

Search Regulations on working overtime in the revised Labour Code: Enterprises are easy to break the law



VCN - The draft of the Labour Code (amended) will be submitted to the National Assembly at the 8th session (opening on October 21, 2019). Through many comments on the draft, the business community continues to maintain its opinion on the need to revise the Labour Code to better suit the reality of businesses including employment issues, overtime and overtime payment.

Reduce competitiveness

Assessing the provisions of the current Labour Code on the number of overtime hours, many businesses and business associations believe that the overtime ceiling level is unreasonable with three ceiling frames, by week, by month, by year, causing difficulties to businesses, increasing the burden on enterprises and eliminate the competitiveness of enterprises.

Not recruiting workers but not being allowed to work over the ceiling time to maintain production and business activities is the current situation of Japanese enterprises in Vietnam. According to Mikanao Tanaka, representative of Japan Chamber of Commerce and Industry in Vietnam (JCCI), it is very difficult to recruit enough workers who have quit their jobs. The situation of overtime is forced to maintain production and business activities and fulfill orders. Most Vietnamese enterprises are small and medium-sized enterprises, so they do not have enough money to invest in high-tech machinery and equipment to improve labour productivity is depending heavily on labour power. Overtime not only focuses on the benefits of businesses to increase benefits for workers, but Japanese businesses themselves always attach great importance to ensuring the health of workers when working overtime.

Truong Van Cam, representative of Vietnam Textile and Apparel Association, said that if continuing to regulate the ceiling of overtime hours by week, month, there will be 82 percent of enterprises violating overtime laws. This causes the customer to judge us of the violation and cut the order.

“In the current law, it is difficult for us to work overtime for 300 hours per year, now there is a very strict regulation on overtime by month. The law aims to serve businesses, not make them lose contracts. In addition, the requirement of cumulative overtime pay for the 3rd and 4th hour is not appropriate to reality. For businesses, it is not possible to statistically calculate the product at the 3rd or 4th hour to calculate the salary for employees, but it will take a lot of time to be able to do this,” said Truong Van Cam.

Seasonal trades will be difficult

The common point between associations in Vietnam such as the Vietnam Textile Association, the Vietnam Leather and Footwear Association, the Vietnam Association of Seafood Exporters and Producers (VASEP) is they all have large export turnover and both seasonal. For example, for the textile and footwear industry, there is a specific production at the end of the year (production is about five to six months per year). This is international practice. Enterprises processing aquatic products are largely

dependent on seasonal factors, including both material and order seasons.

According to VASEP, all seafood materials have a production and harvest season, while EU, Japan, and US customers often order a lot at the end of summer and autumn (usually from the end of June to October every year) to prepare goods for Thanksgiving and Christmas and New Year. Because of the seasonal characteristics, the business has very little time to maximise profits. At the time of harvest, it is time to take advantage of overtime to maximize production and business activities. This is also the time for working people to increase their income to support their living in times when there is no work to do. According to this draft, the regulation on overtime limits does not meet that expectation, businesses do not meet orders for export, directly affecting national interests in export turnover and the benefits of workers when they themselves need to work overtime to increase income in that time.

Also according to VASEP, in addition to the main production time, in the remaining time, employees have little or no work to do. However, businesses still have the obligation to pay full wages to ensure social security, protect the rights and interests of workers. With a series of the above pressures, if the mechanism is kept in accordance with the provisions of the draft, it is likely that many businesses will have to close because they do not have enough capital to continue operating.

“In order for Vietnamese enterprises not to ‘die’ on the ‘home ground’ due to the stringent provisions of the draft revised Labour Code, the State needs to amend and supplement a number of provisions in the new draft to suit the seasonal characteristics of a number of important commodity production and export industries at present, contributing to the development of Vietnam’s economy and international integration,” VASEP proposed.

By Xuan Thao/ Huu Tuc