

Alert on Immigration

January 2023



Resolution No. 105/NQ-CP (“Resolution 105”) on supporting enterprises, co-operatives and business households in the context of the Covid-19 pandemic issued on 9 September 2021 provided certain relaxation of measures relating to labour and foreign experts.

The Resolution, became invalid from 1 January 2023 following the guideline of the Resolution No.30/2021/QH15, which asked that all measures (including resolutions, directives, official telegrams, official letters and other type of documents under their competence to regulate and manage the implementation of urgent measures for fulfilment of the epidemic prevention and control task) will be implemented until the end of 31 December 2022.

Given the expiration of Resolution 105, regulations on the issuance, extension and certification of work permits for foreign labour in Vietnam now revert back to the stricter standards mandated by Decree 152/2020/ND-CP dated 30 December 2020, specifically:

1. The bachelor or higher degree now must connect to the job position that the foreign labour will undertake in Vietnam, such that the foreign labour can apply for work permit in the form of “expert”
2. The training field of foreign technicians now has to relate to the role or relevant experience if they want to apply for work permit with the certificate and certificate of experience.
3. Previously issued work permits will no longer be accepted as documentation affirming the experience of an expert or technical worker. As such, even for those who have been working for a long time in Vietnam, they will still need to obtain certificate of work experience from an overseas business in order to apply for a new work permit in Vietnam.
4. Notification when deploying foreign labour who have been granted work permits that are still valid to work in another province or city for a period not exceeding six months without having to re-apply for a work permit is no longer accepted. In this regard, please expect certain challenges from provincial labour authorities when deploying foreign labour to the businesses’ project nationwide, based on the

inconsistency between the work location in work permit and the project’s location.

5. Certified true copy of passport by a Notary public agent will now be required instead of a copy of passport as regulated in Resolution 105. In this situation, the expatriates might need to travel to Vietnam such that they can hand in their passport for certification and apply for work permit after that. This situation will cause a gap between the actual start working date (if the expatriates start working after entering Vietnam) and the start working date as allowed in the work permit.

KPMG's opinion

The expiration of Resolution 105 means that the stricter rules on certain regulations on work permit application mandated by Decree 152 is likely to cause certain difficulties for businesses using foreign labour, and the foreign labour, when applying for work permits at this time. Also during the adjustment period, please expect certain inconsistencies in the conversion back to the regulations in Decree 152 among officials and among provincial labour authorities. It is recommended that the businesses will review the current qualifications and documents of your expatriates to evaluate the impact and make necessary amendment as well as get proper consultation before applying for a new work permit to avoid the disruption of mobility plans and the administrative burden of re-arranging application dossiers.

Additionally, based on the actual situation, the National Assembly might consider to prolong the implementation of the measures regulated in Resolution 105. As such, it is recommended that businesses always stay up to date with the possible changes to adjust your mobility plan accordingly.

Please contact KPMG should you need further discussion on the impact of the changes on the businesses’ mobility plan.

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