

Technical Update

August 2022



1. Draft Law on Land (amended)

On 26 July 2022, the Ministry of Natural Resources and Environment published the 1st draft of the Law on Land (amended) with 273 articles and new provisions (the “**Draft**”) to collect public comments. Some important developments of the Draft are:

- Repeal the price framework for land. Accordingly, the price framework will no longer be issued on every 5-year basis or be adjusted where changes to the common land prices in the market with the margin from 20%. Instead, the land price lists will be developed and published annually based on, including but not limited to, the criteria of market prices and land price fluctuations.
- Supplementing additional circumstances pursuant to which the Government may take back the land, namely (i) for construction of medical facility and guest houses for the armed forces; (iii) land leased or allocated not in line with the published land use master plan at the time of land allocation or land lease; (iv) termination of investment projects where the transfer the land use right or sale of assets attached to land are not allowed.
- Supplementing additional rights of land use lessee with annual rental payment who would have made advanced payment for compensation and land clearance. In detail, in case such advanced payment has not been fully deducted with the total payable rental, such land users can sell their assets attached to the land and the right to lease land as prescribed in the land lease contract.
- Amending and supplementing provisions on rights and obligations of foreign-invested economic organizations using land formed by acquisition of shares or contributed capital. Accordingly, the distinction between foreign-invested economic organizations with major foreign ownership and Vietnamese ownership will be repealed but the concept of foreign-invested economic organization regardless of the foreign investor’s ownership ratio will be retained.

2. Law on Insurance Business 2022

Law on Insurance Business No. 08/2022/QH15 has been officially passed by the National Assembly on 16 June 2022 and will come into effect on 1 January 2023 (“**Law on Insurance Business 2022**”). and replace Law on Insurance Business No. 24/2022/QH10 (amended in 2010) with the following new notable points:

- Introduction of 03 basic types of insurance classification, including (i) life insurance; (ii) health insurance; and (iii) non-life insurance. Law on Insurance Business 2022 no longer regulates the specific types of insurance but instead assigns the Government to ensure the flexibility of insurance products in the future.
- Supplementing mandatory provisions for the different insurance policies. Specifically, insurance policy is divided into (i) life insurance policy; (ii) health insurance policy; (iii) property insurance policy; (iv) damage insurance policy; and (v) liability insurance policy. In which, insurance policies regulated in points (iii), (iv), and (v) are non-life insurance. However, marine insurance policy will be performed in accordance with the Maritime Code, if otherwise not regulated by the Maritime Code, Law on Insurance Business 2022 will prevail.
- Provisions on the principles of entering into and execution of insurance policies, responsibilities and legal consequences due to breach of the obligations to provide information of insurance policies, avoidance of contracts, unilateral of termination of contract etc. are also now detailed in Law on Insurance Business 2022. Regarding dispute settlement, Law on Insurance Business 2022 also supplemented conciliation, arbitration, or court as alternatives to dispute resolution.

- Restriction on insurance enterprises to deal with real estate business (previously allowed to utilize up to 10% – 20% of idle capital) with exceptions in Article 99.3(a) (such as purchasing shares of enterprises implementing real estate business on stock exchange; purchasing, investing, owning real estate to use as headquarters; leasing unused office space which is owned or used by such insurance enterprