



# GMS Flash Alert

## Employment Law

2021-019 | January 13, 2021



# Vietnam – New Labour Regulations on Work Permits for Foreign Workers

On 30 December 2020, the Vietnamese government officially issued the long-awaited Decree No.152/2020/ND-CP (“Decree 152”) providing guidance on implementation of some articles of the Labour Code No. 45/2019/QH14 with regard to foreign workers working in Vietnam and recruitment and management of Vietnamese labourers working for foreign organisations or individuals in Vietnam.

---

## WHY THIS MATTERS

To enhance the management of foreign workers in Vietnam, Decree 152 which takes effect from 15 February 2021, includes significant changes from the current regulations on work permits for foreign workers and indicates that the government will adopt a stricter approach over the control of foreign workers working in Vietnam, with multiple additional reporting requirements.

Therefore, businesses are recommended to revisit and update their resource mobilisation plans and policies and at the same time be in compliance with the new regulations.

---

## Work Permit Exemption

Decree 152 specifies certain cases which will be exempt from requiring a work permit, which include the following:

- a) Foreigners married to Vietnamese citizens and living in Vietnam;
- b) Owners or shareholding members of limited liability companies with a capital contribution of VND 3 billion or more;

- c) Chairpersons or members of the Board of Directors of joint-stock companies with a capital contribution of VND 3 billion or more;
- d) Foreign experts, managers, CEOs, and skilled workers going to work in Vietnam for less than 30 days per trip and no more than three trips per year;
- e) Foreigners coming to Vietnam to set up a commercial presence of a foreign entity in Vietnam.

---

## KPMG NOTE

For b and c above where the capital contribution is less than VND 3 billion and the individual has already obtained a work permit exemption certificate under the current regulations, it is understood that once the work permit exemption certificate issued per the current regulations expires, that individual will be required to apply for a work permit to continue to work in Vietnam under the new conditions.

For d, businesses must re-consider their travel plans such that the number of trips per year shall not exceed three. Otherwise, a work permit should be applied to secure the individual's work plan.

For e, at this stage it is not clear in practice how the application will be made as it requires that a Vietnamese sponsoring organisation submit the application for the individual's exemption.

---

## Term of Work Permit/Work Permit Exemption Certificate and Duration of Foreign Worker's Labour Contract

The Decree re-confirms that the maximum term of work permit or work permit exemption certificate is two years and foreign workers are only permitted to renew once for a further two-year term. Thereafter, it is understood that foreign workers are required to start a fresh work permit/work permit exemption application to continue to work in Vietnam.

In addition, according to the Labour Code and the Decree, the duration of a foreign worker's labour contract must not exceed that of the work permit. As the maximum term of a work permit is two years, the duration of the labour contract of the foreign worker is a maximum of two years.

---

## KPMG NOTE

Previously, there was an inconsistency between the limitation on the term of a work permit to two years and the requirement that after two definite-term labour contracts, the employer and employees must enter into an indefinite-term labour contract. This inconsistency is now resolved.

The regulations are silent on whether a work permit can be applied for the same role and with the same employer after the initial period plus renewal. Confirmation is being sought by business organisations from the Ministry of Labour, Invalids and Social Affairs ("MOLISA") on this point.

## More Reporting Requirements on Status of Foreign Workers

Decree 152 requests that for certain cases, the employers must withdraw the work permits from the foreign workers and return to the Labour Authority within 15 days from the date the work permit is invalid. In addition to the work permit, the employer must submit a letter explaining the reason for the withdrawal or the reason for not being able to withdraw the work permit from the employee who is subject to work permit withdrawal.

The Decree also requests the Vietnamese sponsoring organisations to report to the Labour Authorities about the foreign workers who are going to work in Vietnam for less than 30 days per trip and no more than three trips per year, at least three days in advance of their commencement of work in Vietnam.

Further, before 5 July and 5 January of the following year, the employer must submit a bi-annual report on the status of foreign workers working for the employer to the relevant Labour Authority.

---

### KPMG NOTE

It is important to comply with the deadline of the reports as stipulated above . Failure to submit timely and correct reports might bring about an administrative penalty or a delay in applying for work permits for the foreign workers.

---

## Provision of Information by Ministry of Public Security to Labour Authority

To enhance the monitoring and management of foreign workers, the Decree mandates that every month the Ministry of Public Security shall inform MOLISA of the list of foreign individuals who are granted a visa to work for/with Vietnamese sponsoring organisations.

---

### KPMG NOTE

It is the first time the co-operation between the Ministry of Public Security and the Labour Authority has been formalised in a legal document. By virtue of the Decree, the government is adopting a stricter control over foreign workers in Vietnam, especially those who apply for short-term business visas for multiple times during a year to Vietnam. With this new regulation, the Labour Authority will have more information to enhance the monitoring and management of those foreign workers.

Businesses are recommended to review their mobility policies and plans for their short-term business visitors to comply with the new regulations.

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Vietnam:



**Andrea Godfrey**  
**Partner**  
Mob. +84 917 974 454  
[andrea.godfrey@kpmg.com.vn](mailto:andrea.godfrey@kpmg.com.vn)



**Dang Duc Giang**  
**Associate Director**  
Mob. +84 985 258 589  
[gddang@kpmg.com.vn](mailto:gddang@kpmg.com.vn)

*\* Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

**The information contained in this newsletter was submitted by the KPMG International member firm in Vietnam.**

© 2021 KPMG Limited, a Vietnamese limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

[www.kpmg.com](http://www.kpmg.com)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



© 2021 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.