

# LEGAL DIGEST

BANGLADESH

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Legislative developments – May 2023



# BANGLADESH



## Banking and Finance

*Circular No. 04 dated 24 May 2023 issued by the Department of Financial Institutions and Markets of the Bangladesh Bank on “Identification as a Public Limited Company under the Companies (2<sup>nd</sup> Amendment) Act, 2020”*

Under the 2020 amendment of the Companies Act 1994, all public limited companies must add “PLC” at the end of their company name. Therefore, they have to modify their memorandum and articles of association accordingly.

The circular issued by the Bangladesh Bank eases the rules for financial institutions to make it easier for them to make this change. Previously, financial institutions had to obtain a No Objection Certificate from the Bangladesh Bank before making changes to their memorandum and articles of association. The circular eliminates that requirement.

Now, once the memorandum and articles of association have been amended, the financial institution must submit a certified copy of these documents, along with their Registrar of Joint Stock Companies and Firms certificate, to the Department of Financial Institutions and Markets at the Bangladesh Bank.

*Circular No. 04 dated 8 May 2023 issued by the Foreign Exchange Policy Department of the Bangladesh Bank on “Clarification of ‘Digital Marketing’ and ‘Broadcast Advertising’ under Section 56 of the Income Tax Ordinance 1984”*

When banks send remittances of income in favor of non-resident institutions, they have been deducting tax under Section 56 of the Income Tax Ordinance 1984 at different rates for different customers.

In an effort to standardize tax deductions for digital marketing (income from ads on the internet and social media) and broadcast advertising (income from ads on radio and television), the Bangladesh Bank issued this circular to banks specifying that tax at a rate of 15% should be deducted for digital marketing income remittances, while at a rate of 20% should be deducted for broadcast advertising income.

# CAMBODIA



## Real Estate

*Prakas No. 083 dated 19 May 2023 issued by the Ministry of Land Management, Urban Planning and Construction on **“Abrogation of Prakas No. 087 on Land Development”***

This Prakas revokes Prakas No. 087 on land development dated 11 May 2018, which was initially issued to manage and regulate land development, which includes the development, amalgamation, or consolidation of land lots for sale and the construction of residential, industrial, and commercial developments. Under Prakas No. 087, land developers require a permit from the competent authority.

This new Prakas eliminates the need to obtain a land development permit. However, the obligation to seek the relevant approvals for land development remains and is set out in other applicable regulations in force.

## Public Procurement

*“Law on Public Procurement” No. NS/RKM/0112/005 dated 16 May 2023*

This new law abrogates the prior law on public procurement issued by Royal Kram No. NS/RKM/0112/004 dated January 14, 2012.

The new law introduces several new provisions, including on the public procurement of consulting services and public procurement implementation procedures.

The public procurement process must follow the seven steps outlined below:

1. Preparation of tender documents
2. Public announcement of invitation to bid
3. Request for bidding documents sent
4. Issuance of invitation to submit bidding documents
5. Evaluation of all bids
6. Awarding of the contract
7. Contract management

Once the evaluation process is complete and the winning bidder chosen, the procuring entity must issue a notification to all bidders of the contract award decision. Unsuccessful bidders have **10 working days** to file a complaint against the decision. If no complaint is received during that time, the procurement unit will arrange for the successful bidder to sign the contract along with the head of the procuring entity, with bidding security.

The procurement contract must be in Khmer, but it can also be translated into other languages, but with the Khmer version as the prevailing version in case of any contradictions between the versions. All procurement contracts must be settled in Cambodian currency except for foreign procurement contracts.

There are new administrative penalties for violators of the law, as follows:

- Written warning
- Immediate cessation of the public procurement
- Suspension of activities, or suspension, revocation, or cancellation of the contract
- Removal from the list of bidders
- Blacklisting of the bidder

In addition, the new law specifies more severe penalties for violations—imprisonment of from **1 to 5 years** and fines of from **KHR4 million to KHR100 million**.

# LAOS



## Commerce

*Decree No. 191/GOV dated 7 April 2023 issued by the Prime Minister of the Lao PDR on "Imposition of Penalties and Other Measures Against Violators of Laws and Regulations on Standards"*

This decree lays out the specific penalty rates and other measures to be imposed against violators of laws and regulations on standards.

### **Actions that violate standards-related laws and regulations are as follows:**

- i. Production, distribution, and export of products and goods that do not conform to the technical standards and regulations.
- ii. Import of products and goods that do not conform to the technical standards and regulations.
- iii. Use of Lao national standard marks or quality marks without permission.
- iv. Use of Lao national standard words or other words and marks similar to the marks that could be confused with Lao national standard marks and quality marks without permission.
- v. Use of Lao national standard certificates or quality marks that have expired or been revoked.
- vi. Use of management system certificates that have been revoked or expired.
- vii. Use of international standards system accreditation certificates that have expired or been revoked.
- viii. Use of non-destructive quality testing certificates that have expired or been revoked.
- ix. Use of certification marks that are not authorized and do not conform to international standards.
- x. Use of barcodes that do not conform to the regulations.
- xi. Use of the Lao national standard book that is not consistent with the regulations.

