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**- Updates and Key Considerations -**  
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## Decree No. 88/2020/ND-CP dated 28 July 2020 Elaborating Some Articles of Law on Occupational Safety and Health Regarding Compulsory Insurance for Occupational Accidents and Occupational Diseases (“Decree 88”)

Decree 88 will officially replace Decree No. 37/2016/ND-CP (“Decree 37”) from 15 September 2020. Notable changes under the Decree 88 that employers and employees should know are set out below.

### 1. Reducing Conditions for Enjoying Financial Support in Examination and Treatment of Employees’ Occupational Diseases

- (a) Decree 88 relieves the requirements for the employers to receive support for the costs of examination and treatment of employee’s occupational disease. In particular:
- In case of examination of employee’s occupational disease: removing condition of organisation of environment monitoring by employer;
  - In case of treatment of employee’s occupational disease: removing condition on organisation by employer of examination and detection of occupational disease for employee.
- (b) The conditions for employers to receive supports for the costs of examination and treatment of employee’s occupational disease are as follows:
- Premiums have been paid to the Labour Accident Insurance Fund for the employee for at least 12 months and the employee is still participating in such insurance as at the month immediately preceding the month when the employee requests the support;
  - The employee has been diagnosed by an occupational disease clinic as having an occupational disease;
  - Only in case of treatment of employee’s occupational disease, the employee

participated in compulsory social insurance during the time he or she worked in the trade or job with a danger of contracting an occupational disease.



### 2. Cap of Financial Support

According to Decree 88, financial support for the costs of examination and treatment of employee’s occupational disease shall be limited to:

- (a) **VND800,000** (instead of one third of base salary as provided under the old Decree 37) per person per time of occupational disease **examination**; and
- (b) **VND15,000,000** (instead of 10 times of base salary as provided under the old Decree 37) per person for occupational disease **treatment**.

### 3. Financial Support for Employees after Having Retired or No Longer Working in Trade or Job with Danger of Contracting Occupational Diseases

Decree 88 supplements relatives of employees as beneficiary of this kind of financial support. It is an improvement in reflection of the practice that the relatives are the ones being directly impacted by the employee’s occupational disease.

## Decree No. 91/2020/ND-CP Dated 14 August 2020 Regulating Anti-Spam Text Messages, Emails and Calls (“Decree 91”)

On 14 August 2020, the Government promulgated Decree 91 replacing Decree No. 90/2008/ND-CP dated 13 August 2008 and Decree No. 77/2012/ND-CP dated 5 October 2012 on Anti-spam with effect from 1 October 2020.

Decree 91 is an essential part to complete the legal framework governing anti-spam and an important instrument for eliminating spam text messages, emails and calls which have been disturbing users for a long time. Decree 91 is also meaningful in making a healthier domestic telecommunications market in Vietnam.

Below are certain highlights of Decree 91.

### 1. Clearer Definitions of Spam Text Messages, Emails and Calls

A remarkable point of Decree 91 is to provide clear definitions of spam text messages, spam emails, and spam calls. Generally, all text messages, emails, and calls with advertising content sent to users without their prior consent or falling within prohibition by laws will be considered as “spam”. This is a basic ground for communication network operator to rely on to manage spam text messages, emails, and calls, which are still quite “blur” in the prevailing regulations.

Some major principles set out under Decree 91 are as follows:

- (a) Each advertiser is not permitted to send more than three advertising text messages to one telephone number, three advertising emails to one email address and to make one advertising telephone call to one telephone number within 24 hours, unless the user/recipient otherwise agrees;
- (b) Advertisers are permitted to send advertising text messages from 7am until 10pm, and make advertising telephone call from 8am until 5pm, unless the user/recipient otherwise agrees;
- (c) Advertisers are only permitted to send advertising text messages or to make advertising telephone calls after having been issued with a brand name and those advertisers are not permitted to use telephone numbers in order to send advertising text messages or to make advertising telephone calls.

Decree 91 also provides, among others, specific requirements applied separately to advertising text messages, emails and telephone calls. For example, it is required to label advertising text messages/emails as [QC] or [AD], or to make available the opt-out function to refuse to receive advertising text messages/emails, etc.



