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# Legal News

January 2020

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## Highlights

### 1. Taxi drivers must provide invoices or payment receipts to customers

*This content is included in Decree No. 10/2020/ND-CP, regulating the business of and conditions for business of transport by automobiles, issued on 17 January 2020.*

Accordingly, taxi drivers using taximeters must print invoices or receipts of payment for passengers at the end of the trip, meters and printing equipment must be installed at a position which is easy for customer to see.

Receipt of payment must have at least such information as the name of the transport entity, the number plate, the distance of the trip (km) and the total amount to be paid by the passenger.

Some other new regulations on business of transport by taxi include:

- (a) If the light box showing the word “TAXI” is fixed on the roof of the vehicle (12 x 30 cm size), the wording "TAXI Vehicle" shall be not required to be stucked on the front and rear glasses of the vehicle.
- (b) Taxis using software to book, cancel, and charge trips must have equipment connected directly to the passenger; Trip fares are calculated according to the distance determined on the digital map, etc.

This Decree shall take effect on 1 April 2020

### 2. Three Decrees on the Road Maintenance Fund cancelled

*On 13 January 2020, the Government issued Decree No. 09/2020/ND-CP on repealing a number of legal documents on the Road Maintenance Fund.*

Accordingly, the new Decree decided to repeal 3 following Decrees:

- (a) Decree No. 18/2012/ND-CP dated 13 March 2012 of the Government, on the Road Maintenance Fund;
- (b) Decree No. 56/2014/ND-CP dated 30 May 2014 of the Government, amending a number of articles of the Government's Decree No. 18/2012/ND-CP dated 13 March 2012 on the Road Maintenance Fund;
- (c) Decree No. 28/2016/ND-CP dated 20 April 2016 of the Government, amending a number of articles of Decree No.56/2014/ND-CP dated 30 May 2014 and Decree No. 18/2012/ND-CP dated 13 March 2012 of the Government on the Road Maintenance Fund.

The Ministry of Finance shall lead and coordinate with the Ministry of Transport in regulating the collection, submission and use of road use charges collected on motor vehicles throughout the country.

This Decree shall take effect on 1 March 2020.

### 3. What bailiffs are prohibited from doing?

*On 8 January 2020, the Government issued Decree No. 08/2020/ND-CP, providing for the organization and operation of bailiffs. ("Decree 08").*

Accordingly, bailiffs cannot do the followings:

- (a) Disclosing information about his/her work, unless otherwise provided by law;
- (b) Using information about the bailiff's activities to infringe upon the legitimate rights and interests of individuals, agencies and organizations.
- (c) Requiring any additional material benefits other than the costs already stated in the contract.
- (d) Simultaneously practicing notarization, lawyering, property valuation, property auction, management and liquidation of assets.
- (e) Not taking the work in relation to his or her own rights and interests and those of his relatives in the course of performing his or her duties.

Relatives include: Wife, husband, biological children, adopted children; natural father, natural mother, adoptive father, adoptive mother, grandfather, grandmother, paternal grandfather, maternal grandmother, uncle, aunts, natural siblings of the bailiff, of the wife or husband of the bailiff; natural grandchildren, nephew or niece of the bailiff.

- (f) Other prohibited works as prescribed by law.

Regarding the legal value of the degree, the new Decree clearly stipulates:

- (a) Bailiff's certificate may not replace notarized or certified documents, or other administrative documents.
- (b) Bailiff's certificate is a source of evidence for courts to consider when resolving civil and administrative cases in accordance with the laws; is taken as a basis for conducting transactions between agencies, organizations and individuals in accordance with the laws.

In the process of evaluating and examining the value of evidence of a bailiffs' certificate, if deeming it necessary, the people's court and people's procuracy

may summon the bailiff as well as other agencies, organizations and individuals to verify the authenticity of such certificate.

The bailiff as well as other agencies, organizations and individuals must be present when subpoenaed by the people's court or people's procuracy.

Decree 08 also specifies in Article 37 9 cases where the bailiffs' certificate may not be made as follows:

- (a) Violating regulations on security and national defense, including: disclosing state secrets; disseminating news, documents, articles classified as state secrets, etc.;
- (b) Violating privacy, personal secret, family secret according to Article 38 of the Civil Code; social ethics;
- (c) Confirming the contents, executing the contracts or transactions prescribed by law to fall within the scope of notarization or authentication, etc.;
- (d) Recording events and acts to transfer the land use rights, the right to own land and/or asset without papers proving the right to use and the ownership as prescribed;
- (e) Recording events and acts to conduct unlawful transactions of the certificate applicant;
- (f) Recording events and acts of cadres, public officials or servants, etc. on duty.

