

## Highlights of the Trade Union Law 2024

Vision & Associates

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On 27 November 2024, the National Assembly passed Law on Trade Unions 2024 replacing Law on Trade Unions 2012. Law on Trade Unions 2024 will take effect on 1 July 2025.

In comparison with Law on Trade Unions 2012, Law on Trade Unions 2024 has a number of notable new and amended provisions. In particular:

### 1. Members of Vietnam Trade Unions

The new Law allows for the first time foreign workers working in Vietnam under employment contracts with a term of 12 months or more to join and participate in trade union activities at grassroots trade unions in Vietnam.

According to the Charter of Vietnam Trade Unions, trade union members have a number of special rights such as:

- (a) To be informed, discuss, propose and vote on the work of the trade union organization; to run for, nominate and elect the leadership body of the trade union organization; to question trade union officials; to propose disciplinary action against trade union officials who commit violations;
- (b) To be visited and assisted by the trade union when they are sick, in difficulty or in distress; to participate in cultural, sports, entertainment and tourism activities organized by the trade union; to be given priority in studying at schools and classes organized by the trade union; to be guided and assisted by the trade union in finding jobs and learning an occupation;
- (c) Being granted with a trade union membership card and enjoying preferential treatment when using services from trade union institutions and other forms of trade union's association and cooperation;
- (d) Being allowed to stop participating in trade union activities upon retirement, receiving assistance from the grassroots trade union in retirement procedures and from the trade union of the locality where the employee resides in difficulties; being allowed to participate in activities of the retirement club and the retirement liaison committee supported by the trade union; etc.

### 2. Trade Union Finance

Inheriting the provisions of Law on Trade Unions 2012, Law on Trade Unions 2024 stipulates that the monthly trade union fee (paid by trade union members) will remain at one percent (1%) of the salary, while the trade union expenditure (paid by the employer) will be maintained at 2% of the salary fund used as the basis for compulsory social insurance contributions for employees of the enterprise. However, Law on Trade Unions 2024 allows exemption, reduction, and suspension of trade union expenditure payments in the following cases:

- (a) Enterprises, cooperatives, and cooperative unions that are dissolved or bankrupt in accordance with the provisions of law will be considered for exemption of the amount of trade union expenditure not yet paid;

Hanoi Office	Ho Chi Minh City Office
Add: Unit 308-310, Floor 3, Hanoi Towers 49 Hai Ba Trung St., Hoan Kiem Dist., Hanoi, Vietnam Tel: +84-24-3934 0629 Fax: +84-24-3934 0631 Email: <a href="mailto:vision@vision-associates.com">vision@vision-associates.com</a>	Add: Unit 905, Floor 9, CitiLight Tower 45 Vo Thi Sau St., District 1, HCMC, Vietnam Tel: +84-28-3823 6495 Fax: +84-28-3823 6496 Email: <a href="mailto:hcmvision@vision-associates.com">hcmvision@vision-associates.com</a>

Website: <http://www.vision-associates.com>

- (b) Enterprises, cooperatives, and cooperative unions that are facing difficulties due to economic reasons or force majeure events will be considered for a reduction in the trade union expenditure payment level;
- (c) In the case where an enterprise, cooperative or cooperative union encounters difficulties and has to temporarily suspend production and business activities, leading to the inability to pay trade union expenditure; it shall be considered to temporarily suspend payment of trade union expenditure for a period not exceeding 12 months;

and provides that:

- (a) After the suspension period, the enterprise, cooperative or cooperative union shall continue to pay trade union expenditure and make a supplementary payment of trade union expenditure for the period of suspension. The deadline for the supplementary payment is no later than the last day of the month following the month in which the suspension ends. The amount of the supplementary payment shall be equal to the amount payable for the months of suspension;
- (b) The Government shall agree with the Vietnam General Confederation of Labour on regulations on exemption, reduction and temporary suspension of payment of trade union expenditure; and detail other contents of this Article.

### **3. Organizational structure of Vietnam Trade Union**

Developed from the provisions of the Charter of Vietnam Trade Unions, Law on Trade Unions 2024:

- (a) defines “grassroots professional association” as a grassroots organization of Vietnam Trade Union, gathering workers without labour relations, in the same industry, profession or other specific workers, recognized by the direct superior trade union according to the provisions of laws and of the Charter of Vietnam Trade Unions; and
- (b) adds grassroots professional associations to the organizational system of Vietnam Trade Unions, clearly stating that Vietnam Trade Unions are a unified organization including the following 4 levels:
  - (i) Central level is the Vietnam General Confederation of Labour;
  - (ii) Provincial, central sectoral and equivalent trade unions include labour federations of provinces and centrally-run cities (hereinafter referred to as provincial-level labour federations); central sectoral trade unions; economic group trade unions, and general corporation trade unions directly under the Vietnam General Confederation of Labour;
  - (iii) Trade unions directly above the grassroots level include labour federations of districts, counties, towns, provincial cities, and satellite cities in centrally-run cities (hereinafter referred to as district-level labour federations); local sectoral trade unions; economic group trade unions, and general corporation trade unions not falling into the cases specified in Point (ii) above; trade unions of industrial parks, export processing zones, economic zones, and high-tech zones; and other directly above grassroots level trade unions as prescribed in the Charter of Vietnam Trade Unions;
  - (iv) Grassroots level trade unions include grassroots trade unions and grassroots professional associations; and
- (c) affirms that the Vietnam General Confederation of Labour is the sole representative organization of workers on the national level in labour relations.

