

Vietnam work permits

After joining in WTO, Vietnam has officially entered the international arena and has been making efforts to integrate into the world economy. Up to now, Vietnam has signed 14 bilateral and regional FTAs (in which 13 FTAs are being implemented), concluded negotiation 1 FTA, and is negotiating 2 FTAs with other countries. As a result, Vietnam has increasingly attracted the attention and interest of foreign investors. Accordingly, the demand for foreign workers is increasing. Vietnamese law allows enterprises, agencies, organizations, individuals, and contractors to recruit foreign workers to work as a manager, a chief executive officer, expert or technician. Vietnamese workers sometimes do not require the demands for the production and business of these positions. For foreign workers to work legally in Vietnam, foreign workers need a work permit, except in some cases that are prescribed in the law. Viet An Law would like to send customers the following information customers need to know about work permits in Vietnam.

Conditions for granting work permit in Vietnam

A foreign worker means a person who has a foreign nationality and:

- is at least 18 years of age and has full legal capacity;
- has qualifications, occupational skills, practical experience, and adequate health as prescribed by the Minister of Health;
- is not serving a sentence; does not have an unspent conviction; is not undergoing criminal prosecution under his/her home country's law or Vietnam's law;

- has a work permit granted by a competent authority of Vietnam, except in the cases stipulated in Article 154 of Labor Code 2019.

Besides that, foreign workers working in Vietnam must comply with Vietnamese Labor law and they are protected by Vietnamese law, except for international treaties to which the Socialist Republic of Vietnam is a member have other rules.

In addition, the term of a labor contract for the foreign worker in Vietnam shall not exceed the term of the work permit. While employing foreign workers in Vietnam, the two parties may agree to enter into several times a fixed-term labor contract.

Foreigners who are granted work permits in Vietnam

The granting of foreign work permit applies to foreigners working in Vietnam, specifically including those:

- Execute the labor contracts;
- Perform intra-company transfer program;
- Execute contracts or agreements on business, commerce, finance, banking, insurance, science and technology, culture, sports, education, vocational training, and health;
- Provide services under contracts;
- Offer services;
- Work for foreign non-governmental organizations or international organizations in Vietnam that have been granted operating licenses under the Vietnam law;
- Work as volunteers;
- Take charge of establishing the commercial presence;
- Work as managers, chief executive officers, experts, technicians;
- Participate in the execution of bid contracts and projects in Vietnam;

- A relative of members of foreign representative missions in Vietnam is permitted to work in Vietnam under provisions in international treaties to which the Socialist Republic of Vietnam is a member.

Foreigners are not compulsory for work permits in Vietnam

- The owner or capital contributor of a limited liability company with a capital contribution value of at least 3 billion VND;
- 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 VND;
- 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;
- 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) under regulations or agreement in international treaties on ODA signed between the competent authorities of Vietnam and foreign countries;
- Granted a communication and journalism practicing certificate in Vietnam by the Ministry of Foreign Affairs as per the law;
- Sent by a foreign competent authority or organization to Vietnam to teach and study at an international school under the management of a foreign diplomatic mission or the United Nations; or of a facility established under an agreement to which Vietnam is a signatory;

- A volunteer (“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);
- Enters Vietnam to hold the position of a manager, executive, expert, or technical worker for a period of work of fewer than 30 days and up to 3 times a year;
- Enters Vietnam to implement an international agreement to which central or provincial authority is a signatory as per the law;
- 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;
- A relative of members of foreign representative missions in Vietnam are permitted to work in Vietnam following provisions in international treaties to which the Socialist Republic of Vietnam is a member;
- Obtains an official passport to work for a regulatory agency, political organization, or socio-political organization;
- Takes charge of establishing a commercial presence;
- Certified by the Ministry of Education and Training as a foreign worker entering Vietnam for teaching and research purpose.

