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LEGAL UPDATE

No. 1 – May 2024

(1 May 2024 – 15 May 2024)



News in focus

Summary of new policies effective in early May 2024



New

Legal documents

Remarkable among documents:

Decree 48/2024/ND-CP amending Decree 130/2018/ND-CP guiding the Law on Electronic Transactions on digital signatures and digital signature authentication services

A – News in focus



Summary of outstanding policies

(Taking effect on May 2024)

This our legal newsletter provide the outstanding policies, which will come into effect from the beginning of May 2024.

Moreover, the newsletter also includes a concise summary of the new legal regulations that were announced in early May 2024.

CONDITIONS FOR THE ESTABLISHMENT OF INDUSTRIAL CLUSTERS

Decree No. 32/2024/ND-CP was issued by the Government on March 15, 2024, on the management and development of industrial clusters, effective from May 1, 2024. Specifically:

The conditions that must be met to establish an industrial cluster are as follows:

- Included in the List of industrial clusters in the provincial area approved by competent authorities; have a land fund consistent with land use planning at the district level;
- There are enterprises, cooperatives, or organizations with legal status and capacity to invest in the construction of technical infrastructure that request to be investors in the construction of technical infrastructure of industrial clusters;
- The average occupancy rate of industrial clusters reaches over 50%, or the total unleased industrial land fund is at most 100 hectares in cases where industrial clusters have been established in district-level areas.

FISHERY EXPLOITATION IN THE FORBIDDEN AREA CAN BE PUNISHED UP TO 90 MILLION VND

Decree 38/2024/ND-CP dated April 5, 2024, of the Government regulating administrative violations, forms, penalties, remedial measures, authority to make records, and authority Penalties for administrative violations in the field of fisheries, effective from May 20, 2024, specifically:

- For acts of using fishing vessels with a maximum length of 24 m or more for trawling, fishing gear, and gear combined with light (except squid fishing) to exploit aquatic resources in areas where aquatic exploitation is prohibited. In some places, fishing is prohibited for a certain period but is not severe enough to be prosecuted for criminal liability: a 70 - 90 million VND fine.
- Violations of regulations on management of endangered and precious aquatic species: fine from 10 - 200 million VND.
- Violations of marine protected area management regulations: fine from 50 - 200 million VND.
- For acts of producing and rearing aquatic breeds that are not on the List of marine species permitted for business in Vietnam or have not been recognized or authorized by a competent authority but have yet to reach the level of prosecution. Criminal liability: a fine of 40 - 50 million VND.
- Violations of regulations on aquatic feed and aquaculture environmental treatment products: fine from 2-50 million VND.

9 TYPES OF DANGEROUS GOODS TRANSPORTED BY ROADS AND WATERWAYS

Decree 34/2024/ND-CP dated March 31, 2024, of the Government regulating the List of dangerous goods, transport of goods by road and inland waterway motor vehicles, effective from May 15, 2024, specifically:

Type 1: Explosives and explosive items

Type 2: Gas contains flammable gas, toxic gas

Type 3: Flammable liquid, desensitized liquid explosive

Type 4: Flammable solid substance in contact with water creates flammable gas...

Type 5: Oxidizing agents, organic peroxides

Type 6: Toxic substances, infectious substances

Type 7: Radioactive substances

Type 8: corrosive substance

Type 9: Other dangerous substances and articles

Note: Packaging and containers containing dangerous goods that have not been cleaned inside and outside after unloading all dangerous goods are also considered hazardous goods.

APPLY NEW LABOR EXPORT CONTRACT FORM

Circular 02/2024/TT-BLDTBXH is attached a new labor export contract model, effective from May 15, 2024, specifically:

- For labor contracts in which employees leave the country after May 15, 2024, and have content contrary to the provisions of the Circular, they must be amended, supplemented, or newly signed.
- The remuneration ceiling under brokerage contracts for several professions is amended and supplemented to become a service price ceiling as follows:
 - + If the labor contract has a term of 12 working months, the service ceiling price for the brokerage contract must not exceed 0.5 months' salary.
 - + If the contract has a term of 36 months or more, the service price ceiling under the brokerage contract must not exceed 1.5 months' salary.

B – New legal documents



Remarkable new legal documents

(Enacted from 01 May 2024 – 15 May 2024)

STT	Legal documents	
TAXES – FEES		
1	Decree 48/2024/ND-CP amending Decree 130/2018/ND-CP guiding the Law on Electronic Transactions on digital signatures and digital signature authentication services	
	Enactment Date: 09/5/2024	Effective date: 09/05/2024
BUSINESS		
2	Decree 46/2024/ND-CP dated May 4, 2024, amending Decree 99/2013/ND-CP stipulating penalties for administrative violations in industrial property, which has been amended according to Decree 126/ 2021/ND-CP	
	Enactment Date: 04/05/2024	Effective date: 01/07/2024
INFORMATION TECHNOLOGY		
3	Decree 49/2024/ND-CP, dated May 10, 2024, regulating basic information activities	
	Enactment Date: 10/05/2024	Effective date: 01/07/2024
4	Decree 47/2024/ND-CP dated May 9, 2024, on the list of national databases; building, updating, maintaining, exploiting, and using the national database	
	Enactment Date: 09/05/2024	Effective date: 09/05/2024

C – Q&A

1. What is the deadline for supplementing operating conditions for real estate businesses established before January 1, 2025?

The time limit for supplementing operating conditions of real estate businesses established before January 1, 2025, is 6 months, i.e., from January 1, 2025, until June 30, 2025.

According to the Law on Real Estate Business 2023, organizations and individuals establishing real estate businesses must meet the conditions prescribed. However, the conditions in the Law must be supplemented for real estate service businesses operating before the effective date of the Real Estate Business Law 2023 that still need to meet the conditions prescribed by the Law. The period is 06 months from the Real Estate Business Law 2023 effective date.

Clause 1, Article 83 of the Law on Real Estate Business 2023 (effective on January 1, 2025)

2. Which house purchase and lease purchase contracts or construction projects are not transferable from January 1, 2025?

Social housing purchase and lease purchase contracts are non-transferable contracts.

Currently, there are 03 types of contracts for buying and selling houses and construction works that are allowed to be transferred

- (1) Contracts for buying and selling houses formed in the future;
- (2) Lease purchase contract for housing formed in the future;
- (3) Lease purchase contract for existing construction works.

Social housing purchase and lease purchase contracts are non-transferable contracts according to the provisions of Section 2, Chapter VI of the Law on Real Estate Business 2023.

Article 49 Law on Real Estate Business 2023 (effective on January 1, 2025)

3. According to the new regulations, how long is an apartment warranty?

Apartment buildings are warranted when construction is completed and accepted into use for at least 60 months.

According to the Housing Law 2023 (effective from January 1, 2025), organizations and individuals constructing houses must warranty the home according to the provisions of construction law; Organizations and individuals providing housing equipment must warranty the equipment according to the period specified by the manufacturer. From January 1, 2025, housing is warranted from the time construction is completed and accepted into use for the following period:

- + For apartments, the minimum term is 60 months;
- + For individual houses, the minimum period is 24 months.

Article 129 Housing Law 2023 (effective on January 1, 2025)

***Note:** the Law on Real Estate Business 2023 and Housing Law 2023 are being proposed for approval to take effect earlier than expected (July 1, 2024).