

THE GOVERNMENT

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THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, December 30, 2020

DECREE

**ON FOREIGN WORKERS WORKING IN VIETNAM AND RECRUITMENT AND
MANAGEMENT OF VIETNAMESE WORKERS WORKING FOR FOREIGN EMPLOYERS
IN VIETNAM**

Pursuant to the Law on Organization of Government dated June 19, 2015; the Law on amendments to the Law on Organization of Government and the Law on Organization of Local Governments dated November 22, 2019;

Pursuant to the Labor Code dated November 20, 2019;

Pursuant to the Law on Investment dated June 17, 2020;

Pursuant to the Law on Enterprises dated June 17, 2020;

At the request of the Minister of Labor, War Invalids and Social Affairs;

The Government promulgates a Decree on foreign workers working in Vietnam and recruitment and management of Vietnamese workers working for foreign employers in Vietnam.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Decree set forth foreign workers working in Vietnam and recruitment, management of Vietnamese workers working for foreign organizations and individuals in Vietnam as required by the articles and clauses below of the Labor Code:

1. Requirements and procedures for issuance, re-issuance, renewal (ex-issuance in form No. 12/PLI), and revocation of work permits and certifications of exemption from work permit obtained by foreign workers in Vietnam as prescribed in Article 157 of the Labor Code and foreign workers in Vietnam exempt from work permits as prescribed in clauses 1, 2 and 9 Article 154 of the Labor Code.

2. Recruitment, recommendation, management of Vietnamese workers working for foreign organizations and individuals in Vietnam (hereinafter referred to as foreign employers) as prescribed in clause 3 Article 150 of the Labor Code.

Article 2. Regulated entities

1. Workers who are foreign nationals moving to Vietnam for employment (hereinafter referred to as foreign workers) for the purposes of:

- a) performing employment contracts;
- b) performing intra-company transfer program;
- c) performing contracts or agreements on business, trade, finance, banking, insurance, science and technology, culture, sports, education, vocational training and health;
- d) providing services under contracts;
- dd) offering services;
- e) working for foreign non-governmental organizations or international organizations in Vietnam that have been granted with operating licenses in accordance with the Vietnam law;
- g) working as volunteers;
- h) taking charge of establishing the commercial presence;
- i) working as managers, executives, experts, technical workers;
- k) performing packages or projects in Vietnam; or
- l) accompanying members of foreign representative bodies in Vietnam who are authorized to work in Vietnam under an international treaty to which the Socialist Republic of Vietnam is a signatory as their relatives.

2. Employers of foreign workers include:

- a) Enterprises operating in accordance with the Law on Enterprises, the Law on Investment or international treaties to which the Socialist Republic of Vietnam is a signatory;
- b) Bidders making bids or performing contracts;
- c) Representative offices, branches of enterprises, agencies or organizations licensed by the competent authorities;

- d) Regulatory agencies, political organizations, socio-political organizations, socio-political professional organizations, social organizations or socio-professional organizations;
- dd) Foreign non-governmental organizations licensed by competent authorities of Vietnam in accordance with the Vietnam's laws;
- e) Public sector entities, educational institutions established as per the law;
- g) International organizations, offices of foreign projects in Vietnam; agencies and organizations licensed by the Government, the Prime Minister, ministries or central authorities as per the law;
- h) Executive offices of foreign investors in business cooperation contracts or those of foreign contractors awarded operating licenses by the law;
- i) Law-practicing organizations in Vietnam as per the law;
- k) Cooperatives and cooperative unions established and operated in accordance with the Law on cooperatives; and
- m) Household businesses and individuals licensed to do business in accordance with the law.

3. Foreign organizations in Vietnam are foreign agencies and organizations authorized by competent authorities of Vietnam to operate in Vietnam's territory, including:

- a) Diplomatic missions, consular offices, representative bodies of international organizations of the United Nations, regional organizations, sub-regional organizations;
- b) Resident offices of foreign news agencies, press agencies, radio and television agencies;
- c) International organizations, inter-governmental organizations, foreign governmental organizations;
- d) Foreign non-governmental organizations licensed by competent authorities of Vietnam as per the law;
- dd) Representative offices in Vietnam of foreign organizations operating in: business, trade, finance, banking, insurance, science and technology, culture, education, health, foreign legal counseling.

4. Foreign individuals in Vietnam are foreigners who work for the organizations specified in clause 3 hereof or persons who are authorized by competent authorities in Vietnam to reside in Vietnam.

5. Vietnamese workers who work for foreign employers in Vietnam.

6. Employment service providers and professional employer organizations which provide for foreign employers services related to recruitment, recommendation and management of Vietnamese workers working for foreign employers in Vietnam.

Article 3. Definition

1. “intra-company transferee” means a manager, executive, expert or technical worker of a foreign company which has established a commercial presence in Vietnam’s territory who is temporarily transferred within the company to the commercial presence in Vietnam’s territory and has been recruited by the foreign company at least 12 consecutive months prior to the transfer date.

2. “volunteer” means an unpaid foreign worker who voluntarily works in Vietnam to implement an international treaty to which the Socialist Republic of Vietnam is a signatory with certification of a foreign diplomatic mission or international organization in Vietnam.

