



RESIDING & **W**ORKING

in Vietnam

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Foreigner work in Vietnam

1.1 Conditions for foreigner work in Vietnam

In order to work in Vietnam, foreign employees must have the following requirements:

- a. Having capacity for civil acts in full;
- b. Having professional qualifications, skills and health in accordance with the job requirements;
- c. Not being the criminal or prosecuted for criminal liability in accordance with the Vietnamese law and foreign law;
- d. Having a work permit granted by the Vietnamese competent state authorities, except the following cases exempt from work permit:
 - As capital-contributing members or owners of limited companies;
 - As a member of the Board of Directors of the Joint Stock Company;
 - As a Head of Representative Office, project of international organization, non-governmental organizations in Vietnam;
 - Coming to Vietnam with a period of less than 03 months to offer services;
 - Coming to Vietnam with a period of less than 03 months to handle the problem, technical situation and complex technology arising that affect or threaten to affect the production and business that the Vietnamese and foreign experts currently in Vietnam cannot be handled;
 - As a foreign lawyer who has been licensed to practice law in Vietnam in accordance the Law on Lawyers;
 - Under the provisions of international agreement in which the Socialist Republic of Vietnam is a member;

- As students who are studying and working in Vietnam, but the employer must give a notice 07 days in advance to the provincial state management agency on labor;
- Being internally reassigned in the companies which engage in 11 service industries in the Vietnam's WTO commitments on services, including: business, communication, construction, distribution, education, environment, finance, health, tourism, culture, entertainment and transportation;
- Entering Vietnam to provide professional and technical advisory services or provide other tasks serving the research, construction, appraisal, assessment, management and execution of programs and projects funded by ODA according to the International Treaties on ODA between the competent authorities of Vietnam and other countries;
- Being issued with the licenses for the practice of communications or journalism in Vietnam by the Ministry of Foreign Affairs
- Being appointed by foreign agencies or organizations to teach or do research in international schools under the management of foreign diplomatic missions or international organizations in Vietnam or the employees are permitted to teach or do research in educational and training institutions in Vietnam by the Ministry of Education and Training;
- As volunteers who have obtained the certification of the foreign diplomatic missions or international organizations in Vietnam;
- Entering Vietnam to hold the positions of experts, managers, chief executive officers or technicians for a period of under 30 days and an accumulated working period of under 90 days per year;
- Entering Vietnam to implement international agreements to which central or provincial agencies and organizations are signatories in accordance with the law;
- Students who are studying in schools or training institutions in foreign countries have internship agreements in agencies, organizations and enterprises in Vietnam;
- As relatives of members who are implementing their functions in foreign missions in Vietnam upon the approval of the Ministry of Foreign Affairs, unless otherwise provided for by an international treaty of which the Socialist Republic of Vietnam is a member;
- Having official passports for working in state agencies, political organizations or sociopolitical organizations;
- Other cases as prescribed by the Prime Minister at the request of the Ministry of Labor, War Invalids and Social Affairs
- Taking charge of establishing the commercial presence.

1.2 Forms of employment in Vietnam for foreign employees

Foreigners working in Vietnam must work in one of the following forms:

- Executing the labor contracts;
- The internal intra-corporate moving is the case that the managers, chief executive officers, experts and technicians of a foreign enterprise which has established a commercial presence in Vietnam, are temporarily reassigned within the same enterprise to its commercial presence in Vietnam and have been employed by the foreign enterprise for at least 12 months;
- Enforcing contracts or agreements on business, commerce, finance, banking, insurance, science and technology, culture, sports, education, vocational training and health;
- Providing services under contracts means that a foreign employee working at least 02 years (24 months) for a foreign enterprise without commercial presence in Vietnam and meeting regulatory eligibility requirements regarding specialists;
- Offering services means that a foreign employee who neither lives in Vietnam nor receives salaries from any sources of finance in Vietnam, playing a role as a representative of a service supplier to negotiate consumption of that supplier's service on condition that he/she neither directly sells service to the public nor directly provides services;
- Working for foreign non-governmental organizations or international organizations in Vietnam that have been granted with operating licenses in accordance with the Vietnam law;
- Working as volunteers means that foreign employees are unpaid and voluntarily work in Vietnam to implement the International Treaties to which the Socialist Republic of Vietnam is a signatory;
- Taking charge of establishing the commercial presence;
- Working as managers, chief executive officers, experts, technicians, include:

