article 222. Basic directions of the state policy in the field of labour safety

(1) Basic directions of the state policy in the field of labour safety are:

a) ensuring the priority regarding the preservation of life and health of employees;

b) issuing and application of statutory acts concerning the labour safety;

c) coordination of activities in the field of labour safety and environmental protection ;

d) state supervision and control over the observance of the requirements of the statutory acts in the field of labour safety;

e) assistance to public control over the observance of the rights and lawful interests of employees in the field of a labour safety;

f) investigation and record of the production accidents and occupational diseases;

g) protection of the legitimate interests of the employees injured in accidents on manufacture and occupational diseases, and also the members of their families, on the basis of the obligatory social insurance of employees from accidents on manufacture and occupational diseases;

h) establishment of indemnifications for heavy work and work in harmful and/or dangerous working conditions which cannot be eliminated at the existing technological level of manufacture and labour organization;

i) dissemination of progressive methods in the field labour safety;

j) participation of public authority in the realization of labour safety measures;

k) preparation and retraining of experts in the field of labour safety;

l) organization of the state statistical reporting about the labour conditions, accidents on manufacture, occupational diseases and their material consequences;

m) ensuring the functioning of the uniform informational system in the field of labour safety;

n) international cooperation in the field of labour safety;

o) assistance in creating safe working conditions, elaboration and introduction of safe technical equipment and technologies, on manufacture, means of individual and collective protection of employees;

p) provision of the employees with means of individual and collective protection, and also with sanitary - household premises (rooms) and devices, treatment and prophylactic means on the account of the employers.

(2) Accomplishment of the basic directions of the state policy in the field of labour safety is ensured through the coordinated actions of central and local bodies of public authority, patronages, trade unions, employers and employees' representatives.

Article 223. Coordination of the activity on labour safety

Coordination of the activity on labour safety in the Republic Moldova is carried out by the Ministry of Labour and Social Protection.

Article 224. Issuing norms of labour safety and norms of work hygiene

Norms of labour safety and norms of work hygiene, obligatory for all enterprises, are issued by the Ministry of Labour and Social Protection and by the Ministry of Health, after consulting the patronages and the trade unions.

Chapter II

LABOUR SAFETY ORGANIZATION AND ENSURING THE EMPLOYEES' RGHTS TO LABOUR SAFETY

Article 225. Employer's responsibilities regarding labour safety

The employer is responsible to ensure labour safety at the enterprise and he has the following obligations:

a) to approve at the stage of studying, designing and building constructions, designing and manufacture of technical equipment, development of technological processes, decisions which correspond to the norms of labour safety and the realization of which would eliminate the risk of accidents on manufacture and occupational diseases of employees;

b) to operate only on the basis of sanction to functioning from the point of view of labour safety, and in case of input in manufacture of technical means, individual protection equipment, working clothes and footwear - and on the basis of the corresponding conclusion, made by competent bodies, and also to keep the conditions for which they have been received, and to demand revision of the specified documents in case of change of the initial conditions;

c) to establish the powers and responsibilities of managers, regarding the realization of measures of labour safety;

d) to organize the labour protection service and medical service;

e) to refund the medical institutions, connected with rendering urgent medical aid to employees in case of accidents on manufacture and aggravation of occupational diseases;

f) to promote creation at the enterprise of a committee on labour safety;

g) to provide an estimation of risk factors on workplaces;

h) to provide the elaboration and realization of the annual plan of measures on labour safety at the enterprise;

i) not to involve the employees means in covering the charges connected with the realization of measures on labour safety at the enterprise;

j) to admit to work only persons, who according to the results of the medical examination are suitable to perform the labour tasks entrusted to them, to provide periodicity of such examinations;

k) to provide information to each employee about the risk to which he is exposed at the workplace, while performing his labour activity, and also about the necessary preventive measures;

l) to provide training of employees in the field of labour safety, including the representatives authorized on labour safety;

m) to elaborate and approve in coordination with the representatives of employees, instructions regarding the labour safety in view of the specificity of work at the enterprise;

n) to provide the employees with individual protection equipments, and also their storage, maintenance, repair, cleaning and dezintoxication;

o) to give sanitary-and-hygienic means to employees, working in conditions of excessive soiling of the skin or influence of harmful substances on hands;

p) to give protective food to employees working in harmful working conditions;

r) to provide uninterrupted functioning of protective systems, devices, controlling and measuring apparatus, and also installations of catching, accumulating and neutralizing harmful substances discharged during technological processes;

s) not to demand from the worker performance of labour tasks, which presents an obvious threat of accident;

t) to insure each employee against accidents on manufacture and occupational diseases;

u) to provide correct and duly informing, investigation, account and reporting about accidents on manufacture and occupational diseases, elaboration and realization of control measures;

v) to provide in case of accident or disease first-aid treatment and transportation of workers to medical institutions;

x) to carry out in the procedure established by the present code, transference to an easier work of the employees, who require the transference for health reasons.

Article 226. Employee's responsibility in the field of labour safety

In the field of labour safety the worker is obliged:

a) to observe the instructions on labour safety, concerning the performed work;

b) to use the individual protective equipment;

c) to carry out his activity so as not subject to dangers himself, and other workers;

d) not to lift, move, destroy the protective, signalling and warning appliances, not interfere with the application of methods and procedures of reducing or eliminating risk factors;

e) to inform the direct head (manager) about any technical malfunction or other situation when the requirements of labour safety are not observed;

f) to interrupt work when an obvious threat of accident appears and immediately to inform about this it the direct head (manager) ;

g) To inform the direct head (manager) about any accident or any disease at the workplace.

Article 227. Employee's right to work, corresponding to the requirements of labour safety

Each worker has the right to:

a) a workplace corresponding to the requirements of labour safety;

b) obligatory social insurance against accidents on manufacture and occupational diseases;

c) to obtain from the employer trustworthy information about the working conditions, existing health risk, and also about the protective measures against the influence of risk factors;

d) to refuse to perform work in case of health or life danger before its elimination;

e) to be provided by the employer with means of individual and collective protection;

f) training in the field of labour safety and professional retraining for reasons connected to labour safety;

g) to apply to the employer, patronages, trade unions, bodies of the central and local public management, judicial instances for the settlement of problems concerning labour safety;

h) personal participation or participation through his representatives in considering the questions connected to the maintenance of safe working conditions at the workplace, in investigating the accident on manufacture or occupational disease;

i) extraordinary medical examination, according to the medical recommendation, with preservation of the workplace and the average wages, for the period of the medical examination;

j) indemnifications stipulated by the law, collective agreements, collective and individual labour contracts, for performing heavy work or work in harmful and/or dangerous working conditions.

Article 228. Guarantees of the right of employees to work in conditions, corresponding to requirements of labour safety

(1) The state guarantees to employees their right to work in conditions, corresponding to requirements of labour safety.

(2) The working conditions stipulated in the individual labour contract, should correspond to requirements of labour safety.

(3) For the period of ceasing the labour activity stipulated by the individual labour contract by the state control bodies, due to the infringements of the requirements of labour safety not on the fault of the worker, he is kept the workplace (position) and the average wages.

(4) If employee refuses to perform work in case of danger for his health or life, the employer is obliged to give him by transference or detachment another work until the elimination of the danger, with preservation of wages at the former place of work.

(5) In cases when granting another work is impossible, the idle time of the worker until the elimination of the danger to his life or health, he is paid by the employer according to paragraph (1) art. 163.

(6) In the case non-provision of the worker according to the established norms with means of individual and collective protection, the employer doesn’t have the right to demand from the employee performance of his labour duties and is obliged to pay the idle time according to the present code.

(7) Refusal of the worker to perform work in case of danger to his life or health, due to the infringement of requirements of labour safety or to perform heavy work or work in harmful and/or dangerous working conditions, not stipulated in the individual labour contract, does not attract disciplinary responsibility.

(8) In case of causing harm to the worker's health, while performing his labour responsibilities, compensation of damage is carried out according to the current legislation.

(9) With a view of preventing and eliminating the infringements of statutory acts regarding labour safety, bodies of public authority provide the organization and realization of the state supervision and control over the observance of the statutory acts concerning labour safety and also establish the responsibility of the employers and other officials for the infringement of the requirements.

Article 229. Conformity of enterprises, buildings and others constructions to the requirements of labour safety

(1) Enterprises, buildings and other constructions should be designed, built and used so that they corresponded to the requirements of labour safety also are not hazardous to the health or live of employees.

(2) The engineering (technical) documentation on the construction of the enterprises, buildings and other premises is kept at the employer during the whole term of operation.

(3) Workplaces with harmful discharges, regardless of the place where they are situated, in closed premises (rooms) or in the open-air, should be located, equipped and supplied in such a way as to avoid pollution or impact on the nearby workplaces and the adjoining sanitary - household premises (rooms).

(4) Enterprises, buildings and other constructions should have sanitary - household premises (rooms) and devices corresponding to the physiological needs of the workers, characteristic to the labour process and working environment.

(5) Acceptance and commissioning new, reconstructed and re-equipped enterprises, shops, industrial sites, technological lines, buildings and other constructions is admitted only with the sanctions of Labour Inspection and State Sanitary-and-Epidemiological services and with the consent of the corresponding trade union.

Article 230. Conformity of the technical equipment to the standards and requirements of labour safety

(1) Technical equipment should be designed, made and used so that to correspond to the standards and the requirements of labour safety and not to present hazard to the health or live of workers.

(2) Commissioning on manufacturing new models of equipment is carried out only after receiving the conclusions on their pre-production models by the Labour Inspection, or other competent bodies, and also the corresponding trade union.

(3) Made in the country or imported, the means should be accompanied by the maintenance instruction in the state language.

Article 231. Commissioning on manufacture means of individual and labour protection

(1) Enterprises producing means of individual and labour protection, will respect the conditions of manufacturing, stipulated in the corresponding standards.

(2) Commissioning on manufacture new assortments of means of individual and labour protection, is carried out only after receiving the conclusions on their pre-production models by the Labour Inspection, or other competent bodies, and also the corresponding trade union.

Article 232. Organization of workplaces

(1) Workplaces should be organized to provide:

a) observance of labour safety requirements;

b) avoidance of the compelled and unnatural positions of the worker's body and to provide the opportunity of changing the position of the body during the working time by arranging the workplace, using the corresponding technical means, optimising the technological flow.

(2) Workplaces, which required additional physical or psychological efforts or on which there are harmful factors of physical, chemical or biological character, will be provided with measures to ensure a work regime and rhythm preventing employees' health hazards.

(3) Employees, working in a hot micro-climate (temperatures higher than 30 C) or in cold conditions (temperatures lower than 5 C), will have the right to breaks for restoring the thermo-regulation abilities of the organism, duration and frequency of which are established depending on the intensity of the effort and the sizes of micro-climate components. For these purposes will be allocated stationary or mobile premises (rooms) with the corresponding microclimate.

(4) Distribution of workers on workplaces is carried out in such a way, that the requirements imposed by the specificity of work, working environment, relations between the person and the machine and the psycho-social relations in the labour collective, meet the physiological features of employees. At distributing women on workplaces is taken into account also the morpho-functional features and the physiological conditions peculiar to them.

(5) Workplaces should be certified for their conformity to the requirements of labour safety not less than once in five years.

Article 233. Carrying out the industrial activity and services rendering

(1) Industrial activity and rendering of services should be carried out according to the technological processes, corresponding to the standards and requirements of labour safety.

(2) Provided that there are no norms on labour safety, the employer is assigned the responsibility to provide measures of labour safety, corresponding to concrete conditions of labour activity performance, by sanctioning the internal instructions regarding labour safety.

