

# LEGAL NEWS

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In addition to other resources, Legal News are updated monthly by Vision & Associates in both English and Vietnamese, with a view to providing a wide network of our clients and business partners with a prominent and updated legal changes and development in Vietnam. Our Legal News relate mainly to foreign investment, trading, import and export, taxation, finance and banking, labour, and other relevant issues.

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## Highlights:

### 1. Three provisions of Decree No. 65/2022/ND-CP on bonds are suspended until the end of 2023

*This is the content of Decree No. 08/2023/ND-CP dated 5 March 2023, amending and suspending a number of articles in Decrees on private placement of*

*corporate bonds for sale and trading on domestic markets and offering corporate bonds to the international markets (“Decree 08”).*



Accordingly, the provisions of Decree No. 65/2022/ND-CP dated 16 September 2022 (“Decree 65”) shall be delayed to take effect until the end of 31 December 2023, specifically:

- (a) Regulations on determining the status of professional securities investors being individuals at point d, Clause 1, Article 8 of Decree 153/2020/ND-CP dated 31 December 2020 (“Decree 153”) as amended in Clause 6, Article 1 of Decree 65;
- (b) Regulations on bond distribution time for each issuance in Clauses 7 and 8, Article 1 of Decree 65;
- (c) Regulations on credit rating results for bond issuers at Point e, Clause 2, Article 12 of Decree 153 as amended in Clause 9, Article 1 of Decree 65.

In addition, Decree 08 also amends Clause 3, Article 34 of Decree 153 and Point b, Clause 3, Article 3 of Decree 65.

Bonds offering of which the brochure has been submitted to the Stock Exchange before the effective date of this Decree, but the distribution of bonds has not yet completed, shall be continued in accordance with the provisions of Clauses 7 and 8, Article 1 of Decree 65.

Decree 08 shall take effect on 5 March 2023.

### 2. New regulations on displaying medical device price

*On 3 March 2023, the Government issued Decree No. 07/2023/ND-CP, amending Decree No. 98/2021/ND-CP dated 8 November 2021, on medical device management.*

According to the new Decree, medical equipment price should be displayed as follows:

- (a) Organizations and individuals engaged in the production and business of medical device shall display the prices of medical devices at locations as provided in Article

17 of Decree No. 177/2013/ND-CP dated 14 November 2013, providing guidelines for the Law on Prices or on the Electronic Information Portal of the Ministry of Health.

- (b) In case of displaying medical device prices on the Electronic Information Portal of the Ministry of Health, the following information is mandatory:
- (i) Name and category of the medical device;
  - (ii) Manufacturer and manufacturing country; product owner and country of product owner;
  - (iii) Calculation unit;
  - (iv) Specifications and technical features of medical device; and
  - (v) Displayed prices of medical device.

This Decree shall come to force on 3 March 2023.

### **3. Three new templates of construction contracts from 20 April 2023**

*On 3 March 2023, the Ministry of Construction has issued Circular No. 02/2023/TT-BXD, providing guidelines for some contents of construction contracts (“Circular 02”).*

Accordingly, Circular 02 promulgates the following templates of construction contract:

- (a) Template contract for construction consultancy;
- (b) Template contract for construction;
- (c) Template contract for Engineering - Procurement - Construction (EPC).

These template contracts are those between the investor and the contractor; in the case where the principal is the general contractor or main contractor, the parties shall study and apply necessary contents of the template contract to establish the contract and manage contract performance.

When using template contract according to this Circular to negotiate and enter into construction contracts, the parties shall perform, based on the specific requirements and conditions of the bidding package or project and the provisions of relevant documents, including:

- (a) Decree No. 37/2015/ND-CP dated 22 April 2015 (amended by Decree No.50/2021/ND-CP dated 1 April 2021);
- (b) Other provisions of the law and the contents under the guidance of Circular 02.

This Circular shall take effect on 20 April 2023.

### **4. Amending the application for establishment and operation license of a people's credit fund**

*On 1 March 2023, the Governor of the State Bank issued Circular No. 01/2023/TT-NHNN, on amendments to Circular No. 04/2015/TT-NHNN dated 31 March 2015, regulating people's credit funds (“Circular 04”).*

Accordingly, a number of contents in the application for a license to establish and operate a credit fund are amended, such as:

- (a) A Citizen's Identification Card number or ID card number or Passport number is required for:
- (i) Member being an individual;
  - (ii) Household representative for the member being a household;
  - (iii) The representative of the capital contribution portion for the member being a legal entity.

Compared with Circular 04, the new regulation has allowed the use of Citizen's Identification Card numbers in the application, has removed the use of household registration books, and the representative of capital contribution portion for the member being a legal entity must also provide information on his/her Citizen's Identification Card number or ID Card number or Passport number.

- (b) Enterprise code number or Establishment decision number or number of other equivalent document for the member being a legal entity.
- (c) Certificate of working place, copy of recruitment decision or working contract of the recruiting agency or unit, for the capital contributors being cadres, public officials or public servants.
- (a) A copy of the Enterprise Registration Certificate or the Establishment Decision or other equivalent document. (Circular 04 only allowed submission of copies of Business Registration Certificates).

This Circular shall take effect on 1 March 2023.

## 5. Update and amendment of some regulations on Value-Added Tax

*This is the content mentioned in Circular No. 13/2023/TT-BTC dated 28 February 2023 of the Ministry of Finance, providing guidelines for*

*implementation of Decree No. 49/2022/ND-CP dated 29 July 2022 ("Decree 49") and amending Circular No. 80/2021/TT-BTC dated 29 September 2021 of the Ministry of Finance ("Circular 80") regarding Value-Added Tax (VAT).*

In which, the provisions in Clauses 2 and 3, Article 18 of Circular No. 219/2013/TT-BTC dated 31 December 2013 of the Ministry of Finance are replaced, and according to the new regulations, business establishments are entitled to VAT refund for investment projects under Clause 3, Article 1 of Decree 49.

In addition, Circular 80 is also amended to require the submission of a copy of one of the following documents: a License or Certificate or a written certification or approval of a



conditional investment sector and business line in VAT refund dossiers for investment projects of business establishments in conditional investment sectors and business lines in the investment stage, in accordance with the provisions of the investment laws and specialized laws, which were licensed under the provisions of Clause 3, Article 1 of Decree 49.

This Circular shall take effect on 14 April 2023.

## 6. Further 7 case precedents from 27 March 2023

*On 24 February 2023, the Supreme People's Court issued Decision No. 39/QĐ-CA on the publication of case precedents.*



Accordingly, 7 new case precedents have been published to be applied for trial from 27 March 2023, including:

- (a) Case precedent No.57/2023/AL on fraudulent acts to gain access to property in the crime of “Robbery of property”;
- (b) Case precedent No. 58/2023/AL on the circumstances of penalty framing at Point c, Clause 3, Article 244 of the Penal Code;
- (c) Case precedent No. 59/2023/AL on indirect intentional fault in the case of “Murder”;
- (d) Case precedent No. 60/2023/AL on the time limit for payment of lottery prizes;
- (e) Case precedent No. 61/2023/AL on termination of adoption when the adopted child is a minor;
- (f) Case precedent No. 62/2023/AL on the time when the child support obligation begins in a dispute over the determination of the child's father;
- (g) Case precedent No. 63/2023/AL on consideration of administrative decisions related to the complained administrative acts.

The application of case precedents is carried out according to the guidance in Article 8 of Resolution No. 04/2019/NQ-HĐTP dated 18 June 2019 on the process of selecting, announcing and applying case precedent.

The above seven precedents were approved by the Council of Judges of the Supreme People's Court on 1, 2, and 3 February 2023.

This Decision took effect on the date of signing.

## 7. Duties and powers on competition proceedings of the National Competition Commission

*On 10 February 2023, the Government issued Decree No. 03/2023/ND-CP, providing for the functions, tasks, powers and organizational structure of the National Competition Commission.*

Accordingly, the National Competition Commission performs the tasks and powers in competition proceedings, for example:

- (a) Detecting, verifying and evaluating information and evidence on acts showing signs of violation of regulations of laws on competition;
- (b) Receiving, verifying and evaluating information and evidences about acts with signs of violation of regulations of laws on competition provided by organizations or individuals; receiving, considering and accepting complaints of competition cases;
- (c) Conducting investigation of competition cases in accordance with the laws;
- (d) Hearing competition cases in accordance with the laws;
- (e) Receiving, accepting and settling complaints about decisions on dealing with competition cases in accordance with the laws;
- (f) Participating in administrative proceedings related to the complaint settlement decision of the President of the National Competition Commission, the Council for dealing with the anti-competitive cases in accordance with the laws on administrative proceedings;
- (g) Requesting competent agencies and persons to coordinate and support during the investigation and dealing with competition cases; requesting agencies, organizations and individuals to provide information and documents related to competition cases; etc.

