



Vietnam

Notable Rights and Obligations of Employers and Employees during Outbreak of Novel Coronavirus (COVID-19) (as of February 13, 2020)

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**This article is based on the information as of February 13, 2020.*

The recent outbreak of novel coronavirus disease (now designated “COVID-19” by the World Health Organisation¹) has sounded a red alert in Vietnam with 16 positive cases having been reported as of 13 February 2020. The Prime Minister declared the outbreak of COVID-19 on 23 January 2020 to be a public health emergency,² the first time in 13 years, confirming the seriousness of disease. The Vietnamese government has since adopted a series of measures to prevent the spread of COVID-19, among which include halting all flights to and from China, placing a temporary moratorium on visas for foreign visitors who have been in China within two weeks before entry into Vietnam, closing schools and universities, and, in some cases, denying re-entry to, or requiring quarantine of, non-Vietnamese employees who, though holding a valid visa, have come from China following the Tet holiday or who have a recent travel history involving the areas affected by COVID-19.³

Given that the outbreak will have some impact on the workplace, we discuss below the rights and obligations of employers and employees under the laws of Vietnam during the outbreak.

¹ <https://www.who.int/dg/speeches/detail/who-director-general-s-remarks-at-the-media-briefing-on-2019-ncov-on-11-february-2020>.

² Decision No. 173/QĐ-TTg, dated 1 February 2020, issued by the Prime Minister.

³ Directive No. 05/CT-TTg, dated 28 January 2020, issued by the Prime Minister; Directive No. 01/CT-BTC, dated 28 January 2020, issued by the Ministry of Finance; Directive No. 06/CT-TTg, dated 31 January 2020, issued by the Prime Minister; Official Letter No. 265/BGDĐT-GDDT, dated 1 February 2020, issued by the Ministry of Education and Training; Official Telegram No. 01/CD- BLDTBXH, dated 2 February 2020, issued by the Ministry of Labour – Invalids and Social Affairs.

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1. Employers must ensure occupational safety and hygiene at the workplace

Given that employers are obligated to provide a safe and hygienic workplace for their employees, the employer must take appropriate steps to prevent the spread of disease, including having a sequence for identifying risks of infection and minimising the risks.⁴ In addition, the employer is obligated to disclose to employees information about the risks of infection as well as prevention measures being undertaken at the workplace.⁵

2. When an Afflicted Employee is found at the workplace

An employee who falls within one of the following situations (an “Afflicted Employee”) must be quarantined by law:⁶

- (a) the employee has symptoms of being infected by COVID-19 for unknown reasons;⁷
- (b) the employee has had contact with a person suffering from COVID-19 or a possible source of COVID-19;⁸ or
- (c) the employee has recently come from or has a recent history of travel to any areas affected by COVID-19.⁹

Accordingly, if the Afflicted Employee is found at the workplace, the employer must (i) report such case to the nearest People’s Committee, health authority, or medical facility,¹⁰ (ii) implement sanitation, disinfection, and sterilisation measures according to the instructions of the competent health authorities¹¹, and (iii) consider directing the Afflicted Employee to return home or stay at home to ensure a safe and hygienic workplace. The Afflicted Employee will receive payment per his or her agreement with the employer but must not be paid less than the statutory minimum wage.¹²

If the employer directs other employees to stay at home to prevent the spread of disease, it is likely that the employer will be obligated to pay such employees in full in accordance with the terms of the employees’ respective employment contracts.

3. Employers may temporarily assign employees to do other work

In a case of unforeseeable difficulty due to the outbreak of COVID-19, employers may temporarily assign employees to do other work that is different from the work agreed in such employees’ respective labour contracts for a period up to 60 days in one year, unless otherwise consented to by the employee, provided that:¹³

- the new job be suitable to the health and gender of the employee;
- the employee be notified of such temporary assignment and the new job at least three working days in advance;

⁴ Article 18.1 of the Law on Labour Safety and Hygiene.

⁵ Article 13.1 of the Law on Labour Safety and Hygiene.

⁶ Article 49.1 of the Law on Prevention and Control of Infectious Diseases.

⁷ Article 2.7 of the Law on Prevention and Control of Infectious Diseases.

⁸ Article 2.6 of the Law on Prevention and Control of Infectious Diseases.

⁹ Article 1.1(b) of Decree 101/2010/ND-CP.

¹⁰ Article 23.4 of the Law on Prevention and Control of Infectious Diseases and Items 2 and 3 of the Official Telegram No. 01/CD- BLDTBXH, dated 2 February 2020, issued by the Ministry of Labour – Invalids and Social Affairs.

¹¹ Article 50.3 of the Law on Prevention and Control of Infectious Diseases.

¹² Article 98.3 of the Labour Code.

¹³ Article 31 of the Labour Code; Article 8 of Decree 05/2015/ND-CP.

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- the employee be paid a wage appropriate to the new job (if the wage of the new job is less than that of the previous job, the employee is entitled to receive the previous wage for 30 working days) so long as the new wage is not less than 85 per cent of the previous wage and the statutory minimum wage.

4. Employees may lawfully refuse to work or leave the workplace

An employee may lawfully refuse to attend work or leave the workplace and get full payment if there is an obvious and serious threat to the employee's health or life in continuing his or her work or in staying at the workplace. The employee is obligated to immediately report such threat to his or her direct superior. The employer is not permitted to require the employee to continue his or her work or to return to such workplace for so long as the threat remains.¹⁴



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¹⁴ Article 140.2 of the Labour Code.