

# Strategic Redundancy in Vietnam: Navigating Compliance and Practical Considerations

Understanding requirements  
and obligations for compliant  
workforce reductions in  
Vietnam

Alitium

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# “STRATEGIC REDUNDANCY - the process of legally restructuring a workforce for operational efficiency”

Implementing a redundancy plan can be a challenging issue in Vietnam due to its employee-centric labour laws. Unlike some jurisdictions where redundancy can be implemented more flexibly, Vietnam’s labour system places strong emphasis on employee rights, making it essential for employers to approach workforce reductions with careful planning, compliance, and strategic execution.

This publication provides an overview of redundancy in Vietnam, covering legal frameworks, compliance requirements, practical steps, and alternative strategies to optimize workforce adjustments while mitigating legal risks.

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# Understanding Vietnam's Framework on Redundancy

Vietnam's labour laws, primarily governed by the Labour Code of 2019 and related decrees, place stringent conditions on redundancy. Key principles include:

**Termination Restrictions:** Unilateral termination by employers is highly restricted and must be justified under one of the legal grounds recognized by the Labour Code.

**Collective Redundancy:** Defined under Article 42 and Article 43 of the Labour Code, requiring consultation with trade unions, notification to employees, and certain circumstances require both notification and approval by labour authorities.

**Severance / Job Loss Allowances:** Employers must compensate employees in accordance with their length of service and employment contract terms.

**Notification Requirements:** Employers must follow prescribed procedures before implementing redundancies.

Failure to comply with these regulations can lead to legal disputes, penalties and reputational damage.

## Grounds for Redundancy Under Vietnamese Law

Under Article 42 and Article 43 of the Labour Code, employers may implement redundancy under the following conditions:

### **Technological or Organizational Changes**

Employers may reduce workforce due to:

- Changes in machinery, technology, or automation
- Business restructuring (e.g., mergers, acquisitions, or spin-offs)
- Economic downturns leading to cost-cutting measures

### **Economic Difficulties**

Layoffs may be justified if the company faces:

- Prolonged financial losses
- Reduction in market demand
- External economic shocks

### **Closure or Relocation of Business**

If a company ceases operations or relocates to a different province or country, it can justify redundancies. Under Article 42 of the Labour Code, employers may implement redundancy under the following conditions:

Employers must carefully document the reasons behind redundancies to avoid disputes or refusals to approve from the labour authorities (or employees).

# Compliance Requirements for Redundancy Implementation

Redundancy procedures in Vietnam require compliance with labour laws, which include the following steps:

## Step 1: Develop a Clear Justification and Workforce Plan

- Conduct an internal business review and prepare documents demonstrating the necessity of redundancies.
- Identify affected roles, business impact, and cost implications.

## Step 2: Engage Trade Unions and Employee Representatives

- Consultation with trade unions or employee representatives is mandatory.
- Employers must discuss the reasons for redundancy and potential alternative solutions.

## Step 3: Notify and Seek Approval from Labour Authorities

- Employers must submit a formal notification and plan to the Department of Labour, Invalids, and Social Affairs (DOLISA) at least 30 days in advance, for approval under Article 42 redundancy.

- In cases involving large-scale layoffs, provincial-level authorities may need to be involved.

## Step 4: Employee Communication and Support Measures

- Transparent communication with affected employees is crucial.
- Employers should offer career transition support, training, or job placement assistance.

## Step 5: Calculate and Process Employee Benefits

- Severance Allowance: Half a month's salary per year of service for employees with at least 12 months of tenure, where Unemployment Insurance was not provided.
- Job Loss Allowance: Minimum two months' salary. An additional month's pay per year of service can be applicable in specific cases.
- Finalising Salary and Social Insurance Contributions: Ensuring all outstanding salary and insurance payments are cleared.

## Practical Strategies to Manage Redundancy Efficiently

Given the legal complexities in Vietnam with redundancies, companies may be better off by adopting more strategic measures to ensure smooth workforce adjustments.

### Workforce Restructuring Without Formal Redundancy

Instead of focussing on mass layoffs, companies can explore alternatives such as:

- *Voluntary Resignation Packages:* Offering financial incentives for employees to resign voluntarily.
- *Reassignment and Retooling:* Transitioning employees into new roles through retraining.
- *Natural Attrition:* Allowing positions to remain unfilled as employees leave voluntarily.

### Coordinating Fixed-Term Contracts

Vietnamese labour laws offer more flexibility in managing fixed-term contracts. Employers should structure

employment agreements in a way that aligns with business needs without committing to indefinite employment, and by carefully monitoring and managing contract end dates, workplace flexibility can be prioritised.

### Early Engagement with Authorities and Legal Counsel is Critical

Seeking early guidance from labour authorities and employment law specialists helps prevent compliance risks and ensures smoother approvals.