This Decree shall take effect on 1 April 2023 and replaces Decree No. 07/2015/ND-CP dated 16 January 2015, and Decision No. 24/2015/QD-TTg dated 30 June 2015 of Prime Minister.

## **8. One more occupational disease entitled to social insurance from 1 April 2023**

*On 9 February 2023, the Minister of Health promulgated Circular No. 02/2023/TT-BYT, on amendments to Circular No. 15/2016/TT-BYT dated 15 May 2016, on occupational diseases covered by social insurance.*

According to the new Circular, “occupational COVID-19” has been added to the list of occupational diseases covered by social insurance.

At the same time, Appendix 35 on guidelines for occupational COVID-19 diagnosis and assessment has been added.

Therefore, as of 1 April 2023, there are 35 occupational diseases covered by social insurance, for example:

- (a) Occupational silicosis;
- (b) Occupational asbestosis;
- (c) Occupational byssinosis;
- (d) Occupational talc pneumoconiosis;
- (e) Occupational coal worker's pneumoconiosis;
- (f) Occupational chronic bronchitis;

- (g) Occupational asthma;
- (h) Occupational lead poisoning;
- (i) Occupational diseases due to benzene and its homologue exposure;
- (j) Occupational mercurialism;
- (k) Occupational manganism;
- (l) Occupational trinitrotoluene poisoning;
- (m) Occupational COVID-19; etc.

This Circular shall come force on 1 April 2023.

## 9. Cases for processing personal data without the consent of data subjects

*On 7 February 2023, the Government promulgated Resolution No. 13/NQ-CP, approving documentation on the development of Decree on Personal Data Protection.*

According to the new Resolution, the Government approves of the regulations on processing of personal data without the consent of data subjects in the following cases:

- (a) Protecting the life and health of the data subject or relevant persons in emergency.  
The personal data controller, personal data processor, personal data controller cum processor, and relevant third parties shall responsible to provide evidence in this case;
- (b) Disclosing personal data as prescribed by law;
- (c) Processing data of competent state agencies in case of emergencies on national defense, national security, social safety and order, major natural disasters, or dangerous epidemics; risks that threaten national defense and security but not to the extent of declaring a state of emergency; prevention and combat against riot, terrorism, criminal, and other law violations as prescribed by law;
- (d) Fulfilling obligations under the contract of the data subject with relevant agencies, organizations or individuals as prescribed by law;
- (e) Serving operations of the state agencies stipulated by specialized laws.

This Resolution came into force on its date of signing.

## 10. Amended procedures for tax deferral

*On 6 February 2023, the Minister of Finance issued Decision No.115/QD-BTC, publishing revised tax procedures under management of the Ministry of Finance.*

According to the new Decision, the Ministry of Finance revises tax deferral procedures in the following documents:

- (a) Decree No. 32/2022/ND-CP dated 21 May 2022, providing for deferral of excise duties on domestically manufactured or assembled automobiles;
- (b) Decree No. 34/2022/ND-CP dated 28 may 2022, providing for deferral of value-added tax (VAT), corporate income tax (CIT), personal income tax (PIT) and land rents in 2022;
- (c) Circular No. 80/2021/TT-BTC dated 29 September 2021 of the Ministry of Finance.

Procedure for tax deferral shall be carried out as follows:

- (a) Step 1: The taxpayer eligible for tax deferral shall make an application and submit it to the supervisory tax authority or revenue-managing tax authority.
- (b) Step 2: The tax authority shall receive and process the application:
  - (i) In the case where the application is submitted in person or by post to the tax authority, the tax official shall receive and process the application and return results as prescribed.
  - (ii) In the case where the application is submitted online, the tax authority shall receive, check and accept the application via the electronic data processing (EDP) system.



