



LEGAL DIGEST: BANGLADESH, CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - December 2021

LAWS AND REGULATIONS

Banking & Finance

Parliamentary amendment to the Bankers' Book Evidence Act 1891, dated 7 December 2021, titled "The Bankers' Book (Amendment) Act 2021"

The amended law fills a long-standing gap to incorporate digitally recorded documents within the ambit of evidence in relation to banking records. It also aims to bring about greater transparency in the banking system by making more information public by laying down procedures for disclosure and appointment of authorities empowered to disclose information; the amended law also introduces more stringent measures regarding punishing and dealing with information leaks and breaches of privacy. The amended law takes the banking system into the modern era by bringing in the concept of digitization and providing evidentiary value to digital records on par with other banking records.

Maritime Law

Parliamentary amendment to the Territorial Water and Maritime Zone Act 1974, dated 7 December 2021, titled "The Territorial Water and Maritime Zone (Amendment) Act 2021"

The amended law imposes more stringent penalties for maritime pollution, with a maximum sentence of three years' imprisonment, or a minimum of 20 million Bangladeshi Taka ("BDT") and a maximum BDT50 million fine, or both. The earlier punishment was one year's imprisonment and a BDT5,000 fine. Another feature of the amended law is the provision to penalize offences committed in any exclusive economic zone, continental shelf, and contiguous zone. To keep pace with the changes in technology since the old law, there have been additions in relation to video, photo, and electronic records as evidentiary sources due to a lack of traditional witnesses in the high seas. The jurisdictional aspects of maritime law have been more broadly defined by the 35 new sections included relating to both civil and criminal matters in the context of entry of foreign vessels and submarines into the maritime territory of Bangladesh. In addition to this, new definitions have been added for naval vessels that have been invented since the passing of the old law, including remotely operated underwater vehicles, autonomous underwater vehicles, and unmanned underwater vehicles.

A major focus of the amended law is to establish and increase the territorial sovereignty of Bangladesh over its waters; towards this end, it has extended the boundary of the contiguous zone, which is a band of water extending farther from the outer edge of the territorial sea from the baseline to 24 miles, as opposed to 18 miles. In addition, it has amended the term 'Economic Zone' to 'Exclusive Economic Zone' in order to comply with the definition of exclusive economic zone according to the United Nations Convention on the Law of the Sea, as per which all coastal countries are granted the sovereign right to a stretch of the sea extending 200 nautical miles beyond their coast.



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Travel and Tourism

*Parliamentary Act No. 26 of 2021, dated 7 December 2021, titled "**Bangladesh Tour Operator and Tour Guide (Registration & Operation) Act 2021**"*

This law makes it mandatory for tour operators and guides in Bangladesh to register themselves with the government. As there are many tour operators and guides who contact travelers through social media and whose services are utilized without any form of verification or identity check, there is a high chance of fraud and crime occurring in these situations. As a precaution, this law provides stringent penalties for non-compliance with its provisions. This law is aimed at ensuring safety in the tourism sector and allowing Bangladesh to grow as a travel destination.

COVID-19 Related Updates

*Circular No. 58.00.0000.044.34.011.20.547 of the Safety Services Division of the Ministry of Home Affairs of Bangladesh, dated 1 December 2021, on the "**Visa on Arrival**"*

Considering the current COVID-19 pandemic, it has been decided that the following persons will be eligible for the visa-on-arrival facility in Bangladesh:

- 1) Foreign nationals who are of Bangladeshi origin (that is, a person who has at least one parent who is or was a citizen of Bangladesh or a person who has renounced citizenship of Bangladesh) along with their spouse and children.
- 2) Foreign nationals who are holders of official or diplomatic passports.
- 3) Foreign nationals who are investors and traders.
- 4) Foreign nationals who have been invited by government authorities.
- 5) Foreign nationals who have received special permission from the Ministry of Home Affairs.



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The opening up of visa-on-arrival facilities for foreign nationals is a progressive step taken by the government, which is set to ease the bureaucratic process involved in applying for visas prior to travel. It is expected that travelers will exercise due caution while traveling so as to prevent the spread of COVID-19 and especially the new Omicron variant.

Circular No. 30.31.0000.112.42.001.21-5170 of the Flight Standard and Regulations Division of the Civil Aviation Authority of Bangladesh, dated 2 December 2021, on the "Additional travel restriction due to new COVID-19 variant 'Omicron'"

Due to the new Omicron COVID-19 variant outbreak, from 4 December 2021 until further notice, all incoming passengers to Bangladesh who have visited/transited/originated from Botswana, Eswatini, Ghana, Lesotho, Namibia, South Africa, and Zimbabwe within the previous 14 days, shall have to complete a mandatory 14-day quarantine at government-nominated hotels at the passengers' own expense. Passengers are also required to do an RT PCR test on the 7th and 14th day of the quarantine at their own expense.

On the basis of the RT PCR test result on the 7th day of quarantine, COVID-19 positive passengers will be separated to a more isolated location to prevent the spread of COVID-19. Subject to the RT PCR test result on the 14th day of quarantine, COVID-19 negative travelers will be released. All travelers from the above-mentioned countries are required to show proof of hotel booking in Bangladesh during the flight check-in, and airline officials shall verify it before issuing the boarding pass. Additionally, the concerned airline's authority is required to provide the passenger's passport details, address, and contact number to the Health Department of Bangladesh. Incoming passengers from all other destinations, except children who are below the age of 12, must have an RT PCR-based COVID-19 negative certificate. The test must be done within 48 hours of the flight's departure.

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Extension of 2022 foreign employee quota application deadline to 31 January 2022 (Notification 058/21 issued on 1 December 2021 by the MLVT)

- Deadline extended from 30 November 2021 to 31 January 2022.
- Possible fines for failure to apply by the extended deadline: KHR2.52 million (approximately US\$630) by the MLVT or up to KHR3.6 million (approximately US\$900) by the court.
- Without this quota approval, employers cannot apply for their foreign employees' work permits for 2022, which could result in heavier monetary fines and sanctions by the MLVT.

Minimum wage for 2022 (Prakas 264 issued on 28 September 2021 by the MLVT, effective from 1 January 2022)

- New minimum wage for 2022 for the garment, textile, footwear, travel products and bag sectors
 - For regular workers, US\$194 per month.
 - For workers during their probationary period, US\$192 per month.
 - For workers who are paid on a piece-rate basis, if their productivity gives rise to an amount higher than the minimum wage, the higher amount applies instead of the minimum wage, if it gives rise to an amount lower than the minimum wage, the minimum wage applies.

Public holidays for 2022 (Prakas 277/21 issued on 27 October 2021 by the MLVT)

- Announcement of 21 public holidays for 2022.
- Allowance for employers in certain industries and businesses that require work on a regular, non-stop basis to have workers work on public holidays, with the caveat that workers are given days off in lieu of the holiday on a rotating schedule. A list of the employees working on the rotating schedule for holidays must be maintained for regular inspection by the labor inspectors.
- Allowance for employers to hire temporary workers to work on public holidays.

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LAWS AND REGULATIONS
Banking and finance
<p><i>Decision No. 695/BOL of the Bank of the Lao PDR dated 6 December 2021 on “Credit and Saving Cooperatives”</i></p> <p>Individuals, groups of people, village development funds, or village banks that intend to operate a credit and savings cooperative must first complete its enterprise registration with the industry and commerce authority and then apply for a license to operate such a business with the Bank of the Lao PDR.</p> <p>A credit and saving cooperative must have at least 150 members and registered capital of at least five LAK500 million.</p> <p>This decision replaces Regulation No. 03/BOL dated 20 June 2008.</p>
Mediation
<p><i>Decree No. 626 dated 22 October 2021 issued by the Prime Minister on “Village-Level Dispute Mediation”</i></p> <p>Village-level mediation is a form of dispute resolution that is done outside the courts by the village mediation unit by educating, assisting, and advising the parties to reach a compromise and agree on a resolution of the dispute.</p> <p>The decree stipulates the principles of dispute resolution, the types of disputes to be resolved, the procedures for submitting a request for mediation, and the implementation of the results of the mediation.#</p> <p>This decision entered into force on 11 December 2021 after it was published in the Lao Official Gazette on 26 November 2021.</p>
Taxation
<p><i>Law No. 01/NA dated 7 August 2021 issued by the National Assembly on “Amendments to Certain Articles of the Taxation Laws”#</i></p>



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This law was issued to amend certain articles under the Tax Management Law No. 66/NA dated 17 June 2019, the Value Added Tax No. 48/NA dated 20 June 2018, the Income Tax Law No. 67/NA dated 18 June 2019, and the Excise Tax Law No. 68/NA dated 19 June 2019.

Most of the amendments relate to changes in the tax rates, particularly the VAT law, which will enable entrepreneurs to contribute to the VAT system and raise the purchasing power of consumers. The previous rate of VAT was 10%, and it has now been replaced with a new, lower rate of 7%. The new VAT rate applies on:

- Imported goods and services and supplies of goods and services subject to VAT in the Lao PDR
- Imported minerals and supplies of minerals in the country
- Consumption of electricity for general consumers, generators, and distributors of electricity

This law enters into force on 1 January 2022.

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Banking and Finance

The Central Bank of Myanmar (“**CBM**”) published an FAQ-styled letter to clarify aspects related to Notification No. 43/2021 dated 3 November 2021, which introduced a cap of MMK20 million on cash payments for transactions involving the sale and purchase of certain goods, assets, provision of services, and other transactions.

The FAQ listed the types of (i) transaction parties and (ii) goods, services, assets and other types of transactions that would be affected by the Notification. It also provided that any amount in excess of the cap must be paid by way of cheques or payment orders or account transfer by using mobile money infrastructure. Furthermore, the FAQ introduced certain limitations with respect to withdrawal of cash paid to a transaction counterparty in connection with a transaction and prescribed penalties for non-compliance with the Notification.

Corporate and Regulatory

On 25 November 2021, the Myanmar Investment Commission (“**MIC**”) announced via a letter published on the website of the Directorate of Investment and Company Administration (“**DICA**”) a list of investment activities that will receive priority attention in order to encourage national development and state building as follows:

- Fertilizer manufacturing
- Cement manufacturing
- Iron and steel manufacturing
- Agriculture and livestock farming and related industries
- Value-added manufacturing of foodstuffs
- Electric vehicle manufacturing
- Pharmaceutical and medical device manufacturing
- Public transportation services



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Both foreign investors and local investors may invest in these sectors, and the MIC, ministries, and relevant state and regional governments will provide necessary assistance to the investors.

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Science & Technology

Circular No. 10/2021/TT-BKHCHN dated 17 November 2021 issued by the Minister of Science and Technology providing “Guidance on the Implementation of Decree No. 13/2019/ND-CP regarding Science and Technology Enterprises”

According to this circular, science and technology enterprise certificates will be invalidated in the following cases:

- Infringement by the applicant of the right to own or use science and technology achievements stated in the application package for the science and technology enterprise certificate. The penalty for this is either administrative sanctions by a regulatory authority or a court judgement.
- Committing fraud when applying for the science and technology enterprise certificate, including:
 - Falsifying documents that are issued by the competent authorities that confirm or recognize the applicant’s science and technology achievements as provided in Article 7, clause 2, point b of Government Decree No. 13/2019/ND-CP.
 - For enterprises that have been incorporated for at least five years, deliberately falsifying information about the applicant’s revenue.

As part of the revocation process, the affected enterprise must pay back all exemption or deduction amounts that were received in the past.

ODA

Decree No. 114/2021/ND-CP dated 16 December 2021 issued by the Government on the “Management and Use of Official Development Assistance (“ODA”) and Soft Loans provided by Foreign Donors”

The decree prescribes several basic principles of State management of ODA grants and soft loans:

- ODA and soft or concessional loans are to be used for development investment, not regular spending purposes.
- Foreign loans are not to be used to pay for any of the following activities:
 - Training and coaching for capacity improvement purposes, except when such training and coaching activities are needed for the transfer of technology, equipment, or machinery operation skills (note that this is a new regulation)
 - Field trips, study tours, or visits (note that this is a new regulation)
 - Payment of taxes, fees, or loan interest
 - Purchase of motor vehicles, except those used for special purposes subject to the competent authority's decision



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- Supplies and equipment in reserve for operation of a project after it is completed, except for supplies and equipment in special reserve decided by the competent authority in accordance with the law
- Compensation, support, or resettlement costs
- Operating costs of the project management board

This decree entered into force on the date of issuance and replaces Decree No. 56/2020/ND-CP dated 25 May 2020.

Construction

*Circular No. 24/2021/TT-BGTVT dated 22 November 2021 issued by the Minister of Transport prescribing the “**Management and Maintenance of Airport Facilities**”*

Costs associated with the maintenance of airport facilities funded and managed by the State comprise the following:

- For all airport facility inspections, both scheduled and unscheduled
- For the maintenance and servicing of airport facilities
- For the scheduled and unscheduled repair of airport facilities
- For the registration and quality assurance of maintenance support facilities
- For monitoring airport facilities
- For safety assessments of the facilities in use
- Establishing, reviewing, or revising maintenance procedures and norms

This circular enters into force on 15 January 2022 and replaces Circular No. 48/2016/TT-BGTVT dated 30 December 2016.

Import and Export Policy

*Decree No. 101/2021/ND-CP dated 15 November 2021 issued by the Government “**Amending Decree No. 57/2020/ND-CP and Decree No.122/2016/ND-CP on the Schedule of Export Duties and the Schedule of Preferential Export Duties**”*

Amendments under this decree include:

- Additional imports subject to the 0% preferential tariff rate:
 - The addition of oil seeds and oleaginous fruits used for sowing that are assigned the code 9805.00.00 to the range of headings from 98.01



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to 98.48 and the range of headings from 98.50, 98.51 and 98.52 at point 1, clause II, Section II, Appendix II in Decree No. 57/2020/ND-CP.

Their corresponding codes as stated in Section I of Appendix II are 1207.30.00, 1207.40.90, 1207.50.00, 1207.60.00, 1207.70.00, 1207.91.00, 1207.99.40, 1207.99.50, and 1207.99.90.

- The addition of ECU engines used for motor vehicles that are assigned the code 9849.46.00 to the range of 98.49 headings at point 2, clause II, Section II, Appendix II in Decree No. 57/2020/ND-CP.

Their corresponding code as stated in Section I of Appendix II is 8537.10.99.

- The adjustment of export duty rates and preferential import duty rates applied to several headings prescribed in clause 1 of Article 2 in Decree No. 57/2020/ND-CP:
 - Appendix I – Export duty schedule relative to the list of dutiable goods.
 - Appendix II – Preferential import duty schedule relative to the list of dutiable goods.

This decree enters into force on 30 December 2021.

Official Dispatch No. 7268/BCT-DB dated 16 November 2021 issued by the Ministry of Industry and Trade “Announcing the Entry into Force of the Regional Comprehensive Economic Partnership (“RCEP”) Agreement.”

As stated in the RCEP Agreement, it will enter into force 60 days after a minimum of six ASEAN members and three partner states ratify/approve it and deposit it with the ASEAN Secretary General.

On 2 November 2021, there were six ASEAN states, including Vietnam, and four partner states, namely China, Japan, Australia, and New Zealand, that have deposited their approved/ratified texts of the RCEP Agreement with the ASEAN Secretary General.

Thus, the RCEP Agreement will officially enter into force from 1 January 2022.



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The RCEP Agreement is a free trade agreement that was signed by 10 ASEAN member states and five partner states (namely, Japan, South Korea, China, Australia, and New Zealand) on 15 November 2020.

Official Dispatch No. 7268/BCT-DB is effective from 1 January 2022.

Securities

Circular No. 102/2021/TT-BTC dated 17 November 2021 issued by the Ministry of Finance “Prescribing the Prices of Securities Services applied by Securities Trading Organizations and Commercial Banks participating in Vietnam’s Securities Markets”

According to this circular, prices of futures brokerage services applied in the derivatives market are adjusted as follows:

- Not greater than VND5,000/index future (under Circular No. 128/2018/TT-BTC, which is currently in force, not greater than VND15,000/index future).
- Not greater than VND8,000 dong/government bond future (currently, not greater than VND25,000/government bond future).

Note: These prices do not yet include the costs of derivatives trading services, position management services, and collateral management services that securities companies are required to pay to stock exchanges and security depositories in accordance with the regulations in force.

This circular enters into force as of 1 January 2022.

Tax and Accounting

Decree No. 102/2021/ND-CP dated 16 November 2021 issued by the Government “Prescribing Administrative Penalties for Violations arising from Tax, Invoice, Insurance Business, and Lottery Business Activities”

According to this decree, the limitation period for enforcement of administrative penalties for invoice-related violations will change to two years (instead of the one year stated in Government Decree No. 125/2020/ND-CP currently in force).

The decree also specifies an administrative penalty of from VND4 million to VND8 million for the following acts:



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- Issuing invoices on which legally required information is omitted.
- Causing the loss, burning, or damage of invoices already released or purchased from the tax authorities even though they have not yet been issued.
- Causing the loss, burning, or damage of issued invoices (the copies intended for clients) during use when sellers have already declared or paid taxes, or have had documents or records evidencing the sale of goods or the provision of services.
If such loss, burning, or damage is the buyer's fault, both the seller and the buyer must keep a record of such incident.
- Causing the loss, burning, or damage of invoices already issued but not yet submitted to the tax authorities.
The parties involved must keep a written record of the invoices lost, burned, or damaged (this is a new regulation).