Provisional discussions and agreements with labour authorities on redundancy needs, compensation plans and economic rationales can make a redundancy plan proceed smoothly.

### Clear Documentation and Transparent Communication

Maintaining detailed records of the decision-making process helps defend against potential labour disputes. Transparent and respectful communication with employees, trade unions and authorities reduces resistance and fosters goodwill.

# Risks and Consequences of Non-Compliance

Failure to comply with formal redundancy regulations can result in:

- **Employee Lawsuits:** Employees may challenge the legitimacy of their termination.
- **Fines and Penalties:** DOLISA can impose fines ranging from VND 10 million to VND 100 million for violations.
- **Reinstatement Orders:** Courts may order reinstatement of wrongfully dismissed employees with back pay.
- **Reputational Damage:** Negative media coverage and employee dissatisfaction may harm the company's brand.

Redundancy in Vietnam requires a legally compliant, well-planned, and ethically managed approach.

By understanding the legal framework, engaging stakeholders, and implementing best practices, businesses can navigate workforce restructuring while maintaining operational efficiency and protecting their reputation.

Employers should proactively seek legal counsel and explore strategic alternatives before initiating redundancies, ensuring a fair and legally sound process that minimizes risks and aligns with Vietnam's labour regulations.

# Termination Options for Vietnamese Employers

Vietnam's Labour Code and associated decrees cover how labour contracts can be terminated. Below is a table that covers termination scenarios, not just in respect of restructuring/redundancy provisions, that employers should be aware of when planning their strategy. There are specific requirements and procedures that apply here, and care needs to be taken when working through broader employment and labour force strategies in Vietnam.

Termination Basis	Discussion	Consent / Notification: Trade Union & DoLISA
Mutual Agreement	Signed mutual agreement	N/A
Expiry of the Employment Contract	Notification 15 days prior to expiry	N/A
Incapacity	Court notification	N/A
Completion of Project/Assignment in an Employment Contract	Written confirmation of completion of tasks	N/A
Unilateral Termination by Employee	30 days' notice (definite-term contract) or 45 days' notice (indefinite-term contract)	N/A
Unilateral Termination by Employer:		
• Poor / Unacceptable Work Performance	Two written decisions within one month, along with specific process for redress.	Yes
• Disciplinary - Absence & Gross Misconduct	Theft, gross misconduct or unexplained absences all require documented evidence and follow specific process	Yes
• Prolonged Illness	Absent due to illness for extended period (up to 12 months)	Yes
• Force Majeure	Natural Disaster, Fire or similar major disruption to operations	No
• Corporate Restructuring	Terminating employees due to a department, team or similar group no longer being required, subject to an approved restructure plan	Yes
• Corporate Mergers & Acquisitions	Terminating employees due to a department, team or similar group no longer being required, subject to an approved restructure plan	Yes
• Ceasing Operations	Formal notice of winding up permits the termination of employment contracts	No
• Inaccurate information on employment application	Formal notice of termination. (care to be taken, as limited precedent at present)	No

# About Alitium

Alitium provides professional support in Vietnam for foreign investors. Supporting Market Entry, Company Establishment, Taxation, Advisory and Ongoing Compliance services, Alitium's professionals are focussed on ensuring international best practice and governance standards are maintained at all time for foreign investors. The firm provides expert support in human resources, payroll, compliance, and regulatory adherence, ensuring businesses meet all legal requirements while operating efficiently.

Alitium's HR and employment services cover recruitment, employment contracts, payroll management, and labour compliance. The firm helps clients navigate Vietnam's labour laws, ensuring proper workforce structuring, risk management, and adherence to statutory obligations. Additionally, payroll and tax compliance services streamline salary payments, social insurance contributions, and personal income tax reporting, minimizing risks.

With deep local expertise and a global perspective, Alitium delivers practical, compliant, and strategic HR solutions, helping foreign businesses establish and maintain a strong workforce in Vietnam.



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Phuong is a registered lawyer in Vietnam, with more than 10 years professional experience advising foreign investors with their market entry and ongoing commercial and structural requirements in Vietnam. Prior to founding Alitium, Phuong directly lead a team of 20 lawyers focussing on supporting foreign-listed and multi-national investors.

Phuong's main practice areas have focussed on licensing, company establishment and structuring – particularly in difficult market access sectors in Vietnam for foreign investors, along with employment and restructuring support in complex scenarios.



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Matthew is an Australian Chartered Accountant, with 20 years professional experience advising corporate investors in Vietnam.

Matthew was the founder of a significant professional services firm in Vietnam, and is known for his extensive knowledge and experience advising foreign investors to navigate and remain compliant with Vietnam's complex regulatory environment.

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