



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

Legislative developments - January 2022



LAWS AND REGULATIONS

Banking & Finance

SFD Circular No. 01, Sustainable Finance Department, Bangladesh Bank, dated 9 January 2022, on “Policy Guidelines on Corporate Social Responsibility for Banks and Financial Institutions”

The Central Bank of Bangladesh has recently published guidelines on corporate social responsibility, which focuses more on healthcare and environmental issues.

Banks and financial institutions are now required to allocate more than 30% of their total CSR expenses to the education sector as well as 30% to the health sector, as opposed to 20% previously. They will also be required to spend 20% of their CSR expenditure on the environment and climate change mitigation, as opposed to 10% previously.

The guidelines specially instructed banks & financial institutions to maintain a due diligence checklist before disbursement of CSR funds. All financial activities must be executed through proper banking channels. CSR activities of banks and financial institutions are required to cover all divisions of the country.

Foreign Exchange Policy Department, Bangladesh Bank, FE Circular Letter No. 33, dated 27 December 2021, on “Liberalization of family remittance facility for foreign nationals working in Bangladesh”

Foreign Nationals who are residing and working in Bangladesh were previously allowed monthly remittances up to 75% of their net income. However, according to this circular, expats will now be allowed to remit up to 80% of their net income every month through authorized banks at any time of the year. The remaining 20% of foreign nationals’ net income will be remittable at the end of the financial year upon completion of income tax assessment by the concerned tax authority.

The Circular also provides that “banks are allowed to remit foreign nationals’ net income from the employers foreign currency account opened and maintained for this purpose to abroad where the family members of the foreign employees reside.”

The new decision is aimed at attracting skilled foreign labor to work and contribute in Bangladesh, as there is lack of skilled labor in the country.

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E-commerce

FE Circular Letter No. 02, dated 6 January 2022, Foreign Exchange Policy Department, Bangladesh Bank, on “Sales of foreign digital items through local e-commerce market-places/platforms”

Bangladesh Bank has observed that various e-commerce marketplaces are selling different types of foreign digital items to local residents in local currency. This contravenes the Foreign Exchange Regulation (FER) Act, 1947, unless payment for this kind of procurement is made by outward remittance through proper banking channels under general authorization. Taxes, levies, and other governmental duties are applicable on these purchases.

If any individual or corporate entity purchases any digital items by way of foreign currency, it cannot take place in e-commerce market-places/platforms.

Merchants are advised to perform due diligence on foreign digital items in line with AML (Anti Money Laundering) and CFT (Counter Terrorist Financing) provisions before showcasing products on market-places/platforms. Authorized Dealer banks are advised to notify their e-commerce customers of the above-mentioned conditions.

TMT

FE Circular No. 02, Foreign Exchange Policy Department, Bangladesh Bank, dated 16 January 2022, on “Export incentives/cash assistance against the export of software, Information Technology Enabled Services, and hardware from Bangladesh.”

The Bangladesh government is providing cash incentives on the exportation of software, hard-ware, and Information Technology Enabled Services (“IETS”) to the international marketplace. The incentive/cash assistance is up to US\$5,000 and will be provided upon repatriation of the money from the marketplace using proper banking channels.

Certain conditions shall be applicable to obtain the incentive as mentioned in this circular:

- International marketplaces need to be recognized by the Information and communication Technology Division of Bangladesh.
- The seller/dealer needs to have a proper agreement with the marketplace.
- The dealer bank will check the web link of the international e-commerce site.

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- If the seller/exporter wants to claim the incentive/cash assistance, the seller needs to submit the invoice with automated receipts or weblink to the authorized dealer bank.

These steps are aimed at encouraging tech entrepreneurs to innovate and export more digital products in the global market-place and generate revenue for the country.

Logistics

*Parliamentary enactment to the **Highways Act 1925 (Repealed)**, dated 7 December; 2021, titled "**The Highways Act 2021**"*

Bangladesh Parliament has enacted a law named the Highways Act 2021, dated 7 December 2021, which is a new version of the repealed Act known as the "Highways Act 1952."

According to the new law, setting up any billboards, signboards, or arches along any highway is not permitted without the permission of the Roads and Highway department. It also specifies the requirement of specific lanes for certain vehicles, as well as the speed limit; in addition, the law mentions that there should be a separate lane on the highway for slow-moving vehicles. With regards to construction, development and maintenance; of roads or highways, the government or any other individual assigned by the government will be responsible.

