



LEGAL DIGEST: CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - July 2021



LAWS AND REGULATIONS
E-Commerce and transportation
<p><i>Prakas No. 100 PrK SK DCK of the Ministry of Public Works and Transport dated 21 June 2021 on “the Conditions and Procedure for Issuing Permits to Operate Land Transportation Services using Digital Technology Systems”</i></p> <p>The Prakas describes conditions and procedure for the registration and issuance of permits to companies that provide land transportation services via digital technology systems in the Kingdom of Cambodia. It sets out the certification and permitting requirements, permit validity period, and the conditions under which a permit would be revoked. It also describes the online filing system via the Ministry of Public Works and Transportation.</p> <p>Please also refer to the special update on VDB Loi web-site. LINK</p>
Corporate matters
<p><i>Notification of the Ministry of Commerce No. 1497 dated 5 July 2021 on “the Delegation of Power to a Representative or Agent for Commercial Registration”</i></p> <p>This notification applies to all founders or merchants in Cambodia who wish to incorporate a corporate entity with the Ministry of Commerce (“MOC”). Applicants are allowed to register a corporate entity in the form of a sole proprietorship, partnership, or limited company on their own through the MOC online system at www.registrationservices.gov.kh. Alternatively, they can appoint a representative or agent to register the entity on their behalf. The authorized representative or registration agent must be registered and licensed by the MOC, and be included on the MOC’s list of licensed agents. However, for sole proprietorships, a power of attorney to any person to do the commercial registration with the MOC is possible.</p> <p>The notification is effective from 2 August 2021 onward.</p>
Financial services
<p><i>Sub-Decree of the Royal Government of Cambodia No. 113 dated 14 July 2021 on “the Organization and Functioning of Units under the Non-Bank”</i></p>

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Financial Services Authority

The Royal Government of Cambodia has established an authority to manage non-bank financial services, called the Non-Bank Financial Services Authority (the “FSA”).

The new units established under the supervision of the FSA include:

- The Secretariat General of the FSA
- The Insurance Regulator of Cambodia
- The Securities and Exchange Regulator of Cambodia, replacing the existing Securities and Exchange Commission of Cambodia
- The Social Security Regulator
- The Trust Regulator
- The Accounting and Auditing Regulator
- The Real Estate Business and Pawnshop Regulator
- The Internal Audit Unit

The Sub-Decree sets forth provisions regarding the organization and functioning of the units under the FSA’s supervision including:

- The duties, tasks, and composition of each unit/regulator
- The eligibility criteria for officers of the FSA that will be set out by a Prakas of the Minister of the Ministry of Economy and Finance, the Chairperson of the FSA
- Source of funds and financial management of the FSA’s separate budget

Each unit/regulator of the FSA consists of three or four departments under its supervision. Sub-Decree 113 also sets forth the duties and tasks of each department.



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Financial Leasing Business

Decree No. 471/G dated 2 July 2021 on “Financial Leasing (Amended)”

This decree will come into effect on 14 August 2021, after it was published in the Official Gazette on 30 July 2021.

It further clarifies the provisions under the Financial Leasing Decree No. 11/PM dated 18 February 1999 (“**Financial Leasing Decree 1999**”), especially the types of investors that can operate a leasing business, the provisions of a financial leasing contract, and the registered capital requirements to establish a leasing company.

Certificate of Origin

Guideline No. 0588/MOIC.DIMEX dated 12 July 2021 on “Certificate of Origin under the Preferential Scheme”

The Ministry of Industry and Commerce issued these guidelines to further clarify the Decree on the Origin of Import and Export Goods 228/PM dated 22 April 2010.

There are three types of certificates of origin under the preferential scheme:

- Manual
- Electronic certificate of origin issuing system: e-CO
- Self-certificate

An application for a certificate of origin under the preferential scheme must comprise the following:

- A copy of the certificate of origin
- An application form for a certificate of origin under the preferential scheme with complete and accurate information
- The export invoice and packing list
- A customs declaration certificate with details



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- A bill of lading

The application for a certificate of origin under the preferential scheme must be submitted to the office responsible for certificates of origin under the Department of Import and Export of the Ministry of Industry and Commerce or the office of industry and commerce at the provincial level.

