

Legal Update

May 2024

1. Decree on amendment and supplementation to the regulation on digital signature and digital Signature Authentication Services

On 9 May 2024, the Government officially issued Decree No. 48/2024/ND-CP ("**Decree 48**") amending and supplementing certain provisions of Decree No. 130/2018/ND-CP ("**Decree 130**") detailing the implementation of the Law on electronic transactions regarding digital signatures and digital signature authentication services. Decree 48 took effect from 9 May 2024, with the notable provisions as follows:

(a) *Supplementing regulations on the use of electronic identification accounts of individuals and organizations for the issuance of digital certificates:*

- (i) Allowing individuals and organizations to use electronic identification account ¹ ("**e-ID Account**") to apply for digital certificates in addition to the physical copies of identification documents as stipulated in Decree 130:
 - For individual: Level 2 e-ID Account.
 - For organization: e-ID Account.
- (ii) Individuals and organizations have the right to choose to provide electronic data for the service provider of public digital signature authentication instead of submitting notarized copies or presenting original documents for comparison. If the service provider is approved to access data from electronic chips or e-ID Accounts or has sufficient means to read data, it shall not request copies of these documents.

(b) *Amending conditions for issuing licenses to use foreign digital certificates in Vietnam:*

In addition to the documents that the user of the foreign digital certificate being required under Decree 130, the use of e-ID Account for verifying information on foreign digital certificate in Vietnam is now permitted under Decree 48.

2. Decree on Management and Development of Industrial Clusters

On 15 March 2024, the Government officially issued Decree No. 32/2024/ND-CP ("**Decree 32**") on the management and development of industrial clusters, replacing Decree No. 68/2017/ND-CP dated 25 May 2017 ("**Decree 68**") and Decree No. 66/2020/ND-CP dated 11 June 2020 ("**Decree 66**"). Decree 32 took effect from 1 May 2024, with the notable regulations as follows:

¹ Electronic identification account means a collection of usernames, passwords or other authentication methods and is created by the electronic identification and authentication regulator: Article 3.6 Decree 59/2022/ND-CP issued by the Government on 5 September 2022.

(a) *Updating the list of business lines and manufacturers encouraged to relocate into an industrial cluster*

- (i) Processing and manufacturing industries serving agriculture; mechanical industry, supporting industry, textile and footwear industry;
- (ii) Information technology and telecommunications industry, electronics industry; smart energy industry, digital technology industry, automation, high-end equipment, new materials, biotechnology;
- (iii) Local handicrafts and industrial sectors that need preservation and development; warehousing, packaging, transportation, machinery repair and maintenance services, and industrial support services, with a total area not exceeding 10% of the area of the industrial cluster;
- (iv) Other high-tech, clean industries that consume less energy and provide high-added value for sustainable development;
- (v) Industrial and handicraft production facilities causing or at risk of pollution in traditional craft villages and residential areas are encouraged to relocate into industrial clusters.

(b) *Investment incentives:*

- (i) Infrastructure development projects of industrial clusters: Enjoy incentives for specially encouraged investment sectors.
- (ii) Investment projects in industrial cluster: enjoy incentives for projects in areas with difficult socio-economic conditions.

(c) *Changing conditions for establishing industrial cluster compared to Decree 68 and Decree 66:*

- (i) Supplementing conditions requiring projects to establish industrial clusters to have land area being consistent with the district-level land use plan;
- (ii) If the district has already established an industrial cluster, the average occupancy rate of these clusters shall be over 50%, or the total unleased industrial land area shall not exceed 100 hectares (the replaced regulation required the total unleased industrial land area to be less than 50 hectares).
- (iii) Shall be included in the list of industrial clusters approved by competent provincial authorities.

3. Decree on marine reclamation

On 16 April 2024, the Government issued Decree No. 42/2024/ND-CP ("**Decree 42**") on marine reclamation, which took effect from the date of signing with the notable regulation as follows:

(a) *Land use planning for marine reclamation areas*

The determination of marine areas for reclamation to be included in the land use plan is implemented by the People's Committee at the provincial level and shall comply with the principles stipulated in points a, b, and d, Clause 2, Article 190 of the 2024 Land Law.

(b) *Completion inspection of marine reclamation*

The Department of Construction will inspect and accept the completion of marine reclamation within 60 days of receiving the application from the investor.

(c) *Issuing Certificate of land use rights and ownership of houses and other assets attached to the land (the "LURC") for reclaimed land*

The LURC will be issued for land areas formed from marine reclamation after the investor

- (i) fulfils financial obligations related to the land and (ii) receives approval of the completion inspection results from the Department of Construction.

(d) The commencement date for land use:

The commencement date when the land user begins to use all or part of the reclaimed land shall be from the notification date of the acceptance result.

(e) Cases where investment projects involving marine reclamation have been approved by a competent authority but have not completed the related procedure before the effective date of Decree 42

- (i) If the appraisal result of the application dossier requesting the assignment of the marine area has not been issued before 16 April 2024, the investor can choose to follow either the procedures stipulated under Decree No. 11/2021/ND-CP dated 10 February 2021 or the provisions of Decree 42.
- (ii) If the investor has been assigned a marine area for reclamation but has not been allocated or leased the land before 16 April 2024, the investor can continue the reclamation as per the decision for assigning marine area without paying the usage fee for the remaining period and request land allocation or lease without auctioning land use rights and implement the reclamation project or marine reclamation component.

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