

DECREE

Amending and supplementing a number of articles of the Government's Decree No. 152/2020/ND-CP of December 30, 2020, on foreign workers in Vietnam and recruitment and management of Vietnamese workers working for foreign organizations and individuals in Vietnam¹

Pursuant to the June 19, 2015 Law on Organization of the Government; and the November 22, 2019 Law Amending and Supplementing a Number of Articles of the Law on Organization of the Government and the Law on Organization of Local Administration;

Pursuant to the November 20, 2019 Labor Code;

Pursuant to the June 17, 2020 Law on Investment;

Pursuant to the June 17, 2020 Law on Enterprises;

At the proposal of the Minister of Labor, Invalids and Social Affairs,

The Government promulgates the Decree amending and supplementing a number of articles of the Government's Decree No. 152/2020/ND-CP of December 30, 2020, on foreign workers in Vietnam and recruitment and management of Vietnamese workers working for foreign organizations and individuals in Vietnam.

Article 1. To amend and supplement a number of articles of the Government's Decree No. 152/2020/ND-CP of December 30, 2020, on foreign workers in Vietnam and recruitment and management of Vietnamese workers working for foreign organizations and individuals in Vietnam

¹ Công Báo Nos 1033-1034 (02/10/2023)

1. To amend and supplement a number of points and clauses of Article 3 as follows:

a/ To amend and supplement Point a, Clause 3, Article 3 as follows:

“a/ Possessing a university or equivalent or higher degree and having at least 3 years’ working experience as suitable to the job assignment he/she is expected to perform in Vietnam.”.

b/ To amend and supplement Clause 5, Article 3 as follows:

“5. Chief executive officer/managing director means a person who is either:

a/ The head of an enterprise’s branch or representative unit or business location; or

b/ The head who directly manages at least one operation of an agency, organization or enterprise and submits to the direct direction and management of the head of such agency, organization or enterprise.”.

c/ To amend and supplement Point a, Clause 6, Article 3 as follows:

“a/ Having been trained for at least 1 year and having at least 3 years’ working experience as suitable to the job assignment he/she is expected to perform in Vietnam.”.

2. To amend and supplement Article 4 as follows:

“Article 4. Employment of foreign workers

1. Determination of the demand for foreign workers

a/ At least 15 days before the expected date of employment of foreign workers, employers (except contractors) shall determine their demand for foreign workers for each job assignment which Vietnamese workers cannot perform, and send a report, made according to Form No. 01/PLI provided in Appendix I to this Decree, to the Ministry of Labor, Invalids and Social Affairs or provincial-level Departments of Labor, Invalids and Social Affairs of localities where such foreign workers are expected to work.

If changing their demand for foreign workers regarding job assignments and titles, working methods, number of foreign workers or locations, at least 15 days before the expected date of employment of foreign workers, employers shall send a report on the change, made according to Form No. 02/PLI provided in Appendix I to this Decree, to the Ministry of Labor, Invalids and Social Affairs or provincial-level Departments of Labor, Invalids and Social Affairs.

b/ For foreign workers specified in Clauses 3, 4, 5, 6 and 8, Article 154 of the Labor Code and Clauses 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14, Article 7 of this Decree, employers are not required to determine their demand for foreign workers.

c/ From January 1, 2024, the announcement of recruitment of Vietnamese workers to job assignments expected to recruit foreign workers shall be carried out on the portal of the Ministry of Labor, War Invalids and Social Affairs (the Department of Employment) or portals of employment service centers established under decision of chairpersons of provincial-level People's Committees within at least 15 days from the expected date of submitting explanatory reports to the Ministry of Labor, War Invalids and Social Affairs or provincial-level Departments of Labor, War Invalids and Social Affairs in localities where such foreign workers are expected to work. A recruitment announcement must clearly state job assignment and title, job description, recruitment quantity, required qualifications and experience, salary, working time and place(s). After failing to recruit Vietnamese workers to job assignments expected to recruit foreign workers, employers shall determine the demand for foreign workers under Point a, Clause 1 of this Article.

2. The Ministry of Labor, Invalids and Social Affairs or provincial-level Department of Labor, War Invalids and Social Affairs shall, within 10 working days after receiving an explanatory report or explanatory report on change in the demand for foreign workers, issue a document on approval or disapproval of the employment of foreign workers to each job assignment, made according to Form No. 03/PLI provided in Appendix I to this Decree.”.

3. To add Clause 3 to Article 6 as follows:

“3. In case a foreign worker works for an employer in more than one province or centrally run city, the employer shall, within 3 working days after the foreign worker starts working for it/him/her, report via the electronic network to the Ministry of Labor, War Invalids and Social Affairs and provincial-level Department(s) of Labor, War Invalids and Social Affairs in the locality(ies) where the foreign worker comes to work, made according to Form No. 17/PLI provided in Appendix I to this Decree.”.