3. "expert" means a foreign worker who:

a) obtains at least a bachelor’s degree or equivalent and at least 03 years’ experience in his/her training field in corresponding with the job position/job assignment that he/she will be appointed in Vietnam;

b) obtains at least 5 years' experience and a practicing certificate in corresponding with the job position that he/she will be appointed in Vietnam; or

c) falls under a special case subject to decision of the Prime Minister according to a request of the Ministry of Labor, War Invalids and Social Affairs.

4. “manager” means a person in charge of management of an enterprise as prescribed in clause 24 Article 4 of the Law on Enterprises or the head or deputy head of an agency or organization.

5. “executive” means the head or a person who directly administers affiliated entities of an agency, organization or enterprise.

6. “technical worker” means a foreign worker who:

a) has been trained in technical field or another major for at least 01 year and have worked for at least 03 years in his/her training field; or

b) obtains at least 5 years' experience in corresponding with the job position that he/she will be appointed in Vietnam.

7. “commercial presence” means a foreign-invested business entity; representative office, branch of foreign trader in Vietnam; or executive office of a foreign investor in a business cooperation contract.

8. “service provider under contract” means a foreign worker who has worked at least 2 years (24 months) for a foreign company that has no commercial presence in Vietnam and has met the requirements of an expert in clause 3 hereof.

9. “service offeror” means a foreign worker who neither lives in Vietnam nor receives any pay in Vietnam, and he/she engages in activities related to representation for a service provider to negotiate the consumption of service of that provider, provided neither personally selling that service to the general public nor personally providing that service.

Chapter II

ACCEPTANCE OF DEMAND FOR FOREIGN WORKERS; FOREIGN WORKERS EXEMPT FROM WORK PERMITS; ISSUANCE, RE-ISSUANCE, RENEWAL AND REVOCATION OF WORK PERMITS

Section 1. ACCEPTANCE OF DEMAND FOR FOREIGN WORKERS

Article 4. Employment of foreign workers

1. Determination of demand for foreign workers

a) At least 30 days before the date on which foreign workers are expected to be employed, the employer (except contractor) shall determine the demand for foreign workers for every job position for which Vietnamese workers are underqualified and send a corresponding report to the Ministry of Labor, War Invalids and Social Affairs or the People’s Committee of province or central-affiliated city (hereinafter referred to as province) where the foreign workers are expected to work, using Form No. 01/PLI Appendix I hereto appended.

During the process, in case of any change to the demand for foreign workers, the employer shall send a report to the Ministry of Labor, War Invalids and Social Affairs or the People’s Committee of province, using Form No. 02/PLI Appendix I hereto appended at least 30 days before the date on which the foreign worker are expected to be employed.

b) If the foreign worker falls under any case of clause 3, 4 and 5 Article 154 of the Labor Code and clauses 1, 2, 8, 9, 10, 11, 12 and 13 Article 7 of this Decree, the employer is not required to determine the demand for foreign workers.

2. The Ministry of Labor, War Invalids and Social Affairs or the People’s Committee of province shall issue a document specifying accepted job positions and non-accepted job positions, using Form No. 03/PLI Appendix I hereto appended within 10 working days after receiving the foregoing report on demand for foreign workers or report on change thereof.

Article 5. Employment of foreign workers by contractors

1. Before recruiting foreign workers, the contractor shall specify the quantity, qualifications, professional competence and experience of foreign workers that are needed for performance of

the package in Vietnam and send a written request for the recruitment of Vietnamese workers to the job positions expected for foreign workers to the President of the People's Committee of province where the package is performed, using Form No. 04/PLI Appendix I hereto appended.

If the contractor wishes to change or increase the declared number of workers, the plan for changing or increasing demand for workers of such foreign contractor must be certified by the investor, using Form No. 05/PLI Appendix I hereto appended.

2. The President of the People's Committee of province shall direct local agencies and organizations to recommend and supply Vietnamese workers to the contractor and cooperate with other local agencies and organizations in recommending and supplying Vietnamese workers to the contractor. If Vietnamese workers are not recommended or supplied to the contractor within 02 months from the day on which a request for recruitment of 500 Vietnamese workers or more is received, or within 01 month from the day on which a request for recruitment of 100 to fewer than 500 Vietnamese workers is received, or within 15 days from the day on which a request for recruitment of fewer than 100 Vietnamese workers is received, the President of the People's Committee of province shall consider allowing the contractor to recruit foreign workers to hold the job positions for which Vietnamese workers are underqualified, using Form No. 06/PLI Appendix I hereto appended.

3. The investor shall supervise and request the contractor to conform with the declaration of the employment of Vietnamese workers and foreign workers; provide guidance, urge and inspect the contractor's compliance of the regulations on recruitment and employment of foreign workers in accordance with the Vietnam's law; monitor and manage foreign workers' compliance with the Vietnam's law; prior to July 5 and January 5 of the next year, the investor shall send a first-half-year report and annual report, respectively, on employment of foreign workers, using Form No. 07/PLI Appendix I hereto appended.

The reporting period of the first 6 months is from December 15 of the previous reporting year to June 14 of the reporting year, the reporting period of the annual report is from December 15 of the previous reporting year to December 14 of the reporting year.