(3) Bilateral contracts made by the employer with other partners, including foreign partners, for performing certain activities on the territory of the Republic of Moldova's or other countries, should include clauses on labour safety

(4) Employers have the right to carry out industrial activity or render services and to receive the license for a certain kind of activity, only if they have the authorization to functioning from the point of view of labour safety, given by the Labour Inspection in the way established by the Government.

Article 234. Labour protection service

(1) Labour protection service is created at the enterprises that have 50 or more workers.

(2) If the enterprise-working environment demands a dynamic control of harmful factors, an industrial toxicology laboratory is created, which is in the submission of the labour protection service.

(3) Labour protection service advises and assists the employer in elaborating and realizing the control measures on accidents and occupational diseases.

(4) Labour protection service has the following tasks:

a) prevention, elimination or reduction of the action of risk factors;

b) improvement of working methods and working environment, adapting them to the psycho-physical capability of workers;

c) assistance in training workers in the field of labour safety.

(5) the personnel of the labour protection service is formed of experts having the corresponding preparation in this field.

(6) enterprises with less than 50 workers, not having a labour safety service and laboratories of industrial toxicology, can apply to the services of specialized enterprises.

Article 235. Medical service

(1) Medical service is created at enterprises with 300 workers and more. At enterprises with less than 300 workers the employer and the representatives of employees solve the problem regarding the creation of the medical service in the course of collective negotiations.

(2) Medical service's tasks are:

a) organizing and carrying out in the procedure established by law, the medical inspections (examinations) of workers at employment, and during the individual labour contract;

b) supervision of observing the norms of work hygiene;

(3) For the purpose of performing the tasks assigned to it, the medical service can suggest to the employer on the basis of the corresponding medical conclusions to transfer the worker to another workplace or to change the specificity of work in connection to his health state.

(4) The personnel of the medical service is formed of persons having medical education, selected by the employer under the offer of public authority competent in the field of public health services.

(5) Enterprises with less than 300 workers, not having a medical service, can apply to the medical institutions.

Article 236. Labour safety committee

(1) Labour safety committee is created at the enterprise on parity basis from employer's representatives of labour safety and workers' representatives. The initiator of creating the labour safety committee can be any of the parties.

(2) Labour safety committee ensures employer -workers cooperation in the process of elaboration and performance of preventive measures, regarding accidents and occupational diseases.

(3) The statute of the organization and functioning of the labour safety committee is approved by the Ministry of Labour and Social Protection in coordination with the patronages and trade unions.

Article 237. Elaboration, realization and financing labour safety measures

(1) On the basis of risk factors assessment on workplaces, the employer after consulting the labour safety committee elaborates the annual plan of labour safety measures, in the procedure established by the Ministry of Labour and Social Protection.

(2) The annual plan of labour safety measures is approved by the employer and in case of concluding the collective labour contract it becomes its component.

(3) The expenses connected to the performance of the labour safety measures are fully financed by the enterprise.

(4) Workers do not bear any expenses connected to the financing the labour safety measures.

(5) Financing labour safety measures at the national, branch and territorial levels is carried out according to working legislation and the collective agreement of the corresponding level.

Article 238. Medical examinations at employment and periodic medical investigations

(1) Employment and transference to another work of separate categories of workers are carried out on the basis of the medical conclusion on the results of medical investigation.

(2) The list of categories of workers who are undergoing a medical examination at employment and periodic medical investigations is approved by the Ministry of Health.

(3) Workers have no right to evade from the medical examination.

(4) The expenses connected to the organization and performance of the medical examination, are on the account of the employer.

Article 239. Training workers in the field of labour safety

(1) The purposes of training workers in the field of labour safety are mastering the knowledge and skills formation in the given area.

(2) Training workers in the field of labour safety is performed in the way established by the Ministry of Labour and Social Protection after consulting the corresponding trade unions.

Article 240. Provision of individual protective equipment, working clothes and footwear

(1 The individual protective equipment, working clothes and footwear are given out to workers by the employer free-of-charge.

(2)Assortments of individual protective equipment, working clothes and footwear, and the categories of workers to whom they are given, are defined in the way, established by the Ministry of Labour and Social Protection, and are also specified in the collective labour contract.

(3) In case of depreciation of the individual protective equipment, working clothes and footwear, and losing the protective properties because of this, the employees are given new equipment, clothes and footwear free-of charge.

(4) Damage or loss of the individual protective equipment on fault of the worker before the expiration of the target date, makes them liable for the caused damage in conformity with the current legislation.

Article 241. Provision of protective sanitary-and-hygienic materials

(1) Protective sanitary-and-hygienic materials are provided by the employer free-of-charge, to employees who work in conditions of excessive soiling of the skin or hazardous influence on hands. .

(2) Assortments of protective sanitary-and-hygienic materials, the necessary quantity and periodicity of their provision are determined by the employer in the way established by the Government.

Article 242. Provision of protective foodstuff

(1) Protective food is provided by the employer free-of-charge to employees, working on workplaces with harmful working conditions.

(2) The food stuff given as free-of-charge protective food, their quantity and the categories of workers, who benefit from it are defined in the way established by the Government, and are specified in the collective labour contract.

Article 243. Investigation of accidents on manufacture and cases of occupational diseases

(1) Investigation of accidents on manufacture is carried for the purpose of establishing the circumstances and the causes, and also defining the measures of preventing such phenomena.

(2) As a result of investigating the cases of occupational diseases, is confirmed the diagnosis of the illness, is confirmed or denied the occupational character of the disease, and are determined its causes.

(3) Reporting, investigating, registration and the account of accidents on manufacture and cases of occupational diseases are carried out in the way established by the Government.

(4) Representatives of higher hierarchical bodies, trade unions, and other persons representing the interests of the victims or their families, have the right to participate in investigating the accidents on manufacture.

Article 244. Responsibility for infringing the requirements of labour safety

Officials and employees guilty of infringing the requirements labour safety, bear material, disciplinary, administrative and criminal responsibility, according to the current legislation.

TITLE X

FEATURES OF WORK REGULATION FOR SEPARATE CATEGORIES OF EMPLOYEES

Chapter I

GENERAL PROVISIONS

Article 245. Features of work regulation

Features of work regulation - represent a set of norms, limiting the application of general rules concerning work of separate categories of employees, or establishing for these categories additional rules in the given area.

Article 246. Categories of workers for whom features of work regulation are established

Features of work regulation are established by the present code and other statutory acts for women, persons with family responsibilities, workers under the age of eighteen, enterprises' leaders, persons performing part-time jobs, and also some other categories of employees.

Chapter II

WORK OF WOMEN, PERSONS WITH FAMILY RESPONSIBILITIES AND OTHER PERSONS

Article 247. Guarantees at employment to pregnant women and persons having children under the age of six

(1) Refusal in employment or reduction of the size of wages for reasons connected to pregnancy or having children under the age of six, is forbidden. Refusal in employment of pregnant women or person having child under the age of six, or for other reasons should be motivated, the person is informed in writing by the employer during five calendar days from the date of registering the application. Refusal in employment can be appealed against in judicial instance.

(2) Enterprises are obliged to employ according to the quota, established by the Government, specified in paragraph (1) persons directed on work by territorial employment agencies.

Article 248. Labour activities on which women's work is forbidden

(1) Women's work is forbidden on heavy work and work in harmful working conditions, and also on underground work, with the exception of work on sanitary services and the work which does not demand physical effort.

(2) It is forbidden for women to lift and carry weights, exceeding the limit rates established for them.

(3) The list of heavy work, work in harmful conditions, on which women’s work is forbidden, and also the limit rates of loading at lifting and carrying weights are approved by the Government after consultations with patronages and trade unions.

Article 249. Restriction to directing on official journey

(1) Directing on an official journey is not admitted to pregnant women, women who are on postnatal holiday, women having children under the age of three, and also persons to whom business trips are contra-indicated, according to the medical conclusion.

(2) Invalids of I and II groups, women having children aged from 3 to 14 (children - invalids under the age sixteen), persons combining holidays on child nursing with work, stipulated by art. 126 and paragraph (2) art. 127, and also workers who are looking after sick member of their family on the basis of the medical conclusion, can be directed on official journey only with their written approval. However, the employer is obliged to acquaint in writing the specified workers with their right to refuse the business trip.

Article 250. Transference of pregnant women and the women having children under the age of three to easier work

(1) Pregnant women and breastfeeding mothers, according to medical conclusion are given by way of transference easier work, which excludes the influence of adverse production factors, and preserving the average wages on the previous place of work.

(2) While solving the problem of granting an easier work, which excludes the influence of hazardous production factors, the pregnant woman should be released from performing labour duties with the preservation of the average wages for all the working days, when she didn't work.

(3) Women having children under the age of three, in the case when they cannot perform their former labour responsibilities, are transferred to another work with preservation of the average wages from the previous workplace, as stipulated by the present code, until the children reach the age of three.

Article 251. Prohibition of dismissing pregnant women and workers who are taking care of children under the age of six

Dismissal of pregnant women, women having children under the age of six, and persons who are on child nursing holidays, stipulated by art. 124, 126 and 127 is forbidden,, except for the cases of enterprise liquidation.

Article 252. Guarantees to persons who are taking care of children left without maternal care

Guarantees and rights granted to women, having children under the age of six, and other persons who are on child nursing holidays, stipulated by art. 124, 126 and 127 (restriction of night work and overtime work, attraction to work on days off and directions on official journey, granting additional holidays, establishment of exclusive mode of work, other guarantees and privileges established by the labour legislation), are given besides the relatives specified in paragraph (4) art. 124, to other persons, actually taking care of children left without maternal care (in the case of the mother's death, deprivation of her maternal rights, long stay in medical establishment and in other cases), and also to guardians of minors.

Chapter III

WORK OF PERSONS UNDER THE AGE OF EIGHTEEN

Article 253. Medical examinations of employees under the age of eighteen

(1) Workers who have not reached the age of eighteen are accepted to work only after the preliminary medical examination. Until the age of eighteen they will undergo the medical examination annually.

(2) Charges in connection with the medical examination are on the account of the employer.

Article 254.Work norm for employees under the age of eighteen

(1) The work norm for employees under the age of eighteen is established, proceeding from the general norms of work proportionally reduced to the working hours established for this category of workers.

(2) Employees under the age of eighteen, are employed after finishing the general secondary school, lyceum, professional and vocational school, and the employer establishes for them reduced

norms of work, according to the legislation in force, collective agreements and the collective labour contract.

Article 255. Labour activities forbidden for persons under the age of eighteen

(1) Persons under the age of eighteen are forbidden to perform heavy work and work in harmful and/or dangerous working conditions, underground work, and also work that can cause harm to their health and their moral integrity (gambling, work in night institutions, manufacture, transportation and trade in alcoholic drinks, tobacco products, narcotic and toxic products). Lifting and carrying weights, exceeding the limit rates established for them is not admitted.

(2) The list of heavy work and work in hazardous and/or dangerous conditions, labour activities that are forbidden for persons under the age of eighteen, and also lifting and carrying weights, exceeding the limit rates established for this category of persons is approved by the Government after consultation with the patronages and trade unions.

Article 256. Prohibition of directing on official journey workers under the age of eighteen

Directing on official journey workers under the age of eighteen is forbidden, except for employees from audio-visual institutions, theatres, circuses, cinema, theatrical and concert organizations, and also organizations of professional sportsmen.

Article 257. Additional guarantees to workers under the age of eighteen, regarding their dismissal

Dismissal of workers under the age of eighteen, is admitted only with the written approval of the territorial employment agency and the territorial commissions for minors, observing the general conditions of dismissal, stipulated by the present code, with the exception of cases of enterprise liquidation.

Chapter IV

WORK OF ENTERPRISES' HEADS AND MEMBERS OF COLLECTIVE BODIES

Article 258. General provisions

(1) Provisions of the present chapter are applied to leaders of all enterprises, except for cases, when the head (employer) is simultaneously the proprietor of the enterprise.

