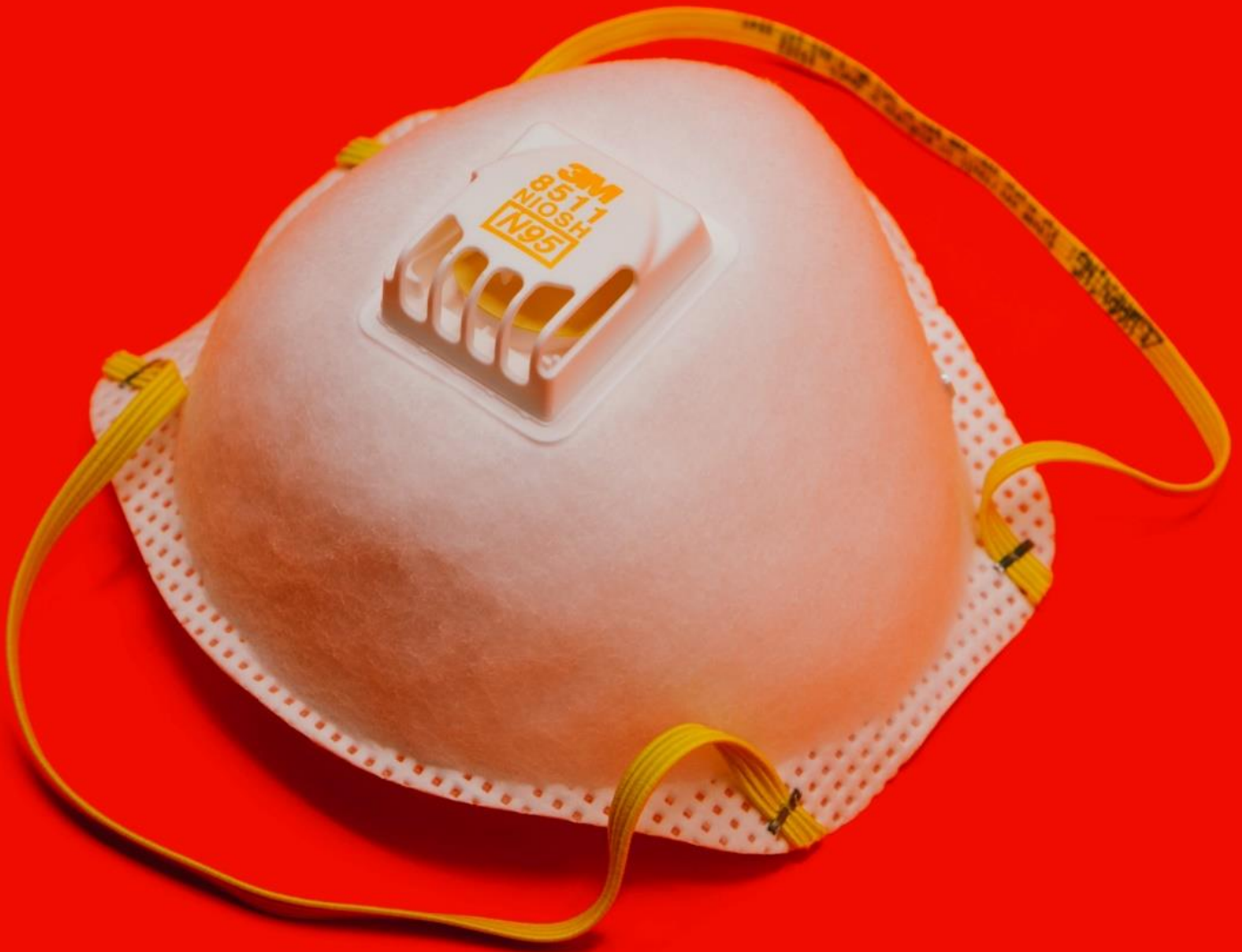


Vietnam Covid-19 Outbreak

LEGAL GUIDE TO EMPLOYMENT ISSUES



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Vietnam Covid-19 Outbreak – Legal Guide to Employment Issues

