



# Special Alert

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## The policies to support employers and employees impacted by the Covid-19 pandemic in Vietnam

On 7 July 2021 (the “**Effective Date**”), the Prime Minister issued Decision No. 23/2021/ND-CP to guide implementation of the policies to support employers and employees directly impacted by the Covid-19 pandemic (“**Decision 23**”). Decision 23 has specifically regulated the implementation of the policies as listed in Resolution 68<sup>1</sup>.

### Supporting policies for employers

#### *Policy for the reduction in insurance rate for occupational accidents and diseases*

The rate of contribution to the Occupational Accidents and Diseases Fund (the “**OAD Fund**”) is 0% of the salary fund used as the basis for paying social insurance premiums, which is applied for twelve (12) months from 1 July 2021 to the end of 30 June 2022. The employers are entitled to use the reduction in contributions to the OAD Fund to support their employees against the COVID-19 pandemic.

#### *Supporting policy for the suspension of contribution to the retirement and death fund*

(a) Conditions for assistance

The employer had fully paid social insurance premiums or had temporarily ceased contributing to the Retirement and Survivorship Fund (the “**RS Fund**”) until the end of April 2021 and is affected by the COVID-19 epidemic resulting in a reduction of 15% or more of

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<sup>1</sup> Resolution No. 68/NQ-CP was issued by the Government on 1 July 2021 (“**Resolution 68**”).

the number of its employees participating in social insurance as at the time of submitting the application file as compared to April 2021, including:

- ✓ The number of employees whose labor contracts were terminated in accordance with the Labor Code 2019<sup>2</sup>, less the number of new employees entering into labor contracts in the period from 1 May 2021 until the date on which the employer submits the application;
- ✓ The number of employees currently temporarily suspending performance of their labor contracts for a period of fourteen (14) or more working days in a month;
- ✓ The number of employees currently on unpaid leave for a period of fourteen (14) working days or more in a month;
- ✓ The number of employees who have stopped working for fourteen (14) working days or more in a month.

The number of employees participating in social insurance for whom the reduction as aforementioned only include people working pursuant to work contracts, people working pursuant to labor contracts with an indefinite term or a definite term of a full month or more, and enterprise managers and executive managers of co-operatives receiving salary; but excluding employees who stopped work to take their pension from 1 May 2021.

(b) Period for ceasing contribution to the RS Fund

Employees and employers satisfying all the conditions prescribed in Item (a) above are permitted to temporarily cease contributing to the RS Fund for six (6) months calculated from the month in which the employer submits the application dossier.

For cases which are settled in accordance with Resolutions of the Government No. 42/NQ-CP dated 9 April 2020 and No. 154 dated 19 October 2020, and are fully satisfied and are approved to settle under Decision 23, then the total duration of temporarily ceasing contributions to the RS Fund because of the adverse impact of COVID-19 shall not exceed twelve (12) months.

(c) Procedures for implementation

- ✓ As from the Effective Date until the end of 30 June 2022, the employers may submit an application as stated in Decision 23 to the social insurance office in the locality where the employer participates in social insurance, and at the same time send one copy of the application to the Department of Labor, War Invalids and Social Affairs (“**DOLISA**”) for monitoring and supervisory purposes;
- ✓ Within five (5) working days after receipt of an application, the social insurance office

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<sup>2</sup> Labor Code No. 45/2019/QH14 was promulgated by the National Assembly on 20 November 2019 (the “**Labor Code 2019**”).

shall resolve an application to temporarily cease contributing to the RS Fund and in a case of refusal shall provide a written response setting out its reasons.

*Loan policy to pay salaries for employees ceasing working and salaries for production recovery*

(a) Conditions for borrowing loans

*Employers are permitted to borrow loans in order to pay salaries to employees who cease work when the employers satisfy the following conditions:*

- ✓ Having the employees working pursuant to a contract who are participating in compulsory social insurance up to the month preceding the time such employees ceased working, and they had to stop work for fifteen (15) or more consecutive days as prescribed in Article 99.3 of the Labor Code 2019 within the period from 1 May 2021 up until the end of 31 March 2022;
- ✓ Not having any bad debts at a credit institution or foreign bank branch as at the time of the loan application.

*Employers are permitted to borrow capital to pay salaries to employees when recovering production and business, on satisfaction of the following conditions:*

- ✓ In the case of an employer who had to suspend its operation at the request of a competent authority to prevent Covid-19 in the period from 1 May 2021 up until the end of 31 March 2022: (i) the employer has to suspend operation during the period from 1 May 2021 to 31 March 2022 by order of the competent authority to prevent and fight the COVID-19 pandemic; (ii) having employees working pursuant to a contract and participating in compulsory social insurance as at the time of the request for the loan; (iii) having a plan on recovery of business or production; and (iv) not having any bad debts at a credit institution or foreign bank branch as at the time of the request for the loan;
- ✓ In the case of employers operating in the sectors of transport, aviation, tourism, accommodation services, or sending Vietnamese workers to work overseas pursuant to a contract in order to recover/restore production or business: (i) having employees working pursuant to a contract and participating in compulsory social insurance as at the time of the request for the loan; (ii) having a plan on recovery/restoration of business or production; and (iii) not having any bad debts at a credit institution or foreign bank branch and having completed tax finalization for year 2020 as at the time of the request for the loan.

