

# Rödl & Partner

## CLIENT ALERT VIETNAM

### MANAGING CHANGE

Issue:  
November 2018

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#### → Highlights of new regulations

- Exemption from submission of wage scale, payroll and labour norms (Decree 121/2018/ND-CP)
- Probation period is not counted for payment of severance allowance (Decree 148/2018/ND-CP)
- Cut-off notification procedures of an e-commerce website (Circular 21/2018/TT-BCT)
- Relaxation in enterprise registration procedures (Decree 108/2018/ND-CP)

## → Highlights of new regulations

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### Exemption from submission of wage scale, payroll and labour norms (Decree 121/2018/ND-CP)

On September 13, 2018, the Government promulgated the Decree 121/2018/ND-CP dated 13 September 2018 amending the Decree 49/2013/ND-CP guiding the Labor Code in terms of wages ("**Decree 121**").

According to the Decree 121, enterprises using less than 10 employees shall be exempted from submission of wage scale, payroll and labour

norms to the labour management body where that the head quarter of that enterprise is located.

In addition, other enterprises are still obligated only required to build up the labour norms to be the basis for product-payment regime.

The Decree 121 shall take effect as from 01 November 2018.

## → Highlights of new regulations

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### Probation period is not counted for payment of severance allowance (Decree 148/2018/ND-CP)

On October 24, 2018, the Government promulgated the Decree 148/2018/ND-CP amending and supplementing Decree 05/2015/ND-CP of the Government dated 12 January 2015 guiding and detailing a number of articles of the Labour Code ("**Decree 148**").

Working time to be counted for payment of severance allowance

The most remarkable point of the Decree 148 is amending the length of a working period that the employee has actually worked for the employer for the purpose of calculating the severance allowance or job loss allowance in case of termination. To be more specific, the working time under the probation contract shall not be counted for payment of severance allowance, job-loss allowance as the previous regulation.

Time limit for settlement of obligations in case of termination of labour contract

The Decree 148 clarifies that the employer is obligated to settle all obligations to the employee in case of termination within 07 days. 30-day period is only applied in some special cases, such as, the dissolution, restructuring. It means that the employer must settle all its obligations to the employee within 07 day termination of labour contract in case of mutual agreement without any exception.

Based salary for calculation of payment for unused annual leave days

The based salary for calculation of payment for unused annual leave days, public holidays and private leave with fully paid shall equal to the salary as prescribed in the labour contract divided by the number of normal working days of that month, instead of the last month as the previous regulation.

The Decree 148 shall come into effect as from 15 December 2018.

→ Highlights of new regulations

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## Cut-off notification procedures of an e-commerce website (Circular 21/2018/TT-BCT)

On August 24, 2018, the Ministry of Industry and Trade promulgated the Circular 21/2018/TT-BCT amending a number of articles of Circular 47/2014/TT-BCT of the Ministry of Industry and Trade dated 05 December 2014 on management of e-commerce websites and Circular 59/2015/TT-BCT of the Ministry of Industry and Trade dated 31 December 2015 on management of e-commerce activities via applications on mobile equipment (“**Circular 21**”).

The Circular 21 annulled the regulations on subjects of announcing e-commerce websites for sale as prescribed in Article 8 of the Circular 47/2014/TT-BCT of the Ministry of Industry and

Trade dated 05 December 2014 on management of e-commerce websites (“**Circular 47**”). In particular, individuals, traders who sell their own products on their website shall not be required to notify online shopping websites as the previous regulations.

The Circular 21 has come into effect as from 18 October 2018.

→ Cut-off notification procedures of an e-commerce website.

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## Relaxation in enterprise registration procedures (Decree 108/2018/ND-CP)

On August 23, 2018, the Government promulgated the Decree 108/2018/ND-CP amending a number of articles of Circular 78/2015/ND-CP of the Government dated 14 September 2015 on enterprise registration (“**Decree 108**”).

The Decree 108 has cut off a number of required documents for establishment of enterprise and/or amendment of enterprise registration procedures. To be more specific, it is not required to submit the charter of the owner in case of establishment of a sole-member limited liability company. The enterprise shall also not be obligated to submit the financial statement in case of reduction of charter capital.

One more noticeable change is that the enterprise is not required to affix with the company stamp in the application for issuance of the enterprise registration certificate, notification on change of enterprise registration information, resolutions, decisions, meeting minutes in the application dossier for enterprise registration.

In addition, the Decree 108 also simplified a number of enterprise registration procedures and formalities. A joint Stock company is not required to notify on change of founding shareholder(s), even within the first 03 years after the establishment. The notification on change of founding shareholder(s) is only applied in case where the founding shareholders have not paid in full for the shares as registered.

The Circular 108 has come into effect as from 10 October 2018.

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