The spread of the coronavirus disease 2019 (**Covid-19**) currently has materially disrupted the operation of most (if not all) companies in Vietnam. As more and more Vietnamese people are affected by Covid-19 and the measures applied by the Government to prevent its spread (e.g., mandatory quarantine and treatment and social distancing recommendation), more and more employers in Vietnam are facing with various personnel-related situations. In this post, we discuss some of the common employment issues that may arise during this period due to the Covid-19 outbreak

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Table of contents

1. Employer’s general responsibility to maintain a safe workplace during Covid-19 outbreak?	3
2. How to deal with employees confirmed to be positive for Covid-19?	4
3. How to deal with an employee who is in quarantine due to Government order?	4
4. How to deal with an employee who violates “Covid-19” regulations (e.g., making an untrue medical declaration, or avoiding quarantine) and is later on tested positive?	5
5. How to deal with employees who are suspected to have or be exposed to Covid-19 but are not subject to quarantine requirements?	7
6. How to deal with a foreign employee whose work permit/visa expires or needs to have a new work permit/visa?	8
9. Can the employer reduce the working time of the employees and pay a lower salary?	11
10. Can an employer temporarily assign an employee to do other work different from that set out under his/her labor contract during the Covid-19 outbreak?	11
11. Can employers affected by Covid-19 outbreak defer the contribution of compulsory social insurance?	12
13. What kinds of compensation that employer must pay in case of redundancy?	14

1. Employer's general responsibility to maintain a safe workplace during Covid-19 outbreak?

1.1. Under the labor law,¹ the employer is required to (a) maintain conditions of safety and hygiene for the workplace, and (b) provide its employees with labor protection equipment. In particular, during the period of "social distancing" from 1 April to 15 April 2020, the Prime Minister has instructed all employers who are permitted to work from their offices during this period (**Essential Business Employers**) to adopt the following measures:

1.1.2. wearing face masks and providing sufficient equipment and facilities for prevention and fighting against epidemic as required by regulatory regulations and recommended by medical authorities. For example, according to the Ministry of Health's (MOH) advice, an employer should conduct regular cleaning of workplace and equipment and provide employees with adequate protection facilities (mask, antiseptics);

1.1.3. requiring employees to conduct medical declarations and refraining from going outside, contacting others, and communicating with others;

1.1.4. ceasing temporarily non-emergency and unnecessary activities and reducing gathering of employees in limited space; and

1.1.5. organising and managing transport to carry employees to and from their workplaces (if any) in order to avoid the spread of Covid-19.

1.2. Essential Business Employers include, among other things:

1.2.1. manufacturing facilities;

1.2.2. construction sites;

1.2.3. distributors of essential goods such as foods, medicines, petrol, electricity, and water;

1.2.4. training facilities;

1.2.5. transportation and logistics services;

1.2.6. telecommunication services;

1.2.7. business support services such as legal services, or notary;

¹ Article 5.1 and 138.1 of the Labor Code of National Assembly dated 2 July 2012 (**Labor Code 2012**), and Article 6.1 and 7.2 of the Law on occupational safety and hygiene of National Assembly dated 25 June 2015 (**Law on Occupational Safety and Hygiene 2015**).

1.2.8. banking, securities services; and

1.2.9. healthcare.

1.3. All other employers should adopt work from home policy to ensure that there is no delay in its workflow especially those which have deadlines or are subject to time limitation period.

