

VDB Loi Laos Alert

1 April 2020

COVID-19 SUSPENSIONS: DRASTIC TIMES CALL FOR DRASTIC MEASURES

On 29 March 2020, the Prime Minister of the Lao PDR issued Order No. 06/PM (“**Order 06**”) calling for suspension of all nonessential businesses effective from 30 March 2020 until 19 April 2020. The order prohibits all nonessential in-person communications and travel, and requires everyone, including government employees, business owners, and foreign workers, to stay at home, except those who are required to be present in-person to:

- **Carry out necessary public functions**, especially military and police personnel, firefighters, utility and telecommunications workers, medical workers, and civil servants, and volunteers who are actively working on the prevention and control of COVID-19 and the treatment of infected persons; or
- **Run an essential business**, such as financial services and securities companies, the Laos Stock Exchange, hospitals and healthcare businesses including clinics and pharmacies, rescue services, postal services, telecommunications services, utilities, vegetable markets, convenience stores, supermarkets, fuel stations, and restaurants and cafes (take away and home delivery services only). Hotels are allowed to provide accommodation and food services only.

All government institutions and businesses that are allowed to remain open must strictly enforce the preventive measures to combat COVID-19 specified by the Taskforce Committee (for details on these measures, please click [here](#) for our article: “Coronavirus: What Employers Should Know”).

All entertainment venues, karaoke and beer bars, massage and spa services, fitness centers, sports complexes, and night markets will continue to remain shut until 19 April 2020. All garment and other factories, and large projects are to be closed down, except factories that produce essential consumer goods, medicines, and medical equipment (see listing below). Owners of closed factories and projects must ensure employees stay in place, and must pay the necessary allowance to them during the suspension period (see the “Our Analysis” section below).

The police and responsible government authorities are ordered to take strict action against violators of Order 06.

Clarification of factories allowed to continue operating

On 31 March 2020, the Industry and Handicraft Department of the Ministry of Industry and Commerce, the licensing and management authority for factory operations, issued Notice No. 0348/IC.ID (“**Notice 0348**”) to clarify which factories will remain open during the lockdown period of 1 April to 19 April 2020. Only factories producing essential consumer items will remain open:

Processing and preserving of meat	Manufacture of sugar, cocoa, chocolate, and sugar confectionery	Manufacture of fertilizer and nitrogen compounds
Processing and preserving of fish, crustaceans and mollusks	Manufacture of macaroni, noodles, couscous and similar farinaceous products	Manufacture of soap, detergents, cleaning and polishing products, perfumes and toiletries
Processing and preserving fruit and vegetables	Manufacture of prepared meals and dishes	Manufacture of pharmaceuticals, chemical and botanical products
Manufacture of vegetable and animal oils and fats	Manufacture of coffee, tea, and herb infusions	Manufacture of medical and dental instruments and supplies
Manufacture of milk and dairy products	Manufacture of processed spices, sauces, condiments, and other cooking products	Manufacture of candles and incense sticks
Manufacture of grain mill products, starches, and starch products	Manufacture of other food products	Manufacture of cleaning equipment

Employer obligations

Notice 0348 also sets out the obligations of owners of factories ordered to shut down during the period pursuant to Order 06:

- Make accommodation arrangements for factory staff and laborers (who have migrated from far villages or other provinces) to stay on the factory premises (where applicable); and
- Ensure that factory staff and laborers do not move out of their accommodation or houses, and do not travel or migrate back to their hometowns or villages, unless it is necessary, and prohibit travel to areas where COVID-19 cases have been reported or areas at high risk.

As per the notice, factory owners suffering adverse impacts from the temporary suspension should provide a brief summary report to the Lao National Chamber of Commerce and Industry.

Factories that are allowed to remain open during the suspension period must follow the instructions below:

- Disseminate safety information to all staff members, and follow the Taskforce Committee's guidelines on COVID-19 prevention and control;
- Monitor and check staff and laborers' temperatures when they enter and leave the factory. If anyone is found to have symptoms, e.g. is coughing or sneezing or has a high fever, the hotline at 166 or 020 54066777 must be contacted immediately;
- Instruct staff and laborers to maintain at least a two-meter distance from each other, wear a mask, and wash their hands with soap or other disinfectants; and
- Clean and disinfect offices, production buildings, canteens, employee accommodations, and other risky areas.

Our Analysis:

The suspended factories' owners may find it challenging to control and monitor their employees' off-duty conduct, but given the drastic circumstances, they must ensure that Order 06 and Notice 0348 are strictly implemented. Factory owners are advised to inform all employees about Order 06 (and Notice 0348) as soon as possible and notify them to stay in their accommodations and avoid any travel without prior approval from the factory owner or management. Also, employers should immediately report to the labor authority having jurisdiction over their workplace location if they become aware that an employee has left during the suspension period.

