



# LEGAL DIGEST: CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - September 2021

| LAWS AND REGULATIONS  |
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| <b>Commerce</b>   |
| <p><i>Prakas No. 185 of the Ministry of Commerce dated 31 August 2021 on “<b>Information Standards for Consumers</b>”</i></p> <p>This Prakas aims to define information standards on goods and services provided by all businesses in Cambodia to ensure and enhance the protection of consumer rights and interests as well as to promote fair competition through the disclosure of a minimum level of information to consumers. According to the Prakas, entities that provide goods or services must disclose the information in Khmer on the product’s packaging or label. Businesses that fail to follow the requirements under this Prakas will be subject to fines in accordance with Articles 48 and 49 of the Consumer Protection Law.</p>  |
| <p><i>Announcement of the Ministry of Commerce dated 15 September 2021 on the “<b>Granting of an E-Commerce Permit or License</b>”</i></p> <p>All businesspeople, sole proprietors, companies, and foreign branches that operate e-commerce business activities must apply for an e-commerce permit or license no later than the 1 December 2021.</p> <p>Those conducting e-commerce without a license or permit will be subject to monetary fines or the cessation of business activities or other measures as stated in the laws and regulations.</p> <p>Applications for e-commerce licenses or permits can be submitted directly to the Business Registration Department of the Ministry of Commerce or via the website <a href="http://www.ecommercelicensing.moc.gov.kh">www.ecommercelicensing.moc.gov.kh</a>.</p> |
| <p><i>Notification No. 2019 of the Ministry of Industry, Science, Technology, and Innovation dated 17 September 2021 on “<b>Automobile Inspections</b>”</i></p> <p>All relevant stakeholders, including factory owners, enterprises, and importers of automobiles must apply for a safety license at the Institute of Standards of Cambodia. Applicants must submit a test report, certificate of conformity, factory inspection report, and other relevant documents that help to determine the safety of the automobile production line.</p>  |

**LAWS AND REGULATIONS**

***Notification No. 134/21 of the Real Estate and Pawnshop Business Regulator dated 3 September 2021 on “Procedures for Filing Documents and Letters with the Real Estate and Pawnshop Business Regulator Electronically”***

Due to developments with the COVID-19 pandemic, the Real Estate and Pawnshop Business Regulator has decided to accept the following documents and letters electronically:

- Monthly reports, quarterly reports, and annual reports
- Notification letters
- Other invitation letters

Documents to be filed electronically can be done in the form of a PDF scan and sent via the Real Estate and Pawnshop Business Regulator’s Telegram with the file name as required by the regulator. This filing process goes into effect from 3 September 2021 onward until a new notification is issued by the regulator.

However, applications for new licenses, license renewals, or information changes must still follow the normal procedures.

**Banking and finance**

***Notification of the National Bank of Cambodia dated 13 September 2021 on the “Launching of a Marginal Lending Facility”***

According to the notification, in order to promote a healthy monetary policy, the National Bank of Cambodia will launch a marginal lending facility in KHR from 15 September 2021. The marginal lending facility will have an overnight duration and can be extended for up to five days with non-convertible debentures as collateral.

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| LAWS AND REGULATIONS  |
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| Banking and finance   |
| <p><i>Notice No. 758/MPD of the Bank of the Lao PDR dated 12 July 2021 on “<b>Transition of Currency Exchange Businesses into Commercial Bank Representatives</b>”</i></p> <p>According to the notice issued by the Monetary Policy Department (“<b>MPD</b>”) of the Bank of the Lao PDR (“<b>BOL</b>”), all authorized currency exchange businesses operating across the country are to work with authorities to become commercial bank representatives.</p> <p>Commercial banks have been tasked with choosing exchange booths that will come under their management, while exchange bureaus have been told to select a commercial bank with which they wish to cooperate.</p>  |
| <p><i>Instruction No. 878/MPD of the Bank of the Lao PDR dated 2 August 2021 on “<b>Implementing Notice No. 758/MPD dated 12 July 2021</b>”</i></p> <p>The MPD issued this instruction to implement and further clarify the provisions under Notice No. 758/MPD dated 12 July 2021.</p> <p>All exchange bureaus that are currently licensed to operate in the Lao PDR are required to make a request to a commercial bank to act as its representative in providing foreign currency exchange services in the Lao PDR. An exchange bureau can only represent one commercial bank at a time; however, a commercial bank can have more than one exchange bureau acting as its representative, depending on its resources and capacity. The parties must enter into a representative agreement that includes the standard terms specified in this instruction on or before 11 October 2021 and then notify the BOL of the agreement.</p> <p>Any exchange bureau that fails to enter into a representative agreement with a commercial bank in the Lao PDR by 11 October 2021 will not be permitted to operate foreign currency exchange services and their license will be revoked by the BOL.</p> |
| Pandemic-related procedures and restrictions  |
| <p><i>Notice No. 1177/PMO of the Prime Minister’s Office dated 15 September 2021 on “<b>Reinforcement Measures on the Containment, Prevention and</b>”</i></p>  |