Pandemic-related procedures and restrictions

Notice No. 829/PMO dated 19 July 2021 on “Reinforcement Measures on the Containment, Prevention, and Comprehensive Response to the COVID-19 Pandemic during the period of 20 July to 3 August 2021”

The Prime Minister’s Office issued this notice to ensure continual compliance with the reinforcement measures as provided in Prime Minister Order No. 15/PM dated 21 April 2021, and Notice No. 745/PMO dated 4 July 2021; and includes the decision to extend the Vientiane lockdown for 15 more days, from 20 July to 3 August 2021.

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Banking
<p><i>Letter No. 1218/2021 dated 28 July 2021 issued by the Central Bank of Myanmar “Regarding Cash Withdrawal Limits of Individuals and Organizations”</i></p> <p>The letter states that, subject to banks’ policies and the balance amount in accounts, banks shall allow cash withdrawals of up to MMK 2 million per individual per week and up to MMK20 million per organization per week, if the individual or organization provides evidence that the amount withdrawn will be used towards the purchase of drugs for treating COVID-19, oxygen plants and related equipment, or to pay hospital and quarantine expenses.</p>
<p><i>Letter No. 1026/2021 dated 5 July 2021 issued by the Central Bank of Myanmar “To Streamline Digital Payments for Healthcare Services”</i></p> <p>The instructions in this letter are aimed at streamlining digital payments for healthcare services at private hospitals. It instructs private hospitals and clinics licensed by the Ministry of Health and Sports to prioritize digital payment systems.</p>
<p><i>Directive No. MaBaBaa/MP/FIR/Bank Si Sit/1(4/2021) issued by the Central Bank of Myanmar on and with effect from 2 August 2021 on “Matters regarding Foreign Workers’ Employment Compliance”</i></p> <p>Banks shall seek and obtain prior approval from the CBM at least 30 days before employing a foreigner. The list of documents to be submitted by banks for this purpose are set out in this directive, including the foreign employee’s CV, education and professional history, etc, and an undertaking letter that the foreign employee has not been involved in any money laundering or terrorist financing activities.</p> <p>For further details on this Directive please refer to the special update on VDB Loi web-site. LINK</p>
Commerce
<p><i>Notification No. 12/2021 dated 12 July 2021 issued by the Ministry of Commerce on “Temporary Exemption of Import License Requirements for COVID-19 Drugs and Medical Equipment”</i></p>



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This notification states that to help contain the third wave of the COVID-19 outbreak, the Ministry of Commerce has temporarily waived the requirement to apply for an import license for the following goods for a period of three months commencing from 12 June 2021:

- COVID-19 drugs and medical equipment (which previously required an import license)
- Liquid oxygen

Notification No. 13/2021 dated 26 July 2021 issued by the Ministry of Commerce on “List of COVID-19 Drugs and Medical Equipment Temporarily Exempted from Import License Requirements”

This notification provides a list of the specific COVID-19 drugs and medical equipment along with descriptions and H.S. Codes (in accordance with the 2017 Customs Tariff of Myanmar) that are exempted from import license requirements.