(2) The director is the physical person, who in conformity with the current legislation or constituent documents of the enterprise performs the management functions of the enterprise, performing simultaneously the functions of the executive body.

Article 259. Legal basis for enterprise’s heads work regulation

Rights and responsibilities of the director in the field of labour relations are determined by the present code, other statutory acts, constituent documents of the enterprise and the individual labour contract.

Article 260. Conclusion of the individual labour contract with the director

(1) The individual labour contract with the director is concluded for the term, specified in the constituent documents of the enterprise, or for the term, established in the contract under the agreement of the parties.

(2) The current legislation or constituent documents of the enterprises can stipulate special procedures, prior to the conclusion of the individual labour contract with the director (competition, election or appointment on a position).

Article 261. Part-time work of the head of the enterprise

(1) The director has no right to hold more than one office at the enterprise which he manages or perform a part-time job at another enterprise, except for the cases stipulated by the current legislation.

(2) The director cannot be part of the bodies, exercising supervision and control over the enterprise, which he manages.

Article 262 Director's liability

(1) The director carries full liability for the direct damage caused to the enterprise, according to the present code and other statutory acts.

(2) In the cases stipulated by the current legislation, the director indemnifies the damage caused to the enterprise as a result of his culpable actions or inactivity. The size of the damage is estimated in conformity with the norms of the Civil Code.

Article 263. Additional bases for the termination of the individual labour contract made with the director

Besides the cases of the termination of the individual labour contract on the bases stipulated by the present code and other normative acts, the individual labour contract made with the head of the enterprises, can cease in cases of:

a) in the case of dismissing the director of the enterprise - debtor according to the legislation regarding the insolvency;

b) in connection with the issue of a legal order (decisions, disposition) by the authorized body or the proprietor of the enterprise for the pre-term termination of the individual labour contract;

c) in other cases stipulated by the individual labour contract.

Article 264. Indemnification in connection with the termination of the individual labour contract made with the head of the enterprise

In case of the termination of the individual labour contract made with the director, on the basis of the order (decision, disposition) of authorized body or the proprietor of the enterprise item b) art. 263, in the case when there haven't been registered any culpable actions or inactivity, the director is informed in writing a month before the pre-term termination of the individual labour contract and he is granted an indemnification in the size stipulated by the contract, but not less than three average wages.

Article 265. Resignation of the director

The director has the right to submit to resignation before the expiration of the term of the individual labour contract in the cases stipulated in the contract, informing in writing the employer one month before his resignation.

Article 266. Other features of enterprises' heads work regulation and members of collective bodies

The current legislation and/or the constituent documents of the enterprises can stipulated other features of work regulation of the director, and also feature of work regulation of the members of the executive joint body of the enterprise, working on the basis of the individual labour contract.

Chapter V

PART-TIME WORK

Article 267. General provisions

(1) Part-time work **-** performance of work, during the free time from the basic work or other permanent or temporary work on the basis of a separate individual labour contract.

(2) Individual labour contracts regarding part-time work can be concluded with one or several employers, if it does not contradict the current legislation.

(3) Part-time work can be performed by the worker at the same enterprise, as well as at another enterprises.

(4) Conclusion of the individual labour contract on part-time work doesn't require the consent of the employer from the basic workplace.

(5) It is necessarily to indicate in the individual labour contract, that the work is a part-time work.

(6) The persons who have been employed as part-time workers benefit from the same rights and guarantees, as the other workers of the enterprises.

Article 268. Features of part-time work for some categories of employees

Features of part-time work of some categories of employees (pedagogical staff, medical and pharmaceutical personnel, workers of the sphere of scientific researches and development, workers from the area of culture, art, sports etc.) are established by the Government, through consultations with patronages and trade unions.

Article 269. Restrictions on part-time work

Employers in agreement with the representatives of workers can establish some restrictions on part-time work only for the workers of certain trades, specialities and posts, with special working conditions and regimes, whose part-time work could endanger their health or the production safety.

Article 270. Documents submitted at the conclusion of the individual the labour contract on part-time work

(1) The person who is employed on a part-time job at another enterprise is obliged to submit to the employer the identification card or other document certifying the person.

(2) The employer hiring a person on a part-time work, post or profession which requires special knowledge (training), has the right to demand from the worker presentation of the diploma or other document, confirming the education or vocational training, or the extract from the work-record card. In the case of employing a person on heavy work or work in hazardous and/or dangerous working conditions - to demand information (certificate) on the character of the working conditions at the basic workplace and also the medical conclusion.

Article 271. Duration of working hours and rest at the part-time workplace

Concrete duration working hours and rest at the part-time workplace is established in the individual labour contract taking into account the provisions of the present code (section IV) and other statutory acts.

Article 272. Annual paid holiday of employees, who perform part-time work

(1) Persons performing part-time work, have the right to an annual paid holiday, according to the positions or speciality, given simultaneously with the annual paid holiday at the basic workplace.

(2) Duration of the holiday at the part-time workplace corresponds to the established for the given post or speciality holiday at the enterprise and it does not depend on the duration of the holiday at the basic workplace. The worker has the right to an additional non-paid holiday in the case, when the duration of holiday at the part-time workplace is less than the duration of holiday at the basic place of work.

(3) Payment of the holiday grant or indemnification for unused holiday is made proceeding from the average wages for the part-time position or speciality determined in the order, established by the Government.

Article 273. Additional bases for individual labour contract termination with employees, who perform part-time work

Besides the general bases of the individual labour contract termination, concluded with the person, performing part-time work, it can also be stopped in case of the conclusion of an individual labour contract with another person, for whom the corresponding trade, speciality or post will be the basic one item s) paragraph (1) art. 86.

Article 274. Severance pay to employees, who perform part-time work

In case of cancelling the individual labour contract with the worker, employed on a part-time work, in connection with the liquidation of the enterprises, reduction of the number of workers or staff, he is paid the severance pay at the rate of his average monthly wages.

Chapter VI

WORK OF PERSONS, WHO CONCLUDED AN INDIVIDUAL LABOUR CONTRACTS FOR A TERM UP TO TWO MONTHS

Article 275. Conclusion of the individual labour contract for a term up to two months

The conclusion of the individual labour contract for a term up to two months is carried out in the cases stipulated by item b) art. 55, and in the way established by the present code and other statutory acts.

Article 276. Engagement in work on days off and non-working holidays

(1) The workers, who have concluded an individual labour contract for a term up to two months, can be engaged in work on days off and non-working holidays only with their written approval.

(2) Payment for work performed on days off and non-working holidays is made in the way stipulated by art. 158.

Article 277. Holiday grant (allowance)

(1) Workers, who have concluded an individual labour contract for a term up to two months, at the termination of the contract in connection with the expiration of the term, are paid grants for the unused days of holiday.

(2) Procedure of calculating the holiday grant, stipulated by paragraph (1), is established by the Government.

Article 278. Termination of the individual labour contract

(1) Employees, who concluded an individual labour contract for a term up to two months, have the right to terminate it before the term, having informed the employer in writing about it not less than three calendar days before.

(2) The employer is obliged to inform the worker by order (decision, disposition) under signature about the termination of the individual labour contract not less than three calendar days before the expiration of the term.

Chapter VII

WORKERS PERFORMING SEASONAL ACTIVITIES

Article 279. Seasonal work

(1) Seasonal work, which by virtue of climatic and other natural conditions is carried out during a certain period of the calendar year (season), which does not exceed six months.

(2) The list of seasonal work is approved by the Government.

Article 280. Conditions for concluding individual labour contracts with workers hired to perform seasonal work

(1) The seasonal character of work should be specified in the individual labour contract item b) art. 55.

(2) In case of employing workers for seasonal work, the trial period cannot exceed two calendar weeks.

Article 281. Holiday grant (allowance)

(1) Workers occupied in seasonal work, at the termination of the individual labour contract in connection with the end of the season, are paid a grant (allowance) for the unused days of holiday.

(2) The procedure of calculating the holiday grant stipulated by paragraph (1) is established by the Government.

Article 282. Termination of the individual labour contract with workers, who perform seasonal work

(1) Workers occupied in seasonal work, are obliged to inform the employer in writing about the pre-term cancellation of the individual labour contract not less than seven calendar days before it.

(2) The employer is obliged to inform in writing under signature the worker occupied in seasonal work, about the discontinuance of the individual labour contract in connection with the expiration of its term not less than seven calendar days before it.

(3) Termination of the individual labour contract with the worker, occupied in seasonal work, in connection with the liquidation of the enterprise, reduction of the number workers or staff, the worker is granted a severance pay in the size of a fortnight average wages.

Chapter VIII

LABOUR ACTIVITY OF PERSONS WORKING FOR EMPLOYERS-PHYSICAL PERSONS

Article 283. Features of the individual labour contract, concluded between the worker and the employer – physical person

(1) Concluding the individual labour contract with the employer - physical person, the worker commits himself to perform work which is not forbidden by the current legislation and which is stipulated by the contract.

(2) The individual labour contract made in writing, will obligatorily include all the clauses stipulated by art. 49.

(3) The employer - physical person is obliged:

a) to make the individual labour contract with the worker in written form and to register this contract at the corresponding body of local public administration;

b) to pay the state social insurance payments and other obligatory payments in the order and sizes stipulated by the legislation in force;

c) to legalize papers, of persons employed for the first time, that are necessary for the registration of the workers as payers in the system of state social insurance

Article 284. Term of the individual labour contract

The individual labour contract between the worker and the employer- physical person can be concluded for a fixed or indefinite term.

Article 285. Work and rest regime

Work regime, the procedure of granting days off and annual paid holidays are determined by the individual labour contract, concluded between the worker and the employer - physical person. Thus, the duration of working hours cannot be bigger, and the duration of the annual paid holiday - smaller, than it is established by the present code.

Article 286. Modification of clauses of the individual labour contract

The employer - physical person informs the worker in writing, about the modification of clauses stipulated in the individual labour contract not less than 14 calendar days before it.

Article 287. Termination of the individual labour contract

(1) The worker, who concluded an individual labour contract with the employer - physical person, is obliged to inform him about the to resignation not less than seven calendar days before it.

(2) The employer is obliged to inform the worker about the forthcoming work release item f) art. 82 and art. 86 in writing, under signature not less than seven calendar days before it.

(3) Concrete terms of submitting the information stipulated in paragraph (2), and also the cases of payment and the sizes of severance pay at the termination of the individual labour contract, other payments and indemnifications are determined by the parties of the contract.

Article 288. Settlement of individual labour disputes

The individual labour disputes which have arisen between the worker and the employer - physical person and not settled on mutual consent, are resolved in the judicial order according to hereby code (section XII).

Article 289. Documents confirming the work of employers- physical persons

(1) The document confirming the work for the employer - physical persons is the individual labour contract made in written and registered according to paragraph.(3) art. 283

(2) The employer - physical person has no right to make records in the work-record cards of workers and also to legalize the work-record cards of workers, who are employed for the first time. Registration and records in the work-record cards of workers are made by the body, which has registered the individual labour contract.

Chapter IX

WORK PERFORMED AT HOME

Article 290. Employees, who perform work at home

(1) Employees, performing work at home- persons who concluded an individual labour contract to perform work at home with the use of materials, tools and mechanisms provided by the employer or bought by the employees on his own means.

(2) In case when the employee, who performs work at home, uses his tools and mechanisms, his personal property, he is paid an indemnification for the depreciation. Payment of such indemnifications, and also compensation of other expenses, connected to the performance of work at home, are made by the employer in the order stipulated by the individual labour contract.

(3) Procedure and terms of providing the employees, who perform work at home with raw material, materials and semi-finished items, payments for the produced goods, compensation of the cost of materials belonging to these workers, and also transportation of the finished goods are established by the individual labour contract.

