

LEGAL UPDATE

DECREE NO. 393/2026/ND-CP: NEW REGULATIONS ON FOREIGN EMPLOYEES WORKING IN VIETNAM

1. Background

On 20 October 2026, the Government issued Decree No. 393/2026/ND-CP on foreign employees working in Vietnam ("**Decree 393**"). Decree 393 will take effect on 05 December 2026, replacing Decree No. 219/2025/ND-CP dated 07 August 2025 ("**Decree 219**").

Decree 393 builds on the framework established under Decree 219, introducing amendments to address practical issues arising from implementation and simplify administrative procedures. While retaining the overall regulatory framework governing foreign employees in Vietnam, Decree 393 introduces a number of notable changes to the requirements and procedures for obtaining work permit (**"WP"**) and certification of exemption from work permit (**"WP Exemption Certificate"**), as well as the management of foreign employees in Vietnam.

This legal update highlights the key changes introduced under Decree 393 and their practical implications for employers and foreign employees.

2. Enhanced Obligations of Employers

Under the previous regulatory framework, the obligations set out under Decree 219 were primarily focused on competent state authorities.[1] However, Decree 393 introduces a number of specific obligations applicable to employers.[2] These provisions establish a more detailed framework for employers' compliance with the regulations governing foreign employees in Vietnam.

In particular, employers are required to recruit and employ foreign employees to meet their direct staffing needs and are prohibited from subleasing foreign employees.[3] Employers must also maintain information on foreign employees in physical or electronic form and submit periodic reports, in the prescribed reporting form, by 05 June and 05 December each year, as well as ad hoc reports upon request by the competent local authorities or when changes arise in the employment of foreign employees, except where the relevant information can be retrieved from the database of foreign employees working in Vietnam.[4]

Employers employing foreign employees should therefore pay close attention to these developments and review their current recruitment, employment, record-keeping and reporting practices to ensure compliance with these requirements. In particular, corporate groups with multiple entities should review existing arrangements involving foreign personnel, especially where foreign employees are employed by one entity but provide services to another group entity, to assess whether such arrangements are consistent with the requirement that foreign employees be employed to meet the direct needs of the relevant employer and the prohibition on subleasing foreign employees.

3. Key changes to WP and WP Exemption Certificate administration

3.1. Clarification of the short-term work exemption

Under Decree 219, managers, executive directors, experts and technical employees were exempt from WP requirements if they worked in Vietnam for fewer than 90 days in total within a calendar year.[5] Decree 393 provides greater clarity by defining "short-term work" as work performed for one or more Vietnamese employers for an aggregate period of no more than 90 days in a calendar year.[6] Accordingly, the 90th day itself remains within the exemption threshold, and periods of work for different employers must be aggregated when determining whether the threshold has been exceeded.

However, this exemption does not apply where an employment relationship arises and remuneration or remuneration is paid. In such case, the foreign employee must obtain a WP under the employment contract category.[7]

[1] Article 36 of Decree 219
[2] Article 37.6 of Decree 393
[3] Article 37.6(b) of Decree 393
[4] Article 37.6(đ) of Decree 393
[5] Article 7.13(a) of Decree 219
[6] Article 3.5 of Decree 393
[7] Article 8.13(a) of Decree 393



This clarification provides greater certainty in determining eligibility for the short-term WP exemption. Employers should therefore monitor the cumulative duration of foreign employees' assignments in Vietnam, particularly where an employee provides services to multiple Vietnamese employers during the same calendar year.

3.2. Additional ground for re-issuance due to changes in business locations

Under Decree 219, a WP or WP Exemption Certificate could be re-issued if lost or damaged, or if specified information, such as the foreign employee's personal details or the employer's name, changed.[8] To facilitate easier administration, monitoring and implementation, Decree 393 retains these grounds and adds a further one, namely a change in the head office, branch, representative office or business location, or the executive office of a foreign contractor, where the foreign employee works.[9]

Employers should review their existing WPs and WP Exemption Certificates following changes to relevant business locations to determine whether re-issuance is required.

3.3. Extended filing window and shorter processing time for extensions

Decree 393 provides greater flexibility for extending WPs and WP Exemption Certificates by extending the application window and shortening the statutory processing time. Under Decree 219, extension applications had to be submitted at least 10 days but no more than 45 days before the relevant documents expiried,[10] with a processing period of up to 10 working days for WPs and 05 working days for WP Exemption Certificatesapplication.[11]

Decree 393 significantly expands the filing window, allowing applications to be lodged from as early as 90 days and up to 10 working days before the expiry date, with a processing period of 05 working days for both WPs and WP Exemption Certificates.[12]

The extended filing window allows employers to submit extension applications earlier, while the shorter processing time enables them to obtain the extended WPs and WP Exemption Certificates more quickly. This gives employers greater flexibility in managing renewal timelines and helps reduce the risk of delays affecting foreign employees' continued work authorisation.