- Managers and chief executive officers are defined as:

Enterprise managers is the manager of the company or manager of private company, who is either an owner of a private company, a general partner, the chairpersons of the board of members, a member of the board of members, the company's president, the chairperson of the board of directors, a member of the board of directors, the director general director, or a person holding another managerial position who is entitled to enter into the company's transactions on behalf of the company according to the company's charter;

Chief executive officers are the heads who directly manage subordinate units of agencies, organizations or enterprises.

- A foreign employee expert must meet one of the following requirements:

Has a document certifying that he/she is an expert of an overseas agency, organization or enterprise, or;

Has a bachelor's degree or equivalent or higher qualifications provided that he/she has worked at least 03 years in his/her training field in correspondence with the job position that he/she shall be appointed in Vietnam and other special cases upon the consideration and decision of the Prime Minister.

- Technicians are employees who had undergone training in technique or other majors for at least 01 year and have worked for at least 03 years in their training fields.

A narrow street in a European city, likely in Spain, with colorful buildings and balconies. The street is paved with cobblestones and has a green street lamp. The buildings are multi-story with balconies and flower boxes. The sky is blue and clear.

Work permit

2.1 Conditions for issuing the work permit:

- Having capacity for civil acts in full.
- Having health in accordance with the job requirements.
- As a manager, chief executive officer, expert or technician.
- Not being the criminal or prosecuted for criminal liability in accordance with the law of Vietnam and foreign law.
- Being approved in writing by the competent state agency.

2.2 Dossier for the work permit

Foreign employees need to provide the following documents to the employer in order to apply for a work permit, if they are scheduled to start working in Vietnam:


1. The written request for the work permit made by the employer in accordance with regulations of the Ministry of Labor, War Invalids and Social Affairs;
2. The health certificate a medical examination certificate issued by the foreign or Vietnamese authorized health organizations or agencies and takes effect within 12 months from the signing date of conclusion of health status to the date of application;

In case if the health certificate is issued by a foreign authorized health organization or agency, it must be applied for the consular legalization, authenticated, and translated into Vietnamese.

3. The criminal record or written certification that the foreign employee is not a criminal or liable to criminal prosecution issued by the foreign competent authority (it must be applied for the consular legalization, authenticated, and translated into Vietnamese). If the foreign employee is a lawful resident in Vietnam, only the criminal record issued by the Vietnamese competent authority is required;

The criminal record or written certification that the foreign employee is not a criminal or liable to criminal prosecution must be issued within 06 months prior to the submission of the application.


4. 02 color photos (4cm x 6cm, white background, frontal face, bareheaded and no colorful glasses) that are taken within 06 months before date of submitting the dossier;
5. Certified copy of passport or a substitute for passport or other license for international travel which is unexpired in accordance with the law.



6. If the employee is an expert, he/she must provide one of the following consular legalized documents, notarized and translated into Vietnamese:

- + A document certifying that the employee is an expert of an overseas agency, organization or enterprise, includes: names of agencies, organizations and enterprises; information about the expert: full name; date of birth, nationality and occupation of the expert in accordance with the job position that the foreign employee is expected to work in Vietnam;
- + Bachelor's degree or equivalent or higher qualifications, and he/she has worked at least 03 years in his/her training field in accordance with the job position that he/she shall be appointed in Vietnam; other special cases upon the consideration and decision of the Prime Minister;

If the employee is a technical employee, he/she must provide one of the following consular legalized documents, notarized and translated into Vietnamese:

- + Documents proving or certifying by the overseas agencies, organizations or enterprises that the foreign employee has been trained in a technique major or other major for at least 01 year suitable for the job position that foreign employees are expected to work in Vietnam;
 - + He/she has worked at least 03 years in his/her training field in accordance with the job position that he/she is scheduled to work in Vietnam.
 - + Relating some jobs and works, the certification of the qualification of the foreign employee can be replaced with one of the following documents:
 - + Certificate of recognition which is issued by the competent authority of the foreign country if the employee is an artist in the traditional professions;
 - + The documents proving experience of foreign soccer players;
 - + The pilot license issued by a Vietnam's competent authority to the foreign pilot;
 - H
 - + The license for airplane maintenance issued by a Vietnam's competent authority to the foreign employee who works in airplane maintenance industry.
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7. One of the documents regarding the foreign employee have been consular legalized, notarized and translated into Vietnamese if the foreign employee is in one of the following cases:
- + If foreign employees internally reassign in the company, they must have documents of the foreign enterprise showing that they are appoint to work at the commercial presence of such foreign enterprise in Vietnam and the papers proving that they have been employed by such foreign enterprise for at least 12 months before they are appointed to work in Vietnam;
 - + If foreign employees enforce contracts or agreements on business, commerce, finance, banking, insurance, science and technology, culture, sports, education, vocational training and health, they must have contracts or agreements signed by the Vietnamese partner and the foreign partner, including the agreements on sending foreign employees to work in Vietnam;
 - + If foreign employees provide services under contracts, they must have service contracts signed by the Vietnamese partner and the foreign partner and the documents proving that the foreign employees have worked for the foreign enterprise without commercial presence in Vietnam for at least 02 years;
 - + If foreign employees offer services, they must have the documents made by the service provider proving that the foreign employees are appointed to Vietnam to negotiate the service supply;
 - + If foreign employees work for foreign non-governmental organizations or international organizations in Vietnam that have been granted with operating licenses in accordance with the Vietnam law, they must have certificates issued by the foreign non-governmental organization or international organization that has been granted with operating license in accordance with the Vietnam law;
 - + If foreign employees are in charge of establishing the commercial presence, they must have the paper made by the service provider who appoints such foreign employees to Vietnam to establish its commercial presence;
 - + If foreign employees work as managers, chief executive officers, experts, technicians who participate in the operation of the foreign enterprise that has established its commercial presence in Vietnam, they must have papers proving the foreign employees' eligibility to participate in operation of such foreign enterprise.



8. There are some cases where the foreign employee who has the work permit want to be granted a new work permit, including:
- + The foreign employee who is the holder of an unexpired work permit wants to enter into the employment contract with another employer at the job position which is the same with that prescribed in his/her work permit in accordance with the law, the dossier for the work permit includes documents regulated in Clause 2.2.1, 2.2.4, 2.2.5 and 2.2.7 of Section 2 and the work permit or certified copy of the issued work permit;
 - + The foreign employee who is the holder of an unexpired work permit wants to hold another job position which is different from that prescribed in his/her work permit in accordance with the law but the employer is unchanged, the application for the work permit includes documents regulated in Clause 2.2.1, 2.2.4, 2.2.5, 2.2.6, and 2.2.7 of Section 2 and the work permit or certified copy of the issued work permit;
 - + The foreign employee who is the holder of an expired work permit wants to continue to work at the job position which is the same with that prescribed in his/her work permit in accordance with the law, the application for the work permit includes documents regulated in Clause 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, and 2.2.7 of Section 2 and certificate of revocation of his work permit.

2.3 Time limit of the work permit:

The time limit of the work permit is 02 years maximum and in accordance with the following case:

- 2.3.1 The time limit of the labor contract to be signed;
- 2.3.2 The time limit of assignment in Vietnam decided by the foreign partner;
- 2.3.3 The time limit of the contract or agreement signed by and between the Vietnamese partner and the foreign partner;
- 2.3.4 The time limit of the service contract or agreement signed by and between the Vietnam partner and the foreign partner;
- 2.3.5 The time limit as prescribed in the document made by the service provider who appoints the foreign employee to Vietnam to negotiate the service supply;
- 2.3.6 The time limit as prescribed in the certificate of the foreign non-governmental organization or international organization that has been granted with operating license in accordance with the Vietnam law;
- 2.3.7 The time limit as prescribed in the document made by the service provider who appoints the foreign employees to Vietnam to establish its commercial presence;
- 2.3.8 The time limit as prescribed in the document proving the foreign employee's eligibility to participate in the operation of a foreign enterprise that has established its commercial presence in Vietnam.