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***Comprehensive Response to the COVID-19 Pandemic for the Period 16 to 30 September 2021***

The Prime Minister's Office decided to extend the nationwide lockdown, from 16 to 30 September 2021, and issued this notice to ensure continued compliance with the measures as provided in Prime Minister Order No. 15/PM dated 21 April 2021, Notice No. 1940/PMO dated 31 August 2021, and other measures issued by the COVID-19 Taskforce.

Other restrictions extended are as follows:

- Government agencies and departments, as well as district and village authorities, have been instructed to provide information regarding COVID-19 and educate residents of Vientiane Capital regarding the dangers and risks posed by COVID-19, as well as how to properly prevent infection.
- Employees of government ministries and departments, businesses, and international organizations must cease work at offices and office buildings from 20 to 30 September, except for police, emergency services personnel, medical workers, and other essential workers.
- All government departments, and district and village offices must inform employees under their responsibility to undertake official work at their homes via electronic communications and internet.
- Residents of Vientiane Capital are prohibited from leaving their homes or traveling within the city except for essential tasks, such as food shopping, purchasing medicine, or visiting hospitals. Those who must undertake agricultural work for their livelihoods are allowed to do so but must first seek advice and authorization from their village office.
- Police forces must coordinate with district and village authorities to set up checkpoints along major roads and prevent unauthorized travel in seven districts, namely: Chanthabouly, Sikhottabong, Saysettha, Sisattanak, Xaythany, Hatsayfong, and Naxaythong.
- Individual and passenger vehicles in Vientiane Capital are prohibited from traveling to other provinces, to areas of risk, or to areas where cases have been confirmed, except where authorized by the Central or Vientiane Capital COVID-19 Taskforce for essential work, such as cargo transportation or priority government work.



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- Individuals in provinces with community spread of COVID-19 may not travel to Vientiane Capital. Those who must enter the city from provinces with community spread must quarantine for 14 days at a quarantine center or quarantine hotel authorized by the COVID-19 Taskforce, and are responsible for all related costs. Those who refuse to quarantine will be refused entry into Vientiane Capital.
- Residents of Vientiane Capital who are returning home from other provinces may do so, however, those returning from provinces with community spread of COVID-19 must quarantine for 14 days at a quarantine center or quarantine hotel authorized by the COVID-19 Taskforce, and are responsible for all related costs.
- Police and military officers will establish checkpoints at the border areas of Vientiane Capital and inspect all documentation of those entering the city.
- Infected persons or those who have had close contact with infected persons are prohibited from withholding information or falsifying information regarding their recent travel history to avoid being placed in a hospital or quarantine center. Those found to have falsified information or who leave a hospital without authorization will be prosecuted to the fullest extent of the law, and will be made to pay for any and all damages caused.
- Conferences, gatherings, and other activities such as religious festivals and weddings, are prohibited. Parties and gatherings at all locations are prohibited. Funerals must be held in accordance with COVID-19 prevention guidelines as previously announced by the COVID-19 Taskforce.
- Local and customary borders and checkpoints will be closed, while the Lao-Thai Friendship Bridge will not allow entry except for those authorized by the COVID-19 Taskforce.
- Karaoke bars, entertainment venues, internet cafes, casinos, cinemas, snooker halls, massage parlors, spas, hairdressers and barbershops, beauty parlors, shopping malls and department stores, night markets, food gardens, tourist sites, resorts, guesthouses, pubs and grill restaurants must close, while service of alcohol is strictly prohibited.
- Street vendors selling lottery, religious items, or food must also close.
- Exercise in public areas such as That Luang, That Luang Marsh, Chao Anouvong Park is prohibited, while gyms and fitness centers, sports stadiums, swimming pools, and other sports centers must close.