This decree enters into force on 1 January 2022.

Decree No. 103/2021/ND-CP dated 26 November 2021 issued by the Government "Prescribing the Registration Fee Rates for Domestically Manufactured or Assembled Motor Vehicles, Trailers, or Semi-trailers towed by Motor Vehicles"

The decree prescribes that initial registration fees for cars, trailers, or semi-trailers towed by motor vehicles and the like that are domestically manufactured or assembled are subject to the following regulations:

- From 1 December 2021 to 31 May 2022, the registration fee amounts prescribed in the following regulations are decreased by 50%:
 - Decree No. 20/2019/ND-CP on amendments to Decree No. 140/2016/ND-CP regarding registration fees
 - Resolutions of People's Councils or decisions of provincial People's Committees regarding local registration fees
 - Documents stating the revision, supplementation, or replacement of the aforesaid (if any)
- From June 1, 2022 onwards, registration fees will be restored to the ones referred to in Decree No. 20/2019/ND-CP on amendments to Decree No. 140/2016/ND-CP regarding registration fees; Resolutions of People's Councils or decisions of provincial People's Committees regarding local registration fees; and documents stating the revision, supplementation, or replacement of the aforesaid (if any).

This decree is in effect from 1 December 2021 to 31 May 2022.

Insurance

Decree No. 97/2021/ND-CP dated 8 November 2021 issued by the Government "Amending Decree No. 23/2018/ND-CP dated 23 February 2018 on Compulsory Fire and Explosion Insurance"



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This decree sets out the following regulations for fire and explosion insurance certificates:

- Insurance companies are obligated to issue fire and explosion insurance certificates to policyholders.
- Instead of using the sample compulsory fire and explosion insurance certificate shown in Appendix I to the Decree No. 23/2018/ND-CP, insurance companies are entitled to generate their own certificates, but must contain the following information:
 - Name and address of the insurance company, the policyholder, and the insured
 - List of the facilities exposed to the risk of fire and explosion as per the law on fire prevention and fighting the covered property belongs to
 - Address of the covered property
 - Covered property
 - Amount of coverage
 - Insurance deductible
 - Insurance policy period
 - Premium rate, premium
 - Name, address, hotline number of the insurance company (this is a new requirement)
 - Date of issuance of the insurance certificate
- When insurance certificates are issued, insurance companies must comply with the regulations of the Law on Electronic Transactions and other instructional documents
- Insurance e-certificates must strictly comply with the current regulations and show all aforesaid information

This decree entered into force on 23 December 2021.

Banking and Finance

Circular No. 16/2021/TT-NHNN dated 10 November 2021 issued by the State Bank of Vietnam “Dealing with Trades in Corporate Bonds involving Credit Institutions and Foreign Bank Branches”

According to this document, corporate bonds can be traded when they meet the following requirements:

- The traded bonds are corporate bonds issued as per the law.
- The value of the traded bonds is denominated in Vietnamese dong.



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- The traded bonds are under the legal ownership of the seller
- The principal and interest payments on the traded bonds are not due yet
- The seller of the traded bonds ensures that they are not in dispute, are permitted for trade under the law, and are not traded under forwards, at a discount, or a rediscount (except when credit institutions buy IPO bonds).

This circular enters into force on 15 January 2022 and replaces Circular No. 22/2016/TT-NHNN dated 30 June 2016 and Circular No. 15/2018/TT-NHNN dated 18 June 2018.

Official Dispatch No. 8458/NHNN-TT dated 30 November 2021 issued by the State Bank of Vietnam on the “Application of Basic Standards for Domestic Chip Cards”

According to this document, there are no regulations on the termination or rejection of transactions via domestic magnetic cards currently in use (unexpired) that are issued by card issuers in Vietnam.

Concurrently, there are no regulations on the refusal to accept transactions performed via domestic cards currently in use.

Thus, the State Bank of Vietnam requests its relevant units to take communication actions to help clients be aware of the following information: magnetic cards currently in use that have not yet been replaced by chip cards after 31 December 2021 remain in service for card transactions performed at ATMs, POS, internet banking, mobile banking channels, and customer counters.

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