4. To amend and supplement a number of clauses of Article 7 as follows:

a/ To amend and supplement Clause 6, Article 7 as follows:

“6. He/she is sent by a foreign competent agency or organization to Vietnam to carry out lecturing activities or act as a manager or chief executive officer/managing director at an education institution established in Vietnam at the proposal of a foreign diplomatic mission or an inter-governmental organization; or

at an institution or organization established under a treaty which Vietnam has signed or acceded to.”

b/ To amend and supplement Clause 14, Article 7 as follows:

“14. He/she is certified by the Ministry of Education and Training as a foreigner entering Vietnam to:

a/ Carry out lecturing and research activities.

b/ Act as a manager, chief executive officer/managing director, principal or vice principal of an education institution established in Vietnam at the proposal of a foreign diplomatic mission or an inter-governmental organization.”.

5. To amend and supplement a number of points and clauses of Article 9 as follows:

a/ To amend and supplement Clause 1, Article 9 as follows:

“1. An employer’s application for a work permit, made according to Form No. 11/PLI provided in Appendix I to this Decree. In case the foreign worker works for an employer in more than one province or centrally run city, the application for a work permit must fully state his/her workplaces.”.

b/ To amend and supplement Points a and b, Clause 4, Article 9 as follows:

“a/ A paper proving that the foreign worker is a manager or chief executive officer/managing director as defined in Clause 4 or 5, Article 3 of this Decree, including the following papers:

The company charter or the operation regulation of the agency, organization or enterprise;

The enterprise registration certificate or enterprise establishment certificate or enterprise establishment decision or another paper of equivalent validity;

The resolution or decision on his/her appointment of the agency, organization or enterprise.

b/ A paper proving that the foreign worker is an expert or a technical worker as defined in Clause 3 or 6, Article 3 of this Decree which is either:

A degree, certificate or written certification;

A written certification of years of working experience of the expert or technical worker issued by a foreign agency, organization or enterprise, or his/her work permit or certification of his/her exemption from work permit.”.

c/ To amend and supplement the title of Clause 8, Article 9 as follows:

“8. Papers related to foreign workers other than those specified at Point a, Clause 1, Article 2 of this Decree.”.

d/ To amend and supplement Point e, Clause 8, Article 9 as follows:

“e/ A foreign worker specified at Point i, Clause 1, Article 2 of this Decree shall produce a document of the foreign agency, organization or enterprise on sending him/her to work in Vietnam as suitable to the job assignment he/she is expected to perform, or a paper proving his/her status as a manager specified in Clause 4, Article 3 of this Decree.”.

dd/ To add Point c to Clause 9, Article 9 as follows:

“c/ For a foreign worker who is an expert or technical worker possessing a work permit which has been extended once and wishes to continue working under the same job assignment and title stated in the work permit, the dossier of application for a new work permit must comprise the papers specified in Clauses 1, 2, 5, 6, 7 and 8 of this Article and a copy of the work permit.”.

6. To amend and supplement Clause 2, Article 11 as follows:

“2. Within 5 working days after receiving a complete dossier of application for a work permit, the Ministry of Labor, Invalids and Social Affairs or provincial-level Department of Labor, Invalids and Social Affairs of the locality where the foreign worker is expected to work shall issue a work permit, made according to Form No. 12/PLI provided in Appendix I to this Decree, to the foreign worker. In case of refusal to issue such a work permit, it shall issue a written reply, clearly stating the reason.

A work permit must be of A4 size (21 cm x 29.7 cm) and consist of 2 pages: the first page is blue and the second page has a white background, blue patterns and a star in the middle. A work permit contains the code of the province or centrally run city and the code of the Ministry of Labor, War Invalids and Social Affairs, made according to Form No. 16/PLI provided in Appendix I to this Decree; the last 2 digits of the year of issuance of the work permit; type of the work permit (first-time issuance, coded 1; extension, coded 2; re-issuance, coded 3); and the serial number (from 000,001).

Work permits in the electronic form must comply with relevant regulations and have the contents specified in Form No. 12/PLI provided in Appendix I to this Decree.”.

7. To amend and supplement Clause 3, Article 12 as follows:

“3. One of the following contents is changed: the worker’s full name, citizenship, passport number or workplace, renaming of the enterprise without any change in the enterprise code stated in the valid work permit.”.

