

THE GOVERNMENT

No.75/2014/NĐ-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

Hanoi, July 28th, 2014

DECREE

**DETAILING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE
LABOR CODE ON RECRUITING AND MANAGING VIETNAMESE EMPLOYEES
WORKING FOR FOREIGN ORGANIZATIONS & INDIVIDUALS IN VIETNAM**

Pursuant to the Law on Government organization dated December 25, 2001;

Pursuant to the Labor Code dated June 18th, 2012;

At the request of the Minister of Labor, War Invalids and Social Affairs,

The Government issues the Decree detailing the implementation of a number of articles of the Labor Code on recruiting and managing Vietnamese employees working for foreign organizations and individuals in Vietnam (hereinafter referred to as foreign employers).

Article 1. Scope

The Decree regulates the selection, introduction, recruitment and management of Vietnamese employees working for foreign employers.

Article 2. Regulated entities

1. Vietnamese employees, who are Vietnamese, 18 years or older, capable of working and civil acts.
2. Foreign organizations which are foreign offices and organizations licensed by Vietnamese competent authorities to operate within Vietnam's territory, include:
 - a) Foreign diplomatic missions, consular offices, representative offices of international organizations of the UN system, intergovernmental organizations of regions & subregions;
 - b) Permanent offices of foreign news agencies;
 - c) International organizations, intergovernmental organizations, foreign governmental organizations;
 - d) Foreign non-governmental organizations issued certificates of registration by Vietnamese competent agencies according to the Decree no.12/2012/NĐ-CP dated November 12th 2012 of the Government on registration and management of foreign non-governmental organizations in Vietnam;

e) Foreign non-profit representative offices of organizations specialized in economy, commerce, finance, banking, insurance, science – technology, culture, health, law consultancy in Vietnam.

3. Foreigners who are working for organizations prescribed in Clause 2 of this Article or foreigners permitted to reside in Vietnam by Vietnamese competent agencies.

4. Vietnamese offices and organizations related to recruiting and managing Vietnamese employees working for foreign employers.

Article 3. Vietnamese employees working for foreign employers

Vietnamese employees prescribed in Clause 1, Article 2 of this Decree are permitted to work for foreign employers except Vietnamese employees who are prohibited from working for foreign organizations and individuals.

Article 4. Authority to recruit and manage Vietnamese employees working for foreign employers

1. The organizations having the authority to recruit and manage Vietnamese employees working for foreign employers (hereinafter referred to as Vietnamese employee recruiting agencies) include:

a) Organizations appointed or authorized by the Ministry of Foreign Affairs;

b) Employment centers that are established under the approval of the Minister of Labor, War Invalids and Social Affairs or the Presidents of the People's Committees of provinces.

2. Organizations prescribed in Point a Clause 1 of this Decree are authorized to recruit and manage Vietnamese employees working for the following foreign employers:

a) The foreign organizations prescribed in Point a, b, c and d of Clause 2, Article 2 of this Decree;

a) The foreigners working for foreign organizations prescribed in Point a, b, c and d of Clause 2, Article 2 of this Decree;

3. Employment centers prescribed in Point b of Clause 1 of this Article are authorized to recruit, introduce and manage Vietnamese employees for working for the following foreign employers:

a) The foreign organizations prescribed in Point e of Clause 2, Article 2 of this Decree;

b) Foreigners who are working for organizations prescribed in Point e of Clause 2, Article 2 of this Decree, foreigners permitted to reside in Vietnam by Vietnamese competent agencies.

Article 5. Employment applications of Vietnamese employees

1. An application form using the template provided by the Ministry of Labor, War Invalids and Social Affairs.

2. A copy of birth certificate.
3. A health certificate which is issued by a competent medical facility within 06 (six) months prior to the submission of the application.
4. Copies of professional qualifications and foreign language qualifications related to the job applied for. Any certificate in a foreign language must be translated into Vietnamese and authenticated according to regulations of Vietnam.

Article 6. Procedure for recruiting Vietnamese employees working for foreign employers

1. When there is a need to recruit Vietnamese employees, a foreign employer must submit a request for recruiting Vietnamese employees to Vietnamese employee recruiting agencies. The request must specify requirements for the recruiting positions: quantity, professional qualifications, foreign language qualifications, deadline, rights and duties of Vietnamese employees and the foreign employers during the employment and upon the resignation for each recruiting position.
2. Within 15 (fifteen) working days, since the receipt of the request of a foreign employer, the Vietnamese employee recruiting agency has the responsibility to select and introduce Vietnamese employees at the request of the foreign employers.
3. When the time limit prescribed at Clause 2 of this Article is expired, the Vietnamese employee recruiting agencies cannot select and introduce any Vietnamese employee at the request of the foreign employer, the foreign employer has the right to directly recruit Vietnamese employees.
4. Within 07 (seven) working days after the signing of a labor contract with a Vietnamese employee, foreign employers must inform in writing and enclose a copy of the labor contract to Vietnamese employee recruiting agencies.