Significant changes were also made with regards to punishment for any kind of breach, which is mentioned in this law.

As such, it can be said that the new law has been implemented with the aim of minimizing risk of accidents, and to cover the development and maintenance of the Highways.



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Infrastructure

*Parliamentary amendment to the **Bangladesh House Building Finance Corporation Order 1973**, dated 7 December 2021, titled "**Bangladesh House Building Finance Corporation Act (Amended); 2021**"*

Bangladesh Parliament has amended the law named Bangladesh House Building Finance Corporation Order, 1973, on 7 December 2021, and it is now known as the Bangladesh House Building Finance Corporation Act (Amended) 2021.

A remarkable change was made in the area of authorized capital and paid-up capital in the new law, as more services can be provided based on objectives of the bill.

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Commercial Law

Royal Decree No. NS/RKM/0122/003 dated 29 January 2022 of the Kingdom of Cambodia “Amending the Law on Commercial Enterprise (“LCE”)”

It focuses on single-member entities and public entities from the registration process until de-registration. In addition, some articles on subjects that are addressed in other specific laws on securities have been deleted (Articles 166, 175, 182-190, and 196).

Some of the specific changes are as follows:

- Under Article 5 (new) all entities registered under the laws of Cambodia must have their name written in Khmer and it must be at least twice the size as the name written in any other language.
- If the articles of incorporation (“AOI”) do not provide the number and value of the shares, the company can issue only one class of shares, with equal rights to all shareholders.

For the dissolution and liquidation process, in such a difficult period of the pandemic, all entities must appoint a liquidator and an auditor, an individual or legal entity who has been authorized by the Accounting and Auditing Regulator. In addition, under Article 62 (New) the liquidation documents must be kept for at least five years after the liquidation is finalized with the authorities.

Employment

Notification No. 001 dated 13 January 2022 of the Ministry of Social Affairs, Veterans and Youth Rehabilitation (the “MOSVY”) on “Reminder to the Private Sector of their Obligations in the Implementation of the Law on the Promotion and Protection of the Rights of Disabled Persons”

The MOSVY issued this notification to remind all employers and owners of private enterprises with 100 or more workers that they have the obligation to register with the MOSVY or the Municipal/Provincial Department of Social Affairs, Veterans, and Youth Rehabilitation and either



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meet the quota to hire disabled persons or pay their contribution to the disabilities fund.

As such, the MOSVY would like to inform those private enterprises/establishments who failed to file their registration application by 25 December 2021 that it has extended the deadline until 30 April 2022. After that, entities that fail to fulfill their obligation will be liable for the fines listed under Article 54 of the Law on the Promotion and Protection of the Rights of Disabled Persons before they will be allowed to register with the MOSVY or the Municipal/Provincial Department of Social Affairs, Veterans, and Youth Rehabilitation.

The fines under Article 54 range from KHR100,000 (approximately US\$25) to KHR1 million (approximately US\$250).

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Business and Investment

*Decision No. 1145/MOIC.DOIT dated 1 December 2021 of the Ministry of Industry and Commerce on “**Trade of Valuables**”*

A trade of valuables business involves the sale and purchase of valuables, and the exchange of valuables by purchasing valuables from importers or producers in the Lao PDR.

The decision stipulates the requirements regarding operating a trade of valuables business, the procedures for submitting an application for a trade of valuables license, and its renewal and amendment.

This decision entered into force on 13 January 2022 after it was published in the Lao Official Gazette on 29 December 2021.

Forestry

*Notification No. 0117/MOAF dated 17 January 2022 of the Ministry of Agriculture and Forestry to “**Stop Permitting the Export of Black Charcoal**”*

The relevant authorities have discovered that there have been exports of black charcoal made from natural wood and/or produced from unregistered factories, which are causing deforestation and are in breach of the laws and regulations. Therefore, the Ministry of Agriculture and Forestry issued this notification in order to:

1. Stop permitting the export of black charcoal.
2. Inspect and register coal factories at the provincial level and set out the measures against factories that are in violation of the rules and regulations.
3. For charcoal made from mai tieu (which also goes by the botanical name *Cratexylum prunifolium*), charcoal briquettes made from sawdust can still be exported in accordance with the relevant laws and regulations.

