



# LEGAL DIGEST: CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - August 2021

LAWS AND REGULATIONS

Commercial law

*Prakas No. 0169 of the Ministry of Commerce dated 12 August 2021 on "Usage of Words to Identify the Legal Form of Companies"*

Under the Prakas, the MOC is requiring new corporate entities to put their legal form at the end of or below their name by using the words or abbreviations below:

- Private limited companies - include the words "Private Limited Company" or the abbreviation "LTD" at the end of or below the name.
- Public limited companies - include the words "Public Limited Company" or the abbreviation "PLC" at the end of or below the name.
- Sole proprietorships - include the words "Sole Proprietorship" before the name.
- Local branches - include the name of the principal in the name and the words "Local Branch" above or before the name.
- Foreign Branches - include the name of the principal in the name and the words "Foreign Branch" above or before the name.
- Commercial representative offices and commercial relations offices - include the name of the overseas company in the name and the words "Foreign Commercial Representative Office" or "Foreign Commercial Relations Office" above or before the name.
- General partnerships - include the words "General Partnership" or the abbreviation "GP" at the end of or below the name.
- Limited partnerships - include the words "Limited Partnership" or the abbreviation "LP" at the end of or below the name.

In addition, a public limited company or private limited company may use the word "Holding" or "Group" after the company name provided that the conditions included in Article 8 of the Prakas are complied with.

Data Exchange

*Sub Decree No. 164 ANKr Br of the Royal Government of Cambodia dated 24 August 2021 on "Data Exchange Via The Cambodia Data Exchange Platform "CamDX"*

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This sub-decree specifies the management of the data exchange between the public sectors and private sectors on the CamDX in order to align with the digital transformation policy of Cambodia. Under this sub-decree, in order to promote data safety, integrity, and accuracy, all data that needs to be processed via the CamDX must be encrypted and contain a digital signature.

The Ministry of Economy and Finance (“**MEF**”) is the general secretariat to the Royal Government of Cambodia to lead and manage the CamDX process. All CamDX operations will be managed by the operators, with the MEF monitoring the technical and financial issues.

#### Public Holidays

*Sub-Decree No. 145 ANKr BK of the Royal Government of Cambodia dated 19 August 2021 on “**The Public Holidays for Civil Servants and Employees in 2022**”*

According to the Sub-Decree above, civil servants and employees have 21 public holidays in 2022 as follows:

DATE	NAME OF PUBLIC HOLIDAY	DAY(S)
1 January	International New Year Day	1
7 January	Victory over Genocide Day	1
8 March	International Women’s Rights Day	1
14-16 April	Khmer New Year Celebration	3
26 April	Visaka Bochea Day	1
30 April	Royal Ploughing Ceremony	1
1 May	International Labor Day	1
14 May	Birthday of His Majesty Preah Bat Samdech Preah Boromneath NORODOM SIHAMONI, the King of Cambodia	1
18 June	Birthday of Her Majesty the Queen-Mother NORODOM MONINEATH SIHAMONI, the King of Cambodia	1
24 September	Constitution Day	1
5-7 October	Pchum Ben Festival	3
15 October	Mourning Day of the Late King-Father NORODOM SIHANOUK of Cambodia	1



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	29 October	Coronation Day of His Majesty Preah Bat Samdech Preah Boromneath NORODOM SIHAMONI, the King of Cambodia	1	
	9 November	National Independence Day	1	
	18-20 November	Water Festival	3	
Construction				
<p><i>Notification No. 1538 of the Ministry of Land Management, Urban Planning and Construction dated 16 August 2021 on “<b>Strengthening the Implementation of Technical Standards on Physical Infrastructure for People with Disabilities</b>”</i></p> <p>This notification instructs all heads of departments of Land Management, Urban Planning and Construction to strengthen the technical standards on infrastructure that provide public services, such as for administration buildings, schools, institutes, hospitals, hotels, restaurants, markets, and factories.</p> <p>In order to receive a construction permit from the competent authorities, the building must have the proper infrastructure, equipment, and services suitable for people with disabilities to access.</p>				

