



Employment and Labor Law Update for 2017

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Agenda

- 1 Labor Code Revision

- 2 Increase of Minimum Wages

- 3 Pilot Program on Electronic Visas

- 4 New Circular Providing Guidance on Work Permits

- 5 Proposed Online Work Permit Application Procedures Applicable to Foreigners

- 6 Other Developments

A photograph of a sailboat with a large white sail, sailing on a blue sea with white-capped waves. A person in a red and yellow jacket is visible on the deck. In the background, there are hills and a building under a clear sky.

1

Labor Code Revision

1. Labor Code Revision - Overview

- December 2016: MOLISA released Draft No. 01 of the Law amending a number of articles of the Labor Code of 2012
- Process:
 - January 2017: submit a draft to the Government
 - April 2017: submit a draft to the National Assembly for comments
 - 15 September 2017: receive comments from National Assembly deputies and amend the draft accordingly
 - October 2017: submit the draft to the National Assembly to pass

1. Labor Code Revision – Amendments

- New regulations on automatic renewal of definite-term and seasonal contracts
 - **Current law:** Once the contract expires, if the employee continues working without entering into a new contract:
 - Definite-term contract → Indefinite-term contract
 - Seasonal or work-specific contract → definite-term contract
 - **Draft:** Once the contract expires, if an employee continues working without entering into a new contract, the contract will automatically be renewed with the same term.

1. Labor Code Revision – Amendments (Ctd.)

- Labor organizations permitted to represent employees in addition to trade unions
 - **Current law:** Trade unions operating under the Vietnam General Confederation of Labor are the only legally recognized employee representatives
 - **Draft:** Labor organizations may exist in addition to trade unions under the VGCL; some suggestions that they should require at least 51% of the employees to participate in order to be recognized

- More details on anti-discrimination, diversity and sexual harrassment
 - **Current law:** protects employees against discrimination
 - **Draft:** (i) sets out a definition for “discrimination” to be in line with ILO Convention No. 111 on Discrimination, (ii) clarifies scope of discrimination and (iii) adding discrimination bases including national origin, pregnancy, marital responsibility and participation in the representative organization of employees

1. Labor Code Revision – Amendments (Ctd.)

- Providing falsified information would be added as a basis for employers to terminate employees
 - **Current law:** providing falsified information does not form a basis for termination
- Employment would be terminated if employees reach retirement age
 - **Current law:** the employee must both (i) reach retirement age and (ii) have contributed to social insurance for at least 20 years
- Employees would only have to serve advance notice for resignation
 - **Current law:** requires a legally recognized reason for the resignation in some circumstances

1. Labor Code Revision – Amendments (Ctd.)

- Increase or removal of the annual cap on overtime hours
 - **Draft:** Overtime cap would be increased from 200 hours per year to up to 600 hours per year, or only the cap of 12 hours including normal working hours and overtime hours per day would be set
- Female employees would not be protected from being disciplined during pregnancy, maternity leave, and 12 months afterwards
 - **Current law:** an employer is prohibited from taking any disciplinary action during these times
- Increase of retirement age to 62 (for male) and 60 (for female)
 - **Current law:** 60 (for male) and 55 (for female)
- Involvement of arbitral tribunals in resolving individual labor disputes
 - **Current law:** Competent forums only include Labor Reconcilers and Labor Courts



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Increase in Minimum Wage

2. Increase of Minimum Wages

| | | 2016 | 2017 | % Increase | Effective |
|---|------------|------|-------------|------------|---------------------|
| General Minimum Wage (VND mil) | | 1.21 | <u>1.3</u> | 7% | from 1 July 2017 |
| Regional Minimum Wage (VND mil) | Region I | 3.5 | <u>3.75</u> | 7.1% | from 1 January 2017 |
| | Region II | 3.1 | <u>3.32</u> | 7.1% | |
| | Region III | 2.7 | <u>2.9</u> | 7.4% | |
| | Region IV | 2.4 | <u>2.58</u> | 7.5% | |

2. Increase of Minimum Wages (Ctd.)

- Impact of new GMW: Increase in contribution to statutory social insurance and contribution of the trade union fees for employers.
 - Contributions to social and health insurance are capped at 20 times the GMW
 - Under previous GMW, the capped amount was VND 24.2 million
 - Under new GMW, the capped amount will be VND 26 million
- Trade union fees contributed by companies are equal to 2% of its employees' salaries used to calculate social insurance contributions (now capped at VND 26 million, rather than VND 24.2 million)

2. Increase of Minimum Wages (Ctd.)

- Impact of new RMW: Increase to payroll, higher unemployment insurance contributions
 - Increase of employers' payroll;
 - Unemployment insurance contributions are capped at 20 times of RMW: (e.g., increase from VND70 million to VND75 million for Region I).



3

Pilot Program on Electronic Visa

3. Pilot Program on Electronic Visas

- Resolution No. 30/2016/QH14 dated 22 November 2016
 - Electronic visas are issued on a one-time entry basis with a duration not exceeding 30 days to nationals of 40 eligible countries
 - The pilot program started on 01 February 2017 and lasts for 2 years

- Decree 07/2017/ND-CP dated 25 January 2017 details the processes and procedures for issuance of Vietnam's electronic visas
 - Visa applications and payment can be made online
 - Applications will be processed by the immigration authority within three working days
 - Electronic visas can also be applied for by inviting or sponsoring entities or organizations on behalf of the foreigners
 - Electronic visas are accepted at 28 border gates of Vietnam, including all international airports