This notification entered into force on the issue date mentioned above.

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Export Import

Newsletter No. 20/2022 dated 25 January 2022 issued by the Ministry of Commerce (MOC) regarding “***Tariff lines subject to import licensing***”

The Newsletter states that in order to revive the economy affected by the pandemic, and to ensure a systematic export and import process in addition to controlling the use of foreign currency in importation of goods into Myanmar, importers of certain products (or tariff lines) are required to obtain an import license prior to importing said products.

The Newsletter further states the following:

- To ensure importers to make necessary preparations prior to importation of products into Myanmar, the MOC published Newsletter No. 18/2021 on 9 November 2021, which introduced a list of products for which importers would require to apply for a prior import license.
- With effect from 1 March 2022, an import license is required for importing 451 products (identified by a six-digit HS code) or 826 products (identified by a ten-digit HS code) as per the schedule attached to the 2017 Customs Tariff of Myanmar. The listed products can be imported only by sea, air or cross-border trade.
- An import license is required for the importation of goods identified by the HS Code in the schedule attached to the Newsletter, including 3,931 products (identified by a 10-digit HS Code) as per Notification No. 68/2020 dated 22 October 2020, and 3,070 products (identified by a ten-digit HS Code) specified by the Export/Import Newsletter No. 18/2021.

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Employment and Pension

Decision No. 3749/QD-TLD dated 15 December 2021 by the Vietnam General Confederation of Labor regarding “Payment of Aid to Union Members and Employees Affected by COVID-19”

The decision specifies that infected union members or employees who do not violate the regulations of the law on COVID-19 prevention and control are entitled to the following aid:

- A maximum of VND3,000,000/person if they suffer serious symptoms and need to be treated for at least 21 days in a hospital or other healthcare establishment licensed to admit and treat COVID-19 patients according to evidentiary documents issued by the competent health authorities.
- A maximum of VND1,500,000/person if they undergo outpatient treatment for at least 21 days or treatment hospitalized for fewer than 21 days in a hospital or other healthcare establishment licensed to admit and treat COVID-19 patients according to evidentiary documents issued by the competent health authorities.

Previous regulations prescribed that union members and employees infected with COVID-19 were to be given aid of VND 3,000,000/person. This is no longer applicable.

Decision No. 3749/QD-TLD entered into force on 15 December 2021 and replaces Decision No. 2606/QD-TLD dated 19 May 2021 and Decision No. 3022/QD-TLD dated 9 August 2021.

Decree No. 108/2021/ND-CP dated 7 December 2021 by the Government on “Adjustments in Pensions, Social Insurance Benefits and Monthly Allowances”

According to this decree, from 1 January 2022, the following beneficiaries are entitled to an increase of 7.4% in their retirement pensions, social insurance benefits, and monthly allowances arising from December 2021 onward:

- Public officials, civil servants, public employees: Military servicemen, police, and cryptography officers receiving monthly pensions.
- Officers of local authorities in communes, wards, or towns stipulated in Decree No. 92/2009/ND-CP dated 22 October 2009, Decree No.



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34/2019/ND-CP dated 24 April 2019, Decree 121/2003/ND-CP dated 21 October 2003, and Decree 09/1998/ND-CP dated 23 January 1998.

- Persons who are entitled to monthly incapacity benefits: persons who are entitled to a monthly allowance under Decision No. 91/2000/QD-TTg dated 4 August 2000 and Decision No. 613/QD-TTg dated 6 May 2010, .Officers of local authorities in communes, wards, or towns that are receiving a monthly allowance under Decision No. 130-CP dated 30 June 1975 and Decision No. 111-HDBT dated 13 October 1981.
- Military members that are receiving a monthly allowance under Decision No. 142/2008/QD-TTg dated 27 October 2008.
- Police that are receiving a monthly allowance under Decision No. 53/2010/QD-TTg dated 20 August 2010.
- Military members, police or cryptography officers that are receiving pensions the same as those paid military members and police that are receiving a monthly allowance under Decision No. 62/2011/QD-TTg dated 9 November 2011.

Circular No. 20/2021/TT-BLDTBXH dated 15 December 2021 by the Minister of Labor, War Invalids and Social Affairs on “Database System of Vietnamese Guest Workers”

This circular aims to simplify the permit application process for guest worker service provision by requiring digital signatures and online submission instead of physical submission.