With regard to the "large projects" to be shut down pursuant to Order 06, we understand that all types of projects under construction, real estate projects, and nonessential logistics projects are required to be shut down. However, no notification has been issued by any ministry in this regard.

From a labor law perspective, if an employer's labor unit is ordered to suspend business temporarily by the government, the employer may continue to pay full salary to its employees or may opt to reduce the employees' salary, but not less than 50% of employees' basic salary for the suspension period. For details regarding employers' obligations in case of a COVID-19 outbreak, please refer to our abovementioned article.

Furthermore, the monthly tax returns (e.g. excise tax, value added tax and personal income tax) must be submitted through TaxRis and paid through online by the 20th April. If the company is unable to file taxes for any reason, they should write to the tax authority and request for permission to delay such filings.

Please note that non and late submission of tax return without prior approval from tax authorities will be subject to penalties as per the laws and regulations of the Lao PDR. If the tax returns have been submitted and paid online, a notification to the tax department may be done later on after the situation come back to normal.

Voluntary Suspension of Business due to COVID-19

Given the difficult economic circumstances from the COVID-19 pandemic, many businesses operating in the Lao PDR may be considering temporarily shutting down their businesses until the crisis is over.

There are no specific regulations regarding the procedure for enterprises to voluntarily suspend operations temporarily. In practice, it is similar to the procedure followed for temporary suspension of an enterprise's business at the time of liquidation and dissolution:

- Clear all outstanding tax liabilities and obtain a tax payment certificate from the relevant tax authority. If there are any outstanding tax liabilities, write to the tax authority requesting an extension of time due to the temporary suspension of the business;
- Notify all relevant ministries, including the Ministry of Industry and Commerce, the relevant ministry responsible for issuing the enterprise's business operation license, the Ministry of Public Security, the National Social Security Fund Office, and the relevant tax authority;
- Obtain the consent of the majority of the employees or trade union, or the employees' representative and report to the Ministry of Labor and Social Welfare in accordance with the Lao labor law; and
- Continue to pay salary in accordance with the Lao labor law and contribute to the National Social Security Fund in accordance with the social security laws and regulations of the Lao PDR.

Suspension of Public Transport Services

The Public Works and Transport Division of Vientiane Capital, the Ministry of Public Works and Transport issued Notice No. 2157/PWT.VTE on 30 March 2020 ordering the suspension of all public transportation services between provinces effective from 1 April 2020.

As per the notice, all transport service owners and bus stations that are under the Public Works and Transport Division of Vientiane Capital are ordered to shut down transportation services temporarily within provinces, to other provinces, and overseas from 1 April until 19 April 2020 because of the COVID-19 situation.

Suspension of private healthcare facilities

Although the Order 06 states that healthcare institutions and medical units can operate during the suspension period, the Ministry of Public Health has issued Notice no. 0405 on 31 March 2020, whereby it has ordered all private clinics and hospital to suspend taking any new patients. However, the private clinics and hospitals can continue with treatment of patients whose treatment is ongoing or, who already been admitted as of the date of this notice.

Suspension of Debt Payments and Interest by the Bank of the Lao PDR

The Bank of the Lao PDR ("**BOL**") issued the Decision on Credit Policies to Address the Impact of the Lung Infection Pandemic Caused by the New Strain of Virus (COVID-19) No. 238/BOL ("**Decision 238**") on 26 March 2020.

Under Decision 238, the BOL has ordered all retail banks and non-banking financial institutions to delay the repayment dates for borrowers' principal and interest payments. The BOL has also authorized these financial institutions to adjust their loan interest and service fee rates as they deem fit, including the following:

- Restructure loans for debtors who have been affected by specifying a new agreement or installments for the repayment of the loan principal and interest, and adjust interest rates to be consistent with the debtors' capacity to pay.
- Debtors should be given a grace period of one year or a length of time agreed between the creditor and the debtor.
- Provide new loans to debtors and those businesses or individuals affected by the pandemic.
- Take other measures that are consistent with this and other relevant legislation.

Decision 238 applies to debtors adversely affected by COVID-19 and lenders (retail banks and non-banking financial institutions) that are operating in the Lao PDR under the supervision of the BOL.

If you have any concerns related to legal, tax, or accounting, or need more information on the above, please get in touch with your usual contact at the firm directly for a timely response.

This article is intended to provide an overview of the legal issues for general purposes only and therefore, the contents herein must not be construed as legal advice or as a substitute for legal advice for any specific matter or situation.