2. How to deal with employees confirmed to be positive for Covid-19?

2.1. For any employee who is tested being positive for Covid-19 and is known to the employer, the employer could require the employee to take sick leave in accordance with the Social Insurance Law 2014 to maintain labor safety and hygiene at the workplace.² That said, this may not be necessary since the Government requires all Covid-19 confirmed patients to be put into mandatory quarantine and treatment in a hospital.³

2.2. Depending on the period of social insurance contribution and sickness status, employee positive for Covid-19 may be entitled to sick leave period of up to 30, 40, 60, 180 days or longer.⁴ If the sick leave entitlement is exhausted but the employee still does not recover, the employee can be entitled to five to ten days off for recovery subject to agreement between the Trade Union and the employer.⁵

2.3. During the Covid-19 medical treatment, the infected employee will enjoy allowance from the State Social Insurance Fund.⁶ No payment from the employer is required in this case.

2.4. Recently, the MOH has categorized Covid-19 as an extremely dangerous infectious disease.⁷ Accordingly, the infected employees could enjoy free health care in accordance with the Law on Infectious Disease 2007.⁸

3. How to deal with an employee who is in quarantine due to Government order?

Employees being quarantined at Government facilities

3.1. Vietnamese authorities require:

² Article 6.2(a) and 7.1(a) of the Law on Occupational Hygiene and Safety 2015.

³ [Section 4 of Decision 181 of MOH dated 21 January 2020 on guidelines to prevent and fight Covid-19 epidemic.](#)

⁴ Article 26 of the Social Insurance Law 2014.

⁵ Article 29 of the Social Insurance Law 2014.

⁶ Article 28 of the Social Insurance Law 2014.

⁷ Decision 219 of MOH dated 29 January 2020 on categorizing Covid-19 into Class A – list of extremely dangerous infectious disease under the Law on prevention and control of infectious diseases of National Assembly dated 21 November 2007 (**Law on Infectious Disease 2007**).

⁸ Article 48.2 of the Law on Infectious Disease 2007.

3.1.1. all persons who have been in direct and close contact with a confirmed Covid-19 patient (commonly referred in Vietnam as **F1 Suspects**) to be put into mandatory quarantined at Government facilities; and

3.1.2. all persons who have been in direct and close contact with an F1 Suspect to be self-quarantine at home (commonly referred to in Vietnam as **F2 Suspects**).

The standard quarantine period is 14 days.

3.2. For F1 Suspect,

3.2.1. the F1 Suspect and the employer could agree that the F1 Suspect will continue to work from the Government facility and to receive a full salary;⁹

3.2.2. the F1 Suspect can unilaterally take annual leave and continue to receive a full salary;¹⁰

3.2.3. the employer could unilaterally “suspend” (*ngừng việc*) the F1 Suspect’s work on the ground that the F1 Suspect cannot show up for work and pay a salary at a lower rate which will be agreed by the parties and will not be lower than the applicable minimum wages.¹¹ However, it is not clear if the employer can suspend the F1 Suspect and pay a lower salary if the F1 Suspect exercises his/her option to take annual paid leave first; and

3.2.4. it appears that the employer may not be able to require the F1 Suspect from taking unpaid leave as per instruction by the Ministry of Labour, War invalid and Social Affairs (**MOLISA**) under Official Letter 1064 dated 25 March 2020.

Employees being self-quarantined at residence

3.3. For F2 Suspect, except in case of Essential Business Employers, the F2 Suspect could decide to work from home and to continue to receive full salary. This is because the Government has instructed most employers to arrange for their employees to work from home.¹² A F2 Suspect working for Essential Business Employers subject to mandatory quarantine at home will have the same options as an F1 Suspect.¹³

4. How to deal with an employee who violates “Covid-19” regulations (e.g.,

⁹ Article 23.1(c) and 35 of the Labor Code 2012, and Article 4.3(b) of Decree 5 of the Government dated 12 January 2015, implementing the Labor Code 2012 (**Decree 5/2015**).

¹⁰ Article 111 of the Labor Code 2012.

¹¹ Article 98.3 of the Labor Code 2012.

¹² Section 4 of the Official Letter 2601/2020.

¹³ Section 3 and 6.3 of the Instruction attached to Decision 879 of the MOH dated 12 March 2020 on guideline to self-isolation at residence to prevent and fight Covi-19 epidemic.

making an untrue medical declaration, or avoiding quarantine) and is later on tested positive?

