

Alert on immigration

March 2021

Following the effectiveness of the Decree 152/2020/ND-CP on 15 February 2021, the labour authorities have adopted certain changes to previous labour regulations affecting the work permit application for expatriates.

Highlighted below are key points to note affecting work permit applications for foreign workers working in Vietnam:

1. New work permit application for all cases

Decree 152/2020/ND-CP re-confirms that the maximum term of a work permit is two years and foreign workers are only permitted to renew once for a further two-year term. Also, for work permits issued in accordance with Decree 11/2016/ND-CP (as amended by Decree 140/2018/ND-CP), they are valid until their expiration date.

It has been recently confirmed by local labour authorities that for all work permits issued under the old regulations, regardless of whether it was the first issuance or renewal one, once they expire no renewal will be allowed. Instead, the expatriates and the sponsoring companies must apply for a completely new work permit conforming to the new qualification criteria in accordance with Decree 152/2020/ND-CP. In this case, such new work permit will serve as the first issuance one.

2. Certificate of expert is no longer accepted

According to Decree 152/2020/ND-CP, a certificate of expert issued by an overseas organization or enterprise is no longer accepted as supporting document to prove expertise of a foreign worker for a work permit application in the form of "expert".

In this regard, to prove that an expatriate is an expert, either of the following conditions are required:

- Option 1: a bachelor's degree or higher and at least three years' experience in his/her training field, both the degree and experience corresponding with the job position/job assignment that he/she will be appointed to in Vietnam;
- Option 2: at least five years' experience and a 'practicing certificate' corresponding with the job position that he/she will be appointed to in Vietnam. It should be noted that 'practicing certificate' is not clearly defined in the regulations.

For option 1, there is now a concern that expatriates whose educational qualifications do not directly relate to their work in Vietnam might be refused a work permit application even if they were previously granted a work permit proven by a 'certificate of expert' under the old regulations. This matter is being considered by the business community as it could have a significant impact on the current foreign workforce.

KPMG notes

Given the above changes in work permit application for expatriates, organisations are advised to review the status of supporting documents proving the expertise of their current expatriates and to supplement the relevant expertise documents in accordance with requirements of the Decree 152/2020/ND-CP.

Please contact KPMG for further detail on this important Decree.

KPMG in Vietnam and Cambodia is one of the leading professional services firms, with over 1,700 staff working from our offices in Hanoi, Ho Chi Minh City, Da Nang and Phnom Penh. We work with our colleagues across Asia and around the world to provide a broad range of services.

Hanoi

46th Floor, Keangnam Hanoi Landmark Tower, 72 Building,
Plot E6, Pham Hung Street, Cau Giay New Urban Area,
Me Tri Ward, South Tu Liem District, Hanoi, Vietnam

T: +84 (24) 3946 1600

F: +84 (24) 3946 1601

E: kpmghanoi@kpmg.com.vn

Ho Chi Minh City

10th Floor, Sunwah Tower,
No. 115, Nguyen Hue Street, Ben Nghe Ward,
District 1, Ho Chi Minh City, Vietnam

T: +84 (28) 3821 9266

F: +84 (28) 3821 9267

E: kpmghcmc@kpmg.com.vn

Danang

Unit D3, 5th Floor, Indochina Riverside Tower,
No. 74, Bach Dang Street, Hai Chau 1 Ward,
Hai Chau District, Danang, Vietnam

T: +84 (236) 351 9051

F: +84 (28) 3821 9267

E: kpmgdanang@kpmg.com.vn

Follow us on:



© 2021 KPMG Limited, KPMG Tax and Advisory Limited, KPMG Legal Limited, all Vietnamese one member limited liability companies and member firms of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

kpmg.com.vn