International Labour Organization



Get to know your new Labour Code 2019

Working hours, rest hours and leave

Viet Nam has modernised its Labour Code to better protect workers' rights, reduce unnecessary bureaucracy for employers, and help support the Government's drive for international integration, economic growth and prosperity for all. The new law, which was passed by the National Assembly in November 2019, is the result of extensive consultations with experts, national and local stakeholders, and the public at large. It will come into effect in January 2021.

This information sheet is an introduction to the rules in the Labour Code 2019 on working hours, rest hours and leave.

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Normal working hours

The Labour Code establishes 'normal working hours' for employees of 8 hours per day and 48 hours per week. These are the maximum number of hours that an employee can be required to work in normal conditions. These hours do not attract higher pay rates unless some of these normal hours are worked at night (between 10 pm and 6 am the next day).

The employer can choose to set normal working hours on a daily or weekly basis but must inform employees of this choice. Where the employer chooses to apply the legal maximum weekly working, ordinary hours of work must not exceed 10 hours per day and 48 hours per week.

The employer is free to set normal working hours below the maximums in the law but cannot set them higher in normal circumstances. The Labour Code explicitly states that the 'State encourages employers to implement a 40-hour working week for workers.'

Normal working hours for work of a special nature

Work of a 'special nature' is subject to separate regulations, setting different maximum hours of work and rest periods. These regulations will be issued by responsible ministries, in agreement of MoLISA. Some of these types of work are listed in the Labour Code such as work relating to transportation, offshore installations, nuclear techniques, information technology, and work requiring 24-hour-duties and others will be detailed in government regulations.

There are also lower maximum hours of work for minor workers [see Information Sheet: Minor Workers].

Overtime work

Overtime is time worked above the worker's normal working hours as regulated by the law, or by collective bargaining agreements (CBAs), internal work regulations or the worker's individual employment contract. Where a CBA comes into effect and sets lower normal working hours than those in the worker's individual contract or in internal regulations, the individual contract and regulations must be amended to align with the CBA.

Generally, an employer can request a worker to work overtime, up to a maximum limit set in the law, and the worker has the right to agree or decline that work. However, in a limited set of situations, the worker has no right to refuse and/or the maximum limit does not apply. These circumstances are explained below.

Overtime rules in ordinary circumstances: An employer has the right to request that an employee work overtime up to the maximum hours shown in the table, and the employee can choose to consent to or decline the request. **The general annual maximum is 200 hours.**

Box 1: Types of work to which a 300-hour maximum overtime per year limit is applied

1. The production and processing of export-oriented textiles, garments, leather products, shoes, electric and electronic components, or agricultural, forestry and seafood products;
2. The production and supply of electricity, telecommunications, oil refining; water supply and drainage;
3. Work that requires employees with high technical and professional qualifications that cannot be supplied by the labour market in sufficient numbers and in a timely manner;
4. Work that is required to be performed urgently, because of its seasonal nature or the availability of raw materials or products; or to address problems due to unforeseen factors, such as weather, natural disasters, enemy sabotage, fires, lack of electricity or raw materials, or technical problems on production lines.
5. Other types of work as prescribed by the Government.

Note: In cases where the employer proposes to apply a 300-hour maximum overtime limit, the employer must notify the local Department of Labour, Invalids and Social Affairs in writing.

Period	Maximum overtime
Per day	50% of the daily ordinary working hours.
Per week (where working hours are set on a weekly basis)	Total ordinary working hours and overtime must not exceed 12 hours per day and total overtime must not exceed 40 hours per month.
Per year	200 hours, except in certain types of work where a 300 hour limit is applied.

Extended overtime in specified sectors and types of work: The Labour Code sets out a list of areas of work where the 200-hour annual overtime limit is **extended to 300 hours per year.** The employee can still choose to consent to or decline the request (see Box 1).

Overtime in 'ad-hoc cases': An employer has the right to ask an employee to work overtime on any day, without any maximum limitation, if:
- where the work is required for the purposes of national security or national defence in an emergency situation. The employee cannot refuse to work overtime for this case.
- where necessary and urgent tasks are required to prevent loss of life or assets of agencies, organizations or individuals in the case of prevention of and/or recovery from natural calamities, fires, epidemics and other disasters. The employee can only refuse to work overtime for this case if the work poses a risk to their life and health, in accordance with the law on labour safety and hygiene.

Overtime restrictions for particular workers: Special limitations on overtime applied to particular groups of workers.
- **Female workers who are 7 months pregnant** (6 months when working in a mountainous, remote, border or island region) cannot be required to perform night work or overtime work.
- **Female workers who are raising a child under 12 months** must not be required to perform night work or overtime work but can consent to do so.
- **Workers from 15 years of age** but under 18 years of age can undertake overtime and nightwork only in work areas listed by MoLISA.
- **Workers under 15 years of age** may not undertake overtime or night work.

Workers with mild impairments that reduce their working capacity to 51% or above, and workers with serious impairments or particularly serious impairments cannot be required to work overtime or work at night, but can consent to do so.