(4) Action of the labour legislation is distributed to home workers with the features established by the present code.

Article 291. Conditions, in which work at home is admitted

Work, assignment to workers performing labour activities at home, cannot be contra-indicated to them according to the medical conclusion and should be carried out in the conditions corresponding to requirements of health and occupational safety

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Article 292. Termination of the individual labour contract with persons, who perform work at home

The termination of the individual labour contract with workers, performing work at home is made on the general bases stipulated by the present code.

Chapter X

LABOUR ACTIVITY OF TRANSPORT WORKERS

Article 293. Employment, directly connected to means of transport

(1) Persons, who have received professional training in the order established by the Government, and having the corresponding document (certificate, diploma, etc.), can be employed to perform work directly connected to means of transport.

(2) Employment of persons for the work directly connected to the means of transport is made only on the basis of the medical conclusion given as a result of the medical examination, carried out in the order established by the Government.

(3) The list of trades (posts) and work directly connected to the circulation of the means of transport, is approved by the Government through consultations with patronages and trade unions of the corresponding branch.

Article 294. Work and rest regime of workers, whose activity is directly connected to the means of transport,

Duration, features of work and rest regime for separate categories of workers, whose work is directly connected to the circulation of the means of transport, are established by the present code,

other statutory acts, and also the international agreements, one of the parties being the Republic Moldova.

Article 295. Rights and responsibilities of workers, whose activity is directly connected to the means of transport

Rights and responsibilities of workers, whose activity is directly connected to the circulation (movement) of vehicles, are regulated by the present code, regulations (charters) concerning various types of means of transport and authorized in the order established by other normative acts.

Chapter XI

LABOUR ACTIVITY OF WORKERS FROM THE EDUCATIONAL SYSTEM

Article 296. The right to practice pedagogical (teaching) activity

(1) To pedagogical (teaching) activity are admitted, persons having an educational level, established by the current legislation, necessary to perform work in an educational institution.

(2) To pedagogical (teaching) activity are not admitted persons, who are deprived the rights to be engaged in this activity by the decision of the judicial instance or on the basis of the medical conclusion, and also persons who were convicted for crimes. The list of medical contra-indications and crimes, that don't permit performance of pedagogical (teaching) activity, are established by law.

Article 297. Conclusion of the individual labour contract with scientific and pedagogical workers of higher educational institutions

(1) Replacement of all posts of scientific and pedagogical workers in the institutions of higher education is made on the basis of the individual labour contract, concluded for a certain term by results of competition. The regulations concerning the procedure of replacement of specified positions is approved by the Government.

(2) Posts of the dean of the faculty and the chief of chairs faculty of educational institutions are elective. The order of elections on the specified posts is defined by the charter corresponding educational institutions.

Article 298. Working hours duration for pedagogical workers

(1) For pedagogical workers of educational institutions it is established the reduced duration of working hours, which does not exceeding 35 hours per week, paragraph (3) art. 96.

(2) Concrete duration working hours for pedagogical workers of educational institutions, depending on the position and/or speciality and specificity of work performed by them, is established by the Government.

Article 299. Annual lengthened paid holiday

(1) Pedagogical workers of educational institutions are granted paid holiday annually upon the termination of the academic year, the duration of the holiday is:

a) 62 calendar days - for pedagogical workers of higher educational institutions, colleges, lyceum, grammar schools, comprehensive schools of all kinds;

b) 42 calendar days - for pedagogical workers pre-school institutions of all kinds;

c) 28 calendar days - for pedagogical workers out-of-school institutions, children's sports schools.

(2) Scientific workers of educational institutions of all levels are granted annual paid holiday with a duration of 62 calendar days.

(3) Auxiliary- pedagogical workers and the administrative personnel are granted annual paid holiday with a duration of 28 calendar days.

Article 300. Long-term holiday of pedagogical workers

Pedagogical workers of educational institutions are granted one-year holiday once in 10 years of pedagogical work, in the order and on conditions, including payment, determined by the founder and/or the statute of the corresponding educational institution.

Article 301. Additional bases for termination of the individual labour contract with pedagogical workers

Besides the general bases stipulated by the present code, the individual labour contract made with the pedagogical worker, can be stopped also on the following bases:

a) numerous rough infringement of the statute of the educational institution during one year, item l) paragraph (1) art. 86);

b) application of physical or mental violence towards pupils, item n) paragraph (1) art. 86.

Chapter XII

WORKERS OF DIPLOMATIC REPRESENTATIVES AND CONSULAR ESTABLISHMENTS OF THE REPUBLIC OF MOLDOVA

Article 302. Work features in diplomatic representatives and consular establishments of the Republic of Moldova

(1) Persons occupying diplomatic, administrative - technical positions or posts in the Ministry of Foreign Affairs, are detached by transfer, accordingly to the diplomatic or consular posts, administrative - technical posts or posts of attendants in diplomatic representations or consular establishments of the Republic of Moldova.

(2) The maximal term of stay in diplomatic representatives and consular establishments, according to a paragraph (1) is 4 years for chiefs of diplomatic representatives and consular establishments, and 3 years for other workers.

(3) After the expiration of the term of detachment, the persons specified in paragraph (1), are transferred to the Ministry of Foreign Affairs, provided that there are vacant positions, and if there are no vacant posts, they are enlisted in the reserve of the ministry.

(4) Persons, who are not members of the administrative - technical and serving personnel, directed to diplomatic representatives and consular establishments not from the Ministry of Foreign Affairs, after expiration of the term of work, can be employed in the given ministry, provided that there are vacant posts.

Article 303. Working conditions of persons detached at diplomatic representatives and consular establishments of the Republic of Moldova

Working conditions of workers detached at diplomatic representations and consular establishments of the Republic of Moldova, are established by the individual labour contract made in conformity with the present code and other statutory acts, regulating diplomatic service.

Article 304. Guarantees and indemnifications to workers detached at diplomatic representatives and consular establishments of the Republic of Moldova

Procedure and conditions of indemnifications payment in connection with detachment to the workplace, and also the material and living conditions of workers, detached to diplomatic representatives and consular establishments of the Republic of Moldova, are established by the Government with the account of climatic and other conditions in the host country.

Article 305. Termination of activity in diplomatic representations and consular establishments of the Republic of Moldova

(1) Activity of workers occupying diplomatic and consular posts in diplomatic representatives and consular establishments of the Republic of Moldova, stops in the following cases:

a) recall in the way established by the Government;

b) declaration of the worker " persona non grata"; and also

c) in other cases stipulated by the current legislation.

(2) Activity of workers occupying administrative - technical posts and positions of attendants in diplomatic representations and consular establishments of the Republic of Moldova, stops on the bases stipulated by the present code and other statutory acts.

Chapter XIII

WORKERS OF RELIGIOUS ASSOCIATIONS

Article 306. Parties of the individual labour contract, concluded with religious associations

(1) The employer can be a religious association, registered in the order established by the legislation in force that concluded an individual labour contract with the worker.

(2) The worker can be the person, who has reached the age of sixteen, has concluded an individual labour contract with the religious association, performs a certain work according to the profession, speciality, post and submits to the internal regulations of the religious associations.

Article 307. Internal regulations of religious associations

Rights and responsibilities of the parties of the individual labour contract are defined in the contract, taking into account the internal regulations of the religious association, which don't contradict the Constitution of the Republic of Moldova, the present code and other statutory acts.

Article 308. Features of concluding and modifying the individual labour contract with the religious association

(1) The individual labour contract between the worker and the religious association can be concluded for a definite term item m) art. 55.

(2) At the conclusion of the individual labour contract the worker commits himself to perform any work not forbidden by law and determined by the contract.

(3) The individual labour contract includes the conditions, established as a result of negotiations between the worker and the religious association - the employer, not contradicting the present code.

(4) In case of the necessity to modify the individual labour contract, the interested party is obliged to inform the other party about it in writing, not less than seven calendar days before it.

Article 309. Work regime of persons working in religious associations

Work regime of persons, working in religious associations, is established proceeding from the regime of performing the ceremonies or other activities of religious association determined by its internal regulations, taking into account the normal duration of working hours and the time of rest, stipulated by the present code.

Article 310. Additional bases for terminating the individual labour contract, concluded with the religious association

(1) Besides the general bases stipulated by the present code, the individual labour contract made by the worker with the religious association, can be stopped also on other bases, stipulated in the contract, item j) art. 82.

(2) Terms of notifying the worker of the religious association about his dismissal on the bases stipulated in the individual labour contract, and also the procedure and conditions of granting to him the guarantees and indemnifications in connection with the lay-off are established in the individual labour contract.

(3) The worker of the religious association has the right to resignation, giving at least 7-days advance notice of his resignation to the employer

Article 311. Settlement of individual labour disputes

Individual labour disputes which arise between the worker and the religious association and not settled by mutual consent, are resolved by the judicial body according to the present code, (section XII).

Chapter XIV

PERSONS WORKING ON THE BASIS OF THE INDIVIDUAL LABOUR CONTRACTFOR THE PERIOD OF PERFORMING A CERTAIN LABOUR ACTIVITY

Article 312. Individual labour contracts for the period of performing a certain activity

(1) Concluding an individual labour contract, the worker commits himself to perform for the employer a certain activity stipulated in the contract, according to a certain profession, speciality, qualification, receiving during the term of the activity performance of the corresponding work monthly compensation in form of wages.

(2) The individual labour contract for the period of performing a certain work is concluded in the cases when it is impossible to establish a definite term for its completion. The parties of the contract can agree about the general term of execution, and also about the terms of performing separate parts of work.

(3) If the term necessary for the performance of a certain work exceeds a 5-year period, the individual labour contract is considered to be concluded for an indefinite term.

Article 313. Contents of the individual labour contract concluded for the period of performing a certain labour activity

(1) The content of the individual labour contract for the period of performing a certain activity, is established by the parties with observance of the provisions of paragraph (1) art. 49.

(2) Besides the conditions listed in paragraph (1) art. 49, the contract should stipulate the procedure and the place of acceptance by the employer of the completed work.

Article 314. Working hours and rest time

Working hours and time of rest of the worker, who has been hired on the basis of the individual labour contract for the period of performing a certain activity, are established by the parties of the contract. Thus the duration of the working hours cannot be longer than it is stipulated by the present code and time of rest cannot be shorter.

Article 315. Acceptance of work and termination of the individual labour contract for the period of performing a certain work

(1) The worker is obliged to notify the employer about the completion of work in writing not later than the next day after it has been finished.

(2) On receipt of the notice, the employer is obliged to establish and inform the worker by means of a notice the date of work acceptance.

(3) The completed work is accepted by the employer, his representative at the place and in mode, established by the contract. The fact of work acceptance is fixed in the act of acceptance, made by the employer and signed by the parties and one copy is handed to the worker.

(4) Work is considered accepted also in the case, when the employer or his representative doesn't come on the fixed day to accept the work.

(5) If acceptance of work on the fixed day is impossible for objective reasons (force-majeur circumstances, medical holiday or other reasons), the employer fixes a new date, having informed about it the worker in the way stipulated by paragraph (2).

(6) Day of work acceptance is considered the last working day of the worker, if the parties have not concluded a new individual labour contract in conformity with the present code.

Article 316. Pre-term termination of the individual labour contract for the period of performing a certain labour activity

The pre-term termination of the individual labour contract for the period of performing a certain activity is carried out in cases and in the procedure, stipulated by the present code for the pre-term termination of the individual labour contract made for a definite term art. 83.

Chapter XV

CONTINUOUS SHIFT WORK

Article 317. General provisions

(1) Continuous shift work - special form of performing the labour process outside the residences of workers, when they cannot return to their residence after their daily work.

