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Hanoi, August 15, 2017

CIRCULAR

GUIDANCE ON ONLINE ISSUANCE OF WORK PERMIT TO FOREIGN WORKERS IN VIETNAM

Pursuant to the Law on Electronic Transactions in 2005;

Pursuant to the Government's Decree No. 14/2017/ND-CP dated February 17, 2017 defining the Functions, Tasks, Powers and Organizational Structure of Ministry of Labour, War Invalids and Social Affairs;

Pursuant to the Government's Resolution No. 36a/NQ-CP dated October 14, 2015 on E-government;

Pursuant to the Government's Decree No. 43/2011/ND-CP dated June 13, 2011 providing for online provision of information and public services on the websites or portals of state agencies;

Pursuant to the Government's Decree No. 11/2016/ND-CP dated February 03, 2016 elaborating certain articles of the Labour Code with respect of foreign workers in Vietnam (hereinafter referred to as Decree No. 11/2016/ND-CP);

At the request of Director of Department of Employment;

Minister of Labour, War Invalids and Social Affairs promulgates this Circular to provide guidance on online issuance of work permit to foreign workers in Vietnam.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Circular provides guidance on the receipt of applications for approval for demand for employment of foreign workers; issuance and re-issuance of work permit; certification of foreign workers eligible for work permit exemption via electronic networks according to 3 levels of online public services.

Article 2. Regulated entities

1. Employees that are foreign citizens working in Vietnam as regulated in Clause 1 Article 2 of the Decree No. 11/2016/ND-CP.

2. Employers that recruit and use foreign workers as regulated in Clause 2 Article 2 of the Decree No. 11/2016/ND-CP.

3. The approving authority for demand for employment of foreign workers that is the Department of Employment (affiliated to the Ministry of Labour, War Invalids and Social Affairs); Chairpersons of People's Committees of provinces or central-affiliated cities, Provincial Departments of Labour, War Invalids and Social Affairs or the Management Authorities of industrial parks, export processing zones, economic zones or high-tech parks as authorized in accordance with the law regulations.

4. Work permit issuing authorities as regulated in Article 3 of the Circular No. 40/2016/TT-BLDTBXH dated October 25, 2016 by Minister of Labour, War Invalids and Social Affairs providing guidance on implementation of a number of articles of Decree No.11/2016/ND-CP (hereinafter referred to as Decree No. 40/2016/TT-BLDTBXH).

5. Other relevant agencies, entities and individuals.

Article 3. Interpretation of terms

1. Electronic transactions in issuance of work permits to foreign workers in Vietnam (hereinafter referred to as work permit for foreign worker) consist of: approval for demand for employment of foreign workers, issuance/ re-issuance of work permit and certification of foreign workers eligible for work permit exemption that are conducted by electronic means.

2. Website refers to the web address: <http://dvc.vieclamvietnam.gov.vn> (hereinafter referred to as the "website") which can be accessed through the internet connection so as to connect or integrate pages, applications and services relating the issuance of work permits to foreign workers.

3. Electronic transaction account in issuance of work permit foreign worker is registered by the employee and used to access the website for carrying out procedures for issuing work permit to foreign worker.

Article 4. Principles for conducting electronic transactions in issuance of work permit to foreign worker

1. Consistently and strictly comply with regulations of the laws on electronic transactions, management of foreign workers in Vietnam and relevant laws.

2. Ensure the continuity, punctuality, obviousness, impartiality, integrity, safety, efficiency and compliance with regulations of the law on information security and integrity.

3. The employer who wants to conduct electronic transactions must have an electronic transaction account for access to the website.

Article 5. Applications for issuance of work permit for foreign worker

1. The application for issuance of work permit for foreign worker includes the application form and attached documents which must be conformable with regulations of the law on electronic transactions and management of foreign workers in Vietnam.

2. The employer must convert paper documents attached to the application form for issuance of work permit for foreign worker into portable document format (pdf), document (doc, docx) or joint photographic experts group (jpg) files. Such conversion must satisfy the following requirements:

a) Reflect the complete contents of paper document;

b) Be converted from paper documents into electronic documents.

3. If paper documents are null and void, the electronic documents are also null and void.

Chapter II

ISSUANCE, REISSUANCE OF WORK PERMIT AND CERTIFICATION OF FOREIGN WORKERS ELIGIBLE FOR WORK PERMIT EXEMPTION ELECTRONICALLY

Article 6. Approval for demand for employment of foreign workers

1. At least 20 days before the planned date of employing foreign workers, the employer (excluding contractors) must submit the declaration and explanation about his/her demand for employment of foreign workers as regulated in Article 4 of Decree No. 11/2016/ND-CP to the approving authority through the website, excluding the cases prescribed in Clauses 4, 5 and 8 Article 172 of the Labour Code and Points e, h Clause 2 Article 7 of Decree No. 11/2016/ND-CP.

