

# Special Alert

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## Modernizing Labor Relations: Highlights of the Amended Trade Union Law

After more than a decade of enforcement, the Trade Union Law 2012 (the “**Trade Union Law**”) has functioned as an essential legal framework, enabling the Vietnam Trade Union to fulfill its responsibilities, particularly in representing, protecting, and advancing the legitimate rights and interests of union members and employees. Nevertheless, despite its achievements, the Trade Union Law progressively exposed inadequacies and deficiencies in meeting the requirements of the changing socio-economic environment. To address these challenges, on 27 November 2024, the National Assembly of Vietnam enacted the amended Trade Union Law, which will take effect on 1 July 2025 (the “**Amended Trade Union Law**”).

This amendment aligns with the institutionalization of the 2013 Constitution, ensures legal coherence, and improves alignment with international labor standards, especially in light of Vietnam’s commitments under next-generation free trade agreements. Significant amendments encompass:

### Expansion of the Right to Establish, Join, and Operate Trade Unions for Employees Without Labor Relations

The Amended Trade Union Law protects the right of Vietnamese employees without labor relations (freelancers, self-employed individuals) to establish, join, and participate in trade unions. This landmark regulation enables trade unions to extend their representation to employees "without labor relations in Vietnam's territory", reinforcing the comprehensive role of trade unions in representing and protecting employees' rights in Vietnam. This expansion aligns with the broader scope of other relevant legislation, including the Labor Code and the Social Insurance Law.

In line with this expansion, the Amended Trade Union Law introduces a new definition of "grassroots occupational organizations", which now encompasses employees without formal labor relations within

the same industry or profession. This model strengthens the connection between freelance employees and trade unions, facilitating the exercise of collective rights, experience-sharing, and strengthening workplace solidarity. These provisions present a significant step forward in promoting fairness and safeguarding rights in an increasingly diverse and flexible labor market.

### **Expansion of the Right of Foreign Employees to Join and Participate in Trade Unions**

The Amended Trade Union Law permits foreign employees in Vietnam, employed under a labor contract of at least 12 months, to join and participate in grassroots trade unions. This signifies a substantial change from previous restrictions that completely barred foreign employees from joining the Vietnam Trade Union.

This expansion aligns with the provisions of the Labor Code 2019 permitting foreign employees to join “employees’ organizations at the enterprise”. The Labor Code 2019 indirectly facilitated their participation in the Vietnam Trade Union. Furthermore, this amendment reflects Vietnam’s commitment to international integration, promoting fairness in labor relations and fostering greater harmony as the number of foreign employees in Vietnam continues to grow.

Nevertheless, foreign employees remain restricted from: (i) establishing trade unions, and (ii) holding leadership positions within trade unions. These restrictions are designed to maintain the autonomy and representative role of the Vietnam Trade Union while balancing national labor policies with international integration.

### **Stricter Regulations on the Admission of “Employees’ Organization at the Enterprise” into the Vietnam Trade Union**

With the enactment of the Labor Code 2019, a new type of labor representation - employees’ organizations at the enterprise - has been introduced alongside grassroots trade unions. The Labor Code 2019 also mandates that such organizations must comply with the provisions of the Trade Union Law if they wish to join the Vietnam Trade Union. However, since the previous Trade Union Law was enacted prior to the implementation of the Labor Code 2019, there were no specific guidelines on this matter.

The Amended Trade Union Law establishes strict conditions on the documentation, procedures, and legal requirements for admitting employees’ organizations at the enterprises into the Vietnam Trade Union. The responsibilities and legal consequences of such membership are also defined. Furthermore, the Vietnam General Confederation of Labor (VGCL) has been assigned the authority to provide detailed implementation guidelines for this admission process, ensuring clarity and consistency in labor representation.

### **Addition of Organizational and Operational Principles for the Vietnam Trade Union & Clarification of International Cooperation Principles**

The Amended Trade Union Law introduces a new principle governing the organization and operation of the Vietnam Trade Union, emphasizing “cooperation and coordination with employers while ensuring the independence of the trade union as an organization”. This provision reinforces the dual role of trade unions in maintaining constructive labor relations and safeguarding employees' rights.

Additionally, the Amended Trade Union Law provides greater clarity on the principles and scope of international collaboration in trade union activities. The objective of these modifications is to cultivate a more robust collaboration with international trade union organizations and better align Vietnam with global labor practices, all while preserving national labor interests.

### Addition and Clarification of Prohibited Acts

The Amended Trade Union Law expands and clarifies the list of prohibited acts by: (i) clearly categorizing violations based on specific criteria, and (ii) providing more detailed regulations on prohibited activities.

