

LEGAL UPDATES

July 2022

What's new this month?

A long-awaited
minimum wage
increase has finally
come

Notable updates on
regulations on
industrial zones



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- Contributed by Benjamin Yap Soon Tat and Dang Thi Tuong Vi -

Minimum wage increase and notable updates on regulations on industrial zones

to be effective from July 2022

The highlights of this July's legal updates are Decree No. 38/2022/ND-CP of the Government dated 12 June 2022 and Decree No. 35/2022/ND-CP of the Government dated 28 May 2022. In brief, those legal documents increase the region-based minimum wages and provide some updates on regulations on industrial zones.

A long-awaited minimum wage increase has finally come

After two years of remaining unchanged, Vietnam's minimum wages are to increase as of this 1 July pursuant to Decree No. 38/2022/ND-CP of the Government ("**Decree 38**"). There are also some notable points regarding the application of minimum wage in Decree 38 to which both employers and employees should pay attention.

6% increase in monthly minimum wages and the introduction of hourly minimum wages

The region-based monthly minimum wages in Decree 38 will increase slightly by 6%, compared with the applicable ones under Decree No. 90/2019/ND-CP ("**Decree 90**"). Accordingly, the increase in regional monthly minimum pays ranges from VND180,000 to VND260,000, depending on the applied regions, with details as follows:

Regions	Monthly minimum wages per employee under Decree 90	Monthly minimum wages per employee under Decree 38
Region I	VND4,420,000	VND4,680,000
Region II	VND3,920,000	VND4,160,000
Region III	VND3,430,000	VND3,640,000
Region IV	VND3,070,000	VND3,250,000

As a result of the increase in the monthly minimum wages above, the capped monthly salaries for unemployment insurance contributions, which equals 20 times the regional monthly minimum wages, will rise accordingly. For instance, from 1 July 2022 onwards, the maximum monthly salary of region I for unemployment insurance contributions increases from VND88.4 million to VND93.6 million.

Besides the monthly minimum wages, Vietnam introduces the regional hourly minimum wages in Decree 38, aiming to protect the interests of employees paid on an hourly basis. Specifically, the hourly minimum wages of regions I - IV are VND22,500, VND20,000, VND17,500 and VND15,600 respectively.

Furthermore, Decree 38 requires that weekly/daily salaries or salaries calculated on the basis of products produced or pieces of work completed, if converted to monthly or hourly salaries, must not be lower than the statutory monthly or hourly minimum rates. The employers shall decide at their own discretion whether to convert such salaries to monthly or hourly rates with guidance on conversion methods provided in Decree 38.



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Changes to regional classification

Regions I - IV, in which specific minimum wages are applied, are defined based on administrative units in the enclosed annex of Decree 38. Compared with Decree 90, there are upgrades in some areas as below:

- *From region II to region I:* Ha Long City of Quang Ninh Province and Xuan Loc District of Dong Nai Province;
- *From region III to region II:* Quang Yen and Dong Trieu Town of Quang Ninh Province, Hoa Binh City and Luong Son District of Hoa Binh Province, Vinh City, Cua Lo Town, Nghi Loc and Hung Nguyen District of Nghe An Province, Hoa Thanh Town of Tay Ninh Province, Vinh Long City and Binh Minh Town of Vinh Long Province, and Bac Lieu City of Bac Lieu Province;
- *From region IV to region III:* Van Don, Hai Hai, Dam Da and Tien Yen District of Quang Ninh Province, Quynh Luu, Yen Thanh, Dien Chau, Do Luong, Nam Dan and Nghia Dan District, Thai Hoa and Hoang Mai Town of Nghe An Province, Mang Thit District of Vinh Long Province, and Hoa Binh District of Bac Lieu Province.

Takeaway for employers

The employers are required to review current agreements in labour contracts, collective labour agreements and policies for the purpose of compliance with Decree 38. Additionally, the employers must not cut or reduce any overtime pay, nightshift pay, payment in kind and other benefits of the employees in accordance with labour regulations.

Decree 38 also clarifies that the agreed contents in executed labour contracts, collective labour agreements and other lawful agreements, which are more favourable to the employees than those provided in Decree 38 shall remain valid unless otherwise agreed between the employers and employees.

Notable updates on regulations on industrial zones

On 28 May 2022, the Government enacted Decree No. 35/2022/ND-CP on the management of industrial zones and economic zones ("**Decree 35**"), which shall replace the prevailing Decree No. 82/2018/ND-CP ("**Decree 82**") from 15 July 2022. Decree 35 generally inherits the governing spirit of the former in regulating industrial zones and economic zones but also has many notable updates. Below are some highlights among such updates of Decree 35.

Individuals allowed to stay and temporarily reside in industrial zones

Generally, both decrees do not allow inhabitants to reside in industrial zones ("**IZs**") save for certain exceptions. Under Decree 82, only foreigners who work as managers, chief executive officers and experts of companies in such IZs may be allowed to temporarily reside within the IZs. Meanwhile, Decree 35 expands such list and allows (a) foreign experts and foreign employees (including managers and chief executive officers) and (b) Vietnamese experts and Vietnamese employees to stay in IZs.

Converting industrial zones into urban - service areas

Decree 35 has introduced conditions which must be satisfied when a part or the whole IZ is converted into urban-service areas:

- The conversion conforms with the planning;
- The targeted IZ must be within the inner areas of urban centers classified as special and grade I;
- The targeted IZ has operated for at least 15 years or half of its operation term;
- The conversion is agreed by the developer and more than 2/3 of the enterprises located therein; and
- The conversion can bring economic, social and environmental efficiency.

The conversion of an IZ into an urban - service area shall be proposed by the People's Committee. Within 45 days upon receipt of the proper dossier, the Ministry of Planning and Investment shall evaluate the proposal and submit the dossier to the Prime Minister for final decision.



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