

Updates on Decree 70/2023/ND-CP regarding foreigners working in Vietnam

Friday, 29 September 2023
VBF Human Resource WG

Dear all,

As we reflect on our virtual briefing on **DECREE 70/2023/ND-CP ON THE MANAGEMENT OF FOREIGN WORKERS IN VIETNAM**, I want to extend my heartfelt thanks to each one of you.

To our insightful speakers, **Ms. Andrea Godfrey, Mr. Laurent Quistrebert, GMS, and Mr. TRUNG Khuat** of the *VBF HRWG Steering Committee* - your expertise and perspectives on the decree's implications were invaluable. Thank you for making our discussions so impactful.

To all members and participants, your active involvement and insightful questions greatly enriched our session. Such events thrive on collective engagement, and your contributions ensured its success.

Reflecting on our fruitful discussions, I'm filled with gratitude and optimism for the future. Let's continue working collaboratively to harness our shared knowledge for everyone's benefit.

Looking forward to more enriching interactions in the future.

Warm regards,

Nitin

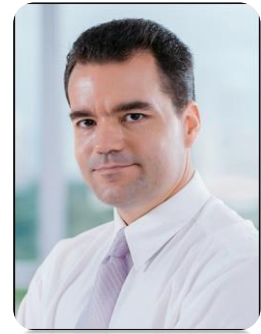
VBF Co-Chair

INTRODUCTION

Host & Moderator



Mr. **Nitin Kapoor**,
VBF Co-Chair



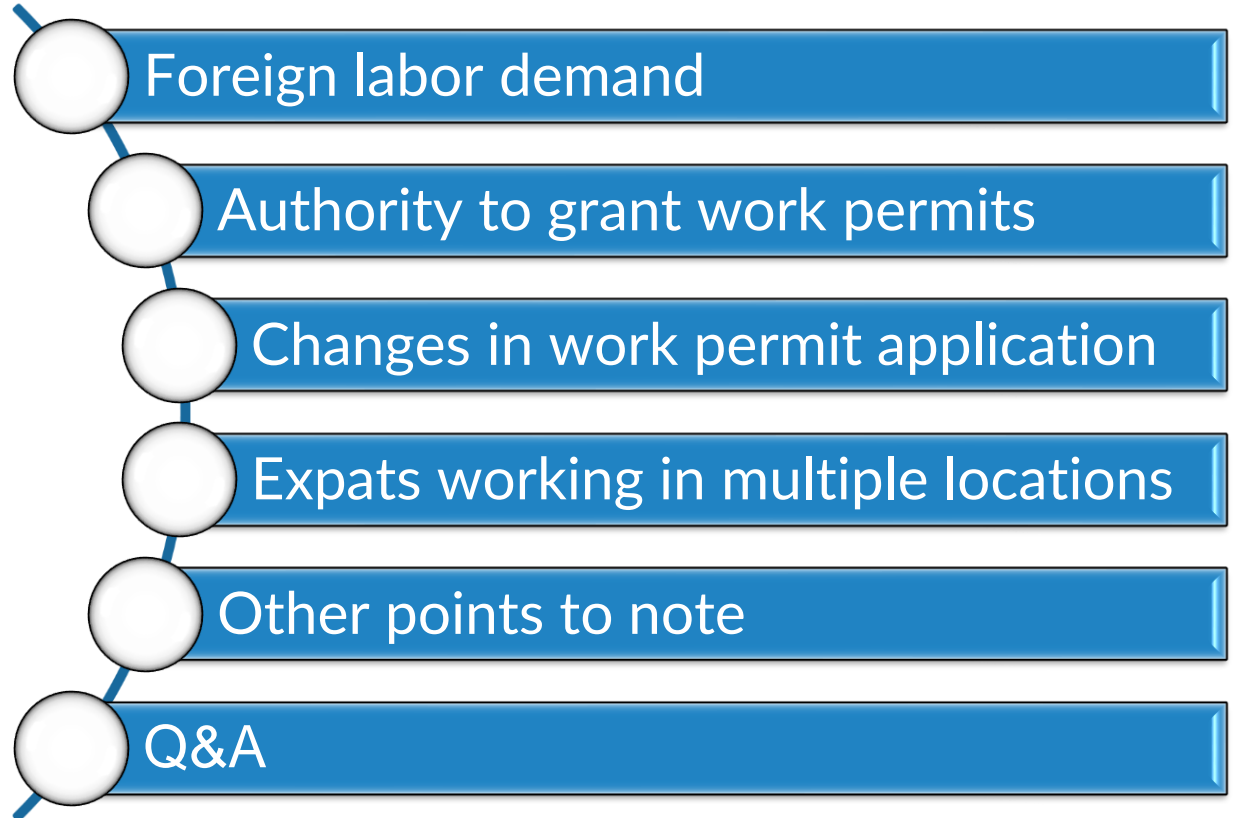
Mr. **Colin Blackwell**,
VBF HRWG Head

Speakers



Mr. **Trung Khat**, Mr. **Laurent Quistrebert** and Ms. **Andrea Godfrey**,
VBF HRWG Steering Committee members

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1.