Process of issuing work permits for foreign workers in Vietnam

Based on the current law, Viet An Law has summarized the regulations and procedures for granting work permits to foreigners as follow:

Step 1: Register demand for foreign workers at the People’s Committees of Provinces/Cities:

At least 30 days before the intended date of employment of the foreign worker, the employers (except the contractors) shall send a report explaining the demand for employing foreign workers to the Ministry of Labor – War Invalids and Social Affairs or the People’s Committees of Provinces (hereinafter abbreviated as approving agency).

In case there is any change to the demand for employing foreign workers, the employers shall send a changing report to the approving agency at least 30 days in advance from the expected date of employment of the foreign workers.

A dossier includes:

1. Official dispatch according to the following form:
 - For enterprises (or employers of foreign workers) that have not been granted an acceptance for the usage of foreign workers: the official dispatch of recruitment registration is drafted according to form 01 attached in Circular 18/2018/TT-BLDTBXH amending the Circular relating to administrative procedures under the state management functions of the Ministry of Labor – War Invalids and Social Affairs.
 - For enterprises (or employers of foreign workers) that have been granted an acceptance for the usage of foreign workers but require changes: the official dispatch of recruitment registration is drafted according to form 02 attached in Circular 18/2018/TT-BLDTBXH amending the Circular relating to administrative procedures under the state management functions of the Ministry of Labor – War Invalids and Social Affairs.

2. A power of attorney (if the applicant is not the legal representative of the enterprise).

Submit the dossier at submitting directly at the 1-door section of the approving agency or through the web portal system <http://dvc.vieclamvietnam.gov.vn>.

Duration: 15 working days for directly submitted application – 20 online-submitted applications for working days.

Step 2: Prepare a dossier for a work permit:

While waiting for the acceptance of the People's Committees of Provinces/Cities, employees need to prepare these documents:

1. An application form for a work permit of the employer is specified in form No.11/PL1 Appendix attached with [Decree No.152/2020/ND-CP](#).
2. Fitness to work certificate issued by a foreign or Vietnamese competent health facility is issued within 12 months before the submission date of the application or the certificate as specified in regulations of the Minister of Health.

If a foreigner does a medical examination in Vietnam, he/she needs to be examined at one of the hospitals listed in the official dispatch No.143/KCB-PHCN&GD dated February 5, 2015, of the Department of Medical Examination and Treatment – Ministry of Health issuing the list of facilities are eligible for health examination involving foreign elements according to Circular No.14/2013/TT-BYT.

3. The criminal record or certificate confirms that the foreign worker is not a criminal or liable to criminal prosecution issued by the foreign competent agency. This record or certificate shall be issued within 06 months from the date of issuance to the date of application.

The criminal record is less than 06 months from the date of submitting or before the expiration date indicated on the criminal record.

4. Documents confirm that the foreign worker is a manager, chief executive officer, expert, or technician...
 - Documents confirm that the foreign worker is a manager, executive includes: documents confirm that the foreign worker is a manager enterprise as prescribed in Clause 24 Article 4 Law on Enterprises or the head or deputy head of an agency or organization. Documents confirm that the foreign worker is an executive – a person who directly administers affiliated entities of an agency, organization, or enterprise.
 - Documents confirm that the foreign worker is an expert, technical worker including diplomas, certificates, certification of foreign agency, organization, enterprise in respect of some years' experience of the expert or technical worker.
 - Documents confirm that the foreign worker is an experienced 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 a club affiliated to Vietnam Football Federation.
 - Documents confirm that the foreign worker has 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.
 - Documents confirm that the foreign worker has 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 the case of a foreign worker who performs maintenance on aircraft.