### **Penalties**

Individuals, legal entities, or organizations whose behavior violates the laws and regulations regarding standards as defined above, intentionally or unintentionally, but is not a criminal offense, will be sanctioned depending on the seriousness of the violation as follows:

- For a first violation, education.
- For second and subsequent violations, a fine of twice the amount of the damage.

### **Basis for calculation of damages**

- Damages for violations as specified in item nos. (i) and (ii) above will use the value of the goods detected as the basis of the calculation.
- Damages for violations as specified in item nos. (iii) to (xi) above use the fees and service charges for the standards work sector as specified in the President’s Decree on Fees and Services Charges No. 002/P dated 17 June 2021 (“**President’s Decree No. 002**”), including the cost of the verification process and the actual verification value, as the basis of the calculation.

### **Other measures**

In addition to the above penalties, individuals, legal entities, or organizations whose behavior violates the laws and regulations regarding standards as defined above, will also be subject to the following, depending on the circumstances:

- For violations as specified in item nos. (i) and (ii) above, the products and goods will be recalled, seized, destroyed, or re-exported.
- For violations as specified in item nos. (iii) to (xi) above, the products and goods will be seized and the certificates and marks suspended, revoked, or canceled.

### **Authorities in charge of implementing penalties and measures**

- At the central level: The Standardization and Measurement Department of the Ministry of Industry and Commerce.
- At the local level: The provincial office of industry and commerce.

This decision entered into effect on 9 May 2023.

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*Decree No. 192/GOV dated 7 April 2023 issued by the Prime Minister of the Lao PDR on “**Imposition of Penalties and Other Measures Against Violators of Laws and Regulations on Measurements**”*

This decree lays out the specific penalty rates and other measures to be imposed against violators of laws and regulations on measurements.

### **Actions that violates measurements-related laws and regulations are as follows:**

- i. Production and distribution of measurement templates, tools, or equipment that have not been calibrated, tested, and verified again, or that have not been registered.
- ii. Unauthorized import of measurement templates, tools, or equipment.
- iii. Use of measurement templates, tools, or equipment with certifications that have expired or been revoked.
- iv. Violation of the regulations governing the calibration, testing, and verification of measurement templates, tools, and equipment.
- v. Removal of locking equipment, or removal of stickers or marks from measurement templates, tools, or equipment without permission.
- vi. Attachment of fake or unauthorized certification or inspection marks on objects.
- vii. Violation of conditions on packaged goods.
- viii. Presentation of incorrectly calculated quantities with the intent to deceive or mislead others.

- ix. Modification of measurement templates, tools, and equipment that do not constitute a criminal offense.

### Penalties

Individuals, legal entities, or organizations whose behavior violates the laws and regulations regarding measurements as defined above, intentionally or unintentionally, but is not a criminal offense, will be sanctioned depending on the seriousness of the violation as follows:

- For a first violation, education
- For second and subsequent violations, a fine of twice the amount of the damage.

### Basis for calculation of damages

- Damages for violations as specified in item nos. i to viii above will use the fees and service charges for the measurements work sector as specified in the President's Decree No. 002, including the cost of the verification process, as the basis of calculation
- Damages for violations as specified in item no. ix above will use the fees and service charges for the measurements work sector as specified in the President's Decree No. 002, including the cost of the verification process and the value found, as the basis of calculation.

### Other measures

In addition to the above penalties, individuals, legal entities, or organizations whose behavior violates the laws and regulations regarding measurements as defined above, will be subject to having their measurement certificates suspended, revoked, or canceled, and their measurement templates, tools, and equipment recalled, seized, or destroyed, depending on the circumstances.

### Authorities in charge of implementing penalties and measures

- At the central level: The Standardization and Measurement Department of the Ministry of Industry and Commerce.
- At the local level: The provincial office of industry and commerce.

The decision entered into effect on 9 May 2023.

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#### *Decision No. 0752/IC dated 23 May 2023 issued by the Ministry of Industry and Commerce on "Registration of Importers and Exporters of Goods"*

This decision regulates the registration of importers and exporters of goods that the government regulates and that have a direct impact on people's lives as per the Decision on the List of Goods subject to Applying for an Import or Export Permit No. 0333/IC dated 22 March 2022.

Before importing and exporting of goods, importers and exporters must register the goods with the Import and Export Department ("**IED**") of the Ministry of Industry and Commerce.

Importers and exporters must submit the following documents to the IED for consideration:

- An application form in the format provided by the IED
- A copy of the enterprise registration certificate or, for foreign traders, the certificate of commercial rights of foreign traders

- A copy of the import and export business license

The IED will issue a certificate within three working days after receiving all required documents, which will be valid for one year and may be renewed.

