

# LEGAL DIGEST

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Legislative developments – August 2024



# BANGLADESH



## Banking and Finance

*FE Circular No. 13 dated 20 August 2024 issued by the Foreign Exchange Policy Department of the Bangladesh Bank on “**Transfer of Funds from Domestic Banking Units to Offshore Banking Operations**”*

To ensure the smooth operation of offshore banking operations (“**OBOs**”), the Bangladesh Bank has decided that OBOs can now borrow up to 30% of their regulatory capital (including current outstanding amounts) from their domestic banking units. Additionally, OBOs with borrowings exceeding this 30% limit must adjust their borrowings to come into compliance by 31 December 2024.

*BRPD Circular No. 36 dated 7 August 2024 issued by the Banking Regulation and Policy Department of the Bangladesh Bank on “**Taking Thumbprints on Loan-Related Charge Documents**”*

To provide loans securely, it is mandatory to collect, verify, and store the borrower’s and guarantor’s details, including their thumbprints, using the National Identity Card (“**NID**”) database. However, in certain cases thumbprints cannot be verified via the NID database, such as those involving foreign nationals, expatriate Bangladeshis, and individuals with physical disabilities. Special instructions were issued to address these challenges, but there have been numerous inquiries from banks encountering challenges in implementing them.

This circular was issued to emphasize that, as per the issued guidelines, all loans must have the borrower’s and guarantor’s details, including thumbprints, collected, verified, and stored using the NID database. In instances where thumb verification via the NID database is not possible, banks are responsible for accurately identifying the individuals. All other instructions from the previous circulars will remain unchanged.

## International Treaties (based on news reporting)

***Bangladesh Signs UN Treaty on Enforced Disappearances** – Source: The Daily Star published on 29 August 2024*

On 29 August 2024, Bangladesh signed the instrument of accession to the International Convention for the Protection of All Persons from Enforced Disappearances (“**ICPED**”). The signing, led by Chief Adviser Professor Muhammad Yunus, occurred during the weekly meeting of the interim government’s advisory council, where it was met with applause from the council members. ICPED is a human rights treaty adopted by the United Nations General Assembly in 2006. It aims to prevent and address the global issue of enforced disappearances, where individuals are secretly abducted or detained by state agents or affiliated groups without acknowledgment, often leading to torture or extrajudicial killings. ICPED establishes a legal framework to protect victims, hold perpetrators accountable, and ensure the right to truth and reparations for the families of the disappeared. It also prohibits enforced disappearances as a crime against humanity and encourages international cooperation in combating this practice. The treaty entered into force in 2010.

# CAMBODIA



## Labor

*Notification No. 020/24 dated 1 August 2024 issued by the Ministry of Labor and Vocational Training (“MLVT”) on “NSSF Member Registration through the Mobile App for Both Self-Employed and Those in Charge of NSSF Members”*

The MLVT announced a new mobile app, which is an additional method for registering NSSF members. The app aims to streamline and enhance the efficiency of the registration process, providing a more accessible and user-friendly experience. To ensure a smooth transition, the MLVT has a dedicated support team available around the clock to assist members through the following channels:

- Hotline number: 1286 or 1297
- NSSF official telegram channel: <https://t.me/nssfcambodia> Chat

This notification takes immediate effect on the date of issuance.

## Media

*Prakas No. 85 dated 6 August 2024 issued by the Ministry of Information on “Implementation of the Journalism Profession Charter”*

This Prakas announces the implementation of the Journalism Profession Charter (as attached to the Prakas). The charter, which entered into effect on the date of issuance, sets out the foundational guidelines for ethical and professional standards of conduct in journalism within the Kingdom of Cambodia. It applies to all individuals engaged in journalism activities. Key highlights are below:

### I. Scope

The charter applies to all journalists across various fields—professional journalists, photo journalists, online journalists, freelance journalists, radio and television journalists, publishers, press units, journalist associations, and other media practitioners in both traditional and new media. It also sets out legal and social responsibility guidelines for non-professionals engaged in journalism-related activities, such as content creators, bloggers, citizen journalists, online monetizers, and key opinion leaders (defined as an individual widely acknowledged as an authority on a specific subject who can influence public opinion).