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Secured Transactions
<p><i>Instruction No. 3662/MONRE dated 3 August 2021 on “Official Fees and Service Charges in relation to Natural Resources and Environment Sector” issued by the Ministry of Natural Resources and Environment</i></p> <p>The purpose of this instruction is to further implement the official fees stipulated in Article 25 of the Presidential Decree on Fees and Service Charges No. 002/P dated 17 June 2021.</p> <p>This instruction will come into effect on 2 September 2021, after it was published in the Lao Official Gazette on 18 August 2021. The key change is the official fee for the registration of security interests over immovable assets, which previously was 0.2% of the loan amount, and will now range from LAK50,000 to LAK200,000.</p>
Logistics
<p><i>Prime Minister’s Decree No. 513/G dated 4 August 2021 on “Dry Ports”</i></p> <p>This decree will come into effect on 3 September 2021, after it was published in the Lao Official Gazette on 19 August 2021.</p> <p>The decree stipulates nine locations for dry ports in the Lao PDR according to the UNESCAP International Agreement on Dry Ports dated 7 November 2013 as follows:</p> <ol style="list-style-type: none"> <li>1. Thanaleng Dry Port, Vientiane Capital</li> <li>2. KM 20 Dry Port, Borikhamxay Province</li> <li>3. Natery Dry Port, Luangnamtha Province</li> <li>4. Pakse Dry Port, Champasak Province</li> <li>5. Thakhaek Dry Port, Khammouan Province</li> <li>6. Houayxay Dry Port, Bokeo Province</li> <li>7. Luangprabang Dry Port, Luangprabang Province</li> <li>8. Meuangxay Dry Port, Oudomxay Province</li> </ol>

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9. Seno Dry Port, Savanhnakhet Province

The decree also stipulates that any legal entity wishing to develop a dry port must submit an application to for that purpose to the one-stop service at the central level, and the application must have the following attached:

- Investor's profile
- A copy of the investor's certificate of incorporation
- A copy of the joint venture agreement (if there is more than one investor)
- A feasibility study report
- A certificate of financial status or supporting documents from a financial institution or commercial bank
- The new company's draft articles of association
- A resolution of the investor's shareholders and resolution of the investor's board of directors approving the setting up of the company in the Lao PDR
- A resolution of the investor's board of directors appointing the managing director and other directors of the company
- Other supporting documents

Corporate laws

*Instruction No. 08/MOHA dated 16 August 2021 issued by the Ministry of Home Affairs on "Implementing the Amended Decree on Seals No. 322/G dated 1 October 2018"*

The purpose of this instruction is to implement and further clarify the provisions under the Amended Decree on Seals No. 322/G dated 1 October 2018.

It clarifies that once the contents of a seal have been updated because of a change in the enterprise's name, a merger, the dissolution of the enterprise or completion of the enterprise's project, the enterprise that was authorized to use the seal must return the old seal to the relevant authorities of the public security sector. #If the old seal is still used in the business operation, it will be considered a criminal





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violation and will be prosecuted according to the law.

Pandemic-related procedures and restrictions

*Notice No. 1036/PMO dated 19 August 2021 on “Reinforcement Measures on the Containment, Prevention, and Comprehensive Response to the COVID-19 Pandemic for the period of 19 August to 2 September 2021” issued by the Prime Minister’s Office*

The Prime Minister’s Office decided to extend the nationwide lockdown, from 19 August to 2 September 2021, and issued this notice to ensure continued compliance with the reinforcement measures as provided in Prime Minister Order No. 15/PM dated 21 April 2021, Notice No. 956/PMO dated 3 August 2021, and other measures issued by the COVID-19 Taskforce Committee.

Other restrictions extended are as follows:

- The closure of all border checkpoints for ordinary crossings with countries where community outbreaks are reported. Goods transport is allowed.
- The suspension of tourist and visitor visa issuance for foreign nationals. Foreign diplomats, staff of international organizations, experts, and investors with an essential mission in the Lao PDR may enter the country after obtaining permission from the taskforce. Ambassadors and heads of international organizations are permitted to undergo quarantine at their residences, but lower-ranking officials are required to quarantine at designated hotels.
- The closure of entertainment and karaoke venues, cinemas, snooker shops, spas, and internet cafes as well as game shops.
- The prohibition against sports where players are in close proximity, such as soccer and boxing in provinces experiencing community outbreaks.
- The prohibition against travel to and from red-zone villages and communities.
- The prohibition against all kinds of gatherings.

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Banking and Finance

*Letter No. Ma Va Ba/ Na Pa Ta/ Sa Yin (1335/2021) dated 13 August 2021* issued by the Central Bank of Myanmar (“CBM”) to all banks regarding “**Providing banking services on public holidays**”.