4. On annual or ad-hoc basis, the Department of Labor, War Invalids and Social Affairs shall cooperate with the police authority of province; High Command of the Border guard of province or relevant entities of the Ministry of National Defense at the border and checkpoint areas, islands, strategic, key, defense-critical regions and relevant agencies in inspecting the compliance with the Vietnam's law by the foreign workers performing packages in the province and sending inspection reports to the People's Committee of province, the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Public Security and the Ministry of National Defense.

Article 6. Report on employment of foreign workers

1. Prior to July 5 and January 5 of the following year, the employer of foreign workers shall send a first-half-year report and an annual report on employment of foreign workers, using Form No. 07/PLI Appendix I hereto appended. The reporting period of the first 6 months is from December

15 of the previous reporting year to June 14 of the reporting year, the reporting period of the annual report is from December 15 of the previous reporting year to December 14 of the reporting year.

2. Prior to July 15 and January 15 of the following year or on ad-hoc basis, Department of Labor, War Invalids and Social Affairs shall send a report on employment of foreign workers in the province to the Ministry of Labor, War Invalids and Social Affairs, using Form No. 08/PLI Appendix I hereto appended. The reporting period of the first 6 months and the whole year complies with regulations of the Government on reporting regime of regulatory agencies.

Section 2. FOREIGN WORKERS EXEMPT FROM WORK PERMITS

Section 7. Foreign workers exempt from work permits

Without regard to the cases in clauses 3, 4, 5, 6, 7 and 8 Article 154 of the Labor Code, a foreign worker is exempt from a work permit if:

1. He/she is the owner or capital contributor of a limited liability company with a capital contribution value of at least 3 billion dong.
2. He/she is the Chairperson or a member of the Board of Directors of a joint-stock company with a capital contribution value of at least 3 billion dong.
3. He/she is an intra-company transferee within 11 sectors in the schedule of commitments in services between Vietnam and WTO, including: business services, communication services, construction services, distribution services, educational services, environmental services, financial services, health services, tourism services, recreational and cultural services, and transport services.
4. He/she enters Vietnam to provide professional and engineering consulting services or perform other tasks intended for research, formulation, appraisal, supervision, evaluation, management and execution of programs and projects using official development assistance (ODA) in accordance with regulations or agreement in international treaties on ODA signed between the competent authorities of Vietnam and foreign countries.
5. He/she is granted a communication and journalism practicing certificate in Vietnam by the Ministry of Foreign Affairs as per the law.
6. He/she is sent by a foreign competent authority or organization to Vietnam to teach and study at an international school under management of a foreign diplomatic mission or the United Nations; or of a facility established under an agreement to which Vietnam is a signatory.
7. He/she is a volunteer as specified in clause 2 Article 3 of this Decree.
8. He/she enters Vietnam to hold the position of a manager, executive, expert or technical worker for a period of work of less than 30 days and up to 3 times a year.

9. He/she enters Vietnam to implement an international agreement to which a central or provincial authority is a signatory as per the law
10. He/she is a student studying at a foreign school or training institution which has a probation agreement with an agency, organization or enterprise in Vietnam; or a probationer or apprentice on a Vietnam sea-going ship.
11. He/she is a relative of a member of foreign representative body in Vietnam as specified in point 1 clause 1 Article 2 hereof.
12. He/she obtains an official passport to work for a regulatory agency, political organization, or socio-political organization.
13. He/she takes charge of establishing a commercial presence.
14. He/she is certified by the Ministry of Education and Training as a foreign worker entering Vietnam for teaching and research purpose.

Article 8. Certification of exemption from work permit

1. The Ministry of Labor, War Invalids and Social Affairs or Departments of Labor, War Invalids and Social Affairs are authorized to grant certification of exemption from work permit.
2. The employer shall request the Ministry of Labor, War Invalids and Social Affairs or the Department of Labor, War Invalids and Social Affairs of the province where the foreign worker is expected to work to certify that such foreign worker is eligible for exemption from a work permit at least 10 working days before he/she starts to work.

For any of the circumstances in clauses 4, 6 and 8 Article 154 of the Labor Code and clauses 1, 2, 8 and 11 Article 7 of this Decree, the employer is not required to apply for the certification of exemption but it must report the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs of province where the foreign worker is expected to work, at least 3 days before such foreign worker starts to work in Vietnam, on the following: full name, age, nationality, passport number, name of employer, starting date and completion date.

The validity period of a certification of exemption from work permit is up to 2 years and coincides with the validity period of any case as prescribed in Article 10 below. If a certification of exemption from work permit is re-issued, the corresponding validity period is up to 2 years.

3. Required documents in an application for exemption from work permit:
 - a) An application form for certification of exemption from work permit No. 09/PLI Appendix I hereto appended;
 - b) A fitness to work certificate in accordance with clause 2 Article 9 hereof.

- c) An acceptance of demand for foreign workers, unless it is not required;
 - d) A valid certified true copy of passport as per the law;
 - dd) Documents justifying that the foreign worker is exempt from work permit;
 - e) Any document mentioned in points b, c and dd of this clause is 1 original or certified true copy; if a document is written in a foreign language, it must be consularly legalized, translated into Vietnamese and certified, unless it is exempt from consular legalization under an international treaty to which the Socialist Republic of Vietnam and the concerned foreign country are signatories or under the principle of reciprocity or as per the law.
4. Within 5 working days after receiving a duly completed application, the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs shall issue a certification of exemption from work permit, using Form No. 10/PLI Appendix I hereto appended. If the application is rejected, a written explanation is required.

