

Vietnam News Brief

An update from PwC Legal

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NEW REGULATIONS ON FOREIGNERS WORKING IN VIETNAM

On 17 June 2011, the Government issued Decree No. 46/2011/NĐ-CP (**Decree 46**) that makes a number of major changes to Decree 34/2008/NĐ-CP (**Decree 34**) dated 25 March 2008 on Employment and Administration of Foreigners Working in Vietnam. Decree 46 will come into effect on 1 August 2011.

New key provisions of Decree 46 include:

- 1) There is no longer any need for a work permit to be obtained for chief representatives of representative offices or heads of project offices; for foreigners transferred internally within a company that operates in a sector set out in Vietnam's WTO commitments; Official Development Aid project workers and foreign journalists licensed by Ministry of Foreign Affairs of Vietnam.
- 2) The Ministry of Public Security is instructed not to issue work visas to foreigners who do not have work permits, and to deport foreigners working without a work permit or whose work permit has expired.
- 3) The Departments of Labour have instructed to supply details to the Ministry of Public Security regarding foreigners who have valid work permits.
- 4) Previously under Decree 34, when a foreign employee's work permit was applied to be extended, it was sufficient to state a reason why a Vietnamese worker had not been trained to replace the foreigner. Under the new Decree 46, the work permit extension application of a foreigner must be accompanied by a training contract signed between the employer and a Vietnamese person who will be trained to replace the foreigner.
- 5) Spouses of foreign diplomats cannot work in Vietnam unless there is bi-lateral agreement between Vietnam and the relevant country, and even then he/she will require a work permit.
- 6) Investors must specify in tender invitations their requirements for foreign and Vietnamese workers and the contractors' tender bid must include a corresponding employment plan. Vietnamese workers must be given priority and foreign contractors must obtain work permits prior to coming to Vietnam to work.
- 7) Before recruiting foreign employees, employers must advertise their need for Vietnamese employees in central and local newspapers. International schools and recruitment agencies are exempt from this requirement.
- 8) The Department of Labour has 10 working days, instead of 15 working days, to issue work permits.
- 9) The Department of Labour must be notified within 7 days, instead of 30 days, of the commencement of work by certain (slightly wider) categories of foreigners who do not require work permits.

If you would like to discuss the implications of the above, please contact your usual lawyer at PwC Legal or Veera Mäenpää.