There are three methods for submission of the application for tax deferral, including:

- (a) Submitting in person at the tax authority;
- (b) Sending it by post;
- (c) Submitting the application to the tax authority online (via the web portal of the General Department of Taxation/ Web portal of the competent regulatory agency or T-VAN service provider).

This Decision shall come into force on 6 February 2023 and replaces Decision No. 1710/QD-BTC of 2022.

**11. New forms of applications for grant, renewal, and adjustment to water resource licenses**

*On 1 February 2023, the Government promulgated Decree No. 02/2023/ND-CP, providing guidelines for the Law on Water Resources.*

Accordingly, the new Decree provides forms of applications for grant, renewal, and adjustment to water resource licenses, including:

- (a) Form 1: Application for grant of underground water exploration license;
- (b) Form 2: Application for renewal of/amendment to underground water exploration license;
- (c) Form 3: Application for grant of underground water extraction and use license;

- (d) Form 4: Application for renewal of/amendment to underground water extraction and use license;
- (e) Form 5: Application for grant of surface water extraction and use license;
- (f) Form 6: Application for renewal of/amendment to surface water extraction and use license;
- (g) Form 7: Application for grant of seawater extraction and use license;
- (h) Form 8: Application for renewal/adjustment to seawater extraction and use license;
- (i) Form 9: Application for re-grant of water resource license;
- (j) Form 10: Application for return of water resource license.

This Decree shall take effect on 20 March 2023 and replaces Decree No. 201/2013/ND-CP dated 27 November 2013.

## **Other sectors:**

### **Finance**

- Decision No. 10/2023/QD-UBND dated 23 February 2023 of the People's Committee of Ho Chi Minh City, amending the Regulation on public property procurement by centralized method in Ho Chi Minh City accompanying Decision No. 28/2019/QD-UBND dated 25 November 2019 of the People's Committee of Ho Chi Minh City;
- Decision No. 11/QD-VKSTC dated 22 February 2023 of the Procurator General of the Supreme People's Procuracy, on the list of assets for concentrated procurement in the People's Procuracy sector.
- Decision No. 176/QD-BTC dated 13 February 2023 of the Ministry of Finance, publishing cancelled administrative procedures within the scope of management functions of the Ministry of Finance.
- Decision No. 149/QD-BTC dated 9 February 2023 of the Ministry of Finance, publishing new administrative procedures in the tax field within the scope of management functions of the Ministry of Finance.
- Circular No. 12/2023/TT-BTC dated 10 February 2023 of the Minister of Finance, on amendments to Circular No. 107/2020/TT-BTC dated 21 December 2020 of the Minister of Finance, providing guidelines for the delivery of service of repurchasing government bonds with term from temporarily idle state funds of the State Treasury.
- Circular No. 11/2023/TT-BTC dated 9 February 2023 of the Minister of Finance, providing guidelines for the Management Board and standards and conditions for appointment and dismissal of members of the Management Board in the non-business public professional units in the financial sector.

### **Banking**

- Resolution No. 11/NQ-CP dated 6 February 2023 of the Government, on the Government guarantee limit and loan limit on on-lending in 2023.
- Decision No. 181/QD-NHNN dated 10 February 2023 of the Governor of the State Bank of Vietnam, on publication of periodic reports as provided in Circular No. 20/2022/TT-NHNN dated 30 December 2022 of the State Bank of Vietnam.
- Decision No. 174/QD-NHNN dated 8 February 2023 of the Governor of the State Bank of Vietnam, publishing amended administrative procedures in the field of bank establishment and operations performed at “One-stop shop” unit within the scope of management functions of the State Bank of Vietnam.