Section 3. ISSUANCE OF WORK PERMITS

Article 9. Application for issuance of a work permit

1. An application form for issuance of a work permit No. 11/PLI Appendix I hereto appended.
2. A fitness to work certificate issued by a foreign or Vietnamese competent health facility issued within 12 months before the submission date of the application or the certificate as specified in regulations of the Minister of Health.
3. A police (clearance) certificate or a document certifying that the foreign worker is not serving a sentence, has a criminal record expunged or is not facing a criminal prosecution which is issued by a foreign or Vietnamese authority.

The foregoing police (clearance) certificate or document certifying that the foreign worker is not serving a sentence, has a criminal record expunged or is not facing a criminal prosecution must be issued within 6 months before the submission date of the application.

4. Proofs as a manager, executive, expert, technical and certain jobs, works as follows:
 - a) Proof as a manager, executive as prescribed in clauses 4, 5 Article 3 hereof;
 - b) Proof as an expert, technical worker as prescribed in clauses 3, 6 Article 3 hereof, including: diplomas, certificates, certification of foreign agency, organization, enterprise in respect of number of years' experience of the expert or technical worker;
 - c) Proof of experience of foreign football player or an international transfer certificate (ITC) issued to the foreign football player or a document of the Vietnam Football Federation which

certifies temporary or official registration of a player of club affiliated to Vietnam Football Federation.

d) A pilot license issued by a Vietnamese competent authority, or issued by a foreign competent authority and validated by the Vietnamese competent authority, in case of a foreign pilot; or a certificate of eligibility for working on aircraft issued by the Ministry of Transport, in case of a flight attendant;

dd) A certificate of competency in aviation maintenance issued by a Vietnamese competent authority, or issued by a foreign competent authority and validated by the Vietnamese competent authority, in case of a foreign worker who performs maintenance on aircraft;

e) A certificate of competency or validation of certificate of competence issued by a Vietnamese competent authority to a foreign seafarer;

g) A certificate of high achievement in sports which is certified by the Ministry of Culture, Sports and Tourism, in case of a sports coach or at least one of the following certificates: AFC (Asian Football Federation) football coaching level B certificate or AFC goalkeeping coaching level 1 certificate or AFC fitness coaching level 1 certificate or AFC futsal coaching level 1 certificate or any equivalent foreign certificate accredited by AFC;

h) A diploma issued by the competent authority in accordance with qualifications or standard qualifications in the Law on Education, the Law on Higher Education, the Law on Vocational Education and Regulation on organization and operation of foreign language and computer training centers issued by the Minister of Education and Training.

5. 02 color photos (4cm x 6cm size, white background, front view, bare head, no color glasses), taken within 6 months before the submission date of application.

6. An acceptance of demand for foreign workers, unless it is not required.

7. A valid certified true copy of passport as per the law.

8. Documents relevant to the foreign worker:

a) For a foreign worker specified in point b clause 1 Article 2 hereof, he/she must obtain a document issued by the foreign company to send him/her to work at a commercial presence of that company in Vietnam's territory and a document justifying that he/she has been recruited by the foreign company at least 12 consecutive months prior to the transfer date;

b) For a foreign worker specified in point c clause 1 Article 2 hereof, an agreement or arrangement concluded between Vietnamese and foreign partners is required, which specifies the arrangement about sending foreign workers to Vietnam;

c) For a foreign worker specified in point d clause 1 Article 2 hereof, a service contract concluded between Vietnamese and foreign partner is required and a document justifying that

he/she has worked for the foreign company that has no commercial presence in Vietnam at least 2 years;

d) For a foreign worker specified in point dd clause 1 Article 2 hereof, he/she must obtain a document issued by the service provider to send him/her to Vietnam to negotiate the service provision;

dd) For a foreign worker specified in point e clause 1 Article 2 hereof, he/she must obtain both a document which sends him/her to work for a foreign non-governmental organization or international organization in Vietnam, except for point a clause 1 Article 2 of this Decree, and the operation license of that foreign non-governmental organization or international organization in Vietnam as per the law;

e) For a foreign worker specified in point i clause 1 Article 2 hereof, he/she must obtain a document issued by the foreign enterprise, agency or organization to send him/her to work in Vietnam that is conformable with the expected job position.

9. Application for issuance of work permit in special cases:

a) If a foreign worker who has been issued with a work permit which remains valid wishes to work for another employer at the same job position and job title in the work permit, an application for a new work permit shall include: a document issued by the former employer certifying that he/she has been working there, documents mentioned in clauses 1, 5, 6, 7 and 8 of this Article and a certified true copy of the current work permit;

b) If a foreign worker who has been issued with a work permit which remains valid wishes to work for the same employer but at another job position or job title or working form in the work permit, an application for a new work permit shall include the documents mentioned in clauses 1, 4, 5, 6, 7 and 8 hereof and the current work permit or a certified true copy of the current work permit.

10. Consular legalization and certification of documents:

Any document mentioned in clauses 2, 3, 4, 6 and 8 hereof is 1 original or certified true copy; for documents of foreign countries, unless they are exempt from consular legalization under an international treaty to which the Socialist Republic of Vietnam and the concerned foreign country are signatories or under the principle of reciprocity or as per the law, they must be consularly legalized, translated into Vietnamese and certified.