(2) Continuous shift work method is applied in cases, when the place of work performance is situated at a considerable distance away from the household location of the employer, for the purposes of reducing the terms of construction, repair or reconstruction of industrial, social and other establishments.

(3) Workers involved in the continuous shift work, temporarily live in special settlements, created by the employer representing a complex of buildings and constructions intended to provide the workers with good working conditions during their work performance and rest between the shifts

Article 318. Restriction of continuous shift work

(1) Persons under the age of eighteen, pregnant women, women on postnatal holiday, women having children under the age three, and also persons for whom work in continuous shifts is contra-indicated, according to the medical conclusion are not admitted to perform continuous shift work

(2) Invalids of II groups, and I women having children aged 3-6 years (children - invalids under he age sixteen), persons, combining holidays on childcare with work, stipulated by art. 126 and paragraph (2) art. 127, and the workers who take care of a sick member of the family on the basis of the medical conclusion, can perform work in continuous shifts only with their written approval. Thus the employer is obliged to acquaint in writing the specified workers with their right to refuse this kind of work.

Article 319. Duration of the continuous shift

(1) Duration of the continuous shift includes the time of work performance and the time of rest between shifts in the special settlements stipulated by paragraph (3) art. 317.

(2) Duration of the continuous shift should not exceed one month. In unusual cases on separate establishments the employer through consultations with the representatives of workers can increase the duration of the shift up to three months.

Article 320. Working hours record of continuous shift work

(1) For the continuous shift work method it is established the global record of working hours - month, quarter or other long period, but no longer than one year, art. 99

(2) The registration period covers all working hours, time of trips getting from the location of the employer up to the place of work performance and back, and also the time of rest, for the respective calendar period. General duration of working hours for the registration period should not exceed the normal duration of working hours, established by the present code.

(3) The employer is obliged to keep account of the working hours and time of rest of each worker who performs work on the continuous shift method, monthly, and also for all registration period.

Article 321. Work and rest regime of continuous shift work

(1) Working hours and rest time for the registration period are regulated by the schedule of shift work method, which is adopted by the employer together with the representatives of workers and it is brought to the notice of workers not later than one month prior to its introduction into action.

(2) The schedule of continuous shift work provides the time necessary for taking the workers to the workplace and back. Time of travelling to the workplace and back is not included in the working hours and it can coincide with the days off between shifts.

(3) Hours of additional work within the limits of the schedule of work in the continuos shift method can be collect within one calendar year and summarized whole days with the subsequent granting of additional days-off, according to the order (decision, disposition) of the employer.

(4) Days-off, given in connection with work performance over the normal duration of working hours within the limits of the registration period, are paid at the rate of the day time wage rate, if the individual or collective labour contract do not stipulated more favourable conditions.

Article 322. Guarantees and indemnifications to persons performing continuous shift work

(1) Workers who perform continuous shift work are paid for each calendar day of being at the place of work execution, and also for the time of getting from the location of the employer to the workplace and back, they are also paid an extra benefit for the work performed by this method in the size established by the Government.

(2) For the days of travelling from the location of the employer to the place of work execution and back, stipulated by the schedule of the continuous shift work, and also for the days of delay because of meteorological conditions or because of the transport, the worker is paid an average day wages.

Chapter XVI

WORK OF OTHER CATEGORIES OF EMPLOYEES

Article 323. Work of employees of military units, organizations and establishments of the Armed Forces of the Republic of Moldova and public authority bodies, in which military service is stipulated by law, and also the persons executing civil service

(1) Workers who concluded an individual labour contract with military units, organizations or establishments of Armed Forces or bodies of public authority in which military service is stipulated

by law, and also the persons executing civil service, are subject to the labour legislation with the features stipulated by the current statutory acts.

(2) According to the tasks of military units, organizations and establishments, listed in paragraph (1), for their workers are established special conditions of payment, fringe benefits and advantages.

Article 324. Work of medical specialists

(1) For medical workers it is established a reduced duration of working hours which does not exceed 35 hours a week.

(2) Concrete duration of working hours of medical workers is established by the Government, paragraph (3) art. 96, depending on the position and/or speciality with the account of the specificity of the performed work.

Article 325. Work of professional sportsmen, employees of mass media, theatres, circuses, cinema, theatrical and concert organizations, and also other persons participating in creation and/or performance of art works

Professional sportsmen, employees of mass media, theatres, circuses, cinema, theatrical and concert organizations, and also other persons participating in creation and/or performance of art works, are subject to the provisions of the present code, with the features stipulated by the current legislation.

Article 326. Work on farms

(1) Conclusion, modification and termination of the individual labour contract with the farm worker is regulated by the present code, the Farm Law and other statutory acts.

(2) Labour activity of the members of a country farm is regulated by the Farm Law and other statutory acts.

TITLE XI

LIABILITY

Chapter I

GENERAL PROVISIONS

Article 327. Responsibility of one of the parties of the individual labour contract to compensate the damage, caused to the other party of the contract

(1) The party of the individual labour contract (the employer or the worker), causing material and/or mental cruelty to the other party while performing the labour duties, compensates this damage in conformity with the present code and other statutory acts.

(2) Individual and/or collective labour contracts can define concretely the liability of the parties of the contract. Thus the liability of the employer towards the worker cannot be lower, and the liability of the worker towards the employer - higher, than it is stipulated in the present code and other statutory acts.

(3) Termination of the labour relations after causing material and/or mental damage does not release the party of the individual labour contract from his compensation for the damage, as stipulated by the present code and other statutory acts.

Article 328. Compensation of the material damage by the parties of the individual labour contract

(1) The party of the individual labour contract compensates the material damage caused to other party of the contract as a result of its unlawful action or inactivity, if the present code or other statutory acts do not stipulate otherwise.

(2) Each of the parties of the contract is obliged to prove the size to it material damage caused.

Chapter II

COMPENSATION OF DAMAGE BY THE EMPLOYER

Article 329. Material and mental damage compensation to the worker

(1) The employer is obliged to compensate in full size the material and mental damage caused to the worker in connection with the performance of the labour duties or as a result of unlawful deprivation of the possibility to work, if the present code or other normative acts do not stipulate otherwise.

(2) The mental damage is compensated in monetary or other material form determined by the parties. Disputes and conflicts, which have arisen in connection with the compensation of the mental damage, are resolved by the judicial instance, independently of the size of the material damage subject to compensation.

Article 330. Employer's responsibility to compensate the damage, caused to the person as a result of unlawful deprivation of the possibility to work

(1) The employer is obliged to compensate to the person the wage, not received by him in all cases of illegal deprivation of his opportunity to work. This duty, in particular, comes in the case of:a) unreasonable refusal in employment;

b) unlawful dismissal or illegal transference to another work;

c) idle time of the enterprise on the fault of the employer;

d) delays of the work-record card delivery;

å) delays of wages payment;

f) delays of payments (all or a part) in connection with the dismissal;

g) distribution of vicious information about the worker;

h) Default at carrying out the decision of competent body of labour jurisdiction, which has resolved a dispute (conflict) regarding deprivation of the possibility to work.

(2) Employer’s responsibility to compensate to the person the wage, that was not received in the case stipulated by item f) paragraph (1), occurs, if the released person has faced obstacles at employment, and only after making valid the judicial decision, through which was established the existence of such obstacles and the guilt of the employer.

(3) In case of delay on fault of the employer of wages payment, the holiday grant, severance payments or other payments, due to the worker, they are paid in addition per every day delay, 5 percent from the sum which has been not been paid in time.

Article 331. Employer's liability for the damage, caused to the worker

(1) The employer causing material damage to the worker as a result of inadequate performance of the duties stipulated
in the individual labour contract, compensates this damage in full size. The size of the material damage is estimated according to the existing market prices in the respective settlement at the moment of compensation, according to the statistical data.

(2) Under the agreement of the parties the material damage can be compensated by payment in kind.

Article 332. Procedure of disputes consideration on compensation of the material and mental damage caused to the worker

(1) The written application of the worker for compensation of material and mental damage is submitted to the employer. The employer is obliged to register the application of the worker, to consider it, to issue the corresponding order (decision, disposition) during 10 calendar days from the date of registration of the application and notifying the worker under signature.

(2) If the worker disagrees with the order (decision, disposition) of the employer or if the order (decision, disposition) has not been issued in time, stipulated by paragraph (1), the worker has the right to apply to the judicial instance to resolve the arisen individual labour dispute (section XII).

Chapter III

WORKER'S LIABILITY

Article 333. Worker's liability for the damage caused to the employer

(1) The worker is obliged to compensate the material damage caused to the employer, if the present code or other statutory acts do not stipulated otherwise.

(2) Establishment of the liability, subject to compensation of the damage, does not included the benefit missed by the employer due to the offence committed by him.

(3) In a case when the material damage is caused to the employer as a result of committing an act containing attributes of a crime, the responsibility is established according to the Criminal Code.

Article 334. Circumstances excluding the material responsibility of the worker

(1) The worker is released from a liability, if damage is caused as a result of the force-majeur circumstances confirmed in the established order, emergency, necessary defence, execution of a lawful or contractual obligation, and also normal production risk.

(2) Workers do not sustain the responsibility for the losses accompanying the production, stipulated by the technological norms or the current legislation, for the losses caused due to unforeseen circumstances, which could not be eliminated, and also in other similar cases.

Article 335. The right of the employer to refuse compensation of material damage by the worker

(1) The employer has the right to refuse fully or partially compensation of material damage from the worker in concrete circumstances, when the damage has been caused on the worker's fault.

(2) The disagreements, which have arisen between the worker and the employer in connection with application of paragraph (1), are considered in the way stipulated in art. 354 - 356 for individual labour disputes settlement.

Article 336. Limits of worker's liability

For the damage caused to the employer the worker carries material responsibility within the limits of the average monthly wages, if the present code or other statutory acts does not stipulate otherwise.

Article 337. Worker's full liability

(1) Full liability of the worker consists in his duty to compensate the caused material damage in full size.

(2) Workers carry full material responsibility for the caused material damage only in cases, stipulated by art. 338.

(3) Workers under the age of eighteen carry full liability only for deliberate causing of damage, and also for material damage, caused in the condition of alcoholic, narcotic or toxic intoxication, established in the order stipulated by item k) art. 76, or for a committed crime.

Article 338. Cases of full liability of workers

(1) Workers carry full size liability for the damage caused to the employer on their fault, in the following cases:

a) between the worker and the employer was made a contract about the full liability of the worker for non-maintenance of the integrity of the employer's property and other values transferred(handed) to him for storage or other purposes art. 339;

b) the worker has received property and other values on the basis of a unique power of attorney or other unique documents;

c) the damage is caused as a result of deliberate culpable actions of the worker, established by the judicial decision;

d) the damage is caused by the worker in the condition of alcoholic, narcotic or toxic intoxication, established in the order, stipulated by item k) art. 76;

e) damage is caused by shortage, destruction or deliberate damage of materials, semi-finished items, products including the period of their manufacturing, and also tools, measuring devices, accounting technical equipment, means of protection and other objects given to the worker for usage, by the enterprise;

f) the worker is assigned full liability for damage, caused by him to the employer while performing his labour duties, according to the legislation in force;

g) damage is not caused during the period of performing by the worker his labour duties.

(2) Heads of enterprises and their assistants, chiefs of accounting services, chief accountants, heads of divisions and their assistants carry liability in the size of the damage, caused on their fault as a result of:

a) illegal expenditure of material assets and money resources;

b) expenditures (unjustified use) of investments, credits, grants, loans given to the enterprise;
c) wrong book keeping or wrong storage of material assets and money resources;
d) other circumstances in the cases stipulated by the legislation in force.

