

HIGHLIGHTS OF THE RESOLUTION ON INCREASING OVERTIME HOURS OF EMPLOYEES

HUYEN THU

On March 23, 2022, the Standing Committee of the National Assembly approved Resolution 17/2022/UBTVQH15 on employees' annual and monthly overtime hours in the context of Covid-19 pandemic prevention and control and socio-economic recovery and development (**Resolution 17**). The Resolution takes effect from April 1, 2022, with typical contents including:

Firstly, increasing annual overtime hours. Resolution 17 stipulates that employers may assign their employees to work overtime for more than 200 hours but not exceeding 300 hours per year if they have demands and obtain the employees' consents. Compared with point c, clause 2, Article 107 of the Labor Code 2019, Resolution 17 has increased the total employees' maximum annual overtime hours from 200 hours to 300 hours. However, it should be noted that the increase in annual overtime hours does not apply to:

- (i) Employees aged between full 15 and under 18;
- (ii) Employees having mild disabilities with work capacity reduction of at least 51%, employees with severe disabilities or extremely severe disabilities;
- (iii) Employees doing heavy, hazardous, dangerous or extremely heavy, hazardous or dangerous work;
- (iv) Female employees in their 7th month of pregnancy onward or the 6th month of pregnancy onward if they work in the highland, remote, far-flung, border or island areas;
- (v) Female employees nursing children aged under 12 months.
- (vi) Industries and jobs for which the annual overtime hours have been limited to 300 hours a year under clause 3, Article 107 of the Labor Code 2019, namely:
 - Manufacture, processing of textile, garment, leather, footwear, electric, electronic products, processing of agricultural, forestry, aquaculture products, salt production;
 - Electricity production and supply,

telecommunications, refinery operation; water supply and drainage;

- Work requiring highly skilled employees that cannot be provided adequately and timely from the labor market;
- Urgent work that cannot be delayed due to seasonal reasons, availability of materials or products, or work arising due to unexpected causes, bad weather, natural disasters, fire, hostility, shortage of power or raw materials, or technical break-down of production lines;
- Other cases prescribed by the Government.

Secondly, increasing monthly overtime hours. Accordingly, if the employers that are permitted to assign their employees to work overtime up to 300 hours per year have demands and obtain the employees' consents, they can assign their employees to work overtime for more than 40 hours but not exceeding 60 hours per month. Thus, compared with the provisions at point b, clause 2, Article 107 of the Labor Code 2019, the maximum number of employees' overtime hours per month has been increased from 40 hours to 60 hours.

Thirdly, stipulating the responsibilities of employers when organizing overtime, including:

- (i) Fully complying with relevant provisions of the Labor Code on overtime organization;
- (ii) Notifying in writing the labor authority of the provincial People's Committee as prescribed in clause 4, Article 107 of the Labor Code 2019 in the case they increase the overtime hours to 300 hours per year.
- (iii) Applying measures to improve labor productivity and other measures to reduce overtime work; providing welfare regimes to ensure more favorable conditions for the employees than those prescribed by labor law when they are subject to work overtime.



Comments and Recommendations

Compared with the applicable regulations of the Labor Code 2019, the increase of overtime hours under Resolution 17 is expected to support businesses to recover production, expand job opportunities, and increase income for employees after being affected by the Covid-19 pandemic. When organizing overtime for employees, employers should pay attention to the exclusions and only assign employees to work overtime upon their consents and ensure such requirements as compliance with the law, written notification to the competent authority. During the period of socio-economic recovery, support policies are still being proposed, promulgated and possibly amended. Therefore, businesses need to regularly update information, study newly issued documents for timely approach and application, ensuring the maximum rights and benefits entitled from the State's policies and support.