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Real Estate
<p><i>Decree No. 69/2021/NĐ-CP dated 15 July 2021 regarding “Improvement and Reconstruction of Apartment Buildings”</i></p> <p>In the following cases, apartment buildings must be demolished and rebuilt, or altered by another project according to planning regulations:</p> <ul style="list-style-type: none"> ▪ Those that need to be demolished immediately because of incidents, natural disasters, or fire emergencies as stated in the regulations. ▪ The prescribed lifespan of the apartment building expires, or it has not yet expired yet but the provincial competent state authority concludes that: <ul style="list-style-type: none"> - The main load-bearing structures of the apartment building have been exposed to general hazardous conditions, are in danger of collapse, or do not meet the conditions for continued use, requiring the urgent resettlement of its owners and users. - The apartment building is seriously damaged, some of its main load-bearing structures pose a danger, and it is affected by one of the following: fire safety infrastructure; water supply, drainage, wastewater treatment system; or a power supply, or an internal road system that: <ul style="list-style-type: none"> ○ Fails to meet the requirements of current technical regulations and standards; or ○ Are unsafe to operate and use, resulting in the need for demolition to ensure the safety of users and conformance to requirements concerning urban renovation and rehabilitation. - One of the main structural components, such as the foundation, columns, walls, beams, or girders, does not meet normal operational requirements, and does not need to be demolished according to the above regulations, but is part of an apartment building that should be demolished according to Clause 2, Article 110 of the Law on Housing.
Employment and Pensions
<p><i>Official Dispatch No. 1988/BHXH-TST dated 8 July 2021 regarding “Implementation of the Government’s Resolution No. 68/NQ-CP and the Prime Minister’s Decision No. 23/2021/QĐ-TTg.”</i></p> <p>The Vietnam Social Security Administration requires its affiliates and the social insurance agencies of provinces and cities to carry out the following</p>



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with regard to providing COVID-19 support for employers and employees

- Guide employers to apply to the relevant social insurance agency for temporary suspension of contributions to the retirement and death benefit fund according to Chapter I of Decision 23/2021/QĐ-TTg.
- Make a list of employees:
 - Participating in training under Chapter III of Decision No. 23/2021/QĐ-TTg.
 - Temporarily suspended from execution of employment contracts and taking paid furlough (Form No. 05); a list of employees (Form Nos. 13a, 13b, and 13c) according to Chapters IV, V, and X of Decision No. 23/2021/QĐ-TTg.
- Take action to reduce the rate of occupational accident and disease insurance contribution to 0% of the base payroll until June 30, 2022.

Official Dispatch No. 2242/LĐTBXH-TLĐ-PTM of the Ministry of Labor, War Invalids and Social Affairs, the Vietnam General Federation of Labor, and VCCI dated 14 July 2021 regarding “Implementation of the Dual Objectives of Quarantine and Manufacturing at Enterprises and Factories”

The Ministry of Labor, War Invalids and Social Affairs, the Vietnam General Federation of Labor, and VCCI agree to instruct and recommend that enterprises and factories organize their manufacturing and business activities to ensure conformity with safety requirements.

The dispatch requests Presidents of the provincial/city People’s Committees to provide instructions tailor-made to their actual local conditions, based on the regulations of the competent authorities and the contents of the instructions and recommendations.

Several recommendations about safety requirements that employees within social distancing zones must meet to travel to work are as follows:

- Employees residing in localities implementing social distancing regulations at the request of the competent authorities that are exposed to infection at home or the workplace can return to work once they have tested negative for COVID-19, according to the local government’s requirements.
- As required by localities where social distancing regulations are imposed, if employees need to stay at an enterprise or a concentrated accommodation site arranged by an enterprise for disease prevention and control purposes, employees must have negative test results before entering such sites.

While staying at an enterprise’s concentrated accommodation site, employees can undergo further tests as required by the local government.

Construction

Circular No. 06/2021/TT-BXD dated 30 June 2021 regulating “Grading of Construction Works and Provision of Instructions for Applying