4.1. The employer may consider:

4.1.1. terminating the violating employee's labor contract by way of dismissal; and

4.1.2. requesting the violating employee to compensate for damages.

4.2. For dismissal, under the Labor Code 2012, an employer is permitted to apply dismissal as a form of dealing with breach of labor discipline where the employee is guilty of conduct (a) causing serious loss and damage, or (b) which threatens to cause particularly serious loss and damage to property or interests of the employer.¹⁴

4.3. An employee, who breaches the Government's "Covid-19" regulations such as making inaccurate mandatory medical declaration or avoiding applicable quarantine requirements and is later on tested positive for Covid-19 (the **violating employee**) may cause material disruption and damages to the employer. In particular,

4.3.1. the employer may have to cease operation due to quarantine requirement by the Government;

4.3.2. the employer may have to clean the workplace to avoid contamination; and

4.3.3. if the employer may have to continue to pay other workers during the shutdown period.

4.4. Therefore, it is arguable that an employer could consider dismissing the violating employee on the ground that the violation of Covid-19 regulations could threaten to cause particularly serious loss and damage to property or interests of the employer.

4.5. However, the employer may only terminate the labor contract with the violating employee on the above ground if the following conditions are fulfilled:

4.5.1. the employer has internal labor rules, which reflect the provisions of Labour Code 2012;¹⁵

4.5.2. the employer has evidence of the employee's violation;¹⁶

4.5.3. the employer has complied with the procedures provided by law for dealing

¹⁴ Article 126.1 of the Labor Code 2012.

¹⁵ Article 128.3 of the Labor Code 2012.

¹⁶ Article 123.1(a) of the Labor Code 2012.

with the employee's breach;¹⁷

4.5.4. the process to deal with the breach of labor discipline is within the prescribed statute of limitation which is 12 months from the date of violation;¹⁸ and

4.5.5. the employee is not in the circumstances where the employer is not allowed to apply labor discipline measures.¹⁹

4.6. Regarding compensation for damages, under Article 130 of the Labour Code 2012, an employee who damages tools and/or equipment or whose other conduct causes loss and damage to the assets of the employer must pay compensation in accordance with the law. Since the violating employee violates "Covid-19 regulations", it is unlikely that the violating employee could deny his/her liabilities for damages on the ground that such damages are caused by an epidemic.

5. How to deal with employees who are suspected to have or be exposed to Covid-19 but are not subject to quarantine requirements?

5.1. An employer should be able to require any employee to work from home if the employer suspects that such employee might have been exposed to Covid-19 and poses a risk to the working environment. Although the employee may argue that they have the right to work at the location as agreed under the labor contract,²⁰ the requirement for employees to work from home should still be lawful and reasonable, because:

5.1.1. In general, an employer has the right to arrange and manage employees in accordance with business and production requirements;²¹ and employees have obligations to comply with the lawful arrangement and management of the employers. Therefore, the employer may direct its employee on how to perform his or her job as part of the employment contracts;²²

5.1.2. The employer must inspect and evaluate dangerous and harmful factors in the workplaces to provide measures for excluding such factors, for reducing danger levels, for improving working conditions and for providing health care to employees;²³ and

5.1.3. According to Official Letter 2601/2020, during the social distancing period, all employers are entitled to require their employees to work from home in accordance

¹⁷ Article 123.1(b)-(d) of the Labor Code 2012.

¹⁸ Article 124 of the Labor Code 2012.

¹⁹ Article 123.4 of the Labor Code 2012.

²⁰ Articles 23.1(c) and 30 of the Labor Code 2012.

²¹ Article 6.1(a) of the Labor Code 2012.

²² Article 5.2(b) of the Labor Code 2012.