At least 10 days before the planned date of employing foreign workers, the employer must send report on any changes in his/her demand for employment of foreign workers through the website.

2. Within 12 days from the receipt of the declaration and explanation or report on change in demand for employment of foreign workers as regulated by law, the approving authority must give a response by sending an email to the employer. If the explanation or report on demand for employment of foreign workers is not consistent with the law regulations, the approving authority shall an email which indicates reasons thereof to the employer.

3. After receiving a response indicating that the employer's explanation or report on change in demand for employment of foreign workers is conformable with the law regulations, the employer shall by hand or by post submit the original explanation and/or report to the approving authority for verification and retention as regulated.

Not later than 8 working hours from the receipt of the original explanation and/or report, the approving authority must give processing results to the employer. The employer may receive processing results by hand or by post via the employer's registered address.

4. In case the original explanation and/or report on change in demand for employment of foreign workers do/does not match with the ones sent through the website, the approving authority shall give a written response or send an email or directly notify such issue to the employer.

Article 7. Issuance of work permit

1. At least 7 working days before the planned date on which foreign workers start working for the employer, the employer must electronically submit the declaration and application for work permits for foreign workers in accordance with regulations in Article 10 of Decree No. 11/2016/ND-CP to the work permit issuing authority through the website.
2. Within 05 working days from the receipt of the declaration and application for work permits which are conformable with the law regulations, the work permit issuing authority shall give a response by sending an email to the employer. If the declaration and application for work permits are not conformable with the law regulations, the work permit issuing authority shall an email which indicates reasons thereof to the employer.
3. After receiving a response indicating that the application for work permits is conformable with the law regulations, the employer shall by hand or by post submit the original application for work permits to the work permit issuing authority for verification and retention as regulated by law.

Not later than 8 working hours from the receipt of the original application for work permits, the work permit issuing authority must give processing results to the employer. The employer may receive processing results by hand or by post via the employer's registered address.

4. In case the original application for work permits does not match with the declaration and application for work permits sent through the website, the work permit issuing authority shall give a written response or send an email or directly notify such issue to the employer.

Article 8. Re-issuance of work permit

1. In case of re-issuance of work permit as regulated in Article 13 of the Decree No. 11/2016/ND-CP, the employer must electronically submit the declaration and application for re-issuance of work permits as regulated in Article 14 of the Decree No. 11/2016/ND-CP to the work permit issuing authority through the website.
2. Within 03 working days from the receipt of the declaration and application for re-issuance of work permits which are conformable with the law regulations, the work permit issuing authority shall give a response by sending an email to the employer. If the declaration and application for re-issuance of work permits are not conformable with the law regulations, the work permit issuing authority shall an email which indicates reasons thereof to the employer.
3. After receiving a response indicating that the application for re-issuance of work permits is conformable with the law regulations, the employer shall by hand or by post submit the original application for re-issuance of work permits to the work permit issuing authority for verification and retention as regulated by law.

Not later than 08 working hours from the receipt of the original application for re-issuance of work permits, the work permit issuing authority must give processing results to the employer. The employer may receive processing results by hand or by post via the employer's registered address.

4. In case the original application for re-issuance of work permits does not match with the declaration and application for re-issuance of work permits sent online through the website, the work permit issuing authority shall give a written response or send an email or directly notify such issue to the employer.

Article 9. Certification of foreign workers eligible for exemption from work permit

1. At least 05 working days before the planned date on which foreign workers start working for the employer, the employer must submit the declaration and application for certification of foreign workers eligible for work permit exemption in accordance with regulations in Clause 3 Article 8 of Decree No. 11/2016/ND-CP online to the work permit licensing authority through the website, excluding the cases prescribed in Clauses 4, 5 Article 172 of the Labour Code and Point e Clause 2 Article 7 of Decree No. 11/2016/ND-CP.

2. Within 03 working days from the receipt of the declaration and application for certification of foreign workers eligible for work permit exemption which are conformable with the law regulations, the work permit issuing authority shall give a response by sending an email to the employer. If the declaration and application for certification of foreign workers eligible for work permit exemption are not conformable with the law regulations, the work permit issuing authority shall an email which indicates reasons thereof to the employer.

3. After receiving a response indicating that the application for certification of foreign workers eligible for work permit exemption is conformable with the law regulations, the employer shall by hand or by post submit the original application for certification of foreign workers eligible for work permit exemption to the work permit issuing authority for verification and retention as regulated by law.