Foreign labor demand

Foreign labor demand

- ▷ **Process to apply request for approval of foreign labor demand**
 - ❑ The recruitment post of Vietnamese workers, **from 1 January 2024**, is required to be published on the online portal of the Occupational Department – MOLISA or a competent job service center.
 - ❑ Timeline: at least **15 days** before submission of explanatory report on foreign labor demand.
 - ❑ Content of the recruitment post must include certain information as prescribed by laws.

Foreign labor demand

- ▷ Request forms for approval of foreign labor demand
 - ❑ Amended forms (*Form No. 01 and Form No. 02*) require the employers to provide more information as follows:
 - situation of using foreign workers at expected positions;
 - process of publishing recruitment post to recruit Vietnamese workers;
 - undertaking of the accuracy of the information provided.
 - ❑ Back to previous practice of using Form 01 and 02

2.

Authority to grant work permits

Authority to grant work permit

- ▷ **Industrial zone authorities:** are no longer in charge of handling work permit applications.

- ▷ **MOLISA:** shall grant work permits for foreign employees who
 - work for organizations of which licenses are issued by the Government, Prime Minister, Ministry-level agencies or agencies of the Government.
 - work for an employer in multiple provinces

- ▷ **Provincial DOLISAs:** remaining cases.

Authority to grant work permit

- ❑ Unclear authority between the MOLISA and DOLISA :
 - “special” entity having two operating licenses issued by different authorities.

3.

Changes in work permit application

Loosening conditions for “*expert*” and “*technical worker*”

- ▷ Applicant for “**expert**” position is required:
 - ❑ to have a bachelor's degree (or higher) and
 - ❑ to have at least three years of suitable working experience for the position to be taken in Vietnam.

- ▷ Applicant for “**technical worker**” position is required:
 - ❑ to be trained for at least one year and
 - ❑ to have at least five years of suitable working experience for the position to be taken in Vietnam.

Evidence of work permit eligibility for "*experts*" and "*technical workers*"

- ▷ The documentation to prove the qualifications of experts and technical workers includes:
 - Diplomas (“*văn bằng*”), certificates (“*chứng chỉ*”), or graduation confirmation letter (“*giấy chứng nhận*”);
 - A confirmation document from a foreign agency, organization or enterprise regarding the number of years of working experience;

- ▷ Previously issued work permits can be used as evidence of work permit eligibility for "**experts**" and "**technical workers**" in the application for new work permit.

Unified conditions and required documents for “*executive director*” and “*business manager*”

▷ Definition of “*executive director*” is expanded as follows:

- A foreigner who leads and directly manages at least one function of an enterprise who is working under the direct instruction and management of the head of such enterprise; or
- A foreigner who is a head of branch, representative office or business location of an enterprise.

Unified conditions and required documents for “*executive director*” and “*business manager*”

- ▷ *Evidences of work permit eligibility for “**business managers**” and “**executive director**” are the following documents:*
- The enterprise's charter or operation regulations;
 - The enterprise's registration certificate, establishment certificate or decision;
 - The enterprise's resolution or decision on the appointment of the foreigner to the business manager position.

4.

Expats working in multiple locations

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- ▷ All work locations must be included in the work permit application form in the case of foreign employees working in different locations.
- ▷ If the foreign employees work for one employer in different locations in one province, the relevant provincial DOLISA is responsible for the work permit application.

Expats working in multiple locations

- ▶ MOLISA is responsible for the work permit issuance for foreign employees working in different provinces.
- ▶ Enterprises and NGOs with HQ in one provinces and ROs or Branches in other provinces **can choose** to apply work permit for foreign employees at DOLISA
- ▶ If the foreign employee works for one employer in multiple provinces, the employer must notify the MOLISA and relevant DOLISAs electronically about employees' work within 3 working days from the date of commencement of work.

5.

Other pertinent points

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- ▶ There is no longer a requirement to obtain Approval for job title for foreign lawyers and foreigners married to Vietnamese citizens and living in Vietnam.
- ▶ Foreigners married to Vietnamese citizens and living in Vietnam can obtain a work permit exemption certificate and work visa/TRC sponsored by employer instead of dependent visa/TRC.
- ▶ Passport copy certified by Vietnamese sponsor is now accepted.
- ▶ For expats being experts/technicians and who received work permit extension once and continue to work in the same positions, a police certificate and proof of expertise/experience is no longer required.

Thank you for your attention

Q&A Session