**Trade**

- Decision No. 165/QD-TTg dated 28 February 2023 of the Prime Minister, approving the Project on restructuring the Industry and Trade sector for the period up to 2030.
- Decision No. 314/QD-BCT dated 17 February 2023 of the Minister of Industry and Trade, on supplementing the list of machinery, equipment, supplies and materials that can be produced domestically.
- Decision No. 312/QD-BCT dated 17 February 2023 of the Minister of Industry and Trade, on supplementing the list of machinery, equipment, supplies and materials that can be produced domestically.
- Decision No. 197/QD-BCT dated 9 February 2023 of the Minister of Industry and Trade, on extending the time limit for reviewing new exporters in the case of applying anti-dumping measures to products made of plastic and other plastic products made from propylene polymers made in Malaysia, Thailand and China.
- Circular No. 04/2023/TT-BCT dated 20 February 2023 of the Minister of Industry and Trade, on application of tariff quotas for import of raw tobacco, poultry eggs originating from member countries of the Eurasian Economic Union for the period of 2023-2027.

**Labour**

- Decree No. 4/2023/ND-CP dated 13 February 2023, amending the Decrees related to business investment conditions and administrative procedures under the State management of the Ministry of Labour, War Invalids and Social Affairs.
- Decision No. 1233/QD-UBND dated 27 February 2023 of the People's Committee of Hanoi, publishing the list of cancelled administrative procedures in the fields of Labour, War Invalids and Social Affairs under the authority of the Department of Labour, War Invalids and Social Affairs and the People's Committee of communes in Hanoi City.
- Decision No. 189/QD-BHXH dated 8 February 2023 of Vietnam Social Insurance, promulgating Regulations on criteria and conditions for appointing leading public officials and managerial public servants under the Vietnamese Social Security system.

**Health**

- Decree No. 05/2023/ND-CP dated 15 February 2023, on amendments to Decree No.56/2011/ND-CP dated 4 July 2011, providing for profession-based preferential allowances for public officials and public servants working in public health facilities.
- Decision No. 1005/QD-BYT dated 22 February 2023 of the Minister of Health, on Professional documentation "Guidelines for Diagnosis and Treatment of Interstitial Lung Disease".

- Circular No. 04/2023/TT-BYT dated 28 February 2023 of the Minister of Health, providing for the form and process of notifying HIV positive test results and accessing information about people living with HIV.
- Circular No. 03/2023/TT-BYT dated 17 February 2023 by the Minister of Health, providing guidelines for the employment positions, norms of the number of people working, the structure of public servants according to professional titles in public professional units of health sector.
- Circular No. 01/2023/TT-BYT dated 1 February 2023 of the Minister of Health, providing guidelines for the operation and working relationship of the Medical Assessment Council at all levels.

## **Education**

- Decision No. 349/QD-SGDDT dated 21 February 2023 of the Department of Education and Training of Ho Chi Minh City on Regulation on preservation, storage, use and issuance of diplomas and certificates of the national education system at the Department of Education and Training of Ho Chi Minh City.
- Decision No.73/QD-TTg dated 10 February 2023 of the Prime Minister, approving the master plan on the network of vocational education institutions for the period of 2021-2030, with an orientation to 2045.
- Decision No. 02/2023/QD-UBND dated 2 February 2023 of the People's Committee of Hanoi, cancelling Decision No. 25/2012/QD-UBND dated 18 September 2012, on policies for teachers working under the labor contract in public preschools in Hanoi City.
- Circular No. 05/2023/TT-BGDDT dated 28 February 2023 of the Minister of Education and Training, on Regulation on organization and operation of specialized high schools.
- Circular No. 03/2023/TT-BGDDT dated 6 February 2023 by the Minister of Education and Training, promulgating Regulation on organization and operation of boarding schools for ethnic minorities.

## **Information - Communications**

- Circular No. 01/2023/TT-BTTTT dated 1 February 2023 of the Minister of Information and Communications, on the list and time limit for periodic change of working positions in the field of Information and Communications in Vietnam's local governments.
- Consolidated Document No. 01/VBHN-BTTTT dated 13 February 2023 of the Ministry of Information and Communications, combining Circulars issued by the Minister of Information and Communications on application of standards and technical specifications to data centers.

**Culture - Sports - Tourism**

- Decision No. 261/QD-BVHTTDL dated 15 February 2023 of the Ministry of Culture, Sports and Tourism, publishing new, amended or cancelled administrative procedures in the field of Cinematography within the scope of management functions of the Ministry of Culture, Sports and Tourism.
- Circular No. 01/2023/TT-BVHTTDL dated 21 February 2023 of the Minister of Culture, Sports and Tourism, amending Circular No. 17/2015/TT-BVHTTDL dated 30 December 2015 on anti-doping prevention and fight in sports activities.