8. To amend and supplement Clause 7, Article 17 as follows:

“One of the papers specified in Clause 8, Article 9 of this Decree proving that the foreign worker continues to work for the employer under the issued work permit, except where he/she is working in the form specified at Point a, Clause 1, Article 2 of this Decree.”

9. To amend and supplement Point b, Clause 1, Article 22 as follows:

“b/ Organizations that are decentralized, authorized or assigned to perform tasks or have orders placed or carry out bidding activities as assigned by provincial-level People’s Committees.”.

10. To amend and supplement Point b, Clause 4, Article 27 as follows:

“b/ Organizations that are decentralized, authorized or assigned to perform tasks or have orders placed or carry out bidding activities as assigned by provincial-level People’s Committees in the recruitment and management of Vietnamese workers working for foreign organizations and individuals shall send reports to provincial-level Departments of Labor, Invalids and Social Affairs.”.

11. To amend and supplement a number of points and clauses of Article 30 as follows:

a/ To amend and supplement Point a, Clause 1, Article 30 as follows:

“a/ To approve the demand for foreign workers; to certify the exemption from work permit; to issue, re-issue, extend or revoke the work permit for a foreign worker in either of the following cases:

Working for an employer specified at Point g, Clause 2, Article 2, or an employer specified at Points c, d and e, Clause 2, Article 2 of this Decree that is established under the permission of the Government, Prime Minister, ministry, ministerial-level agency or government-attached agency;

Working for an employer in more than one province or centrally run city.”.

b/ To amend and supplement Point c, Clause 1, Article 30 as follows:

“c/ To perform the uniform state management of the recruitment and management of foreign workers in Vietnam from the central to local levels and Vietnamese workers working for foreign organizations or individuals in Vietnam.”.

c/ To amend and supplement Clause 3, Article 30 as follows:

“3. Responsibilities of the Ministry of National Defense:

a/ To coordinate with agencies competent to manage foreign workers and Vietnamese workers working for foreign organizations or individuals in Vietnam in implementing regulations on assurance of security and order in strategic areas, key areas and important areas in terms of national defense.

b/ To direct the Border Guards to coordinate with functional forces in managing and inspecting Vietnamese workers working for foreign organizations and individuals in Vietnam and foreign workers working in border areas, border gates, islands and sea areas in order to firmly protect the territorial sovereignty, national security and borders of the Fatherland.”

d/ To amend and supplement Point a, Clause 4, Article 30 as follows:

“a/ On a monthly basis, to provide the Ministry of Labor, Invalids and Social Affairs with information on foreign workers who are issued visas coded DN1, DN2, LV1, LV2, LD1, LD2, DT1, DT2, DT3 and DT4 to work for agencies, organizations or enterprises;”.

dd/ To amend and supplement Point a, Clause 6, Article 30 as follows;

“a/ To approve the demand for foreign workers; to certify the exemption from work permit; to issue, re-issue, extend or revoke work permits for foreign workers in either of the following cases:

They work for the employers specified at Points a, b, h, i, k and l, Clause 2, Article 2, and the agencies and organizations specified at Points c, d and e, Clause 2, Article 2, of this Decree that are established by provincial-level People’s Committees, specialized agencies of provincial-level People’s Committees or district-level People’s Committees;

Each of them works for an employer in more than one place in the same province or centrally run city.”.

12. To amend and supplement a number of forms as follows:

a/ To amend Forms No. 01/PLI, No. 02/PLI, No. 07/PLI, and No. 08/PLI provided in Appendix I to Decree No. 152/2020/ND-CP into Forms No. 01/PLI, No. 02/PLI, No. 07/PLI, and No. 08/PLI provided in the Appendix to this Decree;

b/ To add Forms No. 16/PLI and No. 17/PL1 to Appendix I to Decree No. 152/2020/ND-CP.

13. To replace and supplement a number of words and phrases at points, and in clauses, articles and appendices as follows:

a/ To replace the phrase “the chairperson of the provincial-level People’s Committee” with the phrase “the provincial-level Department of Labor, Invalids and Social Affairs” in Clause 1, Article 5; to replace the phrase “the chairperson of the provincial-level People’s Committee shall direct” with the phrase “the provincial-level Department of Labor, Invalids and Social Affairs shall request” in Clause 2, Article 5;

b/ To replace the phrase “Clauses 4, 6 and 8, Article 154” with the phrase “Clauses 4 and 6, Article 154”, and the phrase “3 days” with the phrase “3 working days” in Clause 2, Article 8;

c/ To replace the phrase “translated into Vietnamese and certified” with the phrase “translated into Vietnamese and notarized or certified” at Point e, Clause 3, Article 8;