Article 10. Validity period of a work permit

The validity period of a work permit shall coincide with any of the period/duration below but not exceeding 2 years:

1. Validity period of the employment contract to be signed.

2. Duration of the foreign worker's assignment in Vietnam.
3. Duration of the contract or agreement concluded between Vietnamese and foreign partners.
4. Duration of the service contract or agreement concluded between Vietnamese and foreign partners.
5. Duration determined in the document issued by the service provider to send the foreign worker to Vietnam to negotiate the service provision.
6. Validity period in the operation license of the agency, organization or enterprise.
7. Duration determined in the document issued by the service provider to send the foreign worker to Vietnam to establish a commercial presence.
8. Duration stated in a document proving the foreign worker's eligibility to participate in the operation of a foreign company that has established its commercial presence in Vietnam.
9. Duration stated in the acceptance of employment of foreign worker unless a report on demand for foreign workers as specified in point b clause 1 Article 4 hereof is not required.

Article 11. Procedures for issuance of a work permit

1. At least 15 working days before the day on which a foreign worker starts to work, the applicant shall submit an application for work permit to the Ministry of Labor, War Invalids and Social Affairs or the Department of Labor, War Invalids and Social Affairs of the province where he/she is expected to work. The applicant is:

- a) the employer, if the foreign worker moves to Vietnam for employment for the purposes specified in points a, b, e, g, I and k clause 1 Article 2 hereof;
- b) the Vietnamese agency, organization or enterprise, or foreign organization or enterprise operating in Vietnam for which the foreign worker is expected to work, if the foreign worker moves to Vietnam for employment for the purposes specified in points c and d clause 1 Article 2 hereof; or
- c) the foreign service offeror in Vietnam, or the person in charge of establishing a commercial presence as prescribed in points dd and h clause 1 Article 2 hereof.

2. Within 5 working days after receiving a duly completed application, the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs of province where the foreign worker is expected to work shall issue a work permit to the foreign worker, using Form No. 12/PLI Appendix I hereto appended. The form of work permit shall be solely printed and issued by the Ministry of Labor, War Invalids and Social Affairs. If the application is rejected, a written explanation is required.

3. For a foreign worker specified in point a clause 1 Article 2 hereof, after the foreign worker is issued with a work permit, the employer and the foreign worker must sign a written employment contract as per Vietnam's labor law before the date on which the foreign worker is expected to work.

The employer shall send that employment contract to the competent authority that issued that work permit. The employment contract is the original or a certified true copy.

Section 4. RE-ISSUANCE OF WORK PERMIT

Article 12. Cases of re-issuance of a work permit

1. The unexpired work permit is lost.
2. The unexpired work permit is damaged.
3. The unexpired work permit needs changes of full name, nationality, passport number, or working place thereon.

Article 13. Application for re-issuance of a work permit

1. An application form for re-issuance of work permit made by the employer No. 11/PLI Appendix I hereto appended.
2. 02 color photos (4cm x 6cm size, white background, front view, bare head, no color glasses), taken within 6 months before the submission date of application.
3. The unexpired work permit:
 - a) If the work permit is lost as specified in clause 1 Article 12 hereof, a certification issued by the police authority of commune where the foreign worker resides or by a foreign competent authority as per the law is required;
 - b) In case of changes of information in the work permit, supporting documents are required.
4. An acceptance of demand for foreign workers, unless it is not required.
5. Any document mentioned in clauses 3 and 4 hereof is 1 original or certified true copy except for the document in clause 1 Article 12 hereof; if a document is written in a foreign language, it must be consularly legalized, translated into Vietnamese and certified, unless it is exempt from consular legalization under an international treaty to which the Socialist Republic of Vietnam and the concerned foreign country are signatories or under the principle of reciprocity or as per the law.

Article 14. Procedures for re-issuance of a work permit

Within 3 working days after receiving a duly completed application, the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs shall re-issue a work permit. If the application is rejected, a written explanation is required.

Article 15. Validity period of re-issued work permit

The validity period of the re-issued work permit shall coincide with that of the former work permit less the duration that the foreign worker has worked up to the submission date of the re-issuance application.

Section 5. RENEWAL OF WORK PERMIT

Article 16. Eligibility requirements for renewal of a work permit

1. The remaining validity period of the work permit is at least 5 days but not exceeding 45 days.
2. The competent authority grants an acceptance of demand for foreign workers as prescribed in Article 4 or 5 hereof.
3. A document supporting that the foreign worker will continue in employment with the employer as specified in the concerned work permit is available.

Article 17. Application for renewal of a work permit

1. An application form for renewal of work permit made by the employer No. 11/PLI Appendix I hereto appended.
2. 02 color photos (4cm x 6cm size, white background, front view, bare head, no color glasses), taken within 6 months before the submission date of application.
3. The unexpired work permit.
4. An acceptance of demand for foreign workers, unless it is not required.
5. A valid certified true copy of passport as per the law.
6. A fitness to work certificate in accordance with clause 2 Article 9 hereof.
7. Any document specified in clause 8 Article 9 hereof to support that the foreign worker will continue in employment with the employer as specified in the concerned work permit.
8. Any document mentioned in clauses 3, 4, 6 and 7 hereof is 1 original or certified true copy; if a document is written in a foreign language, it must be consularly legalized, translated into Vietnamese and certified, unless it is exempt from consular legalization under an international treaty to which the Socialist Republic of Vietnam and the concerned foreign country are signatories or under the principle of reciprocity or as per the law.