²³ Article 138.1(c) of the Labor Code 2012.

with their specific conditions.²⁴

5.2. However, the employer should continue to pay salary to the suspected employee and may not be able to require the suspected employee to take unpaid leaves because:

5.2.1. under the labor law, employers are only permitted to deduct sums from employees' wages to pay as compensation for loss arising from the employee damaging tools and equipment of the employer;²⁵ and

5.2.2. an employee's taking unpaid leave or suspension of performance of labor contract should be subject to agreement between the employer and the employee, not at the discretion of the employer.²⁶

6. How to deal with a foreign employee whose work permit/visa expires or needs to have a new work permit/visa?

6.1. To curb the rise in imported Covid-19 cases, under Resolution No. 28/NQ-CP dated 10 March 2020 (**Resolution 28/2020**) and Notice No. 118/TB-VPCP dated 21 March 2020 (**Notice 118/2020**), the Government has requested the competent authorities to apply the following measures, among other things:

6.1.1. temporarily suspending the issuance of new work permits to foreign employees from nations and territories infected by Covid-19;²⁷ and

6.1.2. temporarily suspending entry of all foreigners from 22 March 2020, except for those entering into Vietnam for diplomatic, public official purposes (*công vụ*), for participation in important diplomatic events, or Qualified Foreign Employees (defined below).²⁸

6.2. However, the Government also instructed that:

6.2.1. the competent authorities may grant visa (*if necessary*) to foreign experts, enterprise managers and highly skilled workers (*lao động kỹ thuật cao*) (**Qualified Foreign Employees**), and must request these persons to comply with mandatory medical check and declaration and quarantine in accordance with the Government's regulations;²⁹

6.2.2. the competent authorities may (a) issue or extend visas, or (b) issue work

²⁴ Clause 4 of the Official Letter 2601/2020.

²⁵ Article 102.1 of the Labor Code 2012.

²⁶ Article 116.3 and Article 32 of the Labor Code 2012.

²⁷ Section 1 of Resolution 28/2020.

²⁸ Section 5(a) and 5(d) of Notice 118/2020.

²⁹ Section 5(a) of Notice 118/2020.

permits *appropriately* to the following subjects:³⁰

- (a) Qualified Foreign Employees who (1) have obtained Certificate issued by the competent authority of the relevant countries that they are not positive to Covid-19, and (2) permitted to enter into Vietnam by Vietnamese authorities; and
- (b) Qualified Foreign Employees who, due to the Covid-19 pandemic, are unable to return their home countries and must stay in Vietnam for work.

6.3. According to the above instructions,

6.3.1. Foreign employees, who are not Qualified Foreign Employees, may not apply for new work permits/visas, re-issuance of work permits or visa extension until there is further instruction of the Government;

6.3.2. Qualified Foreign Employees satisfying the conditions of being not positive to Covid-19 and eligible for entry may be considered for issuance of new work permits or visas on a case-by-case basis;

6.3.3. For Qualified Foreign Employees in Vietnam whose visas and work permits are going to expire and who must continue staying in Vietnam for work, they could be granted visa extension or work permit re-issuance;

6.3.4. For Qualified Foreign Employees who left Vietnam and have not returned for work before 22 March 2020 but have visas and work permits expired, it is not clear whether these foreigners may be granted visas extension or re-issued with work permits;

6.3.5. It is not clear whether the MOLISA or the provincial Departments of Labor, War Invalids and Social Affairs (**DOLISA**) will be the competent authority to issue work permits for the above exceptional cases. Currently, under the law, such authority belongs to the provincial DOLISAs;³¹ and

6.3.6. It is not clear what conditions for entry into Vietnam other than those specified under Article 20 of the Law on Entry, Exit, Transit and Residence of Foreigners in Vietnam are applicable until the above restriction measures are removed. These conditions under the current law include (a) having valid passports and visas; and (b) not being suspended from entry as specified under Article 21 of the Law on Entry, Exit, Transit and Residence of Foreigners in Vietnam (which include suspension for reasons of epidemic prevention).

³⁰ Section 5(d) of Notice 118/2020.

³¹ Article 12 and Article 15 of the Labor Code 2012.