### 2. Measures for Prevention of Spam Text Messages, Email and Calls

- (a) The Ministry of Information and Communications (Information Security Department) (the “MIC”) is responsible for establishment of the following systems for prevention of spam text messages, email and calls:
  - System for receiving reports on spam text messages, spam calls and spam emails; and
  - The national data system with a list of subscribers who refuse to receive all advertisements (*Do Not Call List*) which allows users to register onto or to withdraw from the above-mentioned list and advertisers and telecom and



internet service providers are not permitted to send advertising message or to make advertising call to any telephone number in the List.

- (b) Blacklist of IP addresses that distribute spam email

The MIC formulates, updates and publishes on its website Blacklist of IP addresses/domains.

- (c) Annual reports and one-off reports to the MIC of (i) entities granted brand name and (ii) telecom enterprises providing text messaging services.



### 3. Enhancement of Administrative Penalties

Decree 91 significantly raises the monetary levels in case of violations. Among others, specifically the following:

- (a) The penalties for advertising without prior consent may be from VND5,000,000 to VND100,000,000 and revocation of the phone number, email account used for committing such violation;
- (b) The fine for failure by telecommunications and internet service enterprises of taking measures to prevent spam text messages, calls or advertising emails to users may be up to VND170,000,000.

## Decree No. 94/2020/ND-CP Dated 21 August 2020 Regulating Preferential Regime and Policies Applicable to National Innovation Centre (“Decree 94”)

On 2 October 2019, the Vietnam’s Prime Minister issued Decision No. 1269/QĐ-TTg (“**Decision 1269**”) relating to the setting-up of Vietnam National Innovation Centre (NIC) with an aim at supporting and promoting the start-ups ecosystem in Vietnam as well as innovating the growth model based on science and technology development.

Following Decision 1269, Decree 94 was promulgated on 21 August 2020 to provide a number of preferential regimes and policies applicable to the NIC and individuals and entities operating at the NIC and partners supporting the innovations of the NIC. Below are highlights of the prominent incentives under Decree 94 which will take effect from 5 October 2020.

### 1. Incentives Applicable to Individuals

Decree 94 provides that investors, experts and workers being Vietnamese residing overseas or foreigners who work at the NIC together with their family members (including parents, spouse, and children under the age of 18) may be entitled to multiple-entry visa with validity period appropriate to their working duration at the NIC in accordance with guidance of the Ministry of Public Security.

In addition, work permit for experts being Vietnamese residing overseas and foreigners will be issued following a licensing procedure which is much simpler than before.



### 2. Incentives Applicable to Innovative Start-ups

Under Decree 94, a wide range of incentives will be applicable to innovative start-ups operating at the NIC (the “**Innovative Start-ups**”). Innovative Start-ups may be either entrepreneurs or enterprises which are defined as below.

*Innovative Start-up being Entrepreneur* means a person who researches and develops ideas and sells new products, services or business models.

*Innovative Start-up being Enterprise* means an enterprise established in accordance with law in order to implement ideas on the basis of exploiting intellectual property, new technology and new business models being able to grow rapidly.

#### (a) Financial Incentives

Innovative Start-ups will be entitled to the following financial incentives:

- investment credit for investment projects from Vietnam Development Bank;
- funds, loans and loan guarantees from certain national and provincial foundations\* for science and technology development;
- funds from sponsored research programs of the Government and other domestic and foreign enterprises, organisations and individuals; and
- tax incentives with the greatest extent.

(\* *National foundations include National Technology Innovation Fund, National Foundation for Science and Technology Development, and Small and Medium Enterprise Development Fund.*



(b) Licensing Procedures

Enterprise registration certificate of Innovative Start-ups will be granted within one working day (instead of three working days as normal) upon receipt of the full and valid application file by the licensing authorities.

Innovative Start-ups will also be given with priority in procedures for applying for industrial property rights.

(c) Tender Evaluation

Innovative Start-ups being *enterprises* when participating in tendering for packages governed by the Law on Tendering shall be exempted from certain criteria for investor assessment including requirements on turnover, financial resources, similar contracts and other requirements.

Contractors being small and micro-start-up enterprises operating at the NIC shall be entitled to the same incentives/preferences as being granted to a contractor providing goods costs for domestic production of which account for 25% or more in accordance with the Law on Tendering.

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