Overtime and night wage rates

Workers are entitled to a higher rate of pay when they work overtime or at night:

Type of work	Minimum overtime rate (as percentage of ordinary rate of pay):
Overtime on a normal working day	150%
Overtime on a normal working day on a weekly day off	200%
Overtime on a normal working day on a public holiday or paid leave day	300%
Night work	130%
Overtime night work	The above-mentioned overtime rate plus 20% of the normal working day

Rest time

Rest times include rests within the working day, such as breaks and lunch periods, as well as regular time off between working periods, such as a weekly day off. Leave arrangements are dealt with in the following section.

Rest breaks within a work shift: The minimum number and duration of rest breaks is calculated according to the employee's working time and/or shift type:

Working time or type of shift	Minimum break time	Break included/ not included as working hours
Minimum normal working hours of 6 or more	30 minutes	To be determined by the employer
Night work	45 minutes	To be determined by the employer
Shift work	30 (if working at day time) or 45 minutes (if working at night)	Included as working hours
Additional breaks required		
Each working day of female employee's menstruation period	30 minutes	Included as working hours (paid)
When female employee raising a child under 12 months	60 minutes	Included as working hours (paid)

Weekly rest days: An employee is entitled to at least one day off (24 consecutive hours) per week. An employee who performs shift work is entitled to a break of at least 12 hours between shifts.

Where the worker performs work according to a special production cycle (in which a weekly day off is impossible due to the nature of the work), he or she is entitled to an average of at least 4 days off per month.

The employer has the right to determine the weekly day off. The weekly day(s) off can be any day of the week, but must be specified in Internal Regulations. Where a weekly day off coincides with a public holiday, the employee is entitled to take the following day off in lieu of their weekly day off.

Public holidays, annual leave, maternity and parental leave, personal leave

The Labour Code also regulates other leave entitlements for employees: legally stipulated public holidays, annual leave entitlements, plus maternity and other personal leave entitlements. Additional leavel entitlements that workers may have, such as paid sick leave, are not addressed in this Information Sheet.

Public holidays: Employees are entitled to take leave on the following public holidays, with full pay:

- 1 day for the Gregorian Calendar New Year (1 January)
- 5 days for Lunar New Year
- 1 day for Victory Day (30 April)
- 1 day for May Day (1 May)
- 2 day for National Day (2 September and one day before or after that date)
- 1 day for King Hung's anniversary (10 March Lunar Calendar)

The Prime Minister will regulate details for lunar new-year and National Day annually.
Expatriates working in Vietnam are entitled to 1 additional public holiday and 1 traditional national day of their country, in addition to the public holidays listed above.

Annual leave: Employees have the following annual leave entitlements, with full pay. Employees employed for less than 12 months are entitled to annual leave calculated on a pro-rata basis. The employer has the right to set the timetable for annual leave after consultation with employees, and must give employees advance notice.

Annual leave and travel day entitlement	
Annual leave entitlement and travel days for workers in normal working conditions	12 days
Minor workers Workers with disabilities Workers performing heavy or hazardous or toxic work (as stipulated by the Government)	14 days
Workers performing extremely heavy or hazardous or toxic work (as stipulated by the Government).	16 days
Employees who complete 5 years of employment with the same employer.	1 additional day of annual leave for each 5-year period completed
Employee who takes annual leave by road, railway or waterway (the Government shall regulate details on this).	Where the duration of the round-trip is over 02 days, the 3rd and further days of travel will not count as annual leave, but as travel day(s). Such travel day(s) is calculated once per year.
Employees with unused leave at the end of the employment	Pay for any untaken leave days

Maternity and paternity leave: A female employee is entitled to a total of 6 months pre-natal and post-natal leave. In case of a multiple birth, the employee is entitled to an additional 1 month per additional child. The maximum pre-natal period of leave is 2 months. A female employee is also entitled to maternity benefits as regulated by the Law on Social Insurance.

A female employee may elect to return to work after a minimum period of 4 months parental leave, with advance notice and the agreement of her employer. In this case, in addition to the wage, the employee is entitled to continue to receive any maternity benefits in accordance with the law on social insurance.

A male employee whose wife gives birth or a worker adopts a child under the age of 6 months, or a female employee as the surrogate mother and the intended mother is entitled to take leave in accordance with the law on social insurance.

Note: an employer cannot unilaterally terminate an employment contract while a worker is pregnant or on maternity leave or raising a small child under 12 months old, on annual leave, personal leave, or any other type of leave permitted by the employer.

Personal leave and family leave: Employees are entitled to paid or unpaid leave in a number of special circumstances, as follows:

Employees must inform the employer before taking unpaid leave. Employees may negotiate additional unpaid personal leave with their employer.

Reason	Paid leave	Unpaid leave
Marriage	3 days	
Children's marriage, including adoptive children	1 days	
Death of parents or foster parents; spouse's parents, spouse, son or daughter, foster son or daughter	3 days	
Death of a grandparents or sibling		1 days
Marriage of the workers' father, mother or sibling		1 days





For more information

This leaflet describes the basic rights and duties provided under the Labour Code 2019. More details all of the above matters, are set out in the following chapters of the Code: Chapter I: General Provisions; Chapter III: Employment Contract; Chapter VI: Wage; Chapter VII: Working Hours and Rest Periods; Chapter X: Separate Provisions Concerning Female Employee and Assuring Gender Equality.

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