3.4. More flexible qualification criteria for experts and executive directors

Under Decree 219, an individual generally qualified as an expert only if they held a university degree (or equivalent qualification) and had the requisite years of work experience.[13] Decree 393 expands the qualification criteria by introducing five categories of experts. Notably, a foreign employee may now qualify as an expert based solely on at least five years of relevant work experience, without holding a university degree or equivalent qualification.[14] In addition, individuals holding a university degree or an equivalent qualification in a field included in the Strategic Technology List or the Strategic Technology Products List may qualify as experts without meeting minimum work experience requirement.[15]

Similarly, Decree 393 reduces the minimum work experience requirement for executive directors who head and directly manage a division, department or business function of an organisation or enterprise from three years to only two years.[16]

These amendments broaden the pathways for foreign employees to qualify as experts or executive directors, potentially enabling employers to recruit a wide range of foreign professionals to meet their staffing needs.

4. Simplification of Application Dossiers of Foreign Employee-Related Licensing Procedures

Decree 393 simplifies several documentary requirements for obtaining WPs and WP Exemption Certificates.

First, under Decree 219, WP applications generally required an original of the Criminal Record Certificate.[17] However, the current framework has introduced an exception. When such application is submitted online and the competent authority can retrieve the relevant information directly from the criminal record database, the applicant is no longer required to separately provide the original of the Criminal Record Certificate.[18] The amendment is intended to reduce unnecessary

[8] Articles 11 and 23 of Decree 219
[9] Articles 12.3 and 24.3 of Decree 393
[10] Articles 16.1 and 28.1 of Decree 219
[11] Articles 16.3 and 28.3 of Decree 219
[12] Articles 17 and 29 of Decree 393
[13] Article 3.3 of Decree 219
[14] Article 4.3(e) of Decree 393
[15] Article 4.3(b) of Decree 393
[16] Article 3.3(b) of Decree 219 and Article 4.2(b) of Decree 393
[17] Article 18.4 of Decree 219
[18] Article 7.1 of Decree 393

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administrative burdens by enabling authorities to use information already available in government databases. This is expected to lower compliance costs and streamline processing procedures.

Second, Decree 393 expressly accepts health certificates issued by competent healthcare institution in either Vietnam or abroad, subject to the applicable requirements, inclusing the prescribed validity period.[19] Under Decree 219, foreign-issued health certificates were subject to additional conditions relating to mutual recognition treaty or arrangement with the issuing country.[20] As no such arrangements had been concluded in practice, foreign employees were often required to enter Vietnam and undergo a local medical examination before filing their applications. This amendment removes a significant practical barrier and is expected to reduce unnecessary costs, administrative burdens and processing time for both employers and foreign employees.

Third, Decree 393 exempts passports from consular legalisation requirements foor WP and WP Exemption Certificate applications.[21] This removes an additional documentary formality and may help reduce the time and costs involved in preparing application dossiers.

5. Transitional Provisions

Decree 393 sets out transitional arrangements for existing permits and certificates, pending applications and certain categories of foreign employees.

Accordingly, WP and WP Exemption Certificate issued under Decree 219 and Decree 70/2023/ND-CP remain valid until their expiry dates. Any subsequent issuance, re-issuance, or extension will be governed by Decree 393.[22]

Applications for foreign employee-related licensing procedures submitted before the effective date of Decree 393 will continue to be processed under Decree 219. Likewise, extension applications submitted under Resolution 24/2026/NQ-CP will continue to be handled in accordance with that Resolution.[23]
Employers with pending applications or existing permits should review the applicable transitional provisions to determine which regulatory framework governs their respective cases.

6. Conclusion

Driven by Vietnam's deepening global economic integration and strong foreign investment inflows, the number of foreign employees in the country reached 162,858 by the end of 2025.

Against this backdrop, Decree 393 reflects the Government's continued effort to modernize the legal framework governing foreign employment while maintaining effective regulatory oversight. Rather than fundamentally changing the existing system, Decree 393 focuses on enhancing employer accountability, and simplifying administrative procedures through greater use of digital data and streamlined documentary requirements. Employers should therefore review their current foreign workforce arrangements and compliance processes to ensure a smooth transition when the new regulations take effect.

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[19] Articles 9.2 and 19.2 of Decree 393
[20] Articles 8.2, 15.2, 18.2, and 27.2 of Decree 219
[21] Article 6.1 of Decree 393
[22] Article 35.1 of Decree 393
[23] Articles 35.2 and 35.5 of Decree 393

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