## II. Professional Qualifications

To be considered a professional journalist, individuals must meet the following criteria:

- Be at least 18 years old and possess full legal capacity
- Hold at least a lower secondary education certificate or its equivalent
- Have completed a journalism training course from an accredited institution, or other training course by the Ministry of Information, or a recognized journalist association
- Be registered with and recognized by the Ministry of Information

## III. Fundamental Principles of Journalism

The key basic principles that ALL journalists (professional and otherwise) must adhere to are:

1. **Freedom with Responsibility:** Journalists must exercise press freedom responsibly, adhering to the provisions of the Cambodian Constitution, and other regulations and ethical standards. Moreover, they must avoid using this right to harm other persons' dignity, reputations, and national stability.
2. **Accuracy of Information:** Journalists are required to ensure that their news and audiovisual content are factual and accurate, avoiding the spread of false information, misinformation, or fake news.
3. **Social Accountability:** Journalists should prioritize news that benefits society and the nation, while avoiding content that is harmful to peace, security, the public order, religious harmony, culture, or individuals' rights. In addition, they should promote social pluralism, openness, and diverse perspectives; contribute to public education and anti-corruption; and prevent the dissemination of harmful information.
4. **Independence and Neutrality:** Journalists must maintain independence and neutrality, avoiding spreading conflicting or biased information.
5. **Compliance with Laws:** Journalists must comply with the relevant Cambodian laws and regulations, respecting legal boundaries related to publication, intellectual property rights, and appropriate language. They are prohibited from engaging in defamation, bribery, extortion, or infringement of intellectual property rights.
6. **Promotion of Professional Dignity:** Journalists must uphold the interests of the profession and promote its value to gain societal trust. They must remain independent, impartial, and honest, and prioritize public and societal interests over personal or external influences.

## IV. Rights and Obligations

Journalists and media entities must register with the Ministry of information to receive the social and legal protections afforded professional journalists. They have the right to report and disseminate the news freely within Cambodia, provided they comply with the applicable laws.

Journalists and media units have the right and duty to gather and disseminate information in all forms, ensuring that factual information is presented clearly, while respecting individual rights and avoiding defamation.

## V. Responsibilities

Individuals carrying out activities in the news and audiovisual sectors within Cambodia must adhere to the following responsibilities:

1. **Social Responsibility:** They must respect individual privacy and dignity and avoid infringing on the rights of others in their reporting in order to protect the interests of the public and to develop the public's trust in the journalism sector.
2. **Professional Conduct:** Professional misconduct is subject to legal consequences under the Press Law No. NS/RMK/0895/07 dated 1 September 1995. Practitioners must operate free from undue pressure or influence, adhere to the Press Law, and maintain professional integrity.
3. **Civil and Criminal Liability:** Practitioners must comply with Cambodian laws. Misconduct or abuse not covered under press freedom may result in civil or criminal consequences as specified in the relevant legal and regulatory frameworks.

# LAOS



## Labor

*Notice No. 2721/LSW dated 13 August 2024 issued by the National Labor Commission of the Ministry of Labor and Social Welfare on the “**Determination and Payment of Salaries**”*

- Employers that set salaries in foreign currency and pay employees in LAK must use an exchange rate issued by a commercial bank; it should not be lower than that rate. The rate to use must be one that is issued by a commercial bank within the three days prior to the date of making the salary calculation in LAK.
- Any employer that is not yet in compliance with this notice is required to amend its labor contracts and/or internal work rules to bring them into compliance.
- If employers use an exchange rate lower than the rate set by a commercial bank to pay salaries to their employees, they will be warned and required to adhere the relevant regulations. In addition, starting from 1 October 2024, employers will have to repay employees for any underpayment.