This Decree shall take effect on 24 February 2020.

#### **4. Amended regulations on compensation in case of the State's land recovery**

*On 3 January 2020, the Government issued Decree No. 06/2020/ND-CP, on amendments to Decree No. 47/2014/ND-CP dated 15 May 2014, providing for compensation, support and resettlement when the State recovers land ("Decree 47").*

Accordingly, for the land recovery to implement investment projects of which the investment policy has been approved by the National Assembly or Prime Minister:

- (a) Adding the contents of "Estimated progress of implementation of compensation, support, and resettlement plans" to the Compensation, support and resettlement policy framework.
- (b) In case of land recovery for implementation of an investment project requiring construction of a concentrated resettlement area, the policy

framework must also include the area of land recovered for construction of such concentrated resettlement area.

- (c) For investment projects which approved the compensation, support and resettlement plans for the whole project prior to 20 February 2020, they will continue to comply with Article 17 of Decree 47.

This Decree shall take effect on 20 February 2020.

## **5. New regulations on administrative sanctions for violations in trading pesticides**

*These regulations are considered as one of the highlights in Decree No.04/2020/ND-CP dated 3 January 2020, on amendments to Decree No.31/2016/ND-CP, providing administrative sanctions for violations in the fields of plant varieties, plant protection and quarantine fields.*

The new Decree prescribes that monetary fines of 40 million Vietnamese Dong to 45 million Vietnamese Dong can be imposed for one of the following violations in trading plant protection products:

- (a) The protection products already expired or failed to meet the quality standards or conform to the corresponding national technical regulations, which are worth at least 200 million Vietnamese Dong;
- (b) The products in the list of plant protection products prohibited for use in Vietnam, which are from 30 kilograms by weight (or 30 liters by volume) to below 50 kilograms by weight (or 50 liters by volume);
- (c) The products not included in the list of plant protection products permitted for use in Vietnam, which are worth between 100 million Vietnamese Dong to less than 200 million Vietnamese Dong.

(According to the existing regulations, trading finished plant protection products, which are in the list of prohibited plant protection products, from 30 kilograms by weight (or 30 liters by volume) and to less than 50 kilograms by weight (or 50 liters by volume), would be subject to monetary penalty varying from 40 million Vietnamese Dong to 50 million Vietnamese Dong).

This Decree shall come into force on 18 February 2020.

## **6. New regulations on collection of fees for management of and supervision over insurance business**

*On 3 January 2020, the Ministry of Finance promulgated Circular No.01/2020/TT-BTC, regulating collection rates and regime for collection,*

***submission, management and use of fees for management of and supervision over insurance business activities.***

The new Circular applies to insurers having obtained licenses in Vietnam and other entities or persons related to collection and submission of fees for management of and supervision over insurance business activities.

Collection rates are prescribed as follows:

- (a) Insurance enterprises, branches of foreign insurance enterprises in Vietnam: 0.03% of direct insurance premium (after insurance premium reimbursement and reduction).
- (b) Reinsurance enterprises: 0.03% of obtained reinsurance premium (after obtained reinsurance premium reimbursement and reduction).
- (c) Insurance brokerage companies: 0.03% of insurance brokerage turnover.

This Circular shall come into force on 20 February 2020 and shall be applied as from the financial year of 2020.

**7. Hague Agreement on international registration of industrial design officially enters into force in Vietnam**

***On 1<sup>st</sup> January 2020 (Vietnam time), the Hague Agreement officially came into force in Vietnam after 03 months from the date of submission of the instrument of accession to the World Intellectual Property Organization (WIPO). Vietnam is the 61<sup>st</sup> member of the 1999 Geneva Act and 71<sup>st</sup> member of the Hague Union.***

As of 1<sup>st</sup> January 2020 (Vietnam time), companies and designers from Vietnam can begin using the Hague System to protect their industrial designs in the Contracting Parties to the 1999 Act of the Hague Agreement, and can now *designate Vietnam in international design applications.*

Applicants only need to file a single international design application and designate a significant number of countries/territories to obtain design protection therein. A single international application may comprise up to a maximum of 100 designs provided that they belong to the same class of Locarno international classification.

Issues such as conditions for protection, evaluation of design patentability, patent granting and protection of designs as well as rights and obligations of design holders are governed by the laws of each Contracting Party.

Companies and designers from the Contracting Parties of the Hague Agreement (the 1999 Geneva Act) seeking design protection through the Hague System in Vietnam should note the following matters:

- (a) Vietnam does not permit the deferment of the publication of an industrial design application.
- (b) *A design application must include (i) a set of drawings that consist of a perspective view for three-dimensional designs; (ii) a description in which all features expressing the nature of the design must be fully disclosed; and (iii) a claim part.*
- (c) A design application can request the grant of protection for only one industrial design except for industrial designs of a set of articles consisting of numerous items expressing a single common creative idea and being used together for a common purpose; or industrial designs each accompanied by one or more variants, i.e., variations of such industrial design that express a single common creative idea and that are not significantly different from such industrial design.
- (d) Vietnam applies *level three* of the standard designation fee under Rule 12(1)(b)(III) for Contracting Parties whose office carries out examination on substantive grounds.

## 8. Guidance on adjustment in investment policy of projects of national importance

***On 1 January 2020, the Government issued Decree No. 02/2020/ND-CP, on the amendments to a number of articles of Decree No. 131/2015/ND-CP, providing guidelines for projects of national importance (“Decree 131”).***

Accordingly, Section 4a is added after Section 4, Chapter IV of Decree 131, providing for dossiers and contents of appraisal of adjustment in investment policies of projects of national importance funded with public investment capital, including the following dossiers:

- (a) Dossier submitted for appraisal of adjustment in investment policy of the investor or a unit directly managed by the agency tasked to prepare the investment:
  - (i) Request for appraisal;
  - (ii) Amended pre-feasibility study report or amended feasibility study report;
  - (iii) Reports on supervision over and evaluation of adjustments in investment projects;
  - (iv) Other relevant documents.
- (b) Dossier for appraisal of adjustment in investment policy submitted by the agency managing the investment owner or tasked to prepare the investment.
- (c) Dossiers of the State Evaluation Council submitted to the Government and submitted by the Government to the National Assembly.

This Decree shall take effect on 1 January 2020.

**9. Criteria for evaluating investment efficiency of public investment projects**

*On 1 January 2020, the Government issued Decree No. 01/2020/ND-CP, amending a number of articles of Decree No. 84/2015/ND-CP dated 30 September 2015 of the Government, providing for investment monitoring and evaluation.*

Accordingly, the Government supplements the regulations on criteria for evaluation of investment efficiency of public investment projects:

- (a) The level of achievement of the project investment objectives in accordance with the approved investment decision;
- (b) The project's actual operational and operational indicators compared with those of the approved project;
- (c) Economic internal rate of return (EIRR);
- (d) Socio-economic and environmental impacts and other specific development goals (poverty reduction, gender equality, policy households, priority subjects);
- (e) Measures taken to minimize negative social and environmental impacts.

This Decree took effect on the date of signing.



## **Other sectors:**

### **Finance**

- Decision No. 149/QD-TTg dated 22 January 2020 of the Prime Minister, on approving the National Comprehensive Financial Strategy up to 2025, with orientation to 2030.
- Decision No. 29/QD-BTC dated 7 January 2020 of the Ministry of Finance, publishing cancelled administrative procedures in the field of Public Assets Management under the management functions of the Ministry of Finance.

### **Banking**

- Decision No. 119/QD-NHNN dated 22 January 2020 of the State Bank of Vietnam, publishing the amended or cancelled administrative procedures in the foreign exchange field to be implemented at the One-Stop Shop falling within the management functions of the State Bank of Vietnam.
- Decision No. 98/QD-NHNN dated 20 January 2020 of the State Bank of Vietnam, publishing amended administrative procedures in the field of monetary activities to be implemented at the One-Stop Shop falling within the management functions of the State Bank of Vietnam.

### **Securities**

- Decision No. 06/QD-VSD dated 2 January 2020 of Vietnam Securities Depository Center, promulgating the Regulation on activities of payment for transactions on Government debt instruments and Government-guaranteed bonds issued by policy banks, and local governments' bonds.
- Decision No. 05/QD-VSD dated 2 January 2020 of Vietnam Securities Depository Center, promulgating the Regulation on organization of securities borrowing and lending activities at Vietnam Securities Depository Center.
- Decision No. 04/QD-VSD dated 2 January 2020 of Vietnam Securities Depository Center, promulgating the Regulation on securities depository activities of Vietnam Securities Depository Center.
- Decision No. 03/QD-VSD dated 2 January 2020 of Vietnam Securities Depository Center, promulgating the Regulation on securities ownership registration and transfer activities.

- Decision No. 02/QD-VSD dated 2 January 2020 of Vietnam Securities Depository Center, promulgating the Regulation on exercising rights of securities owners.
- Decision No. 01/QD-VSD dated 2 January 2020 of Vietnam Securities Depository Center, promulgating the Regulation on granting domestic securities codes and granting international securities identification numbers at the Vietnam Securities Depository Center.

## **Trade**

- Circular No. 03/2020/TT-BCT dated 22 January 2020 of the Minister of Industry and Trade, providing for the import of tobacco raw materials according to tariff quotas under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership.
- Circular No. 01/2020/TT-BCT dated 14 January 2020 of the Minister of Industry and Trade, providing for the import of tobacco raw materials according to tariff quotas in 2020.

## **Health**

- Decree No. 03/2020/ND-CP dated 1 January 2020, amending Article 68 of Decree No. 36/2016/ND-CP, on control of medical devices, as amended by Decree No.169/2018/ND-CP amending Decree No. 36/2016/ND-CP, on control of medical devices.
- Decision No. 219/QD-BYT dated 29 January 2020 of the Ministry of Health, adding acute respiratory infections caused by new strain of Corona virus (nCoV) to the list of infectious diseases of group A according to the Law on Prevention and Control of Infectious Diseases 2007.
- Decision No. 125/QD-BYT dated 16 January 2020 of the Ministry of Health, providing guidelines for the Diagnosis and treatment of acute pneumonia caused by new strain of Corona virus (nCoV).
- Circular No. 02/2020/TT-BYT dated 20 January 2020 of the Ministry of Health, providing for the order of and responsibilities for notifying positive HIV test results.
- Circular No. 01/2020/TT-BYT dated 16 January 2020 of the Ministry of Health, amending Circular No. 30/2018/TT-BYT on the List and payment rates and conditions for payment for pharmaceutical drugs, biological products, radioactive

drugs and markers covered by health insurance.

## **Transport**

- Decision No. 77/QD-TTg dated 13 January 2020 of the Prime Minister, approving the task of making a master plan for the development of Vietnam's seaport system in the 2021-2030 period, with an orientation to 2050.
- Decision No. 36/QD-BGTVT dated 10 January 2020 of the Ministry of Transport, publishing replaced administrative procedures under the management function of the Ministry of Transport.
- Circular No. 01/2020/TT-BGTVT dated 20 January 2020 of the Minister of Transport, on marine accident reporting and investigation.
- Circular No. 02/2020/TT-BTC dated 6 January 2020 of the Ministry of Finance, providing guidelines for using the funds related to the activities of dredging seaport waters under the management of the Ministry of Transport in combination with product recalls.

## **Construction**

- Decision No. 154/QD-TTg dated 22 January 2020 of the Prime Minister, on establishment of the Council for evaluation of regional planning tasks in the 2021-2030 period, with an orientation to 2050.
- Decision No. 56/QD-BXD dated 20 January 2020 of the Ministry of Construction, publishing the list of wholly or partly repealed legal documents in the fields under State management of the Ministry of Construction in 2019.
- Decision No. 02/QD-BXD dated 2 January 2020 of the Ministry of Construction, on the establishment of a Unit for receiving administrative procedures and returning the processing results at the Southern Work Bureau.

## **Land**

- Decision No. 03/2020/QD-UBND dated 20 January 2020 of the People's Committee of Ho Chi Minh City, providing for land price adjustment coefficient of the year 2020 in the area of Ho Chi Minh City.
- Decision No. 02/2020/QD-UBND dated 16 January 2020 of the People's Committee of Ho Chi Minh City, providing for land price lists in the area of Ho Chi Minh City in the 2020-2024 period.

**Natural Resources - Environment**

- Decision No. 246/QD-BTNMT dated 30 January 2020 of the Ministry of Natural Resources and Environment, publishing the list of legal documents, which are wholly repealed or which cease to be effective in whole or in part, in the fields under the State management of the Ministry of Natural Resources and Environment in 2019.
- Decision No. 133/QD-TTg dated 17 January 2020 of the Prime Minister, on the National Plan on Oil Spill Response.
- Decision No. 01/2020/QD-UBND dated 2 January 2020 of the People's Committee of Ho Chi Minh City, on the collection rate for sea area use fees for each of activities of exploitation and use of marine resources in 2020 in the area of Ho Chi Minh City.