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- Garment factories and other types of factories must close, however, if it can be guaranteed that there is no risk of COVID-19, consideration for continuing operations will be made. Factories that have closed must manage and assist their employees during the lockdown period.
- Merchants and shopkeepers are prohibited from stockpiling goods or price gouging, particularly in regard to the sale of face masks, hand gel, petrol, drinking water, and food.
- It is forbidden to spread fake news or information that is untrue or inaccurate, causing panic among the residents of Vientiane Capital.
- Retailers and food vendors may open for the sale and delivery of food and daily necessities provided they abide by COVID-19 prevention measures. Banks and financial institutions, hospitals and medical clinics, pharmacies, postal services, telecommunications services, electricity and water suppliers, petrol stations, and garbage collection services may continue operations.

Individuals who violate lockdown regulations in Vientiane Capital will face fines of LAK3 million per offense, while legal entities and organizations who violate lockdown measures will face fines of LAK10 million per offense.

The lockdown measures will remain in place until midnight, 30 September 2021.

***Order No. 016/MVC of the Mayor of Vientiane Capital dated 19 September 2021 on “Reinforcement Measures on the Containment, Prevention and Comprehensive Response to the COVID-19 Pandemic in the period of 16 to 30 September 2021”***

This order is effective from 24:00 19 September 2021 to 24:00 30 September 2021, and the key measures that apply to companies operating are as follows:

- Employees of government ministries and departments, businesses, and international organizations must cease work at offices and office buildings from 20 to 30 September, except for police, emergency services personnel, medical workers, and other essential workers.
- Residents of Vientiane Capital are prohibited from leaving their homes or travelling within the city except for essential tasks, such as food shopping, purchasing medicine, or visiting hospitals. Those who must undertake agricultural work for their livelihoods are allowed to do so but must first seek advice and authorization from their village office.



**LAWS AND REGULATIONS**

- Garment factories and other types of factories must close; however, if it can be guaranteed that there is no risk of spread of COVID-19 infection within the premises, consideration for continuing operations will be made. Factories that have closed must manage and assist their employees during the lockdown period.

Individuals who violate lockdown regulations in Vientiane Capital will be fined LAK3 million per offense, while legal entities and organizations who violate lockdown measures will be fined LAK10 million per offense. In addition to the fines, other measures, such as suspension or closure of the business operation may be taken, depending on the severity of the violation.

The lockdown measures will remain in place until midnight, 30 September 2021.

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**LAWS AND REGULATIONS**

**Banking and Finance**

*Notification No. 33/2021 of the Central Bank of Myanmar dated 3 September 2021 on the 'Conversion of foreign currency export proceeds to MMK within 4-months from receipt'*

According to this Notification, exporters are required to sell the unused, foreign currency export proceeds received by them to relevant Authorized Dealer bank within four months from the date they receive such proceeds.

*Letter No. MaBaBa/NaPaTa/ FIS (134/2021) of the Central Bank of Myanmar dated 7 September 2021 on the 'Change of Financial Year for Banks and Financial Institutions'*

According to this Letter, the financial year for banks, financial service companies and mobile financial service providers will start from April 1 and end on March 31, from the 2022–2023 financial year onward. Further, the six-month period from October 2021 to March 2022 has been specified as an interim budget period. All the above-mentioned institutions will need to adjust their financial practices to comply with the new timeline laid out in this Letter.

*Directive No. 12/2021 of the Central Bank of Myanmar dated 10 September 2021 on the 'Cancellation of the rule allowing licensed money changers to set exchange rates at  $\pm 0.8\%$  of the reference exchange rate set by CBM'*

According to the Directive, the Central Bank of Myanmar ("CBM") has abolished the rule that allowed licensed money-changers to set USD-MMK exchange rates at  $\pm 0.8\%$  of the reference exchange rate published by the CBM.



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**Investment Permit**

*Notification 28/2021 of the Myanmar Investment Commission dated 8 September 2021 on 'Issue of new MIC permit or endorsements to businesses that suffered fire-damage in 2021'*

According to this Directive, businesses belonging to the following categories which have suffered damage due to fire in the year 2021, may resubmit their investment proposal to obtain a new MIC Permit or Endorsement:

- 1) Those that operate with an MIC Permit or Endorsement from the MIC or an Endorsement from the Yangon Regional Investment Commission ("YRIC"); or
- 2) Those that operate without an MIC Permit or Endorsement issued by the MIC or an Endorsement issued by the YRIC.

The usual tax and other applicable exemptions and holidays that apply to MIC approved investments will apply.