This notice is effective from the date of signature.

# MYANMAR



## Banking and Finance

*Notification No. 37/2024 dated 7 August 2024 issued by the Central Bank of Myanmar (“CBM”) on “Easing the Compulsory Conversion of Export Earnings Requirement”*

Since August 2022, under CBM Notification No. 36/2022, the CBM has imposed a requirement that all exporters convert 65% of their export earnings into MMK.

Since then, however, the CBM has been gradually easing the requirement. On 13 July 2023, the CBM issued Notification No. 15/2023 to reduce the compulsory conversion to 50% and Notification No. 26/2023 on 6 December 2023 to 35%.

Now, with the issuance of this new notification, the CBM has lowered the percentage from 35% to 25%. This new notification has come into force on 8 August 2024.

*Announcement dated 14 August 2024 issued by the Central Bank of Myanmar (“CBM”) on “Amendment of the Bank Rate and Interest Rates on Deposits and Loans”*

With effect from 1 September 2024, the CBM has increased the bank rate from 7% to 9%. According to this announcement, banks in Myanmar must adjust deposit interest rates and loan interest rates ranging from 7% to 15% subject to their profitability and risk management. The interest rates that apply to special loans offered under the State policy remain unchanged.

## Taxation

*Amendment to the 2024 Union Tax Law issued by the State Administration Council on “Removal of Pure Gold (Standard Gold Bars, Gold Blocks, and Gold Coins) from the Commercial Tax Exempted Goods List”*

Under this amendment, which enters into effect from 1 October 2024 to 31 March 2025, pure gold (standard gold bars, gold blocks, and gold coins) have been removed from the commercial tax exempted goods list as stated in Section 14(a) of the 2024 Union Tax Law. Now, 3% commercial tax will apply on the sales proceeds of pure gold (standard gold bars, gold blocks and gold coins), and gold jewelry and on the landed cost of imported pure gold (standard gold bars, gold block and gold coins) and gold jewelry. The commercial tax paid at



the time of their domestic purchase or importation will not be allowed to be offset against the commercial tax payable when they are domestically sold or exported to other countries.

## Employment

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*Notification No. 108/2024 dated 28 August 2024 issued by the Ministry of Labor (“MOL”) on the “**Requirement for the Inbound Remittance via the Official Banking System of at Least 25% of Myanmar Migrant Workers’ Salaries**”*

This notification introduces an inbound remittance rule for Myanmar migrant workers, with immediate effect. Under the rule, Myanmar migrant workers are required to remit at least 25% of their salaries each month, or at least 25% of their salaries for three months on a quarterly basis, via the official banking system to their family members in Myanmar.

Myanmar migrant workers are also required to provide records of these remittances to their respective overseas employment agencies, who then must submit them to the MOL.

Failure to comply with the inbound remittance rule will result in the Myanmar migrant worker being banned from traveling abroad for a specified period, or denied issuance of an overseas worker identification card or a renewed passport.

# VIETNAM



## Electricity

*Decree No. 80/2024/ND-CP dated 3 July 2024 on the “Mechanisms for Direct Electricity Trading (“DPPA”) between Renewable Energy Generation Units and Clients who are Large Electricity Consumers”*

This decree is effective immediately and applies to renewable energy generation businesses and large electricity consumers (those who use an average of 200,000 kWh/month or more) that require direct power purchases. The DPPA mechanism allows customers to purchase electricity directly from the generation unit in two forms, as follows:

- 1. Direct power purchase through a private connection line:** The generation unit can sell electricity directly to customers, provided they are a large electricity consumer. The electricity price will be directly negotiated between the two parties. If the generation unit produces a surplus, the excess electricity can be sold back to Vietnam Electricity (“EVN”).
- 2. Direct power purchase through the national grid:** In cases where the generation unit's facility and the customer are located far apart, without a direct physical connection, the generation unit will transmit electricity to the customer's facility through the national grid system.

