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**Legal Alert**

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# Employment Law 2025 and Decree No.158/2025/ND-CP

This Alert highlights the most notable changes introduced by the Employment Law 2025 and Decree No.158/2025/ND-CP dated 25 June 2025 (Decree 158).

The Employment Law was passed by the National Assembly on 16 June 2025 and will take effect on 1 January 2026. Additionally, Decree 158, guiding the implementation of several articles of the 2024 Law on Social Insurance (the Law on SI) regarding compulsory social insurance, was recently enacted and became effective on 1 July 2025.

Key highlights in the Employment Law 2025 include:

- Expanding coverage of unemployment insurance (UI) participation
- Amending UI contribution mechanisms and UI benefits
- Establishing the Labor Market Information System and Labor Registration Database

Key highlights in the Decree 158 include:

- Subjects excluded from compulsory social insurance (SI)
- Guidance on reference level
- Guidance on non-salary business managers to participate in compulsory SI
- Adjustment of the regulation on collecting and back paying compulsory SI
- Guidance on salary as basis for SI contribution
- Guidance on temporary suspension of compulsory SI contribution when an employee is suspended from work
- Guidance on retirement regime for individuals with both voluntary and compulsory SI contributions

## **Key highlights of the Employment Law 2025**

### **1. Expanding coverage of UI participation**

Besides employees with indefinite-term or fixed-term contracts of three months or more, the Employment Law 2025 extends UI coverage to three new groups:

- (i) Employees with labor contracts of at least 1 month but less than three months, including other agreements of similar nature involving paid employment under a management and supervision of one party.
- (ii) Part-time employees whose monthly salary equals or exceeds the minimum monthly salary used as the basis for compulsory SI contribution under the Law on SI.
- (iii) Business managers, controllers, representatives of the capital of enterprises, members of the Board of Directors, General Directors, Directors, members of the Board of Controllers, controllers and other elected management positions of cooperatives and cooperative unions who receive salaries.

### **2. Amending UI contribution mechanisms and UI benefits**

**Flexible UI contribution rates:** Employees will continue contributing 1% of their monthly salary. Employers will contribute up to 1%, with the exact rate to be determined by the Government instead of being fixed. Additionally, the State may contribute up to 1% from the national budget to support the UI fund. These rates may be adjusted by the Government in response to emergencies such as natural disasters, pandemics, or economic crises to ensure the fund's sustainability.

Employers are required to fully pay UI contributions for their employees. If they fail to do so, they must compensate the employees an amount equivalent to the benefits they would have received under the UI program. Non-compliance will also result in penalties as outlined in the Law on SI.

**Exclusion of pension-eligible employees from UI benefits:** Employees who leave their jobs but are eligible to receive pension benefits under the Law on SI will no longer be entitled to unemployment benefits.

### **3. Establishing the Labor Market Information System and Labor Registration Database**

For the first time, a national Labor Registration Database and Labor Market Information System are being introduced. Employees will have the right to access, correct, and utilize their registered personal data to obtain employment services, career counseling, retraining, or assistance in re-entering the workforce. Additionally, employees are obligated to provide accurate, complete, and timely information. The registered data will encompass personal details, employment history, qualifications, and participation in social and unemployment insurance. Employers are also required to register and keep updated the information of employees covered under employment contracts.

The national Labor Registration Database will be seamlessly integrated, synchronized, and shared with the national consolidated data system, the national population database, and various other sectoral databases.

## **Key highlights of Decree 158**

### **1. Subjects excluded from compulsory SI**

Decree 158 clarifies subjects who are not required to participate in compulsory SI, including:

- (i) Employees working part-time whose monthly wages are lower than the statutory minimum salary used as the base for SI contribution

- (ii) Employees working under probationary contracts in accordance with labor laws
- (iii) Beneficiaries receiving SI allowances or monthly benefits as regulated by Law on Social Insurance

## **2. Guidance on reference level**

The reference level serves as a crucial basis for determining both the contribution level and the benefits associated with certain SI regimes as outlined in the Law on SI. This reference amount is decided by the Government to ensure stability and alignment with the socio-economic conditions of each period. Specifically:

- When the basic salary has not been abolished, the reference level is determined to be equal to the basic salary
- When the basic salary is abolished, the reference level must not be lower than the basic salary at the time of abolition
- After the basic salary is abolished, the reference level will be adjusted by the Government based on factors such as the consumer price index, economic growth rate, the capacity of the state budget and the SI Fund

## **3. Guidance on non-salary business managers to participate in compulsory SI**

Non-salary business managers include Vietnamese business managers, controllers, representatives of the capital of enterprises, members of the Board of Directors, General Directors, Directors, members of the Board of controllers, controllers and other elected management positions of cooperatives and cooperative unions but do not receive salaries.

