

SIGNIFICANT AMENDMENTS TO REGULATIONS ON FOREIGNERS WORKING IN VIETNAM

I. BACKGROUND

On September 18, 2023, the Government issued Decree No. 70/2023/ND-CP (“**Decree 70**”) to amend some of the provisions of Decree No. 152/2020/ND-CP (“**Decree 152**”) on foreign workers working in Vietnam, and recruitment and management of Vietnamese workers working for foreign employers in Vietnam. Decree 70 has come into force as from September 18, 2023. Some notable amendments have been listed below.

II. SIGNIFICANT AMENDMENTS

No.	Classifications	Old provisions under Decree 152	New provisions under Decree 70 and comments
1	Work experience	Article 3.3(a) and 3.6(a) “Experts”, and “technical workers” are required to have working experience in their trained specialization	The provision amended the work experience condition of “expert” and “technical workers”, accordingly, they are not required to have working experience in their trained specialization, but corresponding with the job position being employed in Vietnam.

2	Definition of executive	<p>Article 3.5</p> <p>“Executive” is defined in only one way as directly administers affiliated entities of an agency, organization, or enterprise.</p>	<p>The scope of “Executive” definition is simplified and opens the range to additional cases for who is the head of a branch, representative office, place of business of the enterprise, or administers or heads at least a business sector of the enterprise and directly under the head of the enterprise.</p>
3	Employment of foreign workers	<p>Article 4</p> <p>The employer (except the contractor) shall determine the demand for foreign workers for every job position for which the Vietnamese workers are underqualified and send a corresponding report to the competent authority.</p>	<p>Employers must perform the following steps before officially engaging foreigners:</p> <p>Step 1: Determine the demand for foreign workers for every job position for which Vietnamese workforce is underqualified and send an explanation report to the competent authority of Vietnam.</p> <p>From January 01, 2024, employers are obliged to post hiring ads for Vietnamese employees on the national or provincial employment portal before the expected date of sending an explanation report to the competent authority discussed in the preceding paragraph.</p> <p>Step 2: Recruit foreigners after receiving an</p>

			official letter approving positions in need of foreign employees.
4	Regulations on foreigners working for more than one employer	Article 6 and Article 9.1	<p>Decree 70 added Article 6.3 and amended Article 9.1 with a number of updates, according to which foreign employees can work at multiple workplaces under a single work permit in accordance with the following conditions:</p> <ul style="list-style-type: none"> - The dossier for obtaining work permits is required to list all these locations. - If these locations are based in different provinces or cities, within 3 working days from the commencement of the work, the employer must report to MOLISA and DOLISA where the employee performs his/her work.
5	Work permits exempted cases	<p>Article 7.6 and 7.14</p> <p>A person who is sent by a foreign competent authority or organization</p>	Expanding the list of foreign employees who are exempt from work permits if they act as managers or executives at

		to Vietnam to teach and research at an international school or certified by the Ministry of Education and Training as a foreign worker entering Vietnam for teaching and research purposes.	educational institutions or are certified by the Ministry of Education and Training as foreign workers entering Vietnam for acting as managers, executives, principals, and deputy principals of educational institutions.
6	Broadening acceptable documents required for expert or technical worker	Article 9.4(b) required a more restrictive “Degrees, certificates, and proof from offshore companies reflecting the years of experience”.	The positive changes made under Decree 70, specifically work permits or certificates of exemption from work permits, can be used as evidence of the working experience of experts and technical employees.
7	Documents proving foreign managers or executive directors	Article 9.4(a) did not set forth the required documents.	Decree 70 lists the specific 03 documents to prove the foreign managers or the executive directors including: (i) the company charter, (ii) the enterprise registration certificate, the certificate of incorporation, the establishment decision, or other equivalent documents, and (iii) the company's resolution or decision on appointment.

8	Form of Work Permit		Article 4.6 of Decree 70 adds provisions covering the form of work permit, thereby avoiding inconsistency in the issuance procedure. It also sets forth the stipulation for the electronic form.
9	Renewal of Work Permit	Under Article 9.9, the work permit could only be extended once, and subsequent applications would be regarded as new applications, which required all kinds of documents.	Decree 70 has simplified the process for renewing work permits. To be more specific, if an employee wants to stay in his/her position after one extension, the re-application process is less complicated than a new application, and there is no requirement to furnish criminal records and experience verification documents.