This form of power purchase applies only to the following entities:

- Generation units utilizing wind or solar power with a capacity of 10MW or more
- Large electricity consumers using power for production purposes at a voltage level of 22kV or higher
- Electricity retailers within zones or clusters<sup>1</sup> authorized by large electricity consumers using power for production purposes to purchase electricity and enter into contracts

Accordingly, direct power purchases through the national grid are carried out as follows:

<sup>1</sup> Electricity retailers within the boundaries of industrial zones, economic zones, export processing zones, industrial clusters, high-tech zones, concentrated information technology zones, and high-tech agricultural zones.

- The generation unit will be connected to the national power system. They will sell all their generated electricity into the spot market<sup>2</sup> of the competitive wholesale electricity market,<sup>3</sup> where the generation unit signs a power purchase agreement with EVN.
- The customer (or an electricity retailer within authorized zones or clusters) signs a power purchase agreement with EVN (or an authorized/delegated entity) to buy all of the electricity needed to meet their demand.
- The customer (or an electricity retailer within authorized zones or clusters) also signs a forward contract with the generation unit to purchase electricity. The contract volume and price are negotiated and agreed upon by both parties for each trading cycle in the spot market.

The DPPA mechanism should increase the number of electricity buyers for generation units. It will unlock bottlenecks in the electricity market, creating favorable conditions for the development of renewable energy generation businesses. It also allows electricity-buying businesses to obtain carbon emission reduction certificates, enhancing their competitiveness in the international market.

## Banking and Finance

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*Circular No. 23/2024/TT-NHNN dated 28 June 2024 on “**Amendments to Certain Articles of Circular No. 10/2016/TT-NHNN dated 29 June 2016**”*

The amendments and additions in this new circular aim to adjust certain provisions in the old circular related to participation by enterprises in stock award programs involving issuances abroad.

Since some stock award programs are not intended to incentivize and retain employees but rather to raise capital for foreign organizations, functioning as indirect foreign investment activities, the new circular primarily addresses this issue.

For example, it changes the general provision in the old regulations concerning the form of “Stock purchase rights with preferential conditions” to “Other forms of stock awards abroad that do not result in the outflow of funds.” Additionally, the new circular reduces related administrative procedures, helping enterprises lower costs and contributing to attracting foreign currency into Vietnam through stock award programs.

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<sup>2</sup> The spot market means that prices are determined at a specific time and place, based on supply and demand at the time of the transaction. The electricity prices are applied in accordance with the regulations of the competitive wholesale electricity market as stipulated by the Ministry of Industry and Trade (Circular No. 45/2018/TT-BCT dated 15 November 2018).

<sup>3</sup> With the issuance of Circular No. 45/2018/TT-BCT dated 15 November 2018 (Articles 3.17 and 3.18), five power corporations (the Northern Power Corporation, the Central Power Corporation, the Southern Power Corporation, the Hanoi Power Corporation, and the Ho Chi Minh City Power Corporation) in addition to EVN were authorized to participate in the wholesale electricity market (previously, from 2012 to 2018, EVN was the sole wholesale electricity buyer). With this new decree, large electricity users will also become wholesale electricity buyers.

The new circular entered into effect on 12 August 2024.

## Taxation

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### ***Draft Law on Corporate Income Tax***

The latest draft introduces the following noteworthy change: A reduction in corporate income tax rates for small and micro enterprises, which make up 94% of active businesses in Vietnam, from 20% to 15% or 17%, as follows:

- A 15% tax rate applies to enterprises with total annual revenue not exceeding VND3 billion.
- A 17% tax rate applies to enterprises with total annual revenue exceeding VND3 billion but not exceeding VND50 billion.

However, this tax rate does not apply to enterprises that are subsidiaries or affiliated companies if the affiliated company does not meet the conditions for applying the tax rate as specified.

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