



WIKI LEGAL LLC

HANOI

7th Floor, HH Office, No. 293/15 Khat Duy Tien Str., Trung Hoa Ward, Cau Giay Dist., Hanoi

Website: www.wikilegal.vn

Email: admin@wikilegal.vn

HO CHI MINH CITY

Ground Floor, DHouse Building, No. 39 Nguyen Thi Dieu Str., Vo Thi Sau Ward, Dist. 3, HCM City

Website: www.wikilegal.vn

Email: hcm.office@wikilegal.vn

LEGAL UPDATE

No. 1 – October 2023

(1 October 2023 – 15 October 2023)



News in focus

Summary of outstanding policies effective in early October 2023



New

Legal documents

Remarkable among documents:

Circular 62/2023/YY-BTC dated October 3, 2023, amending Circular 25/2021/TT-BTC regulating collection rates, collection, remittance, management, and use of fees in the export sector entry, exit, transit, and residence in Vietnam

A – News in focus



Summary of outstanding policies

(Taking effect on October 2023)

Our legal newsletter is here to inform you about the latest policies that the Government has introduced. These policies will come into effect from the beginning of October 2023.

Moreover, the newsletter also includes a concise summary of the new legal regulations that were announced in early October 2023.

THE ADMINISTRATIVE PROCEDURES RELATED TO MARITIME BUSINESS ACTIVITIES HAVE BEEN REDUCED AND SIMPLIFIED

Decree 69/2022/ND-CP amends administrative procedures for businesses in the maritime sector under the 5 specified Decrees:

- Procedures for ship routing (Article 19 of Decree No. 70/2017/ND-CP);
- Issuance of Certificate of eligibility for seaport business and exploitation (Article 10 of Decree No. 37/2017/ND-CP);
- Reissue the Certificate of eligibility for seaport business and exploitation (Article 11 of Decree No. 37/2017/ND-CP);
- Procedures for issuance of Certificate of suitability for recruitment and supply of seafarers (Article 13 of Decree No. 29/2017/ND-CP);
- Procedures for reissuing the Certificate of suitability for recruitment and supply of seafarers (Article 14 of Decree No. 29/2017/ND-CP);
- Agreement on location and detailed technical specifications of seaports, ports, wharves, and navigational channels (Article 6 of Decree No. 58/2017/ND-CP);
- Give opinions on construction projects in seaport waters and other works built in seaport waters (Clause 4, Article 7 of Decree No. 58/2017/ND-CP);
- Procedures for announcing the use of navigational channels in cases where navigational channels are announced after the announcement of the opening of a seaport or navigational channels are newly invested or re-announced due to adjustment, expansion, or upgrading. (Clause 5, Article 13 of Decree No. 58/2017/ND-CP);
- Procedures for announcing the opening of ports, wharves, buoys, and water areas (Article 14 of Decree No. 58/2017/ND-CP);
- Announcement of closure of ports, wharves, buoys, and water areas (Clause 2, Article 17 of Decree No. 58/2017/ND-CP);
- Procedures for approval of establishing maritime signals (Article 40 of Decree No. 58/2017/ND-CP);
- Procedures for putting navigation aids into use (Article 41 of Decree No. 58/2017/ND-CP);
- Procedures for arriving at seaports for foreign vessels to carry out activities on scientific research, fisheries, rescue, salvage of sunken assets, towing support in seaport waters, training, and documentation. Chemical, sports, installation, construction of marine works, underground works, serving surveys, exploration, resource exploitation, repair services, new construction, and environmental activities in Vietnamese waters (Clause 3, Article 75, Decree No. 58/2017/ND-CP).
- Procedures for approval of plans to salvage sunken assets (Article 13 of Decree No. 05/2017/ND-CP dated January 16, 2017).

The amendments and supplements in Decree 69/2022/ND-CP are requirements for reducing and simplifying business conditions and regulations of administrative procedures to enhance the application of information technology to Provide level 4 online public services, creating conditions for businesses and reducing compliance costs when carrying out administrative procedures.

AMENDING AND SUPPLEMENTING THE SCHEDULE OF VISA ISSUANCE FEES

The Minister of Finance has recently issued Circular 62/2023/TT-BTC on October 3, 2023, which amends Circular 25/2021/TT-BTC. The circular outlines the collection rates, payment, management and use of fees for exit, entry, transit, and residence in Vietnam. These changes will come into effect from October 3, 2023. Notably, the amendment will affect points a, b, and c of Section 2 Part II Table of fees for multiple visas, specifically as follows:

- Validation for no more than 90 days: 50 USD/piece
- Validation from 90 days to 180 days: 95 USD/piece
- Validation from 180 days to 1 year: 135 USD/piece
- validation from 1 year to 2 years: 145 USD/piece

INCREASE 20% OF SOME FEE LEVELS IN THE MEDICAL FIELD

According to Circular No. 59/2023/TT-BTC of the Ministry of Finance stipulating the rates, collection, remittance, management, and use of fees in the health sector effective from October 16, 2023, payers Fees in the health sector are organizations and individuals whose appraisal work is carried out by state management agencies, including an appraisal of receiving, importing, exporting, and certifying in the field of insecticide preparations. Disinfection and disinfection in household and medical applications; appraisal and issuance of licenses for circulation, import, export, and announcement of medical equipment; Appraisal of activities, standards, and conditions for practice in the medical field.