The process to apply for a permit for guest worker service provision is as follow:

- Log into the account, find the “Cấp Giấy phép” (permit application) section, and complete the information in the permit application for guest worker service provision.
- Upload the documents required into the database system.
- Complete the digital signatures and submit the application online.

Within 20 days from the date on which a legitimate application submitted via the system is received, the Ministry of Labor, War Invalids and Social Affairs will issue a permit to the applicant. The master register of the permit will be returned at the single-window department or via the postal service.

If the application is rejected, a reason will be specified. The status of the application must be displayed on the database system.

Medical and Health

Decision No. 5772/QD-BYT dated 20 December 2021 By the Ministry of Health regarding “Issuance of Forms and Procedures for Granting of



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Vaccine Passports

The procedure for granting vaccine passports is as follows:

- Step 1: Immunization establishments review, verify, and authenticate information about people getting vaccinated against COVID-19 according to the instructions given in Official Dispatch No. 8938/BYT-DP dated 21 October 2021 and Official Dispatch No. 9438/BYT-CNTT dated 5 November 2021.

- Step 2: Immunization establishments digitally sign the COVID-19 vaccination data on the COVID-19 Vaccination Management Platform.

The COVID-19 Vaccination Management Platform connects and shares vaccination data with the COVID-19 Vaccination Certification Management System in accordance with the regulations on medical data connection imposed by the Ministry of Health.

COVID-19 vaccination data on the COVID-19 Immunization Administration Platform should meet the requirements set out in Sections 3 and 4 of this decision.

- Step 3: The Department of Preventive Medicine plays its role as a concentrated unit in charge of digitally signing the certificate of vaccination against COVID-19.

The certificate is issued by using the QR code format conforming to the EU standards specified in Section 5 of this decision.

National epidemic management applications and other utility applications (with consent from users) receive and store vaccination confirmation in the form of a QR code according to the instructions on medical data exchange given by the Ministry of Health.

Decision No. 5772/QD-BYT entered into force on 20 December 2021.

Circular No. 27/2021/TT-BYT dated 20 December 2021 by the Ministry of Health on “Writing Electronic Prescriptions”

Under the circular, electronic prescriptions that are prescriptions written, displayed, digitally signed, shared, and filed in electronic form will have the same legal value as paper prescriptions.



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Healthcare establishments must meet the following schedule for use of electronic prescriptions:

- For Grade-3 and higher-grade hospitals, this task must be completed by 30 June 2022.
- For other hospitals, this task must be completed by 1 December 2022.

Departments of Health in provinces and centrally-affiliated cities grant identifiers to healthcare establishments and ID codes to practitioners under their authority via the national prescription system.

Healthcare establishments are responsible for posting electronic prescriptions on the national prescription system promptly after completion of the procedures for health check and medical treatment of outpatients.

Circular No. 27/2021/TT-BYT enters into force on 15 February 2022.

Telecommunications and Communications

Circular No. 22/2021/TT-BTTTT dated 13 December 2021 by the Ministry of Telecommunications and Communications “Elaborating on Implementation of Decree No. 91/2020/ND-CP regarding Protection against Spam Messages, Emails and Calls”

Under the circular, users can report and give evidence of spam messages by:

- Composing a message using the structure: S [Sender][Spam content] or S (Sender)(Spam content) and sending it to switchboard 5656.
- Following the instructions given on the thongbaorac.ais.gov.vn website or reporting spam via the switchboard or the application.

Users can report and present evidence of spam calls by:

- Composing a message using the structure: V [Caller][Spam content] or V (Caller)(Spam content) and sending it to the switchboard 5656.
- Following the instructions given on the thongbaorac.ais.gov.vn website or reporting spam via the switchboard or the application.

Users can report and present evidence of spam emails by:

- Forwarding such spam emails to the email address: chongthurac@vncert.vn.



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- Following the instructions given on the thongbaorac.ais.gov.vn website or reporting spam via the switchboard or the application.

Circular No. 22/2021/TT-BTTTT enters into force on 1 March 2022.