**Information - Communications**

- Decision No. 135/QD-TTg dated 20 January 2020 of the Prime Minister, on approving the Scheme to improve the efficiency of basic information activities based on information technology application.
- Decision No. 94/QD-BTTTT dated 20 January 2020 of the Minister of Information and Communications, providing for the functions, tasks, powers and organizational structure of the National Digital Data Repository Center.
- Decision No. 93/QD-BTTTT dated 20 January 2020 of the Minister of Information and Communications, amending Point b, Clause 2, Article 3 of Decision No.1288/QD-BTTTT, defining functions, tasks and powers and organizational structure of the Press Department.

**Administration - Judiciary**

- Decree No. 05/2020/ND-CP dated 3 January 2020, cancelling a number of legal documents promulgated by the Government.
- Decision No. 01/2020/QD-TTg dated 3 January 2020 of the Prime Minister, on cancelling a number of legal documents.
- Decision No. 06/2020/QD-UBND dated 20 January 2020 of the People's Committee of Ho Chi Minh City, cancelling the document issued by Ho Chi Minh City.

- Decision No. 05/2020/QD-UBND dated 20 January 2020 of the People's Committee of Ho Chi Minh City, on cancelling documents issued by Ho Chi Minh City.
- Decision No. 24/QD-BTP dated 06 January 2020 of the Ministry of Justice, publishing the list of legal documents which are repealed or which cease to be effective in whole or in part in the fields under state management of the Ministry Justice in 2019.
- Guidance No. 02/HD-VKSTC dated 2 January 2020 of the Supreme People's Procuracy, on supervising settlement of civil, marriage and family cases by 2020.
- Guidance No. 01/HD-VKSTC dated 2 January 2020 of the Supreme People's Procuracy, on supervising settlement of administrative, business, commercial, labour and other matters according to the laws.

**Agriculture - Forestry - Fisheries**

- Decree No. 13/2020/ND-CP dated 21 January 2020, providing guidelines for the Law on Livestock.
- Decree No. 12/2020/ND-CP dated 20 January 2020, on ceased Article 63, Point c Clause 1 Article 64, Point b Clause 2 and Clause 3 Article 65 of Decree No.26/2019/ND-CP, providing guidelines for Law on Fisheries.
- Decision No. 151/QD-BNN-TT dated 9 January 2020 of the Ministry of Agriculture and Rural Development, publishing a list of new or replaced administrative procedures in the field of Crop production under the management function of the Ministry of Agriculture and Rural Development.
- Decision No. 33/QD-TTg dated 7 January 2020 of the Prime Minister, on approving the Vietnam Irrigation Strategy up to 2030, with an orientation to 2045.
- Decision No. 06/QD-BNN-CN dated 2 January 2020 of the Ministry of Agriculture and Rural Development, on correction of Circular No.23/2019/TT-BNNPTNT, providing guidelines for a number of articles of the Law on Livestock with respect to animal husbandry activities.
- Circular No. 01/2020/TT-BNNPTNT dated 16 January 2020 of the Ministry of Agriculture and Rural Development, providing for the periodic reporting regime under the State management scope of the Ministry of Agriculture and Rural Development.

**Miscellaneous**

- Resolution No. 02/NQ-CP dated 1 January 2020 of the Government, on continuing to perform key tasks and solutions to improve the business environment and enhance the national competitiveness in 2020.
- Decree No. 07/2020/ND-CP dated 5 January 2020 on Vietnam's Special Preferential Import Tariff to implement the ASEAN - Hong Kong (China) Free Trade Agreement for the 2019-2022 period.
- Decision No. 147/QD-TTg dated 22 January 2020 of the Prime Minister, on approving the Vietnam Tourism Development Strategy up to 2030.
- Decision No. 178/QD-BVHTTDL dated 14 January 2020 of the Ministry of Culture, Sports and Tourism, publishing the List of administrative procedures for receiving administrative procedures and returning the processing results at the One-Stop Shops of the General Departments and Departments of the Ministry of Culture, Sports and Tourism and the List of administrative procedures for online receiving at the Ministry's public service portal.

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