Article 18. Procedures for renewal of a work permit

1. At least 5 days but not exceeding 45 days before the expiry date of the worker permit, the employer shall submit an application for renewal of a work permit to the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs which issued that work permit.
2. Within 5 working days after receiving a duly completed application, the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs shall renew the work permit. If the application is rejected, a written explanation is required.
3. For a foreign worker specified in point a clause 1 Article 2 hereof, after his/her work permit is renewed, the employer and the foreign worker must sign a written employment contract as per Vietnam's labor law before the date on which the foreign worker is expected to work.

The employer shall send that employment contract to the competent authority that issued that work permit. The employment contract is the original or a certified true copy.

Article 19. Validity period of a renewed work permit

Validity period of a renewed work permit shall coincide with any of the period/duration prescribed in Article 10 but it is only renewed once for a period of up to 2 years.

Section 6. REVOCATION OF WORK PERMIT

Article 20. Cases of revocation of a work permit

1. The work permit ceases to be effective as prescribed in clauses 1, 2, 3, 4, 5, 6 and 7 Article 156 of the Labor Code.
2. The employer or the foreign worker fails to comply with this Decree.
3. The foreign worker, during his/her employment in Vietnam, fails to abide by Vietnam's law which compromises security and social order.

Article 21. Procedures for revocation of a work permit

1. For the case in clause 1 Article 20 hereof, within 15 days after the work permit ceases to be effective, the employer shall revoke the work permit of the foreign worker and return it to the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs which issued that work permit and enclose a document specifying reasons for revocation and work permits subject to revocation but cannot be revoked.
2. For the cases in clauses 2, 3 Article 20 hereof, the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs which issued the work permit shall issue a decision on revocation of work permit, using Form No. 13/PLI Appendix I hereto

appended and request the employer to revoke the work permit of the foreign worker and then return it to the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs.

3. Within 5 working days after receiving the said work permit, the Ministry of Labor, War Invalids and Social Affairs or Department of Labor, War Invalids and Social Affairs shall send an acknowledgement of receipt of the revoked work permit to the employer.

Chapter III

RECRUITMENT, MANAGEMENT OF VIETNAMESE WORKERS WORKING FOR FOREIGN EMPLOYERS IN VIETNAM

Article 22. Power to recruit and manage Vietnamese workers working for foreign employers

1. Organizations that are empowered to recruit and manage Vietnamese workers working for foreign employers (hereinafter referred to as recruitment and management organizations) include:

a) Organizations that are empowered by the Ministry of Foreign Affairs through delegation, authorization, assignment, commission or procurement;

b) Organizations that are empowered by the Department of Labor, War Invalids and Social Affairs through delegation, authorization, assignment, commission or procurement.

2. The organizations specified in point a clause 1 of this Article are entitled to recruit and manage Vietnamese workers working for foreign employers below:

a) Foreign organizations mentioned in points a, b, c and d clause 3 Article 2 hereof;

b) Foreign individuals who are working for foreign organizations mentioned in points a, b, c and d clause 3 Article 2 hereof.

3. The organizations specified in point b clause 1 of this Article are entitled to recruit and manage Vietnamese workers working for foreign employers below:

a) Foreign organizations mentioned in point dd clause 3 Article 2 hereof;

b) Foreign individuals who are working for the foreign organizations specified in point dd clause 3 hereof or persons who are authorized by competent authorities in Vietnam to reside in Vietnam.

Article 23. Application for job of a Vietnamese worker

1. An application form for job No. 01/PLII Appendix II hereto appended.

2. A certified true copy of any of the following: birth certificate or ID card or citizen identification card.
3. A fitness to work certificate issued by a competent health facility issued within 12 months before the submission date of the application.
4. A certified true copy of diploma or certificate of professional qualifications and foreign language relating to the job for which the foreign worker applies. If the document is written in a foreign language, it must be consularly legalized, translated into Vietnamese and certified, unless it is exempt from consular legalization under an international treaty to which the Socialist Republic of Vietnam and the concerned foreign country are signatories or under the principle of reciprocity or as per the law.

Article 24. Procedures for recruitment of Vietnamese workers working for foreign employers

1. If foreign employers wish to employ Vietnamese workers, they may recruit by themselves or authorize employment service providers, professional employer organizations, or recruitment and management organizations to do so.
2. If the foreign employer chooses a recruitment and management organization, a request for recruitment of Vietnamese workers shall be sent to that recruitment and management organization. The request shall specify requirements for job positions, quantity, professional qualifications, proficiency of foreign language, recruitment duration, rights and obligations of Vietnamese workers and the foreign employer during the employment time and upon severance for every job vacancy.

Within 15 working days after receiving such a request, the recruitment and management organization shall initiate the recruitment and management of Vietnamese workers as requested. If the recruitment and management organization fails to recruit or recommend Vietnamese workers upon the request when the time required has elapsed, it shall provide explanation in writing.

3. Within 7 working days after entering into an employment contract with a Vietnamese worker, the foreign employer shall send a notice enclosed with a certified true copy of the employment contract and the documents specified in clause 2, 4 Article 3 of this Decree to the recruitment and management organization. If the employment contract is made in a foreign language, a Vietnamese translation is required.