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## LAWS AND REGULATIONS

### Employment and Pension

*Official Dispatch No. 2802/BHXH-CSXH dated 6 September 2021 by the Vietnam Social Security on “SI Benefits Paid to Employees at Bankrupt Companies owing SI Contributions”*

Employees who work for a bankrupt company owing social insurance (“SI”) contributions will be entitled to an old-age pension benefit under the following rules:

- The SI agency must agree to pay the pension if they are the appropriate age and meet the contribution time requirement (excluding the time in arrears) according to the policies in effect at the time they take their pension.
- If there is any addition to the SI participation period, the additional period during which contributions were paid will be added to the SI participation period to adjust the old-age pension benefit according to policies in effect at the time they take their pension.

In addition, the difference arising due to changes in wage policies over time can be determined to additionally pay the employee at the time they take their benefit.

### Business and Investments

*Decree No. 80/2021/ND-CP dated 26 August 2021 of the Government on the “Elaboration and Guidance on the Implementation of Several Articles of the Law on Support for Small and Medium Enterprises (SMEs)”*

Startup SMEs and SMEs participating in industrial clusters and value chains will receive an interest rate subsidies from the state budget when taking out medium- and long-term loans from credit institutions to implement business plans and projects according to the following principles:

- To be eligible, they must meet the criteria for startup enterprises and for support for enterprises that participate in industry clusters and value chains, and they must not be already enjoying any state preferential policies on interest rates at the same time.
- The state budget provides interest rate subsidies for businesses in the form of post-investment support.
- Each enterprise is entitled to an interest rate subsidy for only one business plan or a project in a same period of time.



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- Borrowing enterprises will undergo a lending review and decision process carried out by credit institutions in accordance with the law on lending operations of credit institutions.

This decree will enter into force on 15 October 2021 and replaces Decree No. 39/2018/ND-CP dated 11 March 2018.

#### Resolution No. 105/NQ-CP dated 9 September 2021 by the government on **“Support for Enterprises, Cooperatives, and Business Households in the COVID-19 Context”**

Under this resolution, in order to provide enterprises, cooperatives, and business households with subsidies, financing, and cash flow relief, the government mandates the Ministry of Labor, War Invalids and Social Affairs to take charge of and cooperate with the relevant ministries and authorities in hastening the competent authorities and the National Assembly to:

- Ratify the policy on reducing the SI contribution rates or using the SI fund’s residual balance as short-term financial support with a view to duly supporting employees, enterprises, cooperatives, business households, and other employers. This task must be completed during September 2021.
- Direct and guide the Vietnam Social Security to study and propose an exemption from fines for the late payment of SI contributions during 2020 and 2021 in accordance with the regulations. This task must be completed during September 2021.

Additionally, the government is assigning the Ministry of Finance to perform the following tasks:

- Speed up implementation of policies regarding relief from or rebates on taxes, fees, charges, and land levies after these policies are brought into effect by the competent authorities.
- Apply tax incentive policies for imports used as material assistance in COVID-19 prevention and control activities after these policies are ratified by the government.
- Consider and study renewal of the extension of deadlines for the payment of the special consumption tax for domestically manufactured or assembled automobiles until the end of 2021.

This resolution went into effect on 9 September 2021.

#### Construction

*Circular No. 10/2021/TT-BXD dated 25 August 2021 of the Ministry of Construction on **“Guidance on Decree No. 06/2021/ND-CP regarding Construction Quality Management and Decree No. 44/2016/ND-CP regarding Occupational Safety Inspections”***



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According to this circular, occupational safety and health construction expenses include expenses for the following:

- The design and implementation of safety measures
- Occupational safety and health training
- Occupational safety technical inspection of machinery and equipment
- Information and communication about occupational safety and health
- The provision of tools and personal protective equipment for employees
- Fire and explosion prevention and control activities
- The prevention and control of dangerous and harmful factors and the improvement of working conditions
- The assessment of occupational safety risks

The occupational safety and health construction expenses stated above are indirect costs constituting estimated construction costs, and are determined according to the instructions given in the circular elaborating on a number of regulations on the determination and management of construction investment costs.

This circular enters into force 15 October 2021.

*Circular No. 14/2021/TT-BXD dated 8 September 2021 of the Ministry of Construction on “Instructions on the Determination of Construction Project Maintenance Expenses”*

The circular determines the maintenance expenses borne by owners, operators, or users of construction projects.

For maintenance jobs of less than VND500 million, the maintenance expense equals:

- 3.5% of the sum of the costs of annual maintenance work, repair costs, and maintenance consulting costs; and
- Other costs prescribed in Clauses 1, 2, 6, and 7 of Article 3 of the circular.

For maintenance jobs of at least VND500 million and subject to the requirement to prepare an economic-technical feasibility report or an investment project for the repair of a construction project, the maintenance expense equals:

- 3.5% of the sum of the costs of annual maintenance work and maintenance consulting costs; and
- Other costs prescribed in Clauses 1, 6, and 7 of Article 3 of the circular.