- Documents confirm that the foreign worker has a certificate of competency or validation of a certificate of competence issued by Vietnamese competent authority to a foreign seafarer.
 - Documents confirm that the foreign worker has 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.
 - Documents confirm that the foreign worker has a diploma issued by the competent authority following 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 colored photos (4cm×6cm, with white background, frontal side, bareheaded, and no colored glasses). Photos shall be taken within 06 months of the date of application.
 6. 01 notarized copies of the valid passport.
 7. An acceptance of demand for foreign workers, unless it is not required.
 8. Documents relevant to the foreign worker:

- For a foreign worker performing an intra-company transfer program, 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 before the transfer date;
- For a foreign worker executing contracts or agreements on business, commerce, finance, banking, insurance, science and technology, culture, sports, education, vocational training, and health, an agreement or arrangement concluded between Vietnamese and foreign partners is required, which specifies the arrangement about sending foreign workers to Vietnam;
- For a foreign worker providing services under contracts, 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 for at least 2 years;
- For a foreign worker doing offer services, he/she must obtain a document issued by the service provider to send him/her to Vietnam to negotiate the service provision;
- For a foreign worker working for foreign non-governmental organizations or international organizations in Vietnam that have been granted operating licenses following the Vietnam law, he/she must obtain both a document that 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;
- For a foreign worker working as a manager, chief executive officers, experts, technicians, 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.

Notices: The documents such as the fitness to work certificate or health examination certificate; the criminal record or certificate; confirmative documents above; the acceptance of demand for foreign workers and relevant documents to the foreign worker are the original documents or notarized copies. In case these documents have origin in foreign countries, they must be consular legalized, except exemption from consular legalization according to an international treaty in which Vietnam and related foreign countries are members or on the principle of reciprocity or according to the provisions of law. These documents also shall be translated into Vietnamese and notarized according to Vietnamese law.

Step 3: Submit the dossier

At least 15 days in advance from the date of the foreign worker is expected to start working in Vietnam, the applicant shall submit the dossier for a work permit to the Ministry of Labor – War Invalids and Social Affairs or the Department of Labor – War Invalids and Social Affairs where the foreign worker is planning to work.

The number of the dossier: 01 sets.

Submit the dossier at submitting directly at the 1-door section of the approving agency or through the web portal system <http://dvc.vieclamvietnam.gov.vn>.

Time to process: 05 working days to get a work permit. In case of not issuing a work permit, there shall be a reply in writing and clearly state the reason.

Step 4: Sign labor contracts, report on the use of foreign workers

Signing labor contracts and reporting on the use of foreign workers to the Department of Labor – War Invalids and Social Affairs or the Management of Industrial and Export of the province.

After the foreign worker is granted a work permit, the enterprise (the employer) shall carry out the following procedures:

- Signing a labor contract with the person who is granted a work permit;
- Paying health insurance for foreign workers: From January 1, 2018, if a foreign worker has been granted a work permit, a practicing certificate, or a practice license by a competent Vietnamese agency, it is also compulsory to participate in social insurance according to the provisions of the Law on Social Insurance 2014;
- Report on the use of foreign workers: currently, employers (except contractors) do not have to implement periodic reporting. Instead, employers will report when requested by competent state agencies.

Step 5: Issue a temporary residence card according to the term of the work permit to the foreign workers.

After the foreign workers are granted work permits in Vietnam, the next step is applying for a temporary residence card for the duration of the work permit. In Vietnam, the maximum duration of a work permit is 2 years, so the maximum period of a temporary residence card is also 2 years according to the work permit.

Dossier to apply for temporary residence card includes:

- A written request from the inviting entity (usually is written by employers);

- A declaration bearing a picture: Form NA8 is issued with Circular No.04/2015/TT-BCA on documents related to entry, exit, and residence of foreigners in Vietnam. This declaration is signed by the applicant for temporary residence, clearly stating their full name. The guaranteeing agency or organization affixes its stamp on the border of the photo and the declaration form and affixes the stamp on the other side;
- The passport of the temporary residence card requester;
- Work permit of the temporary residence card requester;
- 03 colored photos (2cm×3cm, with white background, frontal side, bareheaded, and no colored glasses). Photos shall be taken within 06 months to the date of application;
- A certificate of temporary residence confirmed by the police of the commune/district where the foreigner temporarily confirm;
- Documents proving the legal status of the sponsor.

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