7. Can an employer unilaterally terminate labor contracts with an employee infected with Covid-19?

7.1. No. Under the Labor Code 2012,³² the employer cannot unilaterally terminate labor contract with the infected employee during his/her sick leave unless such employee has undergone medical treatment for:

7.1.1. 12 consecutive months in case his/her employment associated with an indefinite term contract;

7.1.2. six consecutive months in case his/her employment associated with definite term contract; or

7.1.3. more than half the term of the contract in case his/her employment associated with a seasonal contract.³³

8. How to deal with an employee who cannot work due to compliance with Covid-19 regulations?

8.1. There are several options as discussed below to deal with a circumstance where an employee cannot work due to compliance with Covid-19 regulations such as being under quarantine or waiting for Covid-19 test result.

8.2. **Option 1: Taking annual leave** - Under the Labor Code 2012,³⁴ depending on the type of job, an employee who has worked for an employer for a full 12 months may be entitled to 12, 14, or 16 working days of annual leave. The employer and employee may agree on combining annual leave days of maximum every three years.³⁵ During the annual leave, the employee will receive full salary.³⁶

8.3. **Option 2: Taking unpaid leave** - Under the Labor Code 2012,³⁷ employers and employees may agree on unpaid leave. After the unpaid leave period, the parties will continue with the existing employment contract.

8.4. **Option 3: Suspension of performance of labor contract** - Under the Labor Code 2012,³⁸ the employer and employee may agree on suspend (*tạm hoãn*) performance of labor contract. There is no limit to the suspension period. The labor law is silent on the employer's obligation to pay the employee during the suspension period. However, logically, the payment obligation should also be suspended.

³² Article 38.1(b) and 39.1 of the Labor Code 2012.

³³ seasonal or specific job labor contract with a duration of less than 12 months (**seasonal contract**).

³⁴ Article 111.1 of the Labor Code 2012.

³⁵ Article 111.3 of the Labor Code 2012.

³⁶ Article 111.1 of the Labor Code 2012.

³⁷ Article 116.3 of the Labor Code 2012.

³⁸ Article 32.5 of the Labor Code 2012.

8.5. Unless the parties agree otherwise, within 15 days from the expiry of the suspension period, the employee must show up at the workplace and the employer must reinstate the employee.³⁹ The suspension period will be excluded from the duration of the labor contract.

8.6. **Option 4: Cessation of work** - Under the Labor Code 2012,⁴⁰ in case an employee must cease to work (*ngừng việc*) due to a dangerous epidemic, the employer and employee may agree on salary during the cessation of work. However, in any case, the agreed salary must not lower than the regional minimum salary stipulated by the Government.⁴¹

8.7. According to [Official Letter 1064/2020](#),⁴² the MOLISA seems to adopt the view that employees who must cease to work due to the “direct impact” of Covid-19 should be entitled to salary for the cessation of work (Option 4). For example:

8.7.1. Foreign employees who cannot come back to work due to the competent authority’s order;

8.7.2. Employees who are in quarantine under competent authority’s order; and

8.7.3. Employees who must cease to work due to the shutdown of enterprise or departments of the enterprise, resulting from their employer or their co-workers are subject to compulsory quarantine.

9. Can the employer reduce the working time of the employees and pay a lower salary?

9.1. No. An employer cannot unilaterally reduce working time and salary. Any change to working time and salary could be considered as amendments of labor contract and requires employee’s agreement.⁴³ That said, in case the employer’s business is shut down due to the Government’s order, then, technically, the employer can reduce the working time of employees and pay a lower salary. This is because the temporary shutdown of an employer’s business could result in cessation of employees’ work (see 8.6).

10. Can an employer temporarily assign an employee to do other work different from that set out under his/her labor contract during the Covid-19 outbreak?

³⁹ Article 33 of the Labor Code 2012.

⁴⁰ Article 98.3 of the Labor Code 2012.

⁴¹ Article 98.3 of the Labor Code 2012.

