

REPORT FROM HR SUB WORKING GROUP

*Presented by
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Firstly, I would like to thank the Ministry of Labour for the excellent corporation with the business community. I would like to highlight a few issues which I am glad to say the Ministry of Labour is already assisting in resolving.

1. Work Permits

Further to the recent implementation of this circular No. 03/2013/TT-BLĐTBXH, we would like to provide you with some feedback as well as highlight other recurrent issues that our members have experienced:

While the new regulation is clearer, we recommend that the qualification requirement for experts is either a university degree (or higher) or vocational qualification which recognizes them as experts or a 5-year work experience. For example, a Korean engineer might be an expert in an important piece of manufacturing equipment, but has less than 5-year experience. Current definition is not clear enough which has resulted in rejections of dossiers for qualified experts which have a skill that is not currently available in Vietnam.

Another concern regards the special circumstances for English language teachers. Within this very specialised industry, there are internationally recognized qualifications, which should be acceptable in place of the degree or 5 year experience. It must be remembered that the main thing that these teachers are bringing to the market is native proficiency of their own language, which by definition that cannot be done by a local national. Having a large specialized foreign language teacher workforce in Vietnam is a positive benefit for the economy, and encourages foreign investment.

Since the new circular took effect, the labour department in Hanoi and Bac Ninh province request work permit applicants who have been in Vietnam for just a couple of days before the application date of Work Permit to apply for a Local Police clearance Certificate in addition to the overseas one. This doesn't apply in HCMC and other provinces. Requesting a Vietnamese police clearance certificate for someone who has just arrived in Vietnam for couple of days does not seem to be relevant and is most likely the result of a misinterpretation of Circular #3 by some department of labor.

Furthermore, we would like to emphasize the non-compliance issue that Multinational companies face when sending a Foreign employee to Vietnam on a very **short term mission** to perform work activities such as deliver training to the local registered entity or contractor, conduct internal audit at company's or contractor's site, install specific equipment, etc.... It is not realistic to request these foreign nationals to apply for a work permit considering the heavy administration burdens and processing time vs the duration of their mission in Vietnam, sometimes just couple of days. Therefore, we respectfully request to include such "short term activities" in the list of foreign nationals not having to report to labor department/apply for work permit.

2. Overtime

Vietnam is competing globally for new manufacturing and business activities and it needs to be as competitive as possible. The current overtime limit is significantly below the global average.

The following table is an overview legal permissible maximum working overtime:

Country	Overtime per year
China	1872
Thailand	1872
Malaysia	1248
Singapore	864
Germany	624
France	468
Vietnam	300

In practice, a very low overtime cap is difficult to enforce given the need of most companies to be flexible and adapt their plan with the work load in particular circumstances. It also disadvantages workers who happily volunteer for additional work and higher income. We would like to suggest an overtime limits capped at 800 hours for all industries and in up to 1200 hours for specific industries. One alternative to this has been suggested by the Japan Chamber of Commerce and proved to be very successful in Japan is their 'Article 36 Agreement' where companies, employees and trade unions voluntarily agree on a mechanism for paid overtime as needed. We would be delighted to provide MOLISA more information on this.

3. Trade Union

We would like to propose a clearer and simplified Trade Union fee paid by enterprise as follows:

- Trade Union law regulated: enterprise must pay 2% of the salary funds which is taken as basic for the payment of social insurance for employees. It is contrary to international practice as Japan, Korea, and Thailand etc. The reason is that Trade Union shall be established in the voluntary basis by employees and this is unreasonable if enterprises have to pay Trade Union fee for Trade Union operation.
- Currently, General Labour Federation regulate that Grassroots Trade Union have to send 35 % of Trade Union fee paid by enterprise to higher Trade Union. This is unreasonable because:
 - o If having to send Trade Union fee to higher Trade Union, should send Trade Union fee paid by employees to organize Trade Union activities for employees.
 - o Higher Trade Union does not have enough manpower to implement activities for all enterprises.
- The regulation about 2% of the salary Funds is unreasonable because there is no unity about definition of salary Funds among enterprises.
- Currently, enterprises which primary Trade Union have not yet been established received requirement of paying 2% of the salary funds to higher Trade Union to establishing Grassroots Trade Union at these enterprises. It is unreasonable because Grassroots

Trade Union shall be established in the voluntary basis by employees so higher Trade Union can't affect to establishment of Grassroots Trade Union at enterprises.

4. Education and Training

The Vietnamese workforce has become more qualified and professional than ever; however, there is still a gap between the educational standards and those of more developed countries. The gold-standard education of today focuses on individualized teaching that allows for students' differences such as their learning speeds and styles. Adapting teaching methodologies to accommodate student differences results in the best learning outcome.

Students in Vietnam are currently required to perform at the same speed and produce the same repetitive tasks regardless of abilities or skill level. Therefore, some students are left behind and best students are not challenged. The educational style has been internalized into the culture leading to a cyclical chain of events where each generation teaches the next in the same way without improved outcomes. This teaching style that expects the same behaviour and results from all students is also reflected in the workplace with staff who are unable to take initiative or think proactively.

As an example, Phu Quoc is rapidly developing their tourism industry. While this is excellent for the local economy, this is challenging for new hotels to recruit and quickly train people (who are farmers and fishermen) to become internationally professional employees suitable for five star hotels. Good examples of the private sector managing similar situation were in Danang where all of the hotels agreed one standard training system. This type of initiative could be introduced in more places and the government would be very welcome to become more involved.

Once again we would like to thank the MOLISA for its adoption of the many recommendation from VBF. We would like to invite the MOLISA to discuss these issues in a meeting that we can raise more issues which are also important.