

Danwatch's questions and answers from VASEP

(Gule fremhævelser foretaget af Danwatch)

Questions 1 + 2 + 3:

Workers at shrimp factories in Vietnam have reported working from 66-83 hours a week – normally more than 70 hours per week. The working day is no less than 11 hours (and one day off pr. week on average is included here).

Some of the workers even have working days of working 17 out of 19 hours in a row (the remaining two hours being two hour long breaks).

Vietnamese law has been ratified through the International Labor Organization and states that the maximum allowed hours for a working day is eight hours and 48 hours a week, including one day off.

- 1. What is your reaction to these findings?*
- 2. Have you previously been made aware of conditions where full-time workers at shrimp factories work a minimum of 11 hours a day, 6 days a week and where some workers have 17 hour shifts?*
- 3. Have you heard of contracts stating that workers only work 8 hours a day and 48 hours in total, inspite of the workers actually working longer than that?*

The answer from VASEP:

Labor Code of Vietnam stipulate at Article 104. Normal working time: Normal working time must not exceed 08 hours per day or 48 hours per week. In case of working on a weekly basis, the normal working time must not exceed 10 hours per day and not exceed 48 hours per week.

Based on clause 2, Article 106 of Labor Code on overtime work and clauses 1 and 2 of Article 4 of Decree No. 45/2013 / ND-CP, the maximum number of overtime hours shall be as follows:

- In a day: not exceed 50% of the normal working hours per day; in case of applying regulations on weekly work, the total of normal working hours and overtime working hours must not exceed 12 hours per day.
- Not exceed 12 hours per day on public holidays, Tet holidays and weekends.
- Not exceed 30 hours per month and the total of overtime working hours must not exceed 200 hours per year
- In some special cases: Employees may be mobilized to work overtime from over 200 hours to 300 hours per year but must notify the Department of Labor, War Invalids and Social Affairs.

Based on Article 109 of Labor Code: Employees who work in shifts are entitled to a break of at least 12 hours before moving to another shift.

Therefore, for Danwatch questions, VASEP has the following viewpoints:

Working time of 8 hours/day, 48 hours/week in the labor contract is the initial agreement between the employee and the employer about the normal working hours of the employee.

* In practice, the employee may work up to 12 hours a day (including normal working hours and overtime hours).

Thus, if workers at shrimp processing plants work no more than 12 hours a day, they still comply with the provisions of Vietnamese law, if they exceed 12 hours a day, they will violate the provisions of law.

Vietnamese law stipulates the maximum number of total overtime hours per day, month and year, so with only information from survey that shrimp workers work from 66 hours to 83 hours per week (on average 70 hours per week, about 11 hours a day), it is not possible to conclude that such working hours are legal or illegal but must be considered on a case-by-case basis.

If workers work from 66 hours to 78 hours per week, other weeks in the month do not work overtime, they still comply with the law; if they work from over 78 hours to 83 hours per week, they will violate the provisions of law.

- For workers who work 17 hours out of a total of 19 consecutive hours (including 2 hours for break): It can be seen that the employer has given workers to work in two different shifts and not comply with the law provisions on break between shifts.

In summary, working hours for employees in Vietnam shrimp companies have been applied in accordance with Labor Code, Decree 45/2013/NĐ-CP dated 10/05/2013 by the Government. Our shrimp companies have also declared and registered Working Regulations with Department of Labor, Invalids and Social Affairs. Each company has a Labor Union Organization to protect interest of workers including working hours and working conditions...

Of course, due to the characteristics of the shrimp industry, according to the orders and requirements of importers on the progress, there will be times when workers have to work overtime for 1-2 days, but the following days they will work less time. Thus, the companies still ensures the weekly working time of workers does not exceed the prescribed level.

Questions 4 + 5:

Workers have explained to Danwatch that the working conditions and the amount of working hours have led to them getting symptoms such as problems with respiratory passages (sinusitis is an example), severe headaches, dehydration, exhaustion and several have fainted. Part of this is due to the workers being exposed to fumes from chemicals such as chlorine. Another important part are hot and cold working conditions.

According to the medical staff, to which Danwatch have presented these findings, high temperatures of working conditions can be connected to dehydration and exposure to fumes from chlorine can be connected to problems with respiratory passages.

4. *Have you heard of conditions where workers at factories get any of the above mentioned conditions? (If yes, please elaborate on how many and which conditions specifically)*
5. *Should the factories do more in order to avoid this from happening?*

The answer from VASEP:

VASEP have regular visits to processing factories and noted that, the working condition in the processing plants of our member companies strictly complies with relevant laws, regulations and the guidelines for a seafood processing factory (Law No. 84/2015/QH13 on occupational safety and hygiene; Decree No.: 44/2016/ND-CP details some articles of the law on occupational safety and sanitation, technical inspection of occupational safety, training of occupational safety and sanitation and monitoring of occupational environment. For working conditions and environment such as temperature, humidity, noise, dust, light, wind speed, electromagnetic fields ... all factories must meet the standards prescribed in Decision No. 3733/2002/QD-BYT (promulgating 21 labor hygiene standards, 05 principles and 07 labor hygiene measurements) and national technical regulations (QCVN).

Inspections on working conditions and environment is regularly carried out at seafood processing factories, therefore all parameters need to meet the standards for good hygiene and safe working environment including parameters of temperature and chlorine. Moreover, the processing factories has gone through various social audits and has long been proved to be safe for workers.

To minimize or prevent impacts from chemicals such as chlorine on working conditions, most processing factories has issued regulations and guideline for safely use, such as **Regulation and Safety Guidelines for Using Detergent and Sterilizer; First aid guidelines and Emergency Response to Accidence Happening While Using Detergent and Sterilizer...**

Chlorine is mainly used for cleaning and only trained personnel can be assigned to do that job. In certain section, workers must have appropriate working personal protective equipment (PPE) provided by the company.

Beside, the processing factories have their medical assistant rooms for first aid purpose. Persons in charge has been trained for the job and can help workers at first place in the factory in case of accidence happening to workers during working hours.

In cold areas such as freezing area or cold storage, workers are also provided with appropriate sufficient warm uniform/clothes.

Our factories have their planned biannual health checkups for all workers, conducted by Provincial Preventive Medicine Center.