2.4 Vietnamese competent state authorities which grant work permit

1. The Department of Labour, War Invalids and Social Affairs of the province where the foreign employee has full working time for the employer;
2. The Department of Labor, War Invalids and Social Affairs of the province where employer's headquarter are located if the foreign employee does not have full working time for the employer in a province or a city under central direct management.

2.5 Order for issuing the work permit

1. At least 15 working days before the day on which the foreign employee intends to start his employment, the employer shall submit the dossier for the work permit to the Department of Labor, War Invalids and Social Affairs.
2. Within 10 working days from the date of receiving a complete dossier, the Department of Labor, War Invalids and Social Affairs shall grant the work permit to the foreign employee. In case of refusal, the Department of Labor - Invalids and Social Affairs shall send a written notice to the employee, clearly stating the reason for disapproval.
3. If foreign employee executes the labor contracts, after he/she is granted a work permit, the employer and the foreign employee must sign a written labor contract in accordance with Vietnamese labor laws before the expected working day for the employer. The contents of a labor contract must not be contrary to the contents of the work permit issued.
4. Within 05 working days from the date of signing the labor contract, the employer must send a copy of the signed labor contract and a copy of the issued work permit to the Department of Labor, War Invalids and Social Affairs that issued such work permit.



2.6 Re-issuance of work permit

2.6.1 The cases in which the work permit is reissued:

Case 1: The unexpired work permit is lost, damaged or, the contents stated in the issued work permit are changed, such as full name; date of birth; nationality; passport numbers; workplace.

Case 2: The work permit expires.

2.6.2 Dossier for re-issuance of the work permit

- The written request for a work permit from the employer;
- 02 color photos (4cm x 6cm, bareheaded, frontal face, with clear face, clear ears, without glasses, white background, and no colorful glasses) that are taken within 06 months before the date of application.
- Documents related to the foreign employees, include:
 - a. In case of re-issuance of work permit under the case 1, there must be a copy of the passport or valuable papers replaced with a valid passport in accordance with law and the granted work permit (except the unexpired work permit is lost).
 - b. In case of re-issuance of work permit under the case 2, a work permit has been issued (except for the case of loss) with a valid term of at least 05 days, but not more than 15 days before the date of expired work permit; The health certificate; a document of the The Chairman of provincial People's Committee approving the employment of foreign employees and one of the following documents:
 - Document of the foreign partner appointing foreign employees to work in Vietnam;
 - Contracts or agreements signed by the Vietnamese partner and the foreign partner, including the agreements on foreign employees working in Vietnam;
 - Service contracts have signed by the Vietnamese partner and the foreign partner or documents proving that foreign employees continue to negotiate service supply in Vietnam;
 - Certificates issued by the foreign non-governmental organization or international organization that has been granted with operating license in accordance with the Vietnam law;
 - Documents proving that foreign employees continue to work at foreign non-governmental organizations and international organizations in Vietnam;
 - Documents of the service provider who appoints such foreign employees to Vietnam to establish its commercial presence;
 - Documents proving the foreign employees' eligibility to participate in operation of such foreign enterprise that has established its commercial presence in Vietnam.
- The documents as specified in this point are 01 original or 01 copy, if they are written in a foreign language, they are exempt from consular legalization, but they must be translated into Vietnamese and authenticated according to the Vietnamese law.



2.6.3 Order for reissuing the work permit

- If the work permit is re-issued upon the case 1:
 - a. Within 03 days from the date of finding out the work permit lost, damaged or changed, the foreign employee must report to the employer;
 - b. Within 05 working days from the date of receiving the foreign employee's report, the employer shall submit the dossier for re-issuance of a work permit to the Department of Labor, War Invalids and Social Affairs of the province that issued that work permit.
- If the work permit is re-issued upon the case 2: At least 05 days before but not more than 15 days, before the expiry date of the work permit, the employer must submit a dossier for re-issuance of the work permit to the Department of Labor, War Invalids and Social Affairs of the province that issued that work permit.

Within 03 working days from the date of receiving the complete dossier for reissuing the work permit, the Department of Labor - Invalids and Social Affairs shall reissue a work permit. In case of refusal, the Department of Labor - Invalids and Social Affairs shall send a written notice to the employee, clearly stating the reason for disapproval.