<b>Hanoi Office</b>	<b>Ho Chi Minh City Office</b>
Add: Unit 308-310, Floor 3, Hanoi Towers 49 Hai Ba Trung St., Hoan Kiem Dist., Hanoi, Vietnam Tel: +84-24-3934 0629 Fax: +84-24-3934 0631 Email: <a href="mailto:vision@vision-associates.com">vision@vision-associates.com</a>	Add: Unit 905, Floor 9, CitiLight Tower 45 Vo Thi Sau St., District 1, HCMC, Vietnam Tel: +84-28-3823 6495 Fax: +84-28-3823 6496 Email: <a href="mailto:hcmvision@vision-associates.com">hcmvision@vision-associates.com</a>
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It should be noted that the organizational structure of the Vietnam General Confederation of Labour mentioned above may not include the organizations of workers and employers mentioned in the new generation of free trade agreements that Vietnam has recently signed, typically the CPTPP and EVFTA. The common point of these agreements is that Vietnam commits to respect, promote and effectively implement the principles of fundamental rights at work, in accordance with its obligations under the International Labour Organization (ILO) and the ILO Declaration on Fundamental Principles and Rights at Work and subsequent actions. Vietnam has ratified 7/8 relevant ILO fundamental conventions and is expected (should have done so by October 2024) to ratify Convention No. 87 on Freedom of Association and Protection of the Right to Organize.

**4. Rights and responsibilities of Trade Unions towards employees in places where there is no organization representing employees at the workplace**

Law on Trade Unions 2024 continues to stipulate that where there is no organization representing employees at the workplace, Trade Unions have the right and responsibility to represent and protect the legitimate and legal rights and interests of employees not only when requested by employees there (*similar to Law on Trade Unions 2012*), but also in the case where the Trade Union discovers that the employer at that place has signs of violating the legitimate and legal rights and interests of employees, except that the organization of dialogue at the workplace and collective bargaining will be implemented in accordance with the labour laws.

**5. Guarantees for trade union members, organizations and activities**

Law on Trade Unions 2024:

- (a) clarifies acts of discrimination against employees and trade union officials for the reasons of establishing, joining or participating in trade union activities, including:
  - (i) Requesting to join, not to join or leave the Vietnam Trade Unions in order to be recruited, enter into or extend an employment contract or work contract;
  - (ii) Dismissal, application of disciplinary measure, unilateral termination of an employment contract or work contract; not continuing to enter into or extend an employment contract or work contract; transfer of employees to other jobs;
  - (iii) Discrimination in terms of wages, bonuses, benefits, working hours, other rights and obligations in labour;
  - (iv) Discrimination based on gender, ethnicity, religion, belief and other discrimination in labour;
  - (v) Providing false information to undermine the prestige and honour of trade union officials;
  - (vi) Promising or providing material or non-material benefits so that employees or trade union officials do not participate in trade union activities, stop working as trade union officials; or acting against the Trade Union;
  - (vii) Dominating, obstructing or causing difficulties related to work in order to weaken trade union activities;
  - (viii) Other acts as provided for by law.
- (b) strictly prohibits not only the use of economic or other measures that are detrimental to the Trade Union organization as already provided for in Law on Trade Unions 2012 but also the use of mental threats; interfering with or manipulating the process of establishing and operating the Trade Union, weakening or invalidating the implementation of the functions, tasks, rights and responsibilities of the Trade Union; and

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- (c) retaining the provisions of Law on Trade Unions 2012 on the case where an employee who is a non-professional trade union official is terminated by the employer with an employment contract or work contract, forced to quit or illegally dismissed, the Trade Union has the responsibility to request the competent State agency to intervene or the legal representative to initiate a labour lawsuit at a Court to protect the legitimate rights and interests of the trade union official; but adding a provision on an exceptional case where the trade union official refuses. In addition, the new Law also allows non-professional trade union officials to be supported by the Trade Union to find new jobs in the case where they cannot return to their old jobs, and during the period of job interruption, they will be financially supported by the trade union's financial resources according to the regulations of the Vietnam General Confederation of Labour./.

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Add: Unit 308-310, Floor 3, Hanoi Towers 49 Hai Ba Trung St., Hoan Kiem Dist., Hanoi, Vietnam Tel: +84-24-3934 0629 Fax: +84-24-3934 0631 Email: <a href="mailto:vision@vision-associates.com">vision@vision-associates.com</a>	Add: Unit 905, Floor 9, CitiLight Tower 45 Vo Thi Sau St., District 1, HCMC, Vietnam Tel: +84-28-3823 6495 Fax: +84-28-3823 6496 Email: <a href="mailto:hcmvision@vision-associates.com">hcmvision@vision-associates.com</a>

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