The fee collection organization is the Ministry of Health, the Ministry of National Defense, the Ministry of Public Security or units under the Ministry of Health, the Ministry of National Defense, the Ministry of Public Security that are assigned to perform fee collection tasks and the health departments of provinces and cities. Directly under the central government to carry out toll collection work.

From October 16, 2023, some fee levels in the medical field will increase by 20%.

Specifically, the fee for appraisal and issuance of new circulation numbers for type C and D equipment increased from 5 million VND to 6 million VND/file.

The fee for assessment, re-issuance, and adjustment of medical examination and treatment practice certificates for people whose medical examination and treatment practice certificates are revoked according to the provisions of Clause 1, Article 29 of the Law on Medical Examination and Treatment increased from 360,000 VND/time to 430,000 VND/time...

People who have completed their prison sentence can borrow a maximum of 100 million VND for production and business.

Decision No. 22/2023/QĐ-TTg dated August 18, 2023, of the Prime Minister on credit for people who have completed their prison sentence takes effect from October 10, 2023.

Regarding loan capital, the Decision stipulates for loans for vocational training: The maximum loan capital is 4 million VND/month/person who has completed their prison sentence.

For loans for production, business, and job creation, the maximum loan amount is 100 million VND/person who has completed their prison sentence. For production and business establishments: The maximum loan capital is 02 billion VND/project and at most 100 million VND/employee at the production and business establishment.

B – New legal documents



Remarkable new legal documents

(Enacted from 01 October 2023 – 15 October 2023)

No.	Legal documents	
FEES		
1	Circular 62/2023/YY-BTC dated October 3, 2023, amending Circular 25/2021/TT-BTC regulating collection rates, collection, remittance, management, and use of fees in the export sector entry, exit, transit, and residence in Vietnam	
	Enactment Date: 03/10/2023	Effective Date: 03/10/2023
INVESTMENT		
2	Circular 09/2023/TT-BKHDT, dated October 9, 2023, regulating the system of statistical indicators for the Planning and Investment sector	
	Enactment Date: 09/10/2023	Effective Date: 01/01/2024
ENTERPRISE		
3	Circular 08/2023/TT-BNNPTNT, dated October 2, 2023, stipulates criteria for classification and conditions for establishing, merging, consolidating, and dissolving public service units in the agricultural and industrial sectors rural development	
	Enactment Date: 02/10/2023	Effective Date: 20/11/2024
ADMINISTRATIVE - JUDICIARY		
4	Decision 2901/QD-BTNMT dated October 6, 2023, announcing amended and supplemented administrative procedures in the field of minerals within the scope of management functions of the Ministry of Natural Resources and Environment	
	Enactment Date: 06/10/2023	Effective Date: 06/10/2024

C – Q&A

1. Do foreign workers need to ask for a Work Permit if they work for businesses based in Vietnam without entry into Vietnam?

Foreign workers who do not come to Vietnam for employment are not required to obtain a Work Permit. As per Point d, Clause 1, Article 151 of the Labor Code, foreign workers employed in Vietnam must "have a work permit issued by a competent Vietnamese state agency, except in the cases stipulated in Article 154 of this Code". Consequently, foreign workers who do not fall under these cases are exempted from applying for a work permit.

2. The Company has employed 01 foreign worker married to a Vietnamese person, and now the Company wants to recruit 02 more foreign workers with the same job title (fashion design expert). Should they use Form 01/PLI or Form 02/PLI?

In this case, the Company intends to use Form 01/PLI to justify the position that requires foreign workers. Even though the Company has employed one foreign worker, this person is married to a Vietnamese citizen. As per Clause 2, Article 1 of Decree No. 70/2023/ND-CP, the Company does not need to determine the necessity of hiring foreign workers in such cases. Since the unit has not been informed by the Department of Labor, War Invalids and Social Affairs about approving the job position for foreign workers, the Company will apply Form 01/PLI.

3. The company has a branch in Ho Chi Minh City. The branch head or company director must sign the request for foreign worker permits. Can the parent company authorize the branch to handle the application process? Also, can the Human Resources Director sign documents for both the main office and the branch, or should the parent company delegate authority to the branch head first?

According to Article 4 of Decree No. 152/2020/ND-CP, which deals with the use of foreign workers, and specifically Article 9 on the application process for obtaining Work Permits, employers are required to fulfill certain obligations as stated in the relevant content. To comply with the regulations, the Company must accurately identify the employer for the procedures. Authorization is an agreement between two parties, where the authorized party is required to perform work on behalf of the authorizing party. It is important to note that if the Parent Company authorizes the Branch Director, and there is no mention of authorization to a third party, the Branch Director is not authorized to further delegate that authority to others.