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LEGAL UPDATE

No. 2 – March 2023

(15 Mar 2023 – 31 Mar 2023)



News in focus

Outstanding policies which take effect from April 2023



New legal documents

Remarkable among documents:

The Minister of Finance's Circular 16/2023/TT-BTC amending Circular 36/2021/TT-BTC guiding contents on state capital investment in enterprises, and management and use of capital and assets at enterprises specified in Decree 91/2015/ND-CP; 32/2018/ND-CP; 121/2020/ND-CP and 140/2020/ND-CP

A - News in focus



Summary of outstanding policies

(Taking effect from April 2023)

Several important documents officially come into effect from April 2023, also these documents will take place some other applicable legal documents.

In this legal update, we summarize some notable policies that come into effect in April 2023.

Covid-19 is an occupational disease entitled to social insurance

From 01 April 2023, Circular 02/2023/TT-BYT amending and supplementing several articles of Circular 15/2016/TT-BYT dated 15/5/2016 of the Ministry of Health regulating occupational diseases entitled to social insurance (social insurance) is officially effective.

Accordingly, Circular 02/2023/TT-BYT has added Covid-19 to the list of occupational diseases entitled to social insurance, raising the list of occupational diseases entitled to social insurance from 34 diseases to 35 diseases.

Groups entitled to social insurance related to Covid-19 include:

- People working at medical facilities, laboratories, taking samples, transporting samples, handling, storing and destroying samples containing nCoV;
- People who prevent epidemics, serve and provide relief to infected people;
- Customs, diplomatic, immigration officers; officers, professional soldiers, non-commissioned officers, soldiers of the people's army, soldiers, police officers and other forces are sent to participate in the prevention and control of Covid-19.

Adjustment of unit price's construction contract

From April 20, 2023, Circular 02/2023/TT-BXD guiding several contents on construction contracts officially takes effect.

Accordingly, the adjustment of construction contract unit price only applies to contracts following to the adjusted unit price and contracts from time to time when agreed upon.

In case the actual workload performance increases or decreases more than 20% of the corresponding workload stated in the contract and causes a change of more than 0.25% of the contract value and more than 1% of the unit price of that work or the workload arising without a unit price in the contract, then the parties agree to determine the new unit price according to the principle agreed in the contract on the unit price for these workload.

- In case the actual workload performance increases more than 20% of the corresponding workload stated in the contract, the new unit price shall only be applied to the actual volume exceeding 120% of the volume stated in the contract;
- In case the actual workload performance decreases more than 20% of the corresponding workload stated in the contract, the new unit price shall be applied to the entire actual completed workload which were accepted.

In case the actual volume of work increased or decreased less than or equal to 20% of the corresponding workload stated in the contract, the unit price in the contract shall be applied, including the unit price adjusted according to the agreement of the contract (if any).

Electronic bank guarantee

From 01 April 2023, Circular 11/2022/TT-NHNN regulating bank guarantee is officially effective.

Accordingly, credit institutions, foreign bank branches and customers can select to carry out electronic bank guarantee.

However, credit institutions and branches of foreign banks may only grant guarantee to customers when customers meet the following requirements:

- Have full civil legal capacity, civil act capacity as prescribed by laws;
- A guaranteed obligation is a legal financial obligation;
- Credit institutions or branches of a foreign bank are assessed that the guaranteed obligation can refund the amount that the credit institution or foreign bank's branch must pay for customers while performing the guaranteed obligation.

Credit institutions and branches of foreign banks may not guarantee bond payment obligations of issuers for the purpose of restructuring debts of the issuer itself; contributing capital, purchasing shares in other enterprises and increase the scale of operating capital.

Guarantee-granting agreements, guarantee commitments entered into and in force before April 1, 2023, shall continue to comply with signed agreements and commitments until the guaranteed obligation terminates.

Remove non-specialist classes in specialist schools

From April 15, 2023, Circular 05/2023/TT-BGDĐT promulgating the regulations on organization and operation of specialized high schools officially takes effect.

Accordingly, the Ministry of Education and Training requested not to hold non-specialist classes in specialized schools from the 2024-2025 school year. The enrollment of amateur classes will remain until students graduate so as not to cause disturbances in next year's teaching and enrollment activities.

Circular 05/2023/TT-BGDĐT also governs the additional recruitment to specialized schools. Schools can enroll students for all three grades instead of just grades 10 and 11 as the old rule. Students can register for additional entrance exams to specialized schools if they have good academic and training results in the previous school year.

B – New legal documents



Remarkable new legal documents

(Enacted from 15 Mar 2023 – 31 Mar 2023)

STT	Legal documents	
INVESTMENT		
1	The Minister of Finance's Circular No. 16/2023/TT-BTC amending Circular No. 36/2021/TT-BTC guiding contents on state capital investment in enterprises, and management and use of capital and assets at enterprises specified in Decree 91/2015/ND-CP; 32/2018/ND-CP; 121/2020/ND-CP and 140/2020/ND-CP	
	Enactment Date: 17 Mar 2023	Effective Date: 08 May 2023
TRAFFIC - CONSTRUCTION		
2	The Minister of Transport's Circular 2/2023/TT-BGTVT amending Circular 16/2021/TT-BGTVT regulating technical safety inspection and environmental protection of road motor vehicles	
	Enactment Date: 21 Mar 2023	Effective Date: 22 Mar 2023
3	The Minister of Transport's Circular 3/2023/TT-BGTVT detailing orders for provision of coastal information public services using the state budget from recurrent expenditures	
	Enactment Date: 30 Mar 2023	Effective Date: 08 May 2023

No.	Legal documents	
FINANCE – BANKING		
4	The Minister of Finance’s Circular 18/2023/TT-BTC stipulating procedures for collection, payment of fines, deduction of differences in fines, receipts for collection of fines and funds from the State budget to ensure the operation of administrative sanctioning forces	
	Enactment Date: 21 Mar 2023	Effective Date: 05 May 2023
5	Decision 574/QD-NHNN in 2023 on refinancing interest rates, re-discount rates, overnight lending rates in interbank electronic payments and loans to cover capital shortfalls in clearing of the State Bank of Vietnam for credit institutions and branches of foreign bank branches	
	Enactment Date: 31 Mar 2023	Effective Date: 03 April 2023
6	Decision 575/QD-NHNN in 2023 on the maximum interest rate for deposits in Vietnamese dong of organizations and individuals at credit institutions and branches of foreign banks as prescribed in Circular 07/2014/TT-NHNN issued by the Governor of the State Bank of Vietnam	
	Enactment Date: 31 Mar 2023	Effective Date: 03 April 2023
7	Decision 576/QD-NHNN in 2023 on the maximum short-term lending interest rate in Vietnamese dong of credit institutions and foreign bank branches for borrowers to meet capital needs serving a number of economic sectors and sectors as prescribed in Circular 39/2016/TT-NHNN issued by the Governor of the State Bank of Vietnam	
	Enactment Date: 31 Mar 2023	Effective Date: 03 April 2023
ADMINISTRATIVE – JUDICIARY		
8	The Ministry of Industry and Trade’s Circular 06/2023/TT-BCT guiding the position of professional civil servants specialized in industry and trade in agencies and organizations under the field of industry and trade	
	Enactment Date: 23 Mar 2023	Effective Date: 10 May 2023
9	The Minister of Industry and Trade’s Circular 07/2023/TT-BCT guiding the position of leader, manager and specialized professional titles in public non-business units in the industry and trade sector	
	Enactment Date: 23 Mar 2023	Effective Date: 10 May 2023