For non-salary business managers who at the same time belong to more than one or one of the subjects specified at b, c, d, đ, e, i, a, l and k Clause 1 Article 2 of the Law on SI, they must participate in compulsory SI according to the groups listed first in order of priority (such as enterprise managers, controllers, representatives of state capital, representatives of enterprise capital as prescribed by law; members of the Board of Directors, General Directors, Directors, members of the Board of controllers or controllers and other elected management positions of cooperatives and cooperative unions as prescribed in the Law on Cooperatives who receive salaries; persons working under indefinite-term labor contracts or fixed-term labor contracts with a term of at least one month, including cases where the employee and the employer agree on a different name but with content showing the paid work, salary and management, operation and supervision of one party).

## **4. Adjustment of the regulation on collecting and back paying compulsory SI**

Expanding and supplementing subject cases of collecting and back paying compulsory SI:

- Cases where an employee's salary is retroactively increased, resulting in a higher salary used as the basis for calculating compulsory social insurance contribution.
- Cases where Vietnamese employees working abroad have their contracts extended or sign new labor contracts directly in the host country and make back payments upon returning to Vietnam.
- Heads of business households and salaried managers of enterprises who make SI contribution after the latest deadline.

Shortening the period for back paying SI in order to avoid late payment interest: The deadline for paying SI has been reduced to the last day of (i) the month after the salary increase decision is made or (ii) the month of returning home in which the employer and employee have not yet made mandatory SI payments.

For heads of business households or salaried business managers who do not pay SI on time, in addition to the amount payable, they will also be charged an additional interest of 0.03%/day on the amount of late payment and the number of overdue days.

## **5. Guidance on salary as basis for SI contribution**

The salary serving as the basis for mandatory SI contribution is clarified in detail to ensure consistency with the Labor Code and the Law on SI, especially for part-time employees and salaried business managers:

- For part-time employees:
  - Salary for compulsory SI contribution is determined based on monthly salary as agreed in the labor contract.
  - Hourly salary:  $\text{Monthly SI base salary} = \text{Hourly wage} \times \text{Total working hours in the month as agreed in the labor contract.}$
  - Daily salary:  $\text{Monthly SI base salary} = \text{Daily wage} \times \text{Total working days in the month as agreed in the labor contract.}$
  - Weekly salary:  $\text{Monthly SI base salary} = \text{Weekly wage} \times \text{Total working weeks in the month as agreed in the labor contract.}$
- For salaried business managers: The salary used as the basis for compulsory SI contribution is the salary that the manager receives, in accordance with laws.

## **6. Guidance on temporary suspension of compulsory SI contribution when an employee is suspended from work**

- If an employee is suspended from work for 14 working days or more within a month, both the employee and employer may temporarily suspend compulsory SI contribution during that period.
- If the employer fully pays the employee's salary for the suspension period of 14 or more working days in a month, they must make back payments for compulsory SI contribution for that period.
  - The deadline for back payment is the last day of the month following the month the suspension ends.
  - The back payment amount must equal the compulsory SI contribution as prescribed in Articles 33 and 34 of the Law on SI.
  - If the back payment is made after this deadline, it must comply with Articles 40 and 41 of the Law on SI (i.e., paying the additional interest of 0.03% per day).
- If the employer does not fully pay the employee's salary for the suspension period, then no back payment for compulsory SI contribution is required for that period.

## **7. Guidance on retirement regime for individuals with both voluntary and compulsory SI contributions**

Those with at least 15 years of compulsory SI (under Article 64 of the Law on SI) or at least 20 years of compulsory SI (under Article 65 the Law on SI) will have their retirement conditions and pension benefits determined according to compulsory SI policies.

Individuals who contributed to voluntary SI before 1 January 2021 and have at least 20 years of voluntary contributions are eligible to retire at age 60 for men and 55 for women.





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