d/ To replace the phrase “translated into Vietnamese and certified” with the phrase “translated into Vietnamese and notarized or certified” in Clause 10, Article 9, and Clause 4, Article 23;

dd/ To replace the phrase “the papers specified in Clauses 3 and 4 of this Article” with the phrase “the papers specified in Clause 3 of this Article” in Clause 5, Article 13;

e/ To replace the phrase “translated into Vietnamese” with the phrase “translated into Vietnamese and notarized or certified” in Clause 5, Article 13, and Clause 8, Article 17;

g/ To replaces the phrase “a certified copy of the foreign worker’s passport” with the phrase “a certified copy of the foreign worker’s passport or a copy of the foreign worker’s passport bearing his/her employer’s certification” at Point d, Clause 3, Article 8; Clause 7, Article 9, and Clause 5, Article 17;

h/ To replace the phrase “20. Salary: VND ...” with the phrase “20. Average salary/month: VND ... million” in Form No. 11/PLI provided in Appendix I to Decree 152/2020/ND-CP;

i/ To replace the phrase “the People’s Committee of ... province/city” with the phrase “the Department of Labor, Invalids and Social Affairs of ... province/city” in Form No. 03/PLI provided in Appendix I to Decree 152/2020/ND-CP;

k/ To replace the phrase “the director of the Department of Employment/chairperson of the People’s Committee” with the phrase “The director general/director”, and the phrase “at the proposal in Document No.” with

the phrase “at the proposal and according to information provided in Document No.” in Form No. 03/PLI provided in Appendix I to Decree 152/2020/ND-CP;

l/ To replace the phrase “the chairperson of the People’s Committee of ... province/city” with the phrase “the Department of Labor, Invalids and Social Affairs of ... province/city” in Forms No. 04/PLI, No. 05/PLI and No. 06/PLI provided in Appendix I to Decree 152/2020/ND-CP;

m/ To replace the phrase “on behalf of the People’s Committee of ... province/city/ chairperson” with the phrase “director” in Form No. 06/PLI provided in Appendix I to Decree No. 152/2020/ND-CP.

n/ To add the phrase “(The enterprise/organization) undertakes that the above statements are true; otherwise, we would take full responsibility before law” below Section 24 in Form No. 09/PLI provided in Appendix I to Decree 152/2020/ND-CP.

o/ To add the phrase “the Immigration Department (the Ministry of Public Security)” to Section “Place of receipt” in Form No. 13/PLI provided in Appendix I to Decree No. 152/2020/ND-CP.

14. To annul a number of points and clauses as follows:

a/ To annul Clause 4, Article 13;

b/ To annul Point c, d, dd, Clause 5, and Point g, Clause 6, Article 30;

c/ To annul Point a, Clause 6a, Article 30 of the Government’s Decree No. 152/2020/ND-CP of December 30, 2020, on foreign workers in Vietnam and recruitment and management of Vietnamese workers working for foreign organizations and individuals in Vietnam which was amended and supplemented under the Government’s Decree No. 35/2022/ND-CPA of May 28, 2022, on the management of industrial parks and economic zones.

Article 2. To annul a number of provisions of the Government’s Decree No. 35/2022/ND-CP of May 28, 2022, on the management of industrial parks and economic zones

1. To annul the first paragraph “Issuing, re-issuing, extending or revoking work permits for foreign workers in industrial parks and economic zones and certifying foreign workers’ eligibility for exemption from work permit” and the phrase “receiving reports on employment of foreign workers” at Point dd, Clause 2, of Article 68.

2. To annul the paragraph “to receive explanatory reports of enterprises in industrial parks and economic zones on the demand for foreign workers for each

job assignment which Vietnamese cannot perform” at Point c, Clause 3 of Article 68.

Article 3. Implementation provisions

1. This Decree takes effect on September 18, 2023.
2. Transitional provisions:

Explanatory reports on the demand for foreign workers, dossiers of application for certification of exemption from work permits, issuance, re-issuance and extension of work permits submitted by employers of foreign workers to the Ministry of Labor, Invalids and Social Affairs, provincial-level People’s Committees, and provincial-level Departments of Labor, Invalids and Social Affairs, and the management boards of industrial parks, economic zones and hi-tech parks before the effective date of this Decree must comply with the Government’s Decree No. 152/2020/ND-CP of December 30, 2020, on foreign workers in Vietnam and recruitment and management of Vietnamese workers working for foreign organizations and individuals in Vietnam and the Government’s Decree No. 35/2022/ND-CPA of May 28, 2022, on the management of industrial parks and economic zones.-

On behalf of the Government
For the Prime Minister
Deputy Prime Minister
TRAN HONG HA

** The Appendices to this Decree are not translated.*