Tax & Accounting

Circular No. 100/2021/TT-BTC dated 15 November 2021 by the Ministry of Finance, amending Circular No. 40/2021/TT-BTC on “Guidance on Value-Added Tax, Personal Income Tax and Tax Management for Business Households and Individuals”

This circular deals with amendments to point dd of clause 1 of Article 8 in Circular No. 40/2021 that prescribes tax declaration and payment on behalf of individuals.

For instance, the amended regulation stipulates that entities, including owners of e-commerce exchanges, declare and pay taxes on behalf of individuals on the basis of the authorization granted according to civil legislation.

Currently, Circular No. 40/2021/TT-BTC prescribes that owners of e-commerce exchanges declare and pay taxes on behalf of sellers according to the tax authority’s schedule.

This means that from 1 January 2022, the regulations under which e-commerce exchanges are required to pay taxes on behalf of sellers without the authorization of the sellers will no longer exist.

Circular No. 100/2021/TT-BTC entered into force on 1 January 2022.

Resolution No. 43/2022/QH15 dated 11 January 2022 by the National Assembly on “Financial and Monetary Policies supporting the Program for Socioeconomic Recovery and Development”

The resolution specifies the following policies for tax exemption or reductions:

- In 2022, VAT on goods and services subject to 10% VAT will be reduced by 2% to 8%, excluding the following groups of goods and services:
 - Telecommunications, information technology; finance, banking, securities, insurance; trading of real estate, metal, precast metal products, mining products (excluding coal mining), cokes, refined petroleum, chemical products, and goods and services subject to excise tax.



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<ul style="list-style-type: none"> ▪ Donations and sponsorships made by enterprises and organizations for COVID-19 epidemic control operation in Vietnam will be allowed to be included in deductible expenses when calculating taxable corporate income for the 2022 tax period. <p>The Government will provide guidelines and organize the implementation of Resolution No. 43/2022/QH15; submit reports to the National Assembly in the meetings at the end of 2022 and 2023; and submit the final report at the mid-2024 meeting.</p> <p>Resolution No. 43/2022/QH15 went into force on 11 January 2022.</p>
<p><i>Decree No. 10/2022/ND-CP dated 15 January 2022 by the Government on “Registration Fees”</i></p> <p>The decree specifies the following registration fees for electronic cars running on batteries:</p> <ul style="list-style-type: none"> ▪ For three years from 1 March 2022 (the date Decree No. 10/2022/ND-CP comes into force): the first-time registration fee is 0%. ▪ For the next two years: the first-time registration fee is 50% of the fee rate for petrol and oil cars with the same number of seats. <p>The registration fee rates for the following types of property will remain unchanged:</p> <ul style="list-style-type: none"> ▪ Houses, land: 0,5%. ▪ Hunting guns; guns used for training or sports: 2%. ▪ Ships, including barges, canoes, tugs, pushers, submarines, submersibles; boats, including yachts; aircrafts: 1%. ▪ Motorbikes: 2%. ▪ Motor vehicles, trailers, or semi-trailers towed by motor vehicles, or equivalent: 2%. <p>Decree No. 10/2022/ND-CP comes into force on 1 March 2022 and replaces Decree No. 140/2016/ND-CP dated 10 October 2016, and Decree No. 20/2019/ND-CP dated 21 February 2019.</p>
Banking and Finance
<p><i>Circular No. 17/2021/TT-NHNN dated 16 November 2021 by the State Bank of Vietnam “Amending Circular No. 19/2016/TT-NHNN, Prescribing Bank Card Operations”</i></p> <p>According to this Circular, card issuers can issue debit cards, credit cards, and prepaid cards bearing the names of individual cardholders online.</p>



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In order to render these online services, card issuers are required to formulate, issue, and communicate the procedures and documentation requirements for the online issuance of individual cards in accordance with the law, including but not limited to the following steps:

- Collect the required information and documents before entering into contracts with clients to issue and use cards in order to identify them and determine card transaction limits according to the regulations.
- Check, compare, and verify the client's identity.
- Warn clients of any prohibited acts during the period of registration and use of cards issued online.
- Provide clients with contracts to issue and use cards and conclude contracts to issue and use cards with clients under the online transaction law.
- Inform clients of the bank issuer's name, card trade name or trademark, card numbers, expiry date, cardholder's name, scope, functions and use prohibitions in accordance with the regulations.

Circular No. 17/2021//TT-NHNN entered into force on 1 January 2022.

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