Article 339. Contracts regarding full liability of the worker

(1) The written contract regarding full liability can be made by the employer with the worker, who has reached the age of eighteen and occupies a position or carries out work, directly connected to storage, processing, sale (delivery), transportation or use during work of the values handed to him.

(2) The list of positions and work activities specified in paragraph (1), and also the contract-type regarding the full individual liability, is adopted by the Government.

Article 340. Collective (brigade) liability

(1) In the case, when the employees perform together labour activities connected to storage, processing, sale (delivery), transportation or use during work of the values handed to them, when it is impossible to differentiate the liability of each worker and to conclude with him a contract of full individual material responsibility, then the collective (brigade) liability is introduced.

(2) The collective (brigade) liability is established by the employer as agreed with the representatives of workers. The written contract of the collective (brigade) liability is concluded between the employer and all the members of the collective (brigade).

(3) The list of labour activities for the performance of which can be established the collective (brigade) liability, its conditions of applications, and also the type-contract regarding the collective (brigade) liability, is adopted by the Government.

(4) In the case of voluntary compensation of the material damage, the degree of fault of each member of the collective (brigade) is defined under the agreement between all members of the collective (brigade) and the employer. If the establishment of the material damage is made by the judicial instance, the degree of fault of each member of the collective (brigade) is determined by the court.

Article 341. Defining the size of the damage

(1) The size of the material damage caused to the employer, is defined on the actual losses estimated on the basis of the bookkeeping data.

(2) In case of plunder, loss, destruction or damage of employer's property, attributed to the fixed assets, the size of the material damage is estimated proceeding from the balance cost (price cost) of the material assets and taking into consideration the degree of depreciation, according to the established norms.

(3) In case of plunder, shortage, destruction or deliberate damages of material assets, except for the property specified in paragraph (2), the damage is established proceeding from the existing prices in corresponding settlement at the date of causing the damage, according to the statistical data.

Article 342. Employer's responsibility to establish the size of the material damage and its causes

(1) Before issuing the order (decision, disposition) concerning the compensation of the material damage by the concrete worker, the employer is obliged to carry out a service investigation to establish the size of the caused damage and its causes.

(2) In order to carry out the service investigation the employer has the right to create on the basis of an order (decision, disposition) a commission with participation of experts in the given area.

(3) In order to establish the causes of damage, it is necessary to require from the worker a written explanation. Refusal of submitting the explanation is made out in an act, which is signed by a representative of the employer and a representative of workers.

(4) The worker has the right to get acquainted with all the materials collected in the course of the service investigation.

Article 343. Voluntary compensation of the material damage by the worker

(1) The worker guilty of causing to the employer material damage, can indemnify it voluntarily in full size or partially.

(2) It is admitted under the agreement between the worker and the employer to compensate the material damage by instalment payments. In this case, the worker should present to the employer the written obligation concerning the voluntary compensation of the material damage with the indication of concrete terms of payment. If the worker, who has assumed such an obligation, has stopped the labour relations with the employer, the outstanding duty is compensated in the order established by the current legislation.

(3) Through the written approval of the employer, the worker can compensate the caused material damage substituting it with equivalent property or repairing what has been damaged.

Article 344. Procedure of compensating the material damage

(1) Deduction from the guilty worker's salary of the sum of the caused material damage, which does not exceed his average monthly wages, is carried out on the basis of the order (decision, disposition) of the employer, that should be issued not later than in a month from the date of establishing the size of the damage.

(2) If the sum of the damage subject to deduction from the worker's wages, exceeds his average monthly wages or if the monthly term has been missed, paragraph (1), deduction is made according to the decision of the judicial instance.

(3) If the employer does not observe the established procedure of damage compensation, the worker has the right to appeal to the judicial instance (section XII).

(4) In case of o disagreements, concerning the procedure of damage compensation, the parties have the right to appeal to the judicial instance during one year from the date of establishing the size of damage (title XII).

Article 345. Compensation of the material damage caused to the enterprise on the fault of its head

(1) Material damage caused to the enterprise on the fault of its head, is compensated with observance of the rules stipulated by the present code and other statutory acts.

(2) The proprietor of the enterprise decides if the head (director) will compensate the material damage caused. The proprietor of the enterprises has the right to deduct the sum of the caused material damage from the director only on the basis of the decision of the judicial instance.

Article 346. Reduction of the size of the material damage, subject to compensation by the worker

(1) In view of the degree and the form of the fault, concrete circumstances and material situation of the worker, the judicial instance can reduce the size of the material damage subject to compensation..

(2) The judicial instance has the right to approve the agreement between the worker and the employer concerning the reduction of the size of the material damage, subject to compensation.

(3) Reduction of the size of the material damage subject to compensation by the worker or the director is not admitted, if damage is caused deliberately, and it is confirmed in the established order.

Article 347. Restriction of the size of deduction from wage payments connected to the compensation of the material damage

Deduction from wages connected with the compensation of the material damage, caused by the worker, are made with observance of provisions of art. 148.

TITLE XII

LABOUR JURISDICTION

Chapter I

GENERAL PROVISIONS

Article 348. Subject of labour jurisdiction

Subject of the labour jurisdiction is the settlement of individual labour disputes and collective labour conflicts concerning the process of conducting collective negotiations, conclusion, performance, modification, suspension or termination of the collective and individual labour contracts, collective agreements stipulated by the present code, and also settlement of collective conflicts regarding the social, economic, professional and cultural interests of workers, that appear at different levels between the social partners.

Article 349. Parties of individual labour disputes and collective labour conflicts

Parties of individual labour disputes and collective labour conflicts can be:

a) workers, and also any other persons having any rights and/or responsibilities according to the present code;

b) employers (physical and legal persons);

c) trade unions and other representatives of workers;

d) patronages;
e) central and local bodies of public authority;
f) public prosecutor, according to the current legislation.

Article 350. Principles of labour jurisdiction

Principles of labour jurisdiction are:
a) conciliation of divergent interests of the parties, following from the relations specified in art. 348;
b) the right of workers on protection by their representatives;
c) discharging workers and their representatives of judicial charges (costs);
d) efficiency in considering the individual labour disputes and collective labour conflicts.

Article 351. Bodies of labour jurisdiction

Bodies of labour jurisdiction are:
a) reconciliation commissions (extra-judicial bodies);
b) judicial instances.

Article 352. Consideration of individual labour disputes and collective labour conflicts

(1) The application for the settlement of the individual labour dispute or the collective labour conflict (requirement in case of reconciliatory procedures) is submitted to the competent body of labour jurisdiction by the interested party art. 349, and it is also registered by him in the established procedure.
(2) During the consideration of the application, each of the parties has the right to explain their position and to present to the body of labour jurisdiction all the proofs and justifications which are considered necessary.
(3) The body of labour jurisdiction estimates the proofs submitted by the parties and the decision-making is carried out according to the current legislation.

Article 353. Discharging workers and their representatives of court costs

Workers or their representatives who have applied to judicial instances for settlement of disputes and conflicts concerning the relations, stipulated by art. 348, including the appeal of judicial decision on the given disputes and conflicts, are exempt from payment of court costs (State Tax and charges connected with the reconsideration of the case).

Chapter II

INDIVIDUAL JURISDICTION

Article 354. Individual labour disputes

Individual labour disputes - disagreements between the worker and the employer, concerning:
a) conclusion of the individual labour contract;
b) performance, modification and suspension of the individual labour contract;
c) termination and full or partial invalidity of the individual labour contract;
d) payments of compensation in case of default or inadequate performance of labour duties of one of the parties of the individual labour contract;

e) other questions concerning the individual labour relations, stipulated by art. 348.

Article 355. Consideration of the application, regarding the settlement of individual labour disputes

(1) The application regarding the settlement of the individual labour dispute is submitted to the judicial instance:

a) within one year since the day when the worker has learned or should have found out, about the violation of his right;

b) within three years from the date of coming into force of the corresponding right of the worker, in the case when the subject of the dispute are the payments connected with wages, or other payments due to the worker.

(2) Submission of the application, missing the terms stipulated by paragraph (1), but having valid reasons, can be restored in terms by the judicial instance.

(3) The judicial instance convokes the parties of dispute during 10 calendar days from the date of registering the application.

(4) The judicial instance considers (examines) the application for settling the labour dispute in a term not exceeding 30 calendar days, also makes a decision, which can be appealed against according to the Civil Code.

(5) The judicial instance transmits the decision to the parties during three calendar days.

Article 356 Responsibility for non-execution of decisions

(1) Default of the decision of the judicial instance concerning the settlement of the individual labour dispute obliges the guilty employer to pay to the worker an indemnification in the size of 5 percent of his average wages per every delayed day.

(2) Indemnification stipulated by paragraph (1), is calculated since the day of introducing into validity the decision of the judicial instance and is collected in the order established by law.

Chapter III

SETTLEMENT OF COLLECTIVE LABOUR CONFLICTS

Article 357. General concepts

(1) Collective labour conflicts - non-settled disagreements between workers (their representatives) and employers (their representatives), concerning the establishment and change of the working conditions (including the wages), conducting collective negotiations, conclusion, modification and performance of collective labour contracts and collective agreements, refusal of the employer to take into account the opinion of the representatives of workers in the process of adopting at the enterprise, legal acts containing norms of labour rights, and also disagreements, concerning economic, social, professional and cultural interests of workers, which appeared at various levels between social partners.

(2) The moment of declaring the collective labour conflict - date of communicating the decisions of the employer (his representatives at various levels) or, under the circumstances, the corresponding body of public authority regarding full or partial refusal to execute the requirement

of workers (their representatives), or the date, when the employer (his representatives) or the corresponding body of public authority should answer these requirements, or the date of making the report of disagreements at the collective negotiations.

(3) Reconciliatory procedure - consideration of the collective labour conflict with a view of its settlement within the framework of the reconciliatory commission.

Article 358. Submission of requirements

(1) In all cases when at the enterprise there are preconditions of collective labour conflict, the representatives of workers have the right to submit to the employer the requirements referring to the establishment of new or change of the existing working conditions, conducting collective negotiations, conclusion, and execution of the collective labour contract.

(2) Workers' requirements are submitted to the employer (his representatives) in writing. They should be substantiated and contain concrete references to the violated norms of the legislation in force.

(3) The employer is obliged to accept the submitted requirements and register them as established.

(4) Copies of requirements can be transmitted, on circumstances, to higher bodies of the enterprise, patronages, and professional branch unions, central and local bodies of public authority.

(5) The employer is obliged to answer to representatives of workers in the written form within five working days from the date of requirements registration.

Article 359. Reconciliatory procedure

(1) Reconciliatory procedure is carried out between the parties of the conflict within the framework of the reconciliatory commission.

(2) The reconciliatory commission is created from an equal number of representatives of the parties of the conflict under the initiative of one of them during three calendar days from the beginning of the collective labour conflict.

(3) The reconciliatory commission is created whenever there occurs a collective labour conflict, for the purpose of reconciliation.

(4) The basis for the creation of the reconciliatory commission is the order (decision, disposition) of the employer (his representatives) and the corresponding decision (disposition) of representatives of workers.

(5) The chairman of the reconciliatory commission is elected by the majority votes of the commission members.

(6) The employer is obliged to create normal working conditions for the reconciliatory commission.

(7) Debate of the reconciliatory commission will be put down in a report made in two or, if necessary, in several copies, in which there will be indicated the general or partial measures for the conflict settlement, on which the parties have agreed.

(8) If the members of the reconciliatory commission have come to an agreement, concerning the requirements submitted by the representatives of workers, the commission makes a decision, which is obligatory for the parties of the conflict, and will give it to them within 24 hours from the moment of its approval.

(9) If the members of the reconciliatory commission have not reached an agreement, the chairman of the commission informs in written the parties of the conflict within 24 hours, about it.