- If the foreign employee executes the labor contract, after the foreign employee is reissued a work permit, the employer and the foreign employee must sign a written labor contract accordance with Vietnamese labor laws before the employee plans to continue to work for the employer. The contents of the labor contract must not be inconsistent with the contents of the reissued work permit.
- Within 05 working days after the labor contract is signed, the employer shall send a copy of the signed labor contract to the Department of Labor, War Invalids and Social Affairs of the province that issued that work permit.

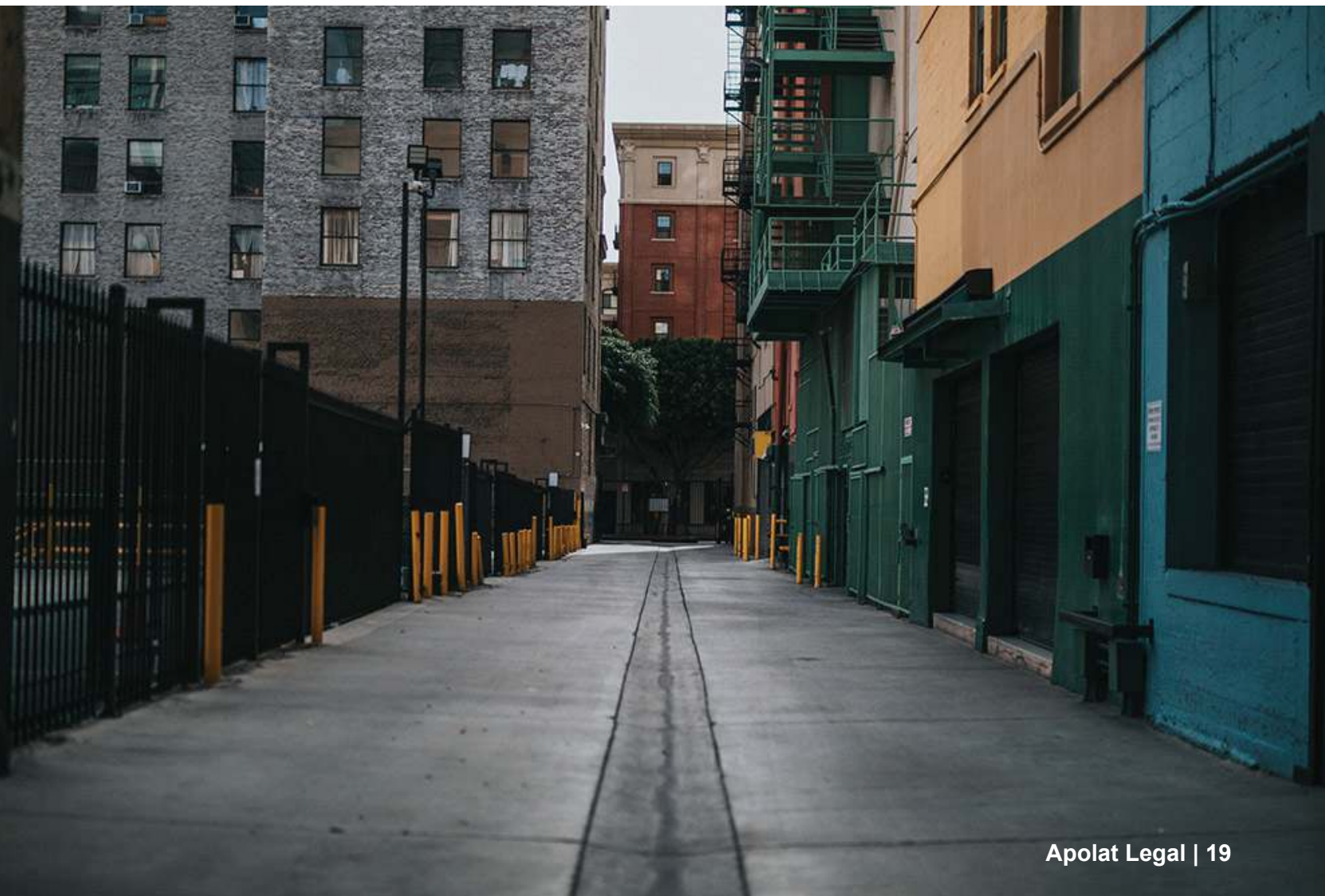


2.6.4 Time limit of the reissued work permit

- The time limit of the work permit reissued in the case 1 is equal to the time limit of the issued work permit minus the working period that the foreign employee has worked up to the day the dossier for the reissuance of the work permit is submitted.
- The time limit of the reissued work permit in the case 2 shall not exceed 02 years and in accordance with the following cases:
 - a. The time limit of the labor contract to be signed;
 - b. The time limit of assignment in Vietnam decided by the foreign partner;
 - c. The time limit in the contract or agreement signed by and between the Vietnamese partner and the foreign partner;
 - d. The time limit in the service contract or agreement signed by and between the Vietnam partner and the foreign partner;
 - e. The time limit in the service provider's document who sends the foreign employee to Vietnam to negotiate the service supply;
 - f. The time limit is shown in the certificate of the foreign non-governmental organization or international organization that has been permitted to operate in accordance with the Vietnam law;
 - g. The time limit in the document of the service provider who appoints the foreign employees to Vietnam to establish its commercial presence;
 - h. The time limit in the document proving that the foreign employees are allowed to participate in the operation of a foreign enterprise that has established its commercial presence in Vietnam.

Certification of foreign employees eligible for exemption from work permits

If the foreign employee is eligible for exemption from the work permit as mentioned at Point d, Clause 1.1 of Section I, the employer must not submit a dossier for the foreign employee's work, but must carry out procedures for certifying that the foreign employee is eligible for exemption from the work permit at least 07 working days from the date the foreign employee starts working.



3.1 The dossier for the certification of exemption from work permit includes

- a. The written request for the certification that the foreign employees are exempt from work permits;
- b. The list of foreign employees which shows their full names; ages; genders; nationalities; passport numbers; starting and ending working date of employment and their job positions;
- c. Documents proving that the foreign employees are eligible for exemption from the work permit.

