

# 5 Things To Keep In Mind For A Foreign Employee When Signing A Labor Contract In Vietnam

Vietnam is continuing to be one of the most attractive destinations for investors in South East Asia. The flow of investment subsequently has also offered a wide range of career opportunities in many professions, with the **labour market in Vietnam** becoming more vigorous than ever. Those opportunities are not only being sought by natives, but also by skilled foreigners from all over the world. But one does not simply come and work in Vietnam; there are several legal requirements and conditions for foreigners seeking job. Complying with the **Vietnamese Labour law** should be considered as a priority, as it decides many labour factors, including most importantly, the labour contract.

So what are the top things on which foreigners should focus on before signing a **labour contract in Vietnam**. Here is the answer.

## 1. Conditions for foreign citizens to work in Vietnam

Before **signing a labor contract in Vietnam**, a foreign citizen wishing to work in Vietnam must fully meet the following conditions:

- Possess full civil capacity to act;
- Possessing technical and professional qualifications and skills and health appropriate to the work requirement;
- Not being a criminal or subject to penal liability examination according to Vietnamese and foreign laws;
- Possessing a work permit granted by a competent Vietnamese state agency, except the cases foreign citizens working in Vietnam who are exempt from a work permit.

## 2. Cases where foreign citizens working in Vietnam are exempt from a work permit

In fact, there are some cases that the foreign employees are exempt from work permit when **signing a labour contract in Vietnam**. Such cases are listed, as follows:

- Capital-contributing members or owners of limited liability companies.
- Members of the Board of Directors of joint-stock companies.
- Chiefs of representative offices and directors of projects of international organisations or non-governmental organisations in Vietnam.
- Those who stay in Vietnam for under 3 months to offer services for sale.
- Those who stay in Vietnam for under 3 months to deal with complicated technical or technological problems that adversely impact or are at risk of exerting adverse impacts on production and business activities and these problems cannot be handled by Vietnamese and foreign experts who are currently in Vietnam.
- Foreign lawyers possessing a professional practice license in Vietnam in accordance with the Law on Lawyers.
- It is in accordance with a treaty to which Vietnam is a contracting party.

- Those who are studying and working in Vietnam, provided that the employer shall notify their employment to the provincial-level state management agency of labor 7 days in advance.
- Other cases as stipulated by the Government.

### 3. Employment term

When signing the **labor contract in Vietnam**, foreign employees should be aware of the employment term. The employment term is categorised into (1) Seasonal Contract with the duration of less than 12 months; (2) Definite Term Contract with the duration of between 12 months and 36 months; (3) Indefinite Term Contract. It should be noted that the fixed term contract is allowed to be renewed only one time and the following contract should be an indefinite term.

Based on the nature and complexity of the job, the duration of probation could vary but cannot not exceed 60 days for position requiring professional and technical qualification of collegial or higher level and 30 days for position requiring professional and technical qualifications of intermediate vocational level, professional secondary level, or for technical workers and skilled employees. For other types of jobs, the limitation is 6 days.

### 4. Duration of the work permit

When signing a labor contract in Vietnam, foreign labour should pay attention to the duration of the work permit. Accordingly, the duration of a work permit shall not exceed 02 years and is equal to one of the following durations:

- The duration of the labor contract to be signed;
- The duration of assignment in Vietnam decided by the foreign partner;
- The duration of the contract or agreement signed by and between the Vietnamese partner and the foreign partner;
- The duration of the service contract or agreement signed by and between the Vietnam partner and the foreign partner;
- The duration stated in the paper made by the service provider who sends the foreign worker to Vietnam to negotiate the service supply;
- The duration stated in the certificate of the foreign non-governmental organisation or international organisation that has been granted with an operating license in accordance with Vietnamese law;
- The duration stated in the paper made by the service provider who appoints the foreign workers to Vietnam to establish its commercial presence;
- The duration stated in the paper proving the foreign worker's eligibility to participate in the operation of a foreign enterprise that has established its commercial presence in Vietnam.
- The labour contract becomes invalid when the foreign employee does not have a valid work permit.

### 5. Cases of termination of validity of work permits

- The work permit expires.
- The labor contract terminates.
- The content of the labor contract is not consistent with the content of the granted work permit.
- The contract in the field of business, trade, finance, **banking**, insurance, science and technology, culture, sports, education or medicine expires or terminates.

- There is a written notice of the foreign side of the termination of sending foreign citizens to work in Vietnam.
- The work permit is revoked.
- The enterprise, organisation or partner in Vietnam or the foreign non-governmental organisation in Vietnam ceases operation.
- The foreign employee is sentenced to imprisonment, dies, or is declared to be dead or missing by a court.

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