Article 360. Settlement of collective labour conflicts in the judicial instance

(1) If the parties of the conflict have not reached an agreement or disagree to the decision of the reconciliatory commission, each of them during 10 calendar days, from the date of adopting the corresponding decision or receiving the respective information paragraph (8) and (9) art. 359, has the right to submit an application to settle the conflict in the judicial instance.

(2) The judicial instance convokes the parties of the conflict during 10 calendar days from the date of registration of the application.

(3) The judicial instance considers (examines) the application for the settlement of the collective labour conflict in a term not exceeding 30 calendar days, and makes a decision, which can be appealed against according to the Civil Code.

(4) The judicial instance transmits the decision to the parties during three calendar days from the date of its approval.

Article 361. Ascertainment of the nullity of the collective labour contract or the collective agreement and strike legality

(1) Applications for the settlement of the collective labour conflicts, concerning the ascertainment of the nullity of the collective labour contract, the collective agreement or some of their conditions, can be submitted by the parties to the judicial instance, since day of signing the collective labour contract or the collective agreement.

(2) Applications for the settlement of collective labour conflicts, concerning the establishment of the legality of strike, can be submitted by the parties to judicial instance, since the day of the announcement of the strike in conformity with art. 362.

(3) The applications specified in paragraph (1) and (2), are considered in conformity with art. 360.

Chapter IV

THE STRIKE

Article 362. Strike announcement

(1) Strike - voluntary refusal of workers to perform labour responsibilities (fully or partially) with a view of settling the collective labour conflict, started according to the legislation in force.

(2) The strike can be declared according to the present code, only with the purpose of protecting the professional, economic and social interests of workers, and it cannot pursue political goals.

(3) The strike can be declared, if all ways of the collective labour conflict settlement are exhaust within the framework of the reconciliatory procedure, stipulated by the present code.

(4) The decision on the announcement of strike is accepted by the representatives of workers and is brought to the notice of the employer 48 hours prior to its beginning.

(5) Copies of the decision on the announcement of strike can be sent, on circumstances, to higher bodies of the enterprise, to patronages, trade unions, central and local bodies of public authority.

Article 363. Strike organization at the enterprise

(1) Carrying out reconciliatory procedures at the enterprise, article 359, prior to the beginning of the strike is obligatory.

(2) Representatives of workers express the interests of striking workers in relations with the employer, patronages, central and local bodies of public authority, and also in judicial instances, in case of civil and criminal procedure.

(3) Strikers together with the employer are obliged to keep the property of the enterprise and to provide uninterrupted functioning of the equipment and installations, which if stopped could endanger the life and health of people or cause irreparable damage to the enterprise.

(4) Participation to strike is voluntary. Nobody can be forced to take part in strike.

(5) In case, when proceeding from the technological reasons of safety requirements and work hygiene, the workers who are not participating to strike, can continue work on the workplaces.

(6) Strikers cannot interfere with the employer in the realization of his activity.

(7) The employer cannot hire persons to replace strikers.

(8) Participation to strike or its organization with observance of the provisions of the present code is not infringement of the labour duties and cannot have negative consequences for striker.

(9) For the period of the strike, the workers maintain the rights following from individual and collective labour contracts, collective agreements, and also from the present code, with the exception of the rights connected to payment.

(10) Payment of the workers who are not participating to strike and standing idle due to the strike is carried out according to the provisions of art. 80.

Article 364. Strike organization at the territorial level

(1) The right to announcement and organization of strike at the territorial level belongs to the territorial trade-union body.

(2) Requirements of strike participants are considered by the territorial commissions on consultations and collective negotiations, upon the request of the interested social partner.

(3) The strike will be announced and carried out according to the present code and the collective agreement made at the territorial level.

Article 365. Strike organization at the branch level

(1) The right to announcement and organization of strike at the branch level belongs to the branch trade-union body.

(2) Requirements of strike participants are considered by the branch commission on consultations and collective negotiations, upon the request of the interested social partner.

(3) The strike will be announced and carried out, according to present code and the collective agreement made at the branch level.

Article 366. Strike organization at the national level

(1) The right to announcement and organization of strike at the national level belongs to the corresponding national - inter-branch trade-union body.

(2) Requirements of strike participants are considered by the National Commission on consultations and collective negotiations under the request of the interested social partner.

(3) Strike will be announced and carried out, according to the code and the collective agreement made at a national level.

Article 367. Place of holding the strike

(1) The strike is held, as a rule, on the constant workplace of employees.

(2) In case of failure to meet the requirements of workers during 15 calendar days, the strike can be held outside the enterprise.

(3) The body of public management with the consent of representatives of workers defines the public places or, if necessary, premises (rooms), where the strike will be held.

(4) Holding the strike outside the enterprise and in public places will be carried out according to the provisions of the legislative acts, which regulate the organization and holding of assemblies.

Article 368. Strike suspension

(1) The employer can demand suspension of strike for a term of not more than 30 calendar days, in case when it can endanger the life and health of people or if he considers, that strike was declared or carried out with infringement of the current legislation.

(2) The application to suspend the strike is submitted to the judicial instance.

(3) The judicial instance establishes the term to consider the application, which cannot exceed three working days, and makes the decision regarding the summon of the parties.

(4) The judicial instance within two working days makes a decision, which:

a) rejects the application of the employer

b) satisfies the application of the employer and makes a decision about the suspension of the strike.

(5) The judicial instance transmits the decision to the parties in 48 hours from the moment of its adoption.

(6) The decision of the judicial instance can be appealed against in conformity with the Civil Code.

Article 369. Restriction of participation to strikes

(1) Strike is forbidden during natural calamities, epidemics, pandemia, for the term of introducing the state of emergency or martial law.

(2) Persons who cannot participate to strikes:

a) The medical personnel of hospitals and urgent medical aid services;

b) Workers from the systems of electricity and water supply;

c) Workers from the system of communication;

d) Workers from the services of airline traffic management;

e) Officials from the central bodies of public authority;

f) Employees from the bodies providing social order, law enforcement and state safety, judges from judicial instances, workers from military units, organizations and institutions of Armed Forces;

g) employees from continuously working enterprises;

h) workers from enterprises, manufacturing products for the defensive needs of the countries.

(3) The list of the enterprises, their departments and services, workers who cannot participate to strike according to pararagraph (2), is adopted by the Government, through consultations with patronages and trade unions.

(4) In case of prohibition of strike, according to paragraph (1) and (2), the collective labour conflicts are settled by the bodies of labour jurisdiction according to the present code.

Article 370. Responsibility for illegal organization of strikes

(1) In case of illegal announcement and organization of strike, the guilty persons carry disciplinary, material, administrative and criminal responsibility, according to the current legislation.

(2) The judicial instance, which has established the illegality of strike, obliges the guilty persons to compensate the material and moral damage caused, according to the present code and other statutory acts.

TITLE XIII

SUPERVISION AND CONTROL OVER THE OBSERVANCE OF LABOUR LEGISLATION

Chapter I

BODIES OF SUPERVISION AND CONTROL

Article 371. Bodies of supervision and control over the observance of labour legislation and other normative acts, containing norms of the labour right

Supervision and control over the observance of the legislative and other normative acts containing norms of the labour right, collective agreements and collective labour contracts at all enterprises are carried out by:

a) Labour Inspection;

b) State Sanitary-and-Epidemiological Service;

c) Department of Standardization and Metrology;

d) Department of Extreme Situations;

e) Other bodies empowered with functions of supervision and control in conformity with the current legislation;

f) Trade unions.

Chapter II

STATE SUPERVISION AND CONTROL

Article 372. Labour Inspection

(1) Labour Inspection is the central body of public administration, under the subordination of the Ministry of Labour and Social Protection and executing the state control over the observance of the legislative and other statutory acts containing norms of labour right, collective agreements and collective labour contracts at all enterprises, and also in the central and local bodies of public authorities.

(2) The Ministry of Defence, the Ministry of Internal Affairs, Information and Security Service, Service of State Protection, Department of Extreme Situations, Department of Frontier Troops, Department of Penitentiary Institutions of the Ministry of Justice, Centre for Fighting Economic

Crimes and Corruption organize activities of Labour Inspection through their specialized services, competent only in the subordinated structures.

(3) Statute of the Labour Inspection is adopted by the Government.

Article 373. Labour Inspection objectives

Labour Inspection objectives are:

a) Ensuring the application of the provisions of the statutory acts concerning the working conditions and protection of workers in the course of performing their labour responsibilities;

b) Distribution of information on the most effective methods and means regarding the observance of labour legislation;

c) Informing competent bodies of public authority on difficulties, connected to the application of the labour legislation.

Article 374. Basic powers of Labour Inspection

(1) Labour Inspection carries out the following basic powers in order to realize its objectives:

1) supervises the observance of provisions of the statutory acts concerning:

a) individual and collective labour contracts;

b) work-record cards;

c) working hours and time of rest;

d) payments;

e) work of minors and women;

f) labour safety;

g) other working conditions;

2) Gives out, in the order established by the Government, sanction on functioning from the point of view of labour safety;

3) Gives the conclusion about introducing into manufacture samples of technical means, means of individual defence, working clothes and footwear;

4) Investigates in the order established by the Government, accidents on manufacture;

5) Coordinates the activity on preparation, training and informing the workers of the enterprises on the matters connected to labour relations, labour safety, and work hygiene and working environment.

(2) Labour Inspection has the right:

a) to request and receive from the central and local bodies of public authorities, physical and legal persons, information necessary for the realization of its powers;

b) to apply in the order established by the current legislation, administrative sanctions, including penalties, for infringement of the provisions of the legislative and other statutory acts, concerning working conditions and protection of workers, while performing their labour duties.

Article 375. Cooperation with other bodies, institutions and organizations

With a view of executing its powers Labour Inspection cooperates with other bodies, institutions and organizations, which are carrying out similar activities, patronages and trade unions. The forms of cooperation are established under the agreement by the parties.

Article 376. Fundamental rights of labour inspectors

(1) Exercising the control powers the labour inspectors on presentation of their certificate have the right:

a) to visit freely at any time of day or night, without a prior notification of the employer, the workplaces, service and industrial premises(rooms);

b) to request and receive from employers documents and data, necessary for control;

c) to demand and receive explanations from employers and workers (their representatives);

d) to demand immediate or in a certain term, elimination of the revealed infringements of the provisions of the legislative and other statutory acts, concerning the working environment and protection of workers.

(2) In addition to what has been stipulated in paragraph (1) labour inspectors, possessing powers in the field of labour safety, have the right:

a) to order the suspension of functioning (sealing up) the enterprises, workshops, sections, buildings, constructions and technical equipment, and also cessation of work and technological processes, not corresponding to the norms of labour safety and presenting obvious danger of accidents;

b) to offer cancellation of the sanction to functioning from the point of view of labour safety and the notice concerning the introduction into manufacture of samples of technical means, individual protective equipment, if they establish the fact of non-observance of the requirements of statutory acts of labour protection, work hygiene and the working environment, in case of change of the initial conditions.

Article 377. Duties and the responsibility of labour inspectors

(1) Labour inspectors are obliged:

a) to follow in their activity the legislation in force;

b) to keep confidentiality of source of any complaint of infringement of the provisions of the statutory acts on work, labour safety and not to inform the employer that the check has been carried out under a complaint;

c) to observe the requirement of the current legislation about non-disclosure of the data, considered to be a state or trade secret, while executing the powers;

d) not to accept direct or indirect participation in the activity of the enterprise under inspection.

(2) For default or inadequate execution of their duties, labour inspectors carry disciplinary, administrative and criminal responsibility in the order established by the current legislation.

Article 378. Independence of labour inspectors

(1) In the process of realizating their rights and executing their duties, labour inspectors are plenipotentiaries of the state and are subordinated only to law.