(b) Loan, loan term and disbursement term

*In the case of a loan to pay salary for employees ceasing work, the maximum amount of the*

loan shall equal the regional minimum wages for all the relevant employees as at the time of actual payment of such wages, for a maximum of three (3) months, with the term of the loan to be less than twelve (12) months.

*In the case of a loan to pay wages for employees on recovery of production*, the maximum amount of the loan shall equal the minimum regional wages for the employees currently working pursuant to a labor contract; the maximum time of entitlement to this assistance shall be three (3) months, and the term of the loan shall be less than twelve (12) months.

Disbursement of the loan by the Social Policies Bank shall be made on one occasion to the employers for the months of May, June and July 2021; and *the disbursement term* shall be until the end of 5 April 2022, or when disbursement of VND7.5 billion as refinanced by the State Bank of Vietnam has been completed, whichever comes first.

(c) Procedures for implementation

- ✓ The employer shall itself prepare and declare a list of employees who have ceased work and were working pursuant to a contract and who participated in compulsory social insurance, and shall be legally liable for the truthfulness and accuracy of same; such list to include employees involved in the restoration of production or business, and the wages paid to same; and employers shall be responsible to fully repay the loan on time to the Social Policy Bank and shall be liable for declaring satisfaction of the conditions under Decision 23;
- ✓ The employer shall then request the social insurance office to confirm the list of employees participating in social insurance, and within a further two (2) working days such social insurance office is responsible to provide confirmation as the basis for the Social Policy Bank to make the loan;
- ✓ The employer then sends its loan application to the Social Policy Bank in the locality where it has its headquarters, branch, representative office or business location, or in the locality of residence in the case of a family business or individual applicant. Such applications shall be received up until the end of 25 March 2022;
- ✓ Within four (4) working days after receipt of a complete loan application from an employer, the Social Policy Bank shall provide loan approval, and in case of refusal shall provide the employer with a written response setting out the reasons;
- ✓ Within three (3) working days after the date of receiving refinancing, the Social Policy Bank shall disburse the loan funds to the employer.

## Supporting policies for employees

### *Supporting policy for employees on suspension of employment contracts or unpaid leave*

(a) Eligible entities and conditions for assistance

Employees working at enterprises, cooperatives, public professional units, educational institutions<sup>3</sup> who must temporarily suspend their activities at the request of the competent authority in order to prevent Covid-19 will be assisted on satisfaction of the following conditions:

- ✓ They suspend performance of their labor contract or take unpaid leave during the term of their labor contract for fifteen (15) or more consecutive days within the period from 1 May 2021 until the end of 31 December 2021 and the time of their commencing to suspend performance of their labor contract or taking unpaid leave also falls within that period of 1 May 2021 up until the end of 31 December 2021;
- ✓ They participated in compulsory social insurance in the month immediately preceding the time when they suspended the performance of their labor contract or took unpaid leave.

(b) Amount of assistance and method of payment

*Amount of assistance includes:*

- ✓ VND1,855,000 per employee suspending performance of his or her labor contract or taking leave without pay for fifteen (15) consecutive days or more to less than one month (30 days);
- ✓ VND3,710,000 per employee suspending performance of his or her labor contract or taking leave without pay for one (1) month (30 days) or more;
- ✓ Pregnant employees shall receive additional assistance of VND1,000,000 per person; and employees raising their own or adopted children or taking care of children under the age of six shall receive an additional VND1,000,000 per child under six years of age and this assistance is provided to only one person being either parent or the caregiver of the child under six years of age.

*The method of payment:* on-off payment to the employee.

(c) Procedures for implementation

- ✓ The enterprises, cooperatives, public professional units, educational institutions must request the social insurance agency to certify that the employees are participating in social insurance. Within two (2) working days after receipt of such request, the social insurance office is responsible to provide such certification;

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<sup>3</sup> Employees working at enterprises, cooperatives, public professional units which cover their own recurrent expenditure or costs of investment and recurrent expenditure, and public and private educational institutions at the pre-school, kindergarten, elementary, high school and vocational education levels (hereinafter all abbreviated as enterprises, cooperatives, public professional units, educational institutions).