⁴² Section 1 and 2 of Official Letter 1064 of MOLISA dated 25 March 2020, guiding payment of salary and handling benefits for employees during cessation of work due to Covid-19 outbreak (**Official Letter 1064/2020**).

⁴³ Article 23.1(dd)-(g) and Article 35 of the Labor Code 2012.

10.1. According to Official Letter 1064/2020,⁴⁴ in case the employer encounters difficulties on material source or market, which results in a lack of jobs, the employer may temporarily assign the employee to do other work in accordance with Article 31 of the Labor Code 2012.

10.2. Under Article 31 of the Labor Code 2012, in case of unforeseeable difficulty due to an epidemic, the employer may temporarily assign the employee to do other work than that specified in his/her labor contract. In this case:

10.2.1. The temporary assignment will not exceed an accumulated period of 60 days in any one year unless the employee otherwise consents;⁴⁵

10.2.2. The employer must notify the employee at least three working days in advance;⁴⁶ and

10.2.3. If the salary rate of the temporary job is less than that of the previous job, the employee is entitled to receive the previous salary for 30 working days. The new salary then must equal at least 85% of the previous salary, and not be less than the regional minimum salary stipulated by the Government.

10.3. If the relevant employee does not agree to carry out the temporary job and has to cease his/her work, then he/she will be entitled to the salary for the cessation of work discussed at 8.6.

11. Can employers affected by Covid-19 outbreak defer the contribution of compulsory social insurance?

11.1. To support the enterprise affected by Covid-19 outbreak, on 17 March 2020, the Social Insurance Authority of Vietnam issued [Official Letter 860/2020](#), allowing employers to defer contribution of compulsory social insurance to the retirement and survivorship funds until the end of June 2020 or December 2020 (if the Covid-19 pandemic still exists after June 2020) in accordance with social insurance law.⁴⁷ The deferment scheme will apply to enterprises:

11.1.1. having 50% or more of its total employees participating in social insurance scheme is suspended from employment; or

11.1.2. suffering a loss of over 50% of the total value of assets (excluding land use right value) due to the impact of the epidemic.

⁴⁴ Section 3 of Official Letter 1064/2020.

⁴⁵ Article 31.1 of the Labor Code 2012.

⁴⁶ Article 31.2 of the Labor Code 2012.

⁴⁷ Article 88.1 of the Social Insurance Law 2014, and Article 16 of Decree 115 of Government dated 11 November 2015, implementing the Social Insurance Law 2014.

12. Can the employer make its employees redundant as a result of Covid-19 impact?

Temporary redundancy

12.1. Vietnamese laws do not contemplate the case of temporary redundancy. However, there are certain cases under the law where employment can temporarily be suspended:

12.1.1. Cessation of work: see discussion 8.6; or

12.1.2. Suspension of performance of labor contract: see discussion 8.4. According to the Official Letter 1064/2020, if the work cessation prolongs and the employer cannot afford payments, the employer and employee may agree on the suspension of the performance of a labor contract.

Permanent redundancy

12.2. Under Official Letter 1064/2020, in case the employer must reduce its production and reduce the number of jobs, then the employer may unilaterally terminate the labor contract with its employees in accordance with Article 38 and Article 44 of the Labor Code 2012. In particular:

12.2.1. According to Article 38.1(c) of the Labor Code 2012, an employer can unilaterally terminate labor contracts with its employees if:

- (a) there is a force majeure event as prescribed by law;⁴⁸
- (b) the employer has taken all necessary measures to remedy the problem caused by such force majeure event, but still needs to narrow production and reduce the number of jobs; and
- (c) the employer has notified the employee in advance (45-day-prior notice in case of indefinite term labor contract and 30-day-prior notice in case of definite term labor contract).

12.2.2. According to Article 44 of the Labor Code 2012, an employer may be able to terminate labor contracts with its employees in case of restructuring, change of technology, or economic reason (generally, **restructuring**).⁴⁹ If the number of

⁴⁸ See further discussion in our blog post: [Coronavirus Outbreak - The Effect of A Force Majeure Event Under Vietnamese Law](#).

