

Both employer and employee can unilaterally terminate a contract. Employers must give prior notice of at least 120 days for labor contracts with indefinite term or a fixed-term contract of 12 months or more. For labor contracts less than 12 months, prior notice of at least a quarter of the term of the contract must be given.

Further, employees will be able to immediately terminate a contract for mistreatment, pregnancy and if the employer fails to pay salary on time.

There are a number of events which can trigger, or be used to trigger, the contract's termination. The following are some of the most widely seen contract termination triggers currently outlined in Vietnam's labor code:

- The labor contract expires;
- The work stated in the contract has been completed;
- Both parties agree to terminate the labor contract;
- The employee reaches the legal age of retirement;
- The employee is sentenced to prison;
- The employee dies;
- The employee is ruled to have lost the capacity to act in a civil capacity;
- Layoffs related to economic conditions or structural changes to the company including merger, acquisition, consolidation, or division;
- Unilateral termination on the part of the employee; or
- Unilateral termination on the part of the employer.

## Grounds for unilateral termination

Of all the categories of termination that are listed above, unilateral termination of contracts should be watched closely. Primarily to protect operations from turnover, but also to maximize staffing opportunities, it is important for employers to understand the circumstances under which unilateral termination of work contracts – both from an employer and employee perspective – may occur.

### Grounds for the Unilateral Termination of Contracts in Vietnam

**Employee**

**Employer**

## Grounds for the Unilateral Termination of Contracts in Vietnam

### Employee

- Employee is not assigned to the job or workplace or is not given the working conditions as agreed in the labor contract\*.
- Employee is not paid in full or on time as agreed in the labor contract.
- Employee is maltreated, sexually harassed, or is subject to forced labor.
- Employee is elected to perform a full-time duty in a people-elected office or is appointed to hold a position in the state apparatus.
- A female employee who is pregnant and must take leave as prescribed by a competent health establishment.
- If he/she is sick or has an accident and remains unable to work after having received treatment for 90 consecutive days, in case he/she works under a definite-term labor contract, or for a quarter of the contract's term, in case he/she works under a labor contract for a seasonal job or a specific job of under 12 months.

### Employer

- The employee often fails to perform his/her job stated in the labor contract.
- The employee is sick or has an accident and remains unable to work after having received treatment for 12 consecutive months, in case he/she works under an indefinite-term labor contract, or for 6 consecutive months, in case he/she works under a definite-term labor contract, or more than half the term of the labor contract.
- If, as a result of natural disaster, fire or another force majeure event as prescribed by law, the employer, though having applied every remedial measure, has to scale down production and cut jobs.
- The employee is absent from the workplace after the time limit specified in Article 33\* of this Code.

*Source: Limitations as prescribed under Law No. 10/2012/QH13*

*\*Article 33 allows for a 15 day grace period for all employees returning to work following a temporary suspension of their contracts.*

## Notice

Both employers and employees are required to give notice to their counter party if they wish to terminate a labor contract pursuant to one or more reasons listed above. The length of the notice period differs slightly between employers and employees and is dependent on the type of contract that both parties are signatories.

## Severance and payment in Vietnam

If a labor contract is terminated, employers may be liable for severance payment to the employee in question. The nature of severance payment is dependent on the salary of a given employee, the amount of time that the employee in question has been working in their current position, and the amount of time the employee has been covered under social insurance.

## Termination compliance for employers

When terminating employees, employers will be required to notify the employee in question in accordance with the schedule that is outlined above. As indicated above, at least 15 days' notice must also be given to workers whose services will no longer be engaged following the expiry of a definite term labor contract.

Following the last day of an employee's work at the company in question, the employer will have seven days to make any and all payments pursuant to severance or job loss benefits outlined below.

## Severance triggers and eligibility

Eligibility for severance payments is open to all employees who have been working for a company for 12 months or longer. Severance payments will be required in instances where an employer or employee can prove that one or more general termination triggers or unilateral termination provisions have occurred during employment.

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Under the Vietnamese Labor Code, severance compensation shall amount to half a month's wages for every year that the employee has been working. For example, an employee that had been with a company for three years would be eligible for one and a half months' pay.

The nature of severance payment is dependent on:

- The salary of a given employee;
- The amount of time that the employee in question has been working in their current position; and,
- The amount of time the employee has been covered under social insurance.