The letter states that banks must continue to provide the services listed in the letter during the public holidays between 16 August 2021 and 22 August 2021 declared by the State Administration Council via Order No. 226/2021, dated 12 August 2021 to ensure that their customers are able to utilize such services towards paying for health expenses and other necessities.

The services listed in the letter include: (a) ensuring availability of cash by filling ATMs with cash on a daily basis; (b) allocating sufficient cash in the bank’s debit cap and to prevent disruption of CBM’s online automated fund transfer mechanism; (c) issuing letters of credit, carrying out money transfers to ensure payment for importation of emergency medicines and medical equipment for treatment of Covid-19 and importation of related goods; (d) easing of mobile banking, mobile payment and digital payment services; (e) notifying the customers of the availability of banking services in a manner they deem fit, and so on.

*Letter No. Ma Va Ba/MP/FIR/Bank Check/Htwe (378/2021) dated 13 August 2021* issued by the CBM to all banks, Non-bank Financial Institutions (Finance Companies), Mobile Financial Services Providers (collectively, the “FIs”) regarding “**Investigating and taking action against illegal money transfers by unlawful associations in connection with lottery sales**”

The letter requires the FIs to do the following:

- a) to check the full description of the transfer, the account numbers of the transferor and the beneficiary, and the amount of money to be transferred;
- b) to verify the information required in any online payment system;
- c) to supervise mainly the illegal money transactions of the illegal lottery sales conducted by the CRPH and National Unity Government;
- d) to inform the Central Committee for Counter-Terrorism, Anti-money Laundering Central Committee, Financial Intelligence Unit, MOPF, and the Central Bank of Myanmar, upon finding such illegal transactions.





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Employment

*Notification (341/2021) dated 6 August 2021* issued by the Ministry of Labour (“**MoL**”) regarding ‘**Postponement of social security contribution by registered employers**’

The Notification states that owing to the surge of Covid-19 cases, the MoL has allowed employers to make social security payments to the Social Security Board on a semi-annual basis (instead of quarterly basis as previously introduced by the MoL via a notification in 20 March 2020) starting from May 2021. The employer who defaults to make such semi-annual payments shall be fined and the penalty shall be payable at the end of such period.

Export and Import

*Directive No. (15/2021) dated 25 August 2021* issued by Ministry of Commerce regarding “**Procedures to follow in applying for Export Import Business License on Tradenet 2.0 system**”

The Directive states that

- holders of export/import license (“**Ex/Im License**”) are required to apply to the Tradenet 2.0 system (“**Tradenet**”) and obtain a new Ex/Im License upon change in business entity (domestic to foreign or vice versa).
- The holders of Ex/Im License are required to apply for renewal of their Ex/Im License via Tradenet.
- Starting from 1 September 2021, all new applications for Ex/Im License are required to be made via Tradenet.

*Directive No. (16/2021) dated 25 August 2021* issued by Ministry of Commerce regarding “**Stipulations for Export Import Business License process on Tradenet 2.0 system**”

The Directive states that applications for extension, amendment, cancellation, surrender, revocation of the Ex/Im License will be automatically cancelled by the Tradenet 2.0 system if the applicant does not pay the applicable fees within 10 days after the applicant



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receives the approval from the Trade Department of the Ministry of Commerce. The applicant may re-apply via Tradenet after applying to the Trade Department to delete the cancelled application from its records.

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## Banking and Finance

*Circular No. 11/2021/TT-NHNN dated 30 July 2021 issued by the State Bank of Vietnam prescribing the “**classification of assets, amounts and methods of setting up risk provisions and use of provisions for the handling of risks arising from operations of credit institutions and foreign bank branches**”*

The circular prescribes that the amount a credit institution must set aside for a general provision is 0.75% of the total balance of debts from class 1 to class 4, except the following:

- Deposits made at credit institutions, foreign bank branches in accordance with the law, and at overseas credit institutions.
- Loans and forwards of securities between credit institutions and foreign bank branches in Vietnam.
- Purchases of promissory notes, treasury bills, certificates of deposit, and bonds issued by credit institutions and foreign bank branches onshore. (This is a supplement to the existing regulation.)
- Repos of government bonds, subject to point I of clause 1 of Article 1 in Circular No. 11. (This is a supplement to the existing regulation.)

The circular enters into force as of 1 October 2021 and replaces Circular No. 02/2013/TT-NHNN dated 21 January 2013 and Circular No. 09/2014/TT-NHNN dated 18 March 2014.

