
Foreign Employees and Work Permits in Vietnam

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- *The Vietnamese government issued Resolution 105/NQ-CP on September 9 to help support businesses affected by the pandemic.*
- *Apart from helping businesses, the Resolution includes easing regulations for issuing, extending, and certification of documents for work permits of foreigners in Vietnam.*
- *The Resolution is a welcome change from the strict requirements of Decree 152, which went into effect in February of this year.*
- *Nevertheless, employers should study the new regulations carefully to ensure they are in compliance or risk strict penalties.*

The Vietnamese government issued *Resolution 105/NQ-CP* on September 9 to support businesses affected by Vietnam's fourth wave of the pandemic.

Apart from helping businesses, the Resolution has issued guidelines on easing regulations for issuing, extending, and certification of documents for work permits of foreigners in Vietnam. This has relaxed some measures that were in Decree 152, which was issued earlier in February of this year.

Some work permit requirements eased: Resolution 105

To ease restrictions, the government has asked the [Ministry of Labor, Invalids and Social Affairs](#) (MoLISA) to instruct local provincial authorities to relax restrictions and some conditions on the issuing and renewing of work permits. Specifically, these include:

- As per Decree 152, the university degree had to be related to the job position in Vietnam. Now as per Resolution 105, authorities have been asked to be flexible where the degree does not have to necessarily be related to the job position in Vietnam.
- Second, the training field does not have to be related to the job role or relevant experience.
- Thirdly, for experts and technicians, previously issued work permits can be accepted as work experience rather than work experience of the foreign company from the home country. Certificates may also be used.
- Lastly, as per the Resolution, foreign workers with valid work permits can be sent to another province or city for not more than six months without having to reapply for a work permit. However, the employer must report to the labor department where the foreign workers have gone to work.
- The Ministry of Education and Training has been tasked with cooperating with MoLISA to provide further guidance and qualifications for foreign teachers teaching at short-term training centers, high schools, vocational training centers, and universities as per international best practices.

In addition, notarization requirements for passports have been removed; just a copy of the passport is sufficient.

The government has also tasked relevant agencies to streamline entry procedures for foreign employees to enter Vietnam as well as the recognition of a vaccine passport. The government is likely to issue further guidance on these issues. Nevertheless, businesses have welcomed the government decision particularly on easing work permit requirements for foreign workers.

Decree 152 highlights

Prior to this, the government introduced *Decree 152/2020/ND-CP (Decree 152)*, which came into effect on February 15. The Decree overlooks the management of foreign workers in Vietnam as well as the hiring of Vietnamese employees that work for foreign businesses. Decree 152 replaced Decree 11 and Decree 75 and states how businesses can employ foreign individuals. The regulations were stricter compared to previous decrees with several businesses voicing concerns on hiring and entry of foreign workers.

Employers that require hiring a foreign employee must submit a written request to the [Ministry of Labor, War Invalids and Social Affairs \(MoLISA\)](#), 30 days before the commencement of employment. A response is typically received within 10 days after submission.

The employer should then request a work permit from the MoLISA. This should ideally be applied 15 days before the foreign worker commences their employment. Work permit processing times take up to 10 business days. A work permit cannot be applied directly by the workers/foreigners, but with the assistance of their employers from Vietnam.

Work permit requirements

As per Decree 152, a foreign expert is defined as:

- Having a bachelor's degree or higher and having at least three years of experience working in the relevant field to the job position that the foreign employee has been hired for;
- Have at least five years of experience with a practice certificate relevant to the job that the foreign employee has been hired for;
- Special cases that fall under the discretion of the Prime Minister as per the MoLISA.

A manager is defined as:

- A person in charge of the organization.

An executive is defined as:

- An employee directly administering affiliated entities of the employer.

A technical worker is defined as:

- An individual that has been training in a technical field or another major for at least one year and has been working for at least three years in their trained field; or
- Has at least five years' experience related to the job for which they will be employed in Vietnam.

Decree 152 requires several documents required for a work permit application. These include:

- Application form;
- Health certificate issued in the past year as per guidelines by the Ministry of Health;
- Police or criminal clearance certificate, no less than six months old;
- Proof as a manager or executive;
- Proof as an expert or technical worker; and
- Acceptance from MoLISA for the demand for foreign employees.

Work permit exemptions

Decree 152 lists several cases for work permit exemptions. As such, foreigners can only be exempt from a work permit if their capital contribution to the company is at least US\$130,400 (VND 3 billion).

Experts, managers, or technicians that enter Vietnam for up to 30 days no more than three times in a year may be exempted from a work permit. Foreign workers married to Vietnamese citizens and living in Vietnam are also exempted from work permits.

In addition, businesses that employ foreign personal that are exempted from a work permit must inform MoLISA at least three days before the employee start working in Vietnam.

Work permit renewals

Work permits should be renewed at least five days but not more than 45 days before the expiry date with an application to MoLISA.

Vietnamese employees

As per the new Decree, foreign businesses can now directly recruit Vietnamese employees without having to use a competent authority for recruitment.

Stricter criteria for foreign workers

As mentioned earlier, Decree 152 requires foreigners to have a practicing certificate with at least five years of work experience in the job that they will be hired for in Vietnam. The Decree also does not specify what the practicing certificate should entail leaving largely the local MoLISA to decide.

Alternatively, an expert needs to have a relevant bachelor's degree or higher relevant to their job position in Vietnam and a minimum of three years of work experience. In addition, the practicing certificate must be confirmed by an overseas company or organization. Resolution 105 has eased some of these requirements as mentioned earlier, but further guidance will be needed so businesses can plan accordingly.

Several businesses have expressed concerns regarding the new regulations and have stated that not all degrees that foreigners obtain are relevant to their current jobs while the employee may be highly experienced.

Employers should ensure they are compliant

The recent regulations and updates show that the government is listening and wants to ensure economic growth, as Vietnam suffers its worst outbreak yet. Nevertheless, businesses are advised to take note and study the new regulations carefully to ensure they are in compliance of the requirements. Businesses and employees that are not in compliance face strict penalties and even deportation if they are found without a work permit, flouting labor rules.

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