3. Pilot Program on Electronic Visas (Ctd.)

<https://visa.mofa.gov.vn/Homepage.aspx>



Ministry of Foreign Affairs of Vietnam
VIETNAM VISA APPLICATION

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Mù Cang Chải
Le Phuong photo

INFORMATION

VIET NAM INFORMATION

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New Circular Providing Guidance on Work Permits

4. New Circular Providing Work Permit Guidance

- Circular No. 40/2016/TT-BLDTBXH grants authority to MOLISA to issue work permits for foreign employees who work for the following employers:
 - (i) Central state agencies (i.e. central agencies of political organizations, social-political organizations);
 - (ii) Foreign non-governmental organizations, international organizations in Vietnam;
 - (iii) Public non-business units under the management of ministries, ministry-level agencies, and agencies under the management of the Government.
 - (iv) Offices of international organizations or foreign projects in Vietnam;
 - (v) Business associations established in accordance with the law

4. New Circular Providing Work Permit Guidance (Ctd.)

- To revoke expired work permits:
 - An employer must submit the expired work permit to the authority who issued such work permit within 15 days ahead of its expiry date
 - The employer must provide a written explanation on the revocation reasons, and/or reasons why they cannot retrieve any expired work permits
- Took effect on 12 December 2016

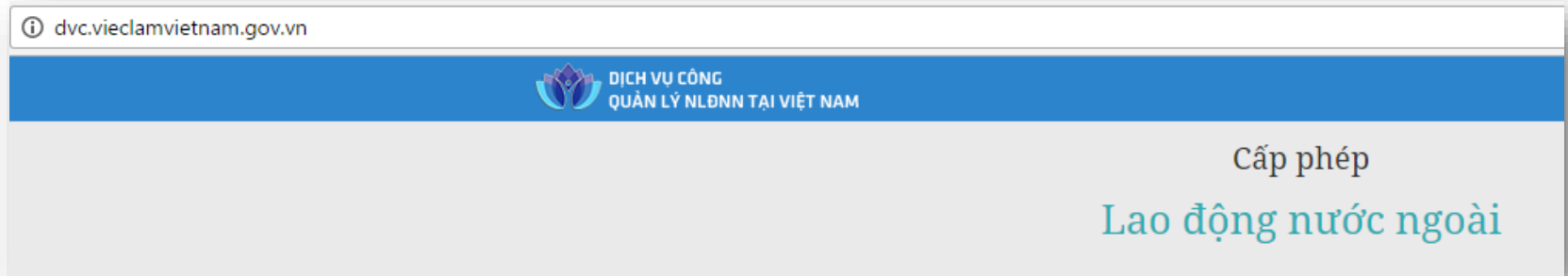
A photograph of a sailboat with a large white sail on a choppy sea. The sail is the dominant feature, filling the upper half of the frame. A person in a red and yellow jacket is visible on the deck. The background shows a distant shoreline with hills and buildings under a clear sky.

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Proposed Online Work Permit Application Procedures Applicable to Foreigners

5. Proposed Online Work Permit Application Procedures Applicable to Foreigners

- According to the Draft Circular on Online Work Permit Application Procedures Applicable to Foreigners, the online work permit application procedures will
 - be carried out with an account registered by the employer at the website: <http://dvc.vieclamvietnam.gov.vn>



5. Proposed Online Work Permit Application Procedures Applicable to Foreigners (Ctd.)

- Takes less time than the existing paper-based procedures

| Name of procedure | Application | | Response | |
|---|---|-------------------|--------------------------|-------------------|
| | Paper-based procedures | Online procedures | Paper-based procedures | Online procedures |
| Submission of foreign labor usage plan | At least 30 days | At least 10 days | Within 15 days | Within 10 days |
| | in advance of the expected recruitment date | | from the date of receipt | |
| Application for work permit | At least 15 working days | At least 10 days | Within 07 working days | Within 05 days |
| | in advance of the expected recruitment date | | from the date of receipt | |

- Optional from 1 January 2017 to 30 June 2017, and mandatory from 1 July 2017



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Other Developments

6. Proposed New Contribution Premium for Labor Accident and Occupation Disease Fund

| | | |
|-----------------------------------|------|---|
| Current contribution premium | 1% | of the salary fund used as the basis for calculation of statutory social insurance contribution |
| Proposed new contribution premium | 0.5% | |

This contribution premium is intended to be applicable until 31 December 2019

6. Anticipated Regulations on Health Insurance Contributions Applicable to Foreign Employees

Vietnam Social Security (VSS) - Vietnam Chamber of Commerce and Industry (VCCI) dialogue conference regarding the implementation of social, health and unemployment insurance policies in FDI enterprises (16 December 2016):

- Health Insurance Contribution Premium: likely to remain unchanged in 2017, but may increase in 2018
- In February 2017, the Government may issue a decree detailing the participation of foreign employees in compulsory health insurance with some key changes:
 - Foreigners living/working in Vietnam and having income paid by Vietnamese entities are obligated to participate in the compulsory health insurance regime.
 - Foreigners living/working in Vietnam but having income paid by off-shore entities are not obligated to participate in the compulsory health insurance regime.

6. New Categories of Persons Introduced under EVFTA on Immigration

- **Trainee Employees**

- who have been employed by the organization for at least one year,
- who possess a university degree and are temporarily transferred for career development purposes or to obtain training in business techniques or methods

- **Independent Professionals:** offer a service, are self-employed, have concluded a bona fide contract other than through an agency for placement, and the provision of its services requires their presence on a temporary basis in Vietnam to fulfil the contract

- **Business Sellers:** are allowed to enter and temporarily stay in Vietnam for the purpose of negotiating the sale of services or goods, or entering into agreements to sell services or goods for that supplier

Any questions?

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