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<p><i>Construction Grades to Construction Investments</i></p> <p>Construction work grades will be used as the basis for the management of construction investments, specifically to:</p> <ul style="list-style-type: none"> ▪ Delegate authority over the inspection of feasibility study reports, project commissioning tests during the construction process, and upon completion of construction works. ▪ Rate the capacity of individuals and organizations to carry out construction activities, based on which, competency and practice certificates in construction may be granted. ▪ Identify construction works exempted from having to obtain construction permits. ▪ Manage construction investment costs. ▪ Identify construction works that need maintenance processes to be formulated. ▪ Identify construction works subject to the requirement of formulating particular technical instructions.
Telecommunications
<p><i>Decision No. 874/QĐ-BTTTT dated 17 June 2021 regarding the “Code of Conduct on Social Networks”</i></p> <p>This decision specifies a code of conduct for social network service providers with the following principles:</p> <ul style="list-style-type: none"> ▪ Clearly disclose service terms and conditions, including all rights and obligations of service providers and users. ▪ Issue and publish measures to detect, notify, and cooperate with the competent authorities to handle, prevent, and remove information content that violates copyrights and laws. ▪ Upon receipt of a notice requiring the removal of copyright-infringing or law-breaking information from the competent authority, the social network service provider must cooperate with the organization or individual using the social network to take action in accordance with Vietnam’s regulations. ▪ Guide users of social networks, and support and protect the legitimate rights and interests of “weak ties” in society in order for them to be assured safe and sound access to social networks to avoid any act of exploitation, abuse, or psychological aggression on social networks. ▪ Respect users’ rights to protect their personal information, do not collect personal information or provide service users’ information to any third party without the users’ consent.



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Medical and Health

Circular No. 10/2021/TT-BYT dated 30 June 2021 prescribing the “List of Substances Prohibited from Being Used in the Production and Business of Nutritional Supplement Food”

This circular specifies the substances prohibited from being used for the production and business of nutritional supplement food, which are included in the following lists:

- Appendix V of Decree No. 54/2017/ND-CP dated 8 May 2017 – “List of pharmaceuticals and medicinal ingredients prohibited from import or export”
- Lists I, II, III, and IVA annexed to Decree No. 73/2018/ND-CP dated 15 May 2018 indicating narcotics and precursors
- Appendix I of Circular No. 20/2017/TT-BYT dated 10 May 2017 - “List of addictive substances”
- List of poisons and poisonous substances used in medicine annexed to Circular No. 06/2017/TT-BYT dated 3 May 2017
- Appendixes I, II, and III of Circular No. 42/2017/TT-BYT dated 13 November 2017 – “List of poisonous substances used in medicine”
- The list of agents included in the appendix to this circular (Circular No. 10/2021/TT-BYT), specifically including Aildenafil, Aminotalalafi, etc

Tax and Customs

Official Dispatch No. 2393/TCT-DNNCN dated 1 July 2021 regarding “Personal Income Tax Declaration”

This dispatch, issued by the General Department of Taxation, provides instructions on the personal income tax (“PIT”) declaration of organizations and individuals that do not pay income:

- Clause 6, Article 1 of the 2012 amended Law on Personal Income Tax and Clause 1, Article 9 of Decree No. 126/2020/ND-CP dated 19 October 2020 states that:
 - PIT declaration is required only when organizations and individuals pay income subject to PIT.
 - Organizations and individuals that do not pay income subject to PIT shall not be subject to the Law on PIT.

This means that any organization or individual that does not pay income subject to PIT in any month/quarter will not be subject to the PIT declaration requirement applied in that month/quarter.



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In addition, this dispatch provides instructions on which State administrative agencies, non-business administrative agencies, Party bodies, etc. that pay income in the form of salaries or wages but do not have sales from products or services will be subject to the quarter-based PIT declaration requirement.

Banking and Finance

Circular No. 08/2021/TT-NHNN, dated 6 July 2021 prescribing “Special Lending Transactions with Credit Institutions under Special Control”

This circular specifies that regulations on special lending transactions with credit institutions under special control are tightened as follows:

- Regarding the term of special loans for support for liquidity granted to credit institutions that are in danger of becoming insolvent or fall into insolvency:
 - The term will be considered and decided by the State Bank, but it will be for less than 12 months (currently, the maximum term is 24 months).(This regulation also applies to credit institutions implementing approved business restructuring or ownership transfer plans.)
- Regarding credit institutions that are in danger of becoming insolvent or fall into insolvency, the circular adds the regulation under which borrowers must provide collateral in priority order.

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.