**Transport**

- Decision No. 1175/QD-UBND dated 22 February 2023 of the People's Committee of Hanoi, publishing the list of cancelled administrative procedures and administrative procedures in the field of inland waterways under the authority of the Department of Transport of Hanoi.
- Decision No. 253/QD-CHK dated 14 February 2023 of the Civil Aviation Administration of Vietnam, on the Regulations on citizen reception of the Civil Aviation Administration of Vietnam.

**Construction**

- Decision No. 261/QD-BKHCHN dated 28 February 2023 of the Minister of Science and Technology, publishing the National Standards on Fire Prevention and Fighting.
- Decision No. 62/QD-BXD dated 8 February 2023 of the Minister of Construction, publishing the National Construction Price Index in 2022.

**Natural Resources - Environment**

- Decision No. 300/QD-UBND dated 2 February 2023 of the People's Committee of Ho Chi Minh City, on the Regulation on coordination in management of hydro-meteorological activities in Ho Chi Minh City.
- Circular No. 08/2023/TT-BTC dated 7 February 2023 of the Minister of Finance, cancelling Circular No. 86/2016/TT-BTC dated 20 June 2016, providing guidelines for the contents of the Risk reserve and Environmental damage compensation fund according to Decree No.19/2015/ND-CP dated 14 February 2015, providing guidelines for Law on Environmental Protection.
- Circular No. 07/2023/TT-BTC dated 2 February 2023 of the Minister of Finance, on regulations on collection rates and mechanism on collection, payment, management and use of fees for assessment and appraisal of environmental renovation and restoration plans assessed and appraised by the central authorities.

**Administration - Judiciary**

- Decree No. 06/2023/ND-CP dated 21 February 2023, regulating the selection quality assessment for public officials.
- Decision No. 03/2023/QD-TTg dated 15 February 2023 of the Prime Minister, on the National Statistical Survey Program.
- Decision No. 64/QD-TTg dated 8 February 2023 of the Prime Minister, on the Regulation on coordination between ministries, ministerial-level agencies and Governmental agencies in the prevention of and fighting against money laundering and terrorist financing crimes.
- Decision No. 41/QD-BNV dated 1 February 2023 of the Ministry of Home Affairs, publishing the list of completely-expired legal documents and the list of partially-expired legal documents in the fields under the State management of the Ministry of Home Affairs in 2022.

**Agriculture - Forestry - Fisheries**

- Decision No. 726/QD-BNN-KTHT dated 28 February 2023 of the Minister of Agriculture and Rural Development, publishing cancelled administrative procedures in the field of cooperative economy and rural development within the scope of management functions of the Ministry of Agriculture and Rural Development.
- Decision No. 479/QD-BNN-TCCB dated 9 February 2023 by the Minister of Agriculture and Rural Development, providing for the functions, tasks, powers and organizational structure of the Department for Dike Management and Natural Disaster Prevention and Control.
- Decision No. 394/QD-BNN-CLCB dated 1 February 2023 of the Minister of Agriculture and Rural Development, on the Plan to ensure food safety and improve the quality of agro-forestry-fishery products in 2023.
- Consolidated Document No. 03/VBHN-BNNPTNT dated 23 February 2023 of the Ministry of Agriculture and Rural Development, combining Circulars providing for the assessment & appraisal and certification of establishments producing and trading in agro - forestry - fishery products which meet food safety conditions under the management of the Ministry of Agriculture and Rural Development.
- Consolidated Document No. 02/VBHN-BNNPTNT dated 23 February 2023 of the Ministry of Agriculture and Rural Development, combining Circulars providing Regulations on inspection and certification of food safety for exported aquatic products issued by the Minister of Agriculture and Rural Development.

**Miscellaneous**

- Decision No. 1186/QD-UBND dated 23 February 2023 of the People's Committee of Hanoi,

- approving the Housing Development Plan of Hanoi City for the period of 2021-2025.
- Decision No. 02/2023/QĐ-TTg dated 3 February 2023 of the Prime Minister, on the price bracket of the average retail electricity price.

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