- ✓ The enterprises, cooperatives, public professional units, educational institutions concerned then send the application as stated in Decision 23 to the District People's Committee (“DPC”) in the locality where the employer has its headquarters, and the deadline for receiving application dossiers is the end of 31 January 2022;
- ✓ Within two (2) working days after receipt of a complete application file, the DPC evaluates the dossier and makes a submission to the Provincial People's Committee (“PPC”);
- ✓ Within two (2) working days after receipt of a complete application dossier, the PPC issues a decision approving the list of employees and funding, and at the same time directs provision of such assistance. In a case of refusal to approve the list, the PPC shall provide a written response setting out its reasons.

### *Supporting policy for employees ceasing working*

#### (a) Eligible entities and conditions for assistance

Employees shall be assisted when they satisfy both of the following conditions:

- ✓ The employees work in accordance with the labor contract regime and ceases work as prescribed in Article 99.3 of the Labor Code 2019<sup>4</sup> and the employee is subject to medical isolation/quarantine or isolation in a lockdown area at the request of a competent State agency for fourteen (14) days or more within the period from 1 May 2021 to the end of 31 December 2021;
- ✓ The employees participated in compulsory social insurance in the month preceding the month in which the employee ceases work as prescribed in Article 99.3 of the Labor Code 2019.

#### (b) Amount of assistance and method of payment

*Amount of assistance includes:*

- ✓ The amount of assistance is VND1,000,000 per person;

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<sup>4</sup> Article 99.3 of the Labor Code 2019 regulates as follows:  
 “If there is a breakdown in electricity or water through no fault of the employer or due to a natural disaster, fire, dangerous epidemic, enemy destruction, relocation of operational address pursuant to a request of the competent State authority or for economic reasons, then the two parties shall reach agreement on the level of wages for ceasing work as follows:  
 (a) If work was ceased for fourteen (14) or less working days, then the wage for ceasing work shall be as agreed but not less than the minimum wage rate;  
 (b) If work was ceased for more fourteen (14) working days then the wage for ceasing work to be paid shall be as agreed by the two parties but ensuring that the wage for ceasing work in the first fourteen (14) days is not lower than the minimum wage rate.”.

- ✓ Pregnant employees are entitled to an additional VND1,000,000 per person; employees raising their own or an adopted child or taking care of a child under the age of six years are entitled to an additional VND1,000,000 per child under six, but support is only provided to one person being either a parent or the caregiver.

*The method of payment:* on-off payment to the employee.

(c) Procedures for implementation

- ✓ The employer requests the social insurance office to certify that the employees concerned participate in social insurance. Within two (2) working days after receipt of such request, the social insurance office is responsible to confirm the same;
- ✓ The employer sends the application as stated in Decision 23 to the DPC in the locality where the employer has its headquarters. Such files shall be received up until the end of 31 January 2022;
- ✓ Within two (2) working days after receipt of a complete application, the DPC shall evaluate the file and make a submission to the PPC;
- ✓ Within two (2) working days after receipt of a complete application dossier, the PPC issues a decision approving the list of employees and funding, and at the same time directs how the assistance is to be paid. In a case of refusal to approve, the PPC provides a written response setting out its reasons;
- ✓ Within two (2) working days after receiving the funding from the PPC, the employer pays the support money to its employees.

*Supporting policy for employees terminated their employment contracts but not eligible for employment allowance*

(a) Eligible entitles and conditions for assistance

Employees working at enterprises, cooperatives, public professional units, educational institutions will be assisted on satisfaction of the following conditions:

- ✓ They participated in compulsory social insurance in the month immediately preceding the date of termination of their labor contract;
- ✓ Their labor contract was terminated within the period from 1 May 2021 until the end of 31 December 2021 but they did not satisfy the conditions for entitlement to a job loss payment, and excluding the following cases: (i) the employee unilaterally terminated his or her labor contract unlawfully; and (ii) the employee receives a monthly pension or subsidy for loss of working capacity.

(b) Amount of assistance and method of payment

*Amount of assistance includes:*

- ✓ VND3,710,000 per person;
- ✓ Pregnant employees are entitled to an additional VND1,000,000 per person; employees raising their own or an adopted child or taking care of a child under the age of six years are entitled to an additional VND1,000,000 per child under six and support is only provided to one person being either a parent or the caregiver.

*The method of payment:* on-off payment to the employee.

(c) Procedure for implementation

- ✓ The employee sends an application to the Employment Services Centre under the DOLISA where the employees' labor contracts were terminated, and the deadline for receiving applications is the end of 31 January 2022;
- ✓ Prior to the 5th and 20th day of each month, the Employment Services Centre shall check and collate a list of employees satisfying the conditions for entitlement to assistance and submit the same to the DOLISA;
- ✓ Within two (2) working days after receipt of the list, the DOLISA shall evaluate the list and make a submission to the PPC;
- ✓ Within three (3) working days, the PPC shall then approve the list of employees entitled to assistance and provide instructions on payment of such assistance. In a case of refusal to approve the list, the PPC shall provide a written response setting out its reasons.

By providing the specific regulations as regulated in Decision 23, the employers and employees have a clearer insight on implementation supporting policies as listed in Resolution 68.



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