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A company of NDTC

FEBRUARY 2020

LEGAL UPDATE



WHAT'S INSIDE THIS
ISSUE:

NEW LABOUR CODE 2019'S
CHANGE IN COMPARISON
WITH LABOUR CODE 2012

New Labour Code 2019 has various changes in comparison with Labour Code 2012

Recently the Vietnamese National Assembly has just passed the new Labour Code No. 45/2019/QH14 dated 20 November 2019 (the “Labour Code 2019”). Particularly, this new Code amends and enhances a number of provisions compares to the previous one.

The new Code expands scope and object adjustment. In comparison with the Labour Code 2012, the scope of the Labour Code 2019 expands to not only the subjects covered by the Labour Code 2012, which are employers and employees within labour relationships but also to employers and employees without a labour relationship with other specified qualities.



Moreover, Labour Code 2019 supplements various provisions regarding Labour Agreement.

First, the Labour Code 2019 removes the content of seasonal contracts or contracts that its terms are less than 12 months. Thus, according to the Labour Code 2019, the laws only confirms on two types of labour contracts that are (i) employment contract with indefinite-term; and (ii) employment contract with definite-term. This change of the new Labour Code has been a significant improvement of the laws since it shows more protection to employees in the case of the employers intently signs the seasonal contracts to shirk responsibilities from paying social insurance obligations.

Second, with the development of science and technology, the labour contracts nowadays are not merely written, verbal or behavioral. Therefore, the new Labor Code has also indicated the form of concluding labor contracts through electronic means with the value of a written labor contract.

Third, while the Labour Code 2012 provided provision accepting employees under seasonal, definite term contract, or employees working for specified jobs less than 12 months has the rights to unilaterally terminate their employment contracts before the contract term, the Labour Code 2019 allows employees to terminate unilaterally their employment contract without any reasons.

However, employees must inform the employers in accordance with the type of contract signed by both parties. Moreover, there are also specified situations that employees may also unilaterally terminate the contract without prior notice.

This change of the Labour Code 2019 is considered as better protection employees and to prevent shortcomings from the application of unilateral cases of contract termination of employees.

Another change shall be mentioned is that the Labour Code 2019 increases the overtime working hours from 30 hours per month (Labour Code 2012) to no more than 40 hours per month. However, this provision only applies for specified business lines such as producing, supplying electricity, telecommunications, oil refining, water supply and drainage, etc.

One of the significant change of the Labour Code 2019 shall be the change of retirement ages. Accordingly, the retirement age for employees in normal working conditions is adjusted according to the roadmap until they reach full 62 years old for male employees in 2028 and 60 years old for female employees by 2035.

From 2021, the retirement age for ordinary employees is 60 years and 3 months old for male employees and 55 years and 4 months old for female employees. After that, it shall increase each year for 03 months for male employees and 04 months for female employees.

The Labour Code 2019 shall be effective on 1 January 2021./

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