Article 7. Responsibility of Vietnamese employees working for foreign employers

1. Comply with Vietnamese legislation on labor
2. Comply with the clauses in the labor contract signed with a foreign employer
3. Comply with the regulations of the Vietnamese employee recruiting agencies who introduced the Vietnamese employees to the foreign employer.

Article 8. Responsibility of foreign employers using Vietnamese employees

1. Comply with the Labor Code and other regulations of Vietnam.
2. Comply with the clauses in the submitted request for recruiting Vietnamese employees and the signed labor contracts.
3. Send biannual, annual or unscheduled reports (upon request) on the recruitment of Vietnamese employees to Vietnamese employee recruiting agencies.

Article 9. Responsibility of the Vietnamese employee recruiting agencies

1. Receive applications from Vietnamese employees and requests for recruiting Vietnamese employees from foreign employers.
2. Select, introduce and manage Vietnamese employees working for foreign employers.
3. Provide training Vietnamese employees in order for them to satisfy requirements of foreign employers.
4. The biannual, annual or unscheduled reports (upon request) on the recruitment and employment of the Vietnamese employees to the Vietnamese employees agencies are regulated as follows:
 - a) Organizations appointed or authorized by the Ministry of Foreign Affairs to recruit and manage Vietnamese employees working for foreign employers send the report to the Ministry of Foreign Affairs;
 - b) Employment centers established under the approval of the Minister of Labor, War Invalids and Social Affairs send the report to the the Ministry of Labor, War Invalids and Social Affairs and Services of Labour, War Invalids and Social Affairs at the places in where centers' main offices locate.
 - b) Employment centers established under the approval of the Presidents of the People's Committees of provinces send the report to Services of Labour, War Invalids and Social Affairs.
5. Perform other duties according to regulations.

Article 10. Responsibility of the Ministry of Labor, War Invalids and Social Affairs

1. Implement state management on recruiting and managing Vietnamese employees working for foreign employers.
2. Give guidance on and inspect the implementation of this Decree.
3. Send biannual and unscheduled reports (upon request) to the Prime Minister on Vietnamese employees working for foreign employers.

Article 11. Responsibility of the Ministry of Foreign Affairs

1. Manage Vietnamese employees working for foreign employers prescribed in Point a, b, c and d of Clause 2, Article 2 of this Decree;
2. Manage organizations to which the Ministry of Foreign Affairs assigns or authorizes the recruitment and management of Vietnamese employees working for foreign employers.
3. Give guidance on selecting, introducing and managing Vietnamese employees working for foreign employers prescribed in Point a, b, c and d of Clause 2, Article 2 of this Decree;

4. Send biannual, annual or unscheduled reports (upon request) on the status of Vietnamese employees working for foreign employers under the management to the Ministry of Labor, War Invalids and Social Affairs.

Article 12. Responsibility of the Ministry of Finance

Take charge and cooperate with the Ministry of Foreign Affairs to give guidance on managing, using and settling the expenditures funded by the State budget to support the organizations to which the Ministry of Foreign Affairs assigns or authorizes the recruitment and management of Vietnamese employees working for foreign employers according to Point a, b, c and d of Clause 2, Article 2 of this Decree;

Article 13. Responsibility of the Ministry of Public Security

Cooperate with competent agencies to manage Vietnamese employees working for foreign employers, and foreign employers using Vietnamese employees to comply with the regulations on ensuring security, public order.

Article 14. Responsibility of People's Committee of the provinces

1. Implement state management on recruiting and managing Vietnamese employees working for foreign employers under the management.
2. Supervise and inspect selecting, introducing and managing Vietnamese employees working for foreign employers.
3. Send biannual, annual or unscheduled reports (upon request) on the status of recruiting and managing Vietnamese employees working for foreign employers to the Ministry of Labor, War Invalids and Social Affairs.

Article 15. Effect

1. The Decree takes effect on September 15th 2014.
2. The Decree no. 85/1998/NĐ-CP dated October 20 1998 of the Government on recruitment, use and management Vietnamese employees working for foreign employers; the Decree no. 46/1999/NĐ-CP dated on July 01st 1999 of the Government on amending a number of articles of the Decree no. 85/1998/NĐ-CP dated October 20 1998 of the Government on recruitment, use and management Vietnamese employees working for foreign employers; the Decree no. 75/2001/NĐ-CP dated on October 20st 2001 of the Government on amending and supplementing a number of articles of the Decree no. 46/1999/NĐ-CP dated on July 01st 1999 and the Decree no. 85/1998/NĐ-CP dated October 20 1998 of the Government on recruitment, use and management Vietnamese employees working for foreign employer are replaced by this Decree.

Article 16. Implementation responsibility

The Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, the Presidents of the People's Committees of provinces and related agencies, organizations, and individuals are responsible for implementing the Decree.

**FOR THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Tan Dung