



Legal update

March 2021

Barristers | Solicitors

01 March 2021 – 15 March 2021





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NEWS IN FOCUS



SEVERAL NEW REGULATIONS ON WORK PERMIT FOR FOREIGN EMPLOYEES WORKING IN VIETNAM

Taking effect from 15 February 2021



On 30 December 2020, the Government enacted Decree No. 152/2020/ND-CP stipulating on foreign employees working in Vietnam and the recruitment, management of Vietnamese employees working for foreign organizations and individuals in Vietnam (hereinafter referred to as “*Decree No. 152/2020/ND-CP*”), which takes effect from 15 February 2021 and takes place the following Decrees:

- Decree No. 75/2014/ND-CP;
- Decree No. 11/2016/ND-CP; and
- Decree No. 140/2018/ND-CP.

In this legal update, we reveal several new points of Decree No. 152/2020/ND-CP stipulating on work permit (WP) for foreign employees working in Vietnam.



No.	Contents	Decree No. 11/2016/ND-CP	Decree No. 152/2020/ND-CP
1	Cases that foreign employees are not required to be issued WP	Decree 152/2020/ND-CP inherits Decree 11/2016/ND-CP and amends as follows: a. Amend and supplement some cases: <ul style="list-style-type: none">• Foreigner gets married with a Vietnamese and lives in the territory of Vietnam;• Be the owner or the contributing member of a LLC with the capital contribution of at least 3 billion VND;• Be the chairman of the BOD or the member of the BOD of a joint-stock company with the capital contribution of at least 3 billion VND;• Be the trainer, apprentice on the boat;• Be the person in charge of establishing commercial presence;• Is confirmed by the Ministry of Education and Training that the foreign employees enter Vietnam for teaching and studying. b. Remove a case: Be the student of school or university studying in Vietnam, provided that the employer shall notice 07 days in advance to the provincial State management agency on labor.	

No.	Contents	Decree No. 11/2016/ND-CP	Decree 152/2020/ND-CP
2	Time for submitting the dossier for application of certifying that the foreign employees are exempted from being issued WP	The employer requests the Department of Labor – Invalids and Social Affairs (DOLISA) where the foreign employee is expected to work to grant the certificate at least 07 business days in advance from the date that the foreign employee starts to work.	At least 10 business days in advance from the date that the foreign employee starts to work.
3	Time for resolving the procedure for the application of certifying that the foreign employees are exempted from being issued WP	Within 03 business days , from the date that the DOLISA fully receives the dossier mentioned in Section 2 above.	Within 05 business days , from the date that the DOLISA fully receives the dossier.
4	Time for WP renewal	The term limit of WP is 02 years, when the WP expires, it is able to renew the WP for many times (similar to the re-issuance procedure).	When the WP expires, it can be renewed for one time only with the maximum term of 02 years.

No.	Contents	Decree No. 11/2016/ND-CP	Decree No. 152/2020/ND-CP
5	Conditions for the WP renewal	Decree No. 152/2020/ND-CP stipulates in detail instead of no regulations as in Decree 11/2016/ND-CP: <ul style="list-style-type: none"> • The issued WP is still valid for at least 05 days but does not exceed 45 days; • The competent authority approves the demand for using foreign employees in accordance with Article 4 or Article 5 of Decree No. 152/2020/ND-CP; • Having documents proving that the foreign employee continues to work for the employer in compliance with the issued WP. 	
6	Cases that the WP is revoked	Decree No. 152/2020/ND-CP inherits Decree No. 11/2016/ND-CP and amends as follows: <ol style="list-style-type: none"> a. Supplement a case: While working in Vietnam, the foreign employee does not obey the Vietnamese laws, which affects the social security, order and safety. b. Remove a case: The employee who is the foreign citizen is sentenced to imprisonment, dead or is declared to be dead or missing by the Court. 	
7	Cases that the WP is re-issued	<ul style="list-style-type: none"> • The issued WP is <i>still valid for at least 05 days but does not exceed 45 days;</i> • The WP which is in effect is lost, damaged or changed the contents in the WP, except for the cases stipulated in Clause 8 Article 10 of Decree 11. 	<ul style="list-style-type: none"> • The WP which is in effect is lost (not require the time limit in detail as previously); • The WP which is in effect is damaged; • Change in the first and last name, nationality, passport number, working address in the WP.

WEEKLY NEW LEGAL DOCUMENTS



INVESTMENT

- Decree No. 15/2021/ND-CP guiding several contents on management of the building investment project (Effective date: 03 March 2021)

TRAFFIC – CONSTRUCTION

- Ministry of Transport's Circular No. 05/2021/TT-BGTVT on the amendment of Circular No. 33/2018/TT-BGTVT stipulating the standards, mission, rights towards railway staffs directly serving train operation; the training contents and programs for railway staffs directly serving train operation; the conditions, contents and examination process and the issuance, re-issuance and revoking of the train driving license and Circular No. 24/2020/TT-BGTVT amending the Ministry of Transport's Circular stipulating the periodic report regime in the railway sector (Effective date: 15 April 2021)

ADMINISTRATIVE – JUDICIARY

- Decree No. 13/2021/ND-CP stipulating the dialogue with teenager; the regime, policy and measure for teenagers who turn 16 years old or are under 18 years old
(Effective date: 01 March 2021)
- Decree No. 14/2021/ND-CP stipulating the sanctions for administrative violations on breeding
(Effective date: 20 April 2021)
- Decree No. 16/2021/ND-CP stipulating the level of money collection, the order and procedure for the money collection and submission; the management and usage of the costs for mediation and dialogue of court, and the honorarium for the Mediator at the Court
(Effective date: 03 March 2021)

IMPORT AND EXPORT

- General Department of Vietnam Customs' Official Correspondence No. 1040/TCHQ-TXNK in 2021 guiding on the tax rate of export tax
(Effective date: 05 March 2021)



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