(2) Any intervention in the activity of the labour inspectors, with the purpose of their compulsion to inadequate realization of the powers, is not admitted.

Article 379. Employer's duties in relation to labour inspectors

The employer is obliged:

a) to provide to labour inspectors, on presentation of their service certificates, at any time of the day or night, free access to workplaces, industrial and office accommodations, in order to carry out the inspections;

b) to give to labour inspectors the documents and the information, required by them at carrying out the inspection;

c) to provide realization of the measures ordered by the work inspector, after the control or investigation of accidents on manufacture.

Article 380. Appeal against the measures taken by the labour inspectors

(1) The administrative acts issued by the labour inspectors, can be appealed against in the General State Inspector and-or in conformity with the Law of Administrative Court.

(2) The administrative acts issued by the General State Inspector, can be appealed against according to the Law of administrative court.

Article 381. Responsibility for infringement of labour legislation and other statutory acts, containing norms of the labour right

(1) Persons guilty of violating the labour legislation, other statutory acts containing norms of the labour right, collective agreements and collective labour contracts, are subjected to disciplinary, material, administrative and criminal responsibility in the order stipulated in the current legislation.

(2) Persons guilty of infringement of the conditions of collective labour contracts or collective agreements can be additionally subjected to responsibility according to the provisions of the statute of the enterprises, patronages, trade unions and-or collective labour contracts or collective agreement.

Article 382. Responsibility for hindrance of the activity of labour inspectors

The persons interfering in any way in the realization of the state control over the observance of the legislative acts, other statutory acts, containing norms of the labour right, collective agreements and collective labour contracts, not carrying out the obligatory measures, ordered by the labour inspectors, menacing with violence or using violent actions in relation to the labour inspectors, members of their families and to their property, carry responsibility according to the legislation in force, collective agreements and collective labour contracts.

Article 383. State energy power supervision

The state supervision over the performance of the measures providing safe service of the electric and thermal installations is carried out by the body of state energy power supervision according to the current legislation.

Article 384. State sanitary-and-epidemiological supervision

The state supervision over the observance of sanitary-and-hygienic and sanitary - ante-epidemic norms at all enterprises is carried out by the State Sanitary-and-Epidemiological Service, according to the current legislation.

Article 385. State supervision and control in the field of radiation protection and nuclear safety

(1) The state supervision and control over the observance of the requirements of radiation protection and nuclear safety are carried out by the Ministry of Public Health, Department of Standardization and Metrology and the Department of Extreme Situations, according to the working the legislation.

(2) Representatives of the central branch bodies, specified in paragraph (1), are obliged to bring to the notice of workers and employers the information about the infringement of the norms of radiation protection and safety, at the controlled enterprises.

Chapter III

RIGHTS OF TRADE-UNION BODIES TO CONTROL THE OBSERVANCE OF LABOUR LEGISLATION AND GUARANTEES OF THEIR ACTIVITY

Article 386. Rights of trade-union bodies to control the observance of labour legislation

(1) Trade-union bodies, have the right to carry the control over the observance by employers and their representatives the labour legislation and other statutory acts containing norms of the labour right, at all enterprises, irrespective of their departmental subordination or branch.

(2) With a view of control over the observance of labour legislation and other statutory acts, containing norms of labour right, trade unions or, on circumstances, their representatives have the right:

a) to create their own labour inspections, to appoint representatives for labour safety, carrying out the activity on the basis of the corresponding provisions authorized by national - branch and national - inter-branch trade-union bodies;

b) to carry out the control over the observance of legislative and other statutory acts, concerning the working hours and time of rest, payment, labour safety and other working conditions, and also the performance of the collective labour contracts and collective agreements;

c) to visit and survey the enterprises and their divisions, in which members of trade union work, in order to define the conformity of working conditions to the norms of labour safety and to present to the employer obligatory offers for execution on elimination of the revealed drawbacks, with the indication of possible ways of their elimination;

d) independently, to carry out examination of working conditions and maintenance of workplaces safety;

e) to request and receive from employers data and legal acts, the enterprises accepted at the level necessary for the monitoring procedure;

f) to take part in the commissions investigating accidents on manufacture and cases of occupational diseases and to receive from employers the information on the condition of labour safety, including the accidents on manufacture and professional diseases;

g) to protect the rights and interests of the members of trade union, concerning labour safety, granting of privileges, indemnifications, other social guarantees in connection with the influence on workers of harmful industrial and ecological factors;

h) to participate as independent experts of commissions on acceptance of industrial establishments and equipment;

i) to appeal against the statutory acts restraining labour, professional, economic and social rights of workers, stipulated by the current legislation.

(3) Monitoring the procedure over the observance of the labour legislation and other statutory acts, containing norms of the labour right, the trade unions can also carry out other rights stipulated by the current legislation.

(4) Detecting at the enterprises, non-observance of the requirements of labour protection, concealment of accidents on manufacture and professional diseases or biased investigation of such facts, the trade unions have the right to demand from these heads of the enterprises, competent bodies of public authority acceptance of urgent measures, including interruptions of work and suspension of the employer's decisions, contradicting the legislation on labour safety, making the guilty persons accountable, according to the legislation in force, collective agreements and collective labour contracts.

(5) Employers are obliged to consider the requirements of professional unions within seven working days from the date of their submission (registration) and to inform in writing the trade-union body on the results of the considerations and the measures accepted for the elimination of the revealed infringements.

Article 387. Guarantees to persons elected in trade-union bodies and not released from the basic work

(1) Persons elected in trade-union bodies of all levels and not released from the basic work, cannot be subjected to summary punishments and/or are transferred to other work without the preliminary written approval of the body, whose members they are.

(2) The heads of the primary trade-union organizations, who have been not released from the basic work, cannot be subjected to summary punishments, without preliminary written consent of the higher trade-union body.

(3) Participants of trade-union assemblies, seminars, conferences, congresses, called by trade unions, workers who are taking trade union training, are released from the basic work with the preservation of the average wages, for the period of participating at this activities.

(4) Members of the elective trade-union bodies, which have not been released from the basic works, are granted free time within the limits of the working hours, to perform the trade-union rights and duties with preservation of the average wages. Concrete duration of working hours, allocated for this activity, is established by the collective labour contract.

(5) The termination of the individual labour contract made with the person elected in the trade-union body, and with the head of the trade-union body, not released from the basic work, is admitted with the observance of the provisions of the present code.

(6) Execution of duties and realization of the rights by the persons specified in paragraph (1) - (5), cannot be for the employer the basis for dismissals or application to them of other sanctions, violating their rights and the interests following from the labour relations.

Article 388. Guarantees to the persons elected in trade-union bodies and released from the basic work

(1) Workers, whose individual labour contracts are suspended in connection with their election in elective offices in trade-union bodies, after the expiration of the term of their powers, they are given the former workplace, and in case of default of the workplace - an equivalent workplace (post), with the consent of the worker, at another enterprise.

(2) If the former or equivalent workplace cannot be given due to the liquidation of the enterprise, its reorganization, reduction of number of workers or staff, the corresponding employer pays to the persons specified in paragraph (1), the severance pay in the size of six average monthly wages.

(3) Workers, whose individual labour contracts were suspended in connection with their election in trade-union bodies of the enterprises, have the same rights and privileges, as the other workers of the enterprise.

(4) Dismissal of the workers elected in trade-union bodies, either released or not released from the basic work, is not admitted within two years from the date of expiration of the term of their powers, with the exception of cases of liquidation of the enterprise or in cases, when these workers have performed culpable actions, for who according to the current legislation there exists the possibility of their dismissal. In such cases the dismissal is carried out on the general bases.

(5) In collective labour contracts and collective agreements can also be stipulated other guarantees, for the persons specified in paragraph (1), (3) and (4),.

Article 389. Protection of labour, professional, economic and social rights and interests of workers, by trade unions

Activity of trade unions, directed on the protection of labour, professional, economic and social rights and interests of workers - members of trade union, is regulated by the present code, the legislation about trade unions and their charters.

Article 390. Provision of conditions for trade-union activity at the enterprise

(1) The employer is obliged to give to the trade-union body from the enterprises, free-of-charge premises (room) with all necessary stock, providing conditions and the services necessary for the realization of its activity.

(2) The employer, according to the conditions of the collective labour contracts, puts at the disposal of the trade-union body means transport, communication facility and information means, necessary for the performance of the authorized tasks of the corresponding trade-union body.

(3) The employer, , in the order established by the collective labour contract and-or collective agreements, provides free-of-charge collecting of trade-union membership dues and monthly transfers them on the settlement account of the corresponding trade-union body. The employer has no right to detain transfer of the specified means or to use them for other the purposes.

(4) Payment of the head of the trade-union body, whose individual labour contract is suspended in connection with his election on an elective office, is carried out due to the means of the enterprise, and the size of his wages is established by the negotiations and is stipulated in the collective labour contract and-or collective agreement.

(5) At enterprises, where the collective labour contract is made and-or at which the effects of the collective agreements are produced, the employer at the request of the workers who are not members of trade union, monthly deducts from their wages monetary means and transfers them to the settlement account of the trade-union body, under the conditions and in the order, established by the collective labour contract and-or collective agreements.

(6) Additional measures, ensuring the activity of trade -unions can be stipulated in the collective labour contract and-or collective agreements.

TITLE XIV

FINAL AND TRANSITIVE PROVISIONS

Article 391

(1) The present code comes into force since October 1, 2003, with the exception of the provisions of paragraph (2) art. 124 and paragraph (1) art. 127, concerning granting partially paid holiday on child nursing under the age of three, which comes into force on January 1, 2004. During the period till January, 1, 2004 the persons specified in paragraph (1) art.124 and paragraph (1) art. 127 will benefit from partially paid holiday on childcare, until the child reaches the age of one and a half year, and of the corresponding indemnification.

(2) From the date of coming into force of the present code, to abrogate:

a) Labour Code of the Republic of Moldova, approved by the Law of the S.S.R Moldovenesti 25 May 1973, with the subsequent changes;

b) Law Nr.1296-XII from February 24, 1993 concerning the settlement of individual labour conflicts (Monitor of Parliament of the Republic of Moldova, 1993, Nr. 4, art. 91), with the subsequent changes);

c) Law Nr.1298-XII from February 24, 1993 regarding the settlement of collective labour conflicts (Monitor of Parliament of the Republic of Moldova, 1993, Nr.4, art. 93), with the subsequent changes);

d) Law Nr.1303-XII from February 25, 1993 regarding the collective labour contract (Monitor of Parliament of the Republic of Moldova, 1993, Nr. 5, art. 123), with the subsequent changes.

(3) Current legislative and other statutory acts, regulating labour and other relations, directly connected to them, are applied in the way, not contradicting the present code.

Article 392

(1) The President of the Republic of Moldova is offered to adjust his statutory acts in conformity with the present code.

(2) The Government within one year from the date of publication of the present code:

a) will present to the Parliament suggestions in order to bring the legislation in force in conformity with the provisions of the present code;

b) will present to the Parliament projects of legislative acts, which regulate the labour relations and other relations directly connected to them, that will substitute the working statutory acts of the USSR and SSRM;

c) will make its statutory acts in accordance with the provisions of the present code;

d) will adopt the statutory acts necessary for the execution of the present code;

e) will provide revision and abrogation by the ministries and their departments of the statutory acts contradicting the present code;

f) will take other measures to provide the implementation into action of the present code, studying and application of its provisions by the subjects of the law.

(3) Regulation and settlement of legal situations connected to the application of the labour legislation, not settled or not regulated at date of coming into force of the present code, are carried out according to its provisions.

CHAIRMAN of PARLIAMENT
EUGENIA OSTAPCHUK

Chisinău, March 28, 2003.
Nr. 154-XV.