The decision will enter into effect on 10 July 2023.



# MYANMAR



## Export/Import

*Order on the Importer/Exporter Registration Certificate issued by the Ministry of Commerce on 10 May 2023 to set out “Regulations on the Registration Procedure for Exporters and Importers”*

The order distinguishes between certification for export/import for trading purposes and export/import for non-trading purposes.

### Trading purposes - IMPEX Certificate

- *Applicable for:* Companies incorporated under the Special Company Act 1950 and the Myanmar Companies Law 2017, and cooperatives formed under the Cooperative Society Law.
- *Activities allowed:* Import or export of goods other than those restricted under the law, for trading purposes.
- *Exporter/Importer ID card:* Used when liaising with the government authorities on importing and exporting. Companies and cooperatives can apply for up to five cards.

### Non-trading purposes - EIR Certificate

- *Applicable for:* Government departments and organizations, state-owned business entities, associations registered with the relevant departments, and individuals from religious organizations and diplomats.

The order specifies the application procedure and the documents required to be submitted, as well as the terms and conditions of the certificates.

## Tax

*Notice to Taxpayers issued by the Ministry of Planning and Finance on the “Availability of the New e-Registration Management System”*

The notice specifies that the e-registration management system will be put into operation from FY2023/24. Companies, entities, and individuals will be able to apply online through the new system for a taxpayer identification number (“**TIN**”) and access the electronic tax services implemented by the Internal Revenue Department, such as the e-Filing System and e-Tax Payment Systems.

# VIETNAM



## Energy

*Decision No. 500/QĐ-TTg dated 15 May 2023 issued by the Prime Minister of Vietnam “**Approving the National Electricity Development Plan of 2021-2030 and the Vision for 2050**”*

For more complete review of key issues please refer to the [SPECIAL UPDATE](#).

This decision is known as the Power Development Plan VIII (“**PDP8**”). It is the master plan for electricity development in Vietnam for 2021 to 2030 with a vision to the year of 2050. The PDP8 includes:

- Scope of the plan
- Development principles and objectives
- Plans for developing the nation’s energy sector
- Land allocation for building electricity projects and activities that protect the environment, are adaptive to climate change, and preserve the country’s ecosystems, nature, and cultural heritage
- List of important and prioritized projects
- Solutions and resources for implementing the PDP8

Under the PDP8, development is focused on promoting electricity generation from renewable resources, such as wind, solar, and biomass. A particular focus of development in the coming years is offshore and onshore wind power projects and solar power projects. Conversely, coal-fired power projects are not encouraged under the PDP8; it states that the coal-fired projects under the PDP7 (the previous plan) will be continued until 2030, with the aim of transitioning to biomass and ammonia energy.

Another notable regulation in the PDP8 is the role of the Ministry of Industry and Trade in implementing PDP8. It has been assigned to:

- Formulate and submit the implementation plan for the PDP8 to the Prime Minister in June 2023.
- Coordinate with the relevant authorities to develop and submit drafts of the amendments of the Law on Electricity and the Law on Renewable Energy to the National Assembly in 2024.
- Submit direct power purchase policies to the government.

## Tax

*Resolution No. 72/NQ-CP dated 6 May 2023 issued by the Government of Vietnam on the “**Draft Resolution of the National Assembly relating to Reducing the Value Added Tax (VAT)**”*

The resolution approved the proposal by the Ministry of Finance (“**MOF**”) to decrease VAT to 8% for goods and services from the current rate of 10% for the period through 31 December 2023. It assigns the Minister of the MOF to work with the National Assembly on the draft resolution. Once finalized and officially announced by the National Assembly, the reduction will go into effect.

## Intellectual Property

*Decree No. 17/2023/ND-CP dated 26 April 2023 issued by the Government of Vietnam on “**Guiding some Articles and Enforcement Measures of the Law on Intellectual Property relating to Copyrights and Related Rights**”*

This decree replaces Decree No. 22/2018/ND-CP dated 23 February 2018 and provides more relevant details.

There are some notable regulations in the decree, one of which is the section on exceptions to copyright infringement. With regard to copying a reasonable part of a work for scientific research, personal study, or non-commercial purposes, the decree states clearly that the portion of a written work that can be copied is a maximum of 10% of the total pages or total bytes or total words of the publication.

The decree also gives detailed guidance on internet service providers (“**ISPs**”). It lists out some of the types of enterprises that would be considered ISPs, and sets out their responsibility ISPs in terms of protecting copyrights and related rights on telecommunications networks and the internet.

The decree also specifies how to self-protect a copyright or related right by technological means.

The decree entered into effect on 26 April 2023.

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*\* Information included in this document does not represent legal, tax or other advice. This document is not intended to represent a comprehensive list of all new laws and regulations issued or published in the relevant jurisdictions.*