## Power

*Official Dispatch No. 4748/BCT-DTDL dated 6 August 2021 of the Ministry of Industry and Trade, regarding “**the Fourth Support Granted by a Reduction in Electricity Bills for COVID-19-Stricken Users**”*

According to this document, domestic electricity bills of household users will be reduced as follows:

- Beneficiaries eligible for a reduction in their electricity bills are consumers of electricity for domestic or household purposes in the following localities:
  - Provinces and centrally-affiliated cities where the social distancing action under Directive No. 16/CT-TTg is taken as of July 30, 2021;
  - Lists of the localities given electricity bill subsidies have been provided by Provincial People’s Committees and centrally-affiliated



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cities to power companies.

- Rates of subsidies:
  - A reduction of 15% of each electricity bill (before VAT) for consumers using up to 200 kWh/month.
  - A reduction of 10% of each electricity bill (before VAT) for consumers using more than 200 kWh/month.

#### Telecommunications & Communications

*Directive No. 49/CT-BTTTT dated 18 August 2021 of the Ministry of Information and Communications regarding “**Promotion of the Development and Use of Safe and Healthy Digital Platforms**”*

Under this directive, in order to promote individual access to safe and healthy digital platforms, the Ministry of Information and Communications has set out the following guidelines for users:

- Use digital platforms that have policies and tools to manage and respond against fake news or illegal information.
- Use discretion when providing personal information on digital platforms.
- Do not share information or click on links sent by strangers to avoid being infected with malicious code or malware that collects personal data and information illegally.
- Avoid sharing or interacting with websites and accounts showing signs of posting fake news and information in breach of the law.
- Use digital platform tools to report fake news, information, and offenses or report them to the competent authorities.
- Secure personal accounts and passwords on digital platforms.

#### Pandemic-related procedures and restrictions

*Resolution No. 86/NQ-CP dated 6 August 2021 of the Government regarding “**Urgent Measures for COVID-19 Disease Prevention and Control**”*

The resolution prescribes a number of special mechanisms and policies for granting certificates of registration for marketing authorization of COVID-19 treatment drugs and vaccines manufactured in Vietnam as follows:

- With respect to domestically-manufactured COVID-19 treatment drugs and vaccines that are undergoing clinical trials, if the results of



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the phase 3 mid-term evaluation of a drug's safety and therapeutic efficacy or a vaccine's protective efficacy based on the immunogenicity data have been obtained, they may be used for considering the conditional certification of registration for marketing authorization after:

- Consultation with the National Ethics Committee on Biomedical Research for drugs and vaccines undergoing clinical trials in Vietnam; and
- Consultation with the Advisory Council on the issuance of certificates of marketing authorization for drugs and medicinal ingredients for specific drugs or vaccines with reference to the guidance or recommendations of the World Health Organization.
- Further monitoring of the safety and efficacy, and management of recipients, number of doses, and scope of administration of the drugs and vaccines are required after certificates of registration for marketing authorization of these drugs and vaccines are granted.

In addition to the aforesaid regulations, any other regulations related to registration for marketing authorization of drugs and vaccines for the prevention and control of COVID-19 must be complied with.

#### Tax and Accounting

*Decision No. 1529/QĐ-BTC dated 9 August 2021 issued by the Ministry of Finance regarding "Assessment Regulations for ASEAN Chartered Professional Accountants"*

This decision enters into force on 9 August 2021. It sets out assessment regulations for ASEAN Chartered Professional Accountants ("ASEAN CPAs"), and are made on the basis of Vietnam's commitments under mutual recognition agreements on accounting and auditing services among ASEAN member states.

According to this document, an applicant meeting all of the following standards may apply for recognition as an ASEAN CPA:

- Possess a practice certificate as an accountant or auditor in Vietnam.
- Acquire real practical experience in accounting, auditing, or finance of a minimum of three years cumulatively within any five-year period from the time of conferral of their university degree to the time of application for recognition as an ASEAN CPA.
- Comply with the regulations' continuing professional development ("CPD") policy, which includes specifically:
  - By August 31 every year at the latest, in order to maintain the title of ASEAN CPA, comply with current regulations on the number of hours of participation in CPD that apply to chartered accountants and auditors in Vietnam.



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- Submit an annual report on maintenance of the ASEAN CPA title to the Ministry of Finance.
- Have no record of serious violation of Vietnamese or international technical, professional, or ethical standards for accountancy and audit.

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