

# NEW REGULATIONS ON WORKING CONDITIONS AND LABOR RELATIONS

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On December 14, 2020, the Government issued Decree 145/2020/ND-CP providing details and guidelines for the implementation of several articles of the Labor Code regarding working conditions and labor relations (**Decree 145**). The Decree took effect from February 1, 2020. The following are some notable contents of this Decree:

*Firstly*, changes in the time and method for periodic reports on changes of employees. Accordingly, enterprises shall report all changes of their employees to the Department of Labor, Invalids and Social Affairs before June 5 and December 5 every year, using Form No. 01/PLI in Appendix I attached with Decree 145. The report could be done via the National Public Service Portal or made in hardcopy (if it cannot be done through the National Public Service Portal). At the same time, they must send a notice on changes of employees to the social insurance agency of the district where the relevant head office, branch or representative office is located. Previously, under Decree 03/2014/ND-CP and Circular 23/2014/TT-BLDTBXH, enterprises was requested to report the changes of employees to the local Office for Labor, Invalids and Social Affairs or the Department of Labor, Invalids and Social Affairs (for employers in industrial zones) before May 25 and November 25 each year.

*Secondly*, supplementation of the requirement that labor regulations or labor regulation appendices must contain provisions on prevention and fight against sexual harassment at the workplace with such basic contents as detailed regulations about sexual harassment acts at the workplace, which are relevant to the nature and characteristics of the job and the workplace; the responsibility, time limit, procedures, and formalities for internal handling of sexual harassment acts at the workplace.

*Thirdly*, changes in the way of calculating the salary for unused annual paid leaves upon termination of labor contract when an employee resigns or loses his/her job. Accordingly, the basis salary to calculate

payments for unused days of annual paid leave is the contracted salary of the month preceding the month when the employee resigns or loses his/her job. Previously, under Clause 3, Article 26 of Decree 05/2015/ND-CP, the basis salary for such payment was the average contracted salary of the preceding 6 months before resignation or job loss for the employee who has worked for 6 months; or the average contracted salary of the whole working time for the employees who has worked for less than 6 months.

In addition to the contents described above, Decree 145 also provides other notable new regulations such as regulations on the persons authorized to handle labor discipline of enterprises; manners for handling invalid labor contracts; the time for advance notice upon unilateral termination of labor contracts applied to some specific industries, occupations, jobs; settlement procedures for damage compensation.

## COMMENTS AND RECOMMENDATIONS

The new provisions of Decree 145 have resolved several shortcomings and limitations of Decree 05/2015/ND-CP and other decrees guiding the Labor Code 2012; thus, render the law application clear, unified, and in harmony with practical circumstances. At the same time, the Decree also creates a legal basis for enterprises to handle appropriately such issues as preventing and combating sexual harassment at the workplace or settling invalid labor contracts.

Vietnamese enterprises should update the new provisions of Decree 145 for appropriate application in their operation; and should also review their internal labor regulations for relevant amendment and supplement to ensure compliance with the provisions of the Labor Code 2019 and Decree 145.