⁴⁹ Under Article 13 of Decree 5/2015, termination of labor contract due to restructuring include, among others:

- (i) Changes of organizational structure, re-organization of employments;
- (ii) Changes of products, product structure;
- (iii) Changes of technology process, machinery, business manufacturing equipment, associated with production, business activities of the employer; and

employees subject to permanent redundancy is two or more, then the employer must:⁵⁰

- (a) establish a labor usage plan with the participation of trade union;⁵¹
- (b) consult with the trade union on the redundancy;
- (c) notify the provincial labor authority at least 30 days before the redundancy; and
- (d) to be prudent, give its employees an advance notice as discussed at 12.2.1(c).⁵²

12.3. In light of the discussion at 12.2, it is likely that completing procedures for redundancy will be time-consuming. If possible, the employer should reach a mutual agreement with employees on termination of the labor contract.

13. What kinds of compensation that employer must pay in case of redundancy?

13.1. Apart from normal payments for employees as a result of the termination of labor contracts such as salary for untaken leave,⁵³ an employer may have to pay employees subject to permanent redundancy the following payments:

13.1.1. Severance allowance (*trợ cấp thôi việc*); and

13.1.2. Job-loss allowance (*Trợ cấp mất việc làm*).

13.2. Severance allowance is required in cases the employer makes redundancy via unilateral termination of labor contract (see 12.2.1), restructuring (see 12.2.2), and mutual termination of labor contract (see 12.3).⁵⁴ Under the Labor Code 2012,⁵⁵

13.2.1. the severance allowance applies to an employee who has regularly worked for an employer for a full twelve months or more;

13.2.2. the severance allowance will be one half of one month's salary for each year of employment; and

13.2.3. the working period used for the calculation of severance allowance is the total period during which the employee works for the employer minus (-) (a) the period

(iv) Economic crisis or recession.

⁵⁰ Article 13.3 of Decree 5/2015 and Article 44 of the Labor Code 2012.

⁵¹ Article 46 of the Labor Code 2012.

⁵² See our discussion in blog post: [Can an employer unilaterally terminate an employment contract based on a restructuring reason without an advance notice?](#)

⁵³ Article 114 of the Labor Code 2012.

⁵⁴ Article 48.1 of the Labor Code 2012.

⁵⁵ Article 48.1 and 48.2 of the Labor Code 2012.

during which the employee benefits from unemployment insurance in accordance with the social insurance law, and (b) the working period for which the employee has received severance allowance from the employer.

13.3. Job-loss allowance is only required in case the employer makes redundancy via restructuring (see 12.2.2). Under the labor law,

13.3.1. the job-loss allowance is applicable to an employee who has regularly worked for an employer for a full twelve months or more;⁵⁶

13.3.2. the job-loss allowance will be one month's salary for each working year but not lower than 2 months' salary;⁵⁷

13.3.3. the working period used for the calculation of job-loss allowance is the total period during which the employee works for the employer minus (-) (a) the period during which the employee benefits from unemployment insurance in accordance with the social insurance law, and (b) the working period for which the employee has received severance allowance from the employer;⁵⁸ and

13.3.4. if the employee has worked for the employer for full 12 months or more and then loss his/her job but the period for calculating the job-loss allowance is less than 18 months, then the employer must pay the employee a job-loss allowance of at least two months' salaries.⁵⁹ While it is not clear at law, the MOLISA seems to impose the [View](#) that the job-loss allowance of two months' salaries will also be required in the case where the period for calculating the job-loss allowance is zero.

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⁵⁶ Article 49.1 of the Labor Code 2012.

⁵⁷ Article 49.1 of the Labor Code 2012.

⁵⁸ Article 49.2 of the Labor Code 2012.

⁵⁹ Article 14.4(a) of Decree 5/2015.