Not later than 8 working hours from the receipt of the original application for certification of foreign workers eligible for work permit exemption, the work permit issuing authority must give processing results to the employer. The employer may receive processing results by hand or by post via the employer's registered address.

4. In case the original application for certification of foreign workers eligible for work permit exemption does not match with the declaration and application for certification of foreign workers eligible for work permit exemption sent online through the website, the work permit issuing authority shall give a written response or send an email or directly notify such issue to the employer.

Chapter III

MANAGEMENT OF WORK PERMIT DATA

Article 10. Entering data about issuance of work permit for foreign workers before conducting electronic transactions

1. The work permit issuing authority that has the database on issuance of work permits for foreign workers available shall cooperate with the Department of Employment affiliated to the Ministry of Labour, War Invalids and Social Affairs (hereinafter referred to as the Department of Employment) in syncing data on the website.

2. The work permit issuing authority that does not yet establish the database must update information about unexpired work permits issued to foreign workers to the work permit database on the website.

Article 11. Information security and sharing

1. The capacity and ability to detect, give warning and prevent illegal access as well as cyberattacks must be ensured so as to ensure confidentiality and integrity of data exchanged between the parties.
2. Procedures for data backup, online data backup and data recovery must be available; data must be recovered in case of failure in electronic data system. Electronic documentation must be stored over the time such transactions have been not yet completed and original electronic data messages must be stored on the system and may be accessed online.
3. The electronic transaction log must be stored for the period of no less than 05 years from the time on which that transaction is completed. Data on the stored electronic transaction log must be ensured.

Chapter IV

ORGANIZATION OF IMPLEMENTATION

Article 12. Responsibility of Department of Employment

1. Propagate and disseminate regulations herein and of relevant laws on management of foreign workers in Vietnam through the website and other means of mass media.
2. Manage, instruct and inspect the issuance of work permits for foreign workers through the website.
3. Submit consolidated report on issuance of work permits for foreign workers through the website.
4. Ensure uninterrupted connection, confidentiality and integrity of information concerning applications and facilitate the issuance of work permits for foreign workers.
5. Operate the website to receive and process applications for work permit in the manner so as to ensure the continuity, integrity, security, safety and confidentiality.
6. Issue electronic transaction accounts and passwords thereof, determine rights to access and update information, rights to manage, use and share information of agencies, entities and individuals as regulated.
7. Supervise the use and sharing of information/data so as to ensure information security and safety of information system.
8. Perform full backups on a weekly, monthly and annual basis with the aim of preventing failure and loss of data in course of management and use. Data on foreign workers in Vietnam must be stored for a period of no less than 5 years.

Article 13. Responsibility of people's committees of provinces or central-affiliated cities

1. Instruct local agencies to propagate and disseminate regulations on issuance of work permits for foreign workers through the website, inspect and handle violations in accordance with the law.
2. Ensure financial sources, technical infrastructure and information security during the implementation of this Circular.
3. Give approval for demand for employment of foreign workers through the website or authorize competent agencies to give such approval.

Article 14. Responsibility of Provincial Departments of Labour, War Invalids and Social Affairs

1. Issue work permits to eligible foreign workers through the website to work in local area.
2. Propagate and disseminate regulations on issuance of work permits for foreign workers through the website to local agencies, entities and enterprises that have demand for employment of foreign workers.
3. Provide information about the issuance of work permits through the website to foreign workers in local area at the request of competent authorities.

Article 15. Responsibilities of employers

1. Provide accurate information and protect information concerning access account, use the correct account and password to access the website, and absolutely keep secret of the issued account and password.
2. Collect and use information and data within the permitted scope and for proper purposes, not to illegally access the system.
3. Manage collected information/data and not provide them for any other entities or individuals, unless otherwise agreed upon or permitted by the Department of Employment.
4. Not to alter, erase, remove, copy, reveal or move partial or entire information/data; not to create or spread software programs with the aims of interfering, changing or destroying the system; timely notify inaccurate information/data to the Department of Employment.

Chapter V

IMPLEMENTATION PROVISIONS

Article 16. Entry into force and implementation

1. This Circular takes effect as from October 02, 2017.
2. The employers may submit explanation about demand for employment of foreign workers, applications for issuance/re-issuance of work permits, and applications for certification of

foreign workers eligible for work permit exemption by adopting one of two following methods:

a) Submit by hand or by post such documents to the corresponding approving authority and work permit issuing authority;

b) Submit them online through the website.

3. Difficulties that arise during the implementation of this Circular should be reported to the Ministry of Labour, War Invalids and Social Affairs for consideration./.

**PP. MINISTER
DEPUTY MINISTER**

Doan Mau Diep