Documents proving that the foreign employees are eligible for exemption from the work permits include 01 original or 01 photocopy; the documents are written in foreign language, they are exempt from consular legalization but they must be translated into Vietnamese and authenticated in accordance with the Vietnam law.



3.2 The competent authority

The Department of Labor, War Invalids and Social Affairs of the province where the employer's headquarter is located.

3.3 Implement duration

Within 03 working days from the date of receiving the complete dossier, the Department of Labor, War Invalids and Social Affairs shall send a written certification to the employer. In case of refusal, the Department of Labor - Invalids and Social Affairs shall send a written notice to the employee, clearly stating the reason for disapproval.

Revocation of the work permit and expulsion of foreign employee

4.1 The foreign employer's work permit is revoked in the following cases

1. The contents of the dossier for the work permit, the dossier for re-issue of work permit is phony;
2. The work permit is expired;
3. Foreign employees or employers do not strictly comply with the contents of the granted work permits;
4. Terminating labor contract;
5. The contents of a labor contract is not in accordance with the content of the issued work permit;
6. Contracts or agreements on economics, commerce, finance, banking, insurance, science and technology, culture, sports, education, vocational training, and health which are expired or terminated;
7. The foreign countries' written notice on stopping sending foreign employees to work in Vietnam;
8. The employer has ended their activities;
9. The foreign employee is imprisoned, dead or declared dead or missing by the court;
10. Competent authorities and organizations request in writing the revocation of work permits because foreign employees have acts of violation of the Vietnamese law.



4.2 The competent authority which revoke the work permit: Department of Labor-Invalids and Social Affairs has the authority to revoke the granted work permit

4.3 Expulsion of foreign employees

1. The foreign employees in Vietnam, who are forced to get the work permit and without a work permit, will be expelled in accordance with the law of Vietnam.
2. The Department of Labor, War Invalids and Social Affairs shall request the police office to expel the foreign employee working in Vietnam without the work permit.
3. If the organizations and individuals find any foreign employees working in Vietnam without the work permit, this should be reported to the Department of Labor, War Invalids and Social Affairs.
4. Within 15 working days from the date of determining the foreign employee in Vietnam without a work permit, the Department of Labor - Invalids and Social Affairs shall request the police office to expel that foreign employee.



About Apolat Legal

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For more information about Apolat Legal, please visit our website at <https://apolatlegal.com>



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