Article 25. Responsibilities of a Vietnamese worker working for a foreign employer

1. Comply with Vietnam's labor law.
2. Abide by the terms and conditions of the employment contract concluded with the foreign employer.

3. Comply with regulations of the recruitment and management organization.

Article 26. Responsibilities of a foreign employer in Vietnam upon employment of Vietnamese workers

1. Comply with the Labor Code and applicable regulations.

2. Abide by the employment contract concluded with Vietnamese workers.

3. Before December 15 or on an ad-hoc basis, the foreign employer shall send an annual report on recruitment and employment of Vietnamese workers, using Form No. 02/PLII Appendix II hereto appended. The reporting period is from December 15 of the previous year to December 14 of the reporting year and the report shall be sent as follows:

a) The foreign employers provided for in points a, b, c and d clause 3 Article 2 hereof shall send reports to recruitment and management organizations as provided in point a clause 1 Article 22 hereof;

b) The foreign employers provided for in points dd clause 3 Article 2 hereof shall send reports to recruitment and management organizations as provided in point b clause 1 Article 22 hereof.

Article 27. Responsibilities of recruitment and management organizations

1. Receive applications for job from Vietnamese workers and requests for recruitment of Vietnamese workers from foreign employers.

2. Initiate recruitment, management of Vietnamese workers working for foreign employers.

3. Provide training and advanced training programs for Vietnamese workers as per the law to meet requirements of foreign employers.

4. Before December 20 or on an ad-hoc basis, recruitment and management organizations shall send annual reports on recruitment and employment of Vietnamese workers working for foreign employers, using Form No. 03/PLII Appendix II hereto appended. The reporting period is from December 15 of the previous year to December 14 of the reporting year and the report shall be sent as follows:

a) The organizations that are empowered by the Ministry of Foreign Affairs to recruit and manage Vietnamese workers working for foreign employers through delegation, authorization, assignment, commission or procurement shall send reports to the Ministry of Foreign Affairs;

b) The organizations that are empowered by the Department of Labor, War Invalids and Social Affairs to recruit and manage Vietnamese workers working for foreign employers through delegation, authorization, assignment, commission or procurement shall send reports to the Department of Labor, War Invalids and Social Affairs.

5. Propose competent authorities to take actions against any violation of this Decree.
6. Perform other tasks as per the law.

Article 28. Responsibilities of employment service providers, professional employer organizations

Before December 15 or on an ad-hoc basis, employment service providers, professional employer organizations shall send reports on supply or outsourcing of Vietnamese workers, using Form No. 04/PLII Appendix II hereto appended to the recruitment and management organizations. The reporting period is from December 15 of the previous year to December 14 the reporting year.

Chapter IV

IMPLEMENTATION

Article 29. Entry in force

1. This Decree comes into force as of February 15, 2021.
2. Decree No. 11/2016/ND-CP dated February 3, 2016 on elaboration of certain articles of the Labor Code regarding foreign workers in Vietnam (hereinafter referred to as Decree No. 11/2016/ND-CP), amended by Decree No. 140/2018/ND-CP on amendments to Decrees related to business conditions and administrative procedures under the management of the Ministry of Labor, War Invalids and Social Affairs (hereinafter referred to as Decree No. 140/2018/ND-CP) and Decree No. 75/2014/ND-CP dated July 28, 2014 on elaboration of certain articles of the Labor Code on recruitment and management of Vietnamese workers working for foreign organizations and individuals shall cease to be effective since the date of entry into force of this Decree.
3. Grandfather clause:
 - a) Documents such as acceptance of employment of foreign workers, certification of exemption from work permit and work permits that were issued or re-issued as per Decree No. 11/2016/ND-CP, amended by Decree No. 140/2018/ND-CP will remain valid until their expiry;
 - b) Employment contracts of foreign workers in Vietnam that were signed and are still in force before the date of entry into force of this Decree will remain valid until the work permits that were issued as per Decree No. 11/2016/ND-CP, amended by Decree No. 140/2018/ND-CP expire.

Article 30. Implementation

1. Responsibilities of the Ministry of Labor, War Invalids and Social Affairs:

a) Consider accepting demand for foreign workers; certifying exemption from work permits; issuing, re-issuing, renewing and revoking work permits from foreign workers who work for the employers prescribed point g clause 2 Article 2 and agencies and organizations prescribed in points d, e clause 2 Article 2 hereof that the Government, the Prime Minister, ministry or central authority approves their establishment;

b) The employer provided for in point a clause 2 Article 2 whose representative office or branch is located in a province or city other than province or city where it is headquartered and the employer specified in point dd clause 2 Article 2 may seek the acceptance of demand for foreign workers; certification of exemption from work permit; issuance, re-issuance, renewal and revocation of work permits from the Ministry of Labor, War Invalids and Social Affairs.

c) Perform the state management of recruitment and management of foreign workers working in Vietnam and Vietnamese workers working for foreign employers in Vietnam;

d) Take charge and cooperate with ministries and central authorities in supervising, evaluating, and inspecting, on an annual or ad-hoc basis, agencies, organizations and enterprises relevant to implementation of regulations on foreign workers working in Vietnam and Vietnamese workers working for foreign employers in Vietnam;

dd) Take charge and cooperate with ministries, central authorities and local authorities in guiding, propagating, obtaining information, studying and evaluating the effectiveness of this Decree;

e) Send consolidated reports on foreign workers working in Vietnam and Vietnamese workers working for foreign employers in Vietnam to the Prime Minister upon requests;

g) Propose and take actions against violations of this Decree.