Notably, the Amended Trade Union Law explicitly prohibits misconduct related to the payment, management, and utilization of trade union funds, including:

- Failure to pay, delayed payment, incorrect payment rates, or insufficient payment of trade union fees for eligible employees.
- Mismanagement or improper use of trade union funds.
- Receiving aid, sponsorships, or technical support in violation of legal regulations.

### Amendments and Additions to Trade Union Financial Regulations

The Amended Trade Union Law introduces key financial reforms that are designed to improve the transparency, accountability, and efficiency of trade union financial management.

**Maintenance of the 2% Trade Union Fee:** The Amended Trade Union Law retains the 2% trade union fee contribution rate while incorporating transparent principles for fund management, allocation, and expenditure to ensure greater transparency and effectiveness in resource distribution.

**Supplementing Regulations on Examination, Inspection, Audit, and Supervision of Trade Union Finance and Trade Union Finance Disclosure:** The Amended Trade Union Law establishes more rigorous mechanisms for monitoring trade union finances, including:

- **Periodic Report:** VGCL is responsible for reporting every two years to the National Assembly on the situation of revenue, expenditure, and management and utilization of trade union finance.
- **Financial Audit:** Every two years, the State Audit Office will audit the management and utilization of trade union finance and report the results to the National Assembly at the same time as the report of the VGCL.

- **Ad-Hoc Audits:** The State Audit Office will also conduct an extraordinary audit at the request of the National Assembly or its Standing Committee.
- **Mandatory Financial Disclosure:** Trade unions at all levels are now required to publicly disclose their financial reports annually through at least one of the following methods: (i) Posting at the headquarters of relevant agencies, organizations, or enterprises; (ii) Issuing official notices to relevant authorities, organizations, and stakeholders; (iii) Presenting reports at annual meetings of employees, civil servants, and labor representatives; and (iv) Publishing on the official websites of agencies, organizations, or enterprises.

Improved financial transparency and accountability brought about by these regulatory changes will help trade unions and their members trust one another and make better utilization of trade union funds.

### Supplementation of Cases of Exemption, Reduction, or Suspension of Payment of Trade Union Dues

Under the Amended Trade Union Law, there are amendments to cases where trade union dues do not have to be paid, are paid less, or are suspended. For example, enterprises that are dissolved or go bankrupt in accordance with the provisions of law or enterprises facing difficulties due to economic reasons or force majeure having to suspend production and business, leading to the inability to pay trade union dues. This regulation highlights the flexibility and adaptability of the law to unforeseen changes in the business environment, helping to protect the interests of employees while supporting the survival and sustainability of businesses in challenging times.

### Enhanced Supervision and Social Criticism Rights of Trade Unions

The Amended Trade Union Law strengthens the role of trade unions by granting them increased powers in supervision and social criticism, ensuring better protection of employees' rights and legal compliance.

**Expanded Supervisory Role:** The Amended Trade Union Law significantly enhances the supervisory authority of trade unions. While previously limited to participating in and coordinating with state authorities on labor law enforcement, trade unions now have the authority to lead supervision efforts, including:

- Monitoring and detecting violations in labor law enforcement;
- Reviewing and evaluating policies on trade unions, labor, employment, wages, social insurance, unemployment insurance, health insurance, occupational safety, and workplace democracy; and
- Proposing corrective actions to prevent violations and improve labor policies.

This expanded role strengthens the capacity of trade unions to safeguard employees' rights and ensure compliance with labor standards.

**Strengthened Social Criticism Rights:** The Amended Trade Union Law reinforces the role of trade unions in providing constructive criticism and feedback. Trade unions now have the right and duty to comment on and critique:

- Draft laws, policies, and plans affecting trade union members and employees;
- Government programs and projects related to labor rights and workplace conditions; and
- Regulations on collective bargaining agreements and other employee protections.

## Conclusion

The Amended Trade Union Law marks a significant milestone in modernizing Vietnam's labor framework. By expanding employee rights, strengthening financial transparency, and enhancing trade union oversight, the Amended Trade Union Law creates a more equitable and adaptable framework for employees and employers alike.

For businesses, these reforms introduce new compliance requirements, particularly in managing trade union finances, accommodating foreign employees' participation, and restructuring employee representation. Understanding and proactively adapting to these reforms will be essential for preserving harmonious labor relations and mitigating legal risks.

As Vietnam intensifies its integration into the global economy, aligning with international labor standards has become a strategic need rather than an option. Companies doing business in Vietnam must be attentive and adaptive to these developments to ensure compliance and maintain robust workforce relationships.

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