This circular enters into force on 1 November 2021 and replaces Circular No. 03/2017/TT-BXD dated 16 March 2017.

*Circular No. 11/2021/TT-BXD dated 31 August 2021 of the Ministry of Construction on “Instructions on the Determination and Management of Construction Investment Costs”*

Construction costs included in the estimate of costs of the construction contract are determined according to Clause 2 of Article 4 of this circular.



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Based on the specific conditions of each contract, the estimate of costs of the construction contract may be supplemented with one or a number of other relevant costs for performing the work falling within the scope of the contract, e.g.:

- Costs incurred for moving special construction machinery and equipment to and from the construction site
- Costs to ensure traffic safety for the construction
- Costs incurred to fix or reinstall technical infrastructure impacted during construction
- Costs incurred for material storage facilities, etc.

Contingent costs included in the estimate of costs of the construction contract comprise provisions for additional quantity or jobs, and provisions against price slippage elements arising during the construction period.

This circular replaces the following documents: Circular No. 09/2019/TT-BXD, Circular No. 11/2019/TT-BXD, Circular No. 14/2019/TT-BXD, Circular No. 15/2019/TT-BXD, Circular No. 16/2019/TT-BXD, Circular No. 18/2019/TT-BXD, and Circular No. 02/2020/TT-BXD.

#### Imports and Exports

***Directive No. 10/CT-BCT dated 23 August 2021 of the Ministry of Industry and Trade on “Strengthening the Management of the Export and Import of Several Goods used for Supporting Domestic Production and Consumption Activities”***

According this directive, the competent authorities under the ministry’s jurisdiction are required to review import and export activities and propose measures to strengthen the management of goods that should be given support for domestic production and consumption activities, and to urgently report to the Minister of Industry and Trade before 30 August 2021.

Several specific tasks for various authorities included are as follows:

- Import and Export Management Office: Review mechanisms and give recommendations for the import management of rice and sugar products.
- Vietnam Chemicals Agency: Review the export and import mechanisms and propose solutions for management of the import and export of fertilizers.
- Domestic Markets Department: Direct major petroleum enterprises to stick to the actual production and business needs of enterprises to adjust the oil and petroleum supply at retail petrol stations to meet public demands in all circumstances.



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Vietnam Directorate of Market Surveillance: Direct forces to strengthen the inspection and supervision of markets to combat violations of the law on counterfeit and smuggled goods, especially key products serving domestic production and consumption demands.

#### Tax and Accounting

*Decision No. 1676/QĐ-BTC dated 1 September 2021 of the Ministry of Finance on the “Announcement of the First Set of Five Vietnam Public Sector Accounting Standards”*

The first set of five Vietnam public sector accounting standards have been approved, as follows:

- Standard No. 1 – “Presentation of financial statements” (Appendix No. 01)
- Standard No. 2 – “Cash flow statement” (Appendix No. 02)
- Standard No. 12 – “Inventories” (Appendix No. 03)
- Standard No. 17 – “Real property, premises and equipment” (Appendix No. 04)
- Standard No. 31 – “Intangible assets” (Appendix No. 05)

This decision entered into force on 1 September 2021.

#### Banking and Finance

*Circular No. 14/2021/TT-NHNN dated 7 September 2021 of the Governor of the State Bank of Vietnam on “Amendment of Circular No. 01/2020/TT-NHNN concerning Debt Rescheduling; Interest and Fee Reduction or Exemption; Debt Non-Restructuring for the Purpose of Supporting Customers Stricken with COVID-19”*

According to this circular, credit institutions and foreign bank branches may decide to grant an exemption or reduction of interest or fees according to their internal rules and regulations with respect to outstanding debts arising from credit extension activities before 1 August 2021 (except for corporate bond purchases and investments) if:

- Obligations to repay principal and/or interest are due during the period from 23 January 2020 to 30 June 2022; and



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- Borrowers are incapable of repaying their principal and/or interest debts by the maturity date under the terms and conditions of lending contracts or agreements due to a decrease in their sales and income caused by the COVID-19 outbreak.

The interest and fee exemptions or reductions granted to customers will last until 30 June 2022.

(An earlier circular, No. 03/2021/TT-NHNN, allowed interest and fee exemptions or reductions until 31 December 2021).

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Information included in this document does not represent legal advice. This document is not intended to represent a comprehensive list of all new laws and regulations issued or published in the relevant jurisdictions.