2. Responsibilities of the Ministry of Foreign Affairs:

a) Take charge and cooperate with central authorities and local authorities in guiding, propagating regulations on foreign workers working in Vietnam and Vietnamese workers working for foreign employers in Vietnam within the ambit of the Ministry of Foreign Affairs;

b) Manage the organizations that are empowered by the Ministry of Foreign Affairs to recruit and manage Vietnamese workers working for foreign employers through delegation, authorization, assignment, commission or procurement;

c) Provide guidelines for recruitment and management of Vietnamese workers working for foreign employers as prescribed in points a, b, c and d clause 3 Article 2 hereof;

d) Before December 20 or on an ad-hoc basis, the Ministry of Foreign Affairs shall send the Ministry of Labor, War Invalids and Social Affairs a report on recruitment and employment of Vietnamese workers working for foreign employers, using Form No. 03/PLII Appendix II hereto

appended. The reporting period of an annual report complies with regulations of the Government on reporting regime of regulatory agencies.

3. Responsibilities of the Ministry of National Defense:

Cooperate with competent authorities in enforcing foreign workers, Vietnamese workers working for foreign employers and foreign employers employing Vietnamese workers to comply with regulations of law on security, social safety and order in border and checkpoint areas, islands, strategic, key, defense-critical regions.

4. Responsibilities of the Ministry of Public Security:

a) Send monthly reports on foreign workers issued with visas marked LD, LV, DN, DT to the Ministry of Labor, War Invalids and Social Affairs;

b) Cooperate with competent authorities in enforcing Vietnamese workers working for foreign employers and foreign employers employing Vietnamese workers to comply with regulations of law on security, social safety and order.

5. Responsibilities of the People's Committees of provinces or central-affiliated cities:

a) Manage and guide local authorities to comply with regulations on foreign workers working in Vietnam and Vietnamese workers working for foreign employers in Vietnam;

b) Direct local specialized agencies in propagating, raising public awareness of law; inspecting and taking actions against violations of regulations on foreign workers working in Vietnam and Vietnamese workers working for foreign employers in Vietnam in the provinces;

c) Direct local agencies to recommend and supply Vietnam labor to contractors;

d) Permit contractors to recruit foreign workers to every job vacancy for which Vietnamese workers are underqualified in the provinces;

dd) Approve, or delegate authorized agencies to approve, job positions available for foreign workers in the provinces.

6. Responsibilities of the Department of Labor, War Invalids and Social Affairs:

a) Consider accepting demand for foreign workers; certifying exemption from work permits; issuing, re-issuing, renewing and revoking work permits from foreign workers who work for the employers prescribed points a, b, c, h, i, k, l clause 2 Article 2, and agencies and organizations specified in points d, e clause 2 Article 2 hereof which are established by the People's Committee of province, specialized agency affiliated to the People's Committee of province or the People's Committee of district;

- b) The employer provided for in point a clause 2 Article 2 whose representative office or branch is located in a province or city other than province or city where it is headquartered and the employer specified in point dd clause 2 Article 2 may seek the acceptance of demand for foreign workers; certification of exemption from work permit; issuance, re-issuance, renewal and revocation of work permits from the Department of Labor, War Invalids and Social Affairs;
- c) Upon receipt of an application for issuance, re-issuance, or renewal of work permit, or exemption from work permit, the Department of Labor, War Invalids and Social Affairs shall document it in a logbook Form No. 14/PLI Appendix I hereto appended and give the employer an acknowledgement of receipt. The acknowledgement must specify the date of receipt; documents in the application and time limit for a response;
- d) If the application for exemption from work permit; issuance, re-issuance, renewal of work permit is rejected, it shall give a response in writing using Form No. 15/PLI Appendix I hereto appended;
- dd) Take charge and cooperate with local agencies in guiding and propagating this Decree;
- e) Perform the state management of recruitment and management of foreign workers working in Vietnam and Vietnamese workers working for foreign employers within the ambit of the localities;
- g) Manage the organizations that are empowered by the Department of Labor, War Invalids and Social Affairs to recruit and management Vietnamese workers working for foreign employers through delegation, authorization, assignment, commission or procurement;
- h) Inspect and supervise the compliance with law of foreign workers in Vietnam and recruitment and management of foreign workers working in Vietnam and Vietnamese workers working for foreign employers within the ambit of the localities;
- i) Before December 30 or on an ad-hoc basis, the Department of Labor, War Invalids and Social Affairs shall send the Ministry of Labor, War Invalids and Social Affairs a report on recruitment and employment of Vietnamese workers working for foreign employers, using Form No. 03/PLII Appendix II hereto appended. The reporting period of an annual report complies with regulations of the Government on reporting regime of regulatory agencies.
7. Ministries, Heads of ministerial-level agencies, Heads of Governmental agencies, the Presidents of People's Committees of provinces or central-affiliated cities and relevant entities shall implement this Decree./.

**ON BEHALF OF THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Xuan Phuc

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