

DECREE No. 88/2015/ND-CP ABOUT REGULATIONS ON PENALTIES FOR ADMINISTRATIVE VIOLATIONS

On October 7, 2015, the Government promulgated Decree No. 88/2015/ND-CP to amend and supplement a number of articles of the Government's Decree No. 95/2013/ND-CP dated August 22, 2013 on penalties for administrative violations against regulations on employment, social insurance, and Vietnamese guest workers. Here are some notable points for enterprises.

1. VIOLATIONS AGAINST REGULATIONS ON CONCLUSION OF EMPLOYMENT CONTRACTS

A fine of from VND 1,000,000 to VND 20,000,000 shall be imposed upon any employer who commits any of the following violations:

- Failure to conclude written employment contracts for work with duration longer than 03 months;
- Failure to conclude the right type of employment contracts;
- Failure to conclude employment contracts that contain sufficient information.

2. VIOLATIONS AGAINST REGULATIONS ON PROBATION

2.1. Warnings or fines of from VND 500,000 to VND 1,000,000 shall be imposed upon any employer who commits any of the following violations:

- Requiring workers who work under casual labor contracts to undergo probation;
- Failure to notify work performance results of workers who underwent probation as prescribed by law.

*This is not a formal legal document.
All information in this document is for
reference and general guidance purposes
only.*

*Kindly contact to Talentnet consultant to
apply with respect to specific cases:*

Payroll and HR Outsourcing Services

Ho Chi Minh City
Nguyen Thi Thanh Huong

Hanoi
Nguyen Thi Thu Huong

Do Thi Thu Huong

2.2 A fine of from VND 2,000,000 to VND 5,000,000 shall be imposed upon any employer that commits any of the following violations:

- Requiring workers to undergo more than one probation period for one job;
- Requiring workers to undergo probation longer than permissible;
- Paying employees undergoing probation less than 85% of the wage of the job;
- Failure to conclude employment contracts with workers who keep working after the probation period.

3. VIOLATIONS AGAINST REGULATIONS ON REVISION AND TERMINATION OF EMPLOYMENT CONTRACTS:

A fine of from VND 1,000,000 to VND 20,000,000 shall be imposed upon any employer who commits any of the following violations:

- Revising the employment contract duration more than once with appendices or revising the employment contract duration with appendices that change the nature of the employment contract concluded;
- Failure to pay benefits to the worker on schedule when terminating the employment contract; failure to pay or pay sufficient severance allowance or retrenchment allowance to the worker as prescribed by law;
- Failure to pay or pay sufficient compensation when unilaterally terminating the employment contract against the law;
- Failure to complete procedures for confirming and returning other documents to the worker after the employment contract is terminated.

4. VIOLATIONS AGAINST REGULATIONS ON WAGES:

4.1. Warnings or fines of from VND 500,000 to VND 1,000,000 shall be imposed upon any employer that fails to send the pay scale, payroll, and labor norms to the district level labor authority as prescribed.

- 4.2.** A fine of from VND 2,000,000 to VND 5,000,000 shall be imposed upon any employer that commits any of the following violations:
- Failure to establish the pay scale, payroll, labor norms, or failure to establish the pay scale, payroll, labor norms properly as prescribed by law;
 - Using an improper pay scale, payroll, or labor norms after the district level labor authority has requested that they be revised;
 - Failure to publish the pay scale, payroll, labor norms, or reward scheme at the workplace;
 - Failure to inform workers of the method of wage payment at least 10 days before the payment date.
- 4.3.** A fine of from VND 5,000,000 to VND 50,000,000 shall be imposed upon any employer that commits any of the following violations:
- Paying workers behind schedule;
 - Paying workers at a lower rate than the levels in the pay scale or payroll sent to the district level labor authority;
 - Failure to pay or failure to pay sufficiently for overtime work, night work, or wages for periods of suspension to workers as prescribed by law;
 - Deducting workers' wages against the law.
- 4.4.** A fine of from VND 20,000,000 to VND 75,000,000 shall be imposed upon any employer who pays workers less than the region-based minimum wages prescribed by the Government.
- 4.5.** A fine of from VND 3,000,000 to VND 20,000,000 shall be imposed upon any employer who fails to pay an extra amount which equals the amount of compulsory social insurance, compulsory health insurance, unemployment insurance, and annual leave allowances to workers who are not required to participate in compulsory social insurance, compulsory health insurance, unemployment insurance.

4.6. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed upon any employer that commits any of the following violations:

- Failure to have written internal labor regulations when employing 10 employees or more;
- Failure to register internal labor regulations with the provincial level labor authority;
- Using unregistered internal labor regulations, internal labor regulations that have been registered but have not taken effect, or expired internal labor regulations;
- Implementing disciplinary actions or paying compensation for damages not in accordance with procedures and time limits prescribed by law.

5. VIOLATIONS AGAINST REGULATIONS ON FOREIGNERS WORKING IN VIETNAM

5.1. A fine of from VND 1,000,000 to VND 2,000,000 shall be imposed upon any employer that fails to submit a report on employment of foreigners to the labor authority, or submits an insufficient report, or submits a report behind schedule.

5.2. A fine of from VND 30,000,000 to VND 75,000,000 shall be imposed upon employers who employ foreign workers in Vietnam without work permits or certificates of exemption from work permits, or employ foreign workers using expired work permits.

6. VIOLATIONS AGAINST REGULATIONS ON HIRING VIETNAMESE WORKERS TO WORK FOR FOREIGN ORGANIZATIONS AND INDIVIDUALS IN VIETNAM

6.1. A fine of from VND 1,000,000 to VND 3,000,000 shall be imposed for employing Vietnamese workers without reporting the employment of Vietnamese workers to an organization competent to hire and manage Vietnamese workers as prescribed by law.

6.2. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for employing Vietnamese workers without sending a written notification enclosed with the concluded employment contracts to an organization competent to hire and manage Vietnamese workers working for foreign organizations and individuals in Vietnam as prescribed by law.

7. VIOLATIONS AGAINST REGULATIONS ON PAYMENT OF TRADE UNION FEES:

- 7.1.** A fine of from 12% to 15% of total trade union fee but not exceeding VND 75,000,000 shall be imposed upon any employer that commits any of the following violations: paying trade union fees behind schedule; failure to pay sufficient trade union fees; failure to collect sufficient trade union fees.
- 7.2.** A fine of from 18% to 20% of total trade union fees but not exceeding VND 75,000,000 shall be imposed upon any employer that fails to pay trade union fees for workers who have to pay trade union fees.

8. VIOLATIONS AGAINST REGULATIONS ON SOCIAL INSURANCE, UNEMPLOYMENT INSURANCE

- 8.1.** A fine of from VND 500,000 to VND 1,000,000 shall be imposed upon any employer that loses, damages, or falsifies social insurance books.
- 8.2.** A fine of from VND 1,000,000 to VND 2,000,000 shall be imposed upon any employer that fails to pay sickness benefit, maternity benefit, health recovery benefit within 03 working days from the day on which satisfactory documents are received from the workers.
- 8.3.** A fine of from VND 2,000,000 to VND 4,000,000 shall be imposed upon any employer that fails to notify the local employment agency of employment fluctuations at the employer's organization as prescribed by law.
- 8.4.** A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for each application for social insurance/unemployment insurance payout forged by the employer for self-seeking purposes if not liable to criminal prosecutions.

In addition to the fines as mentioned above, remedial measures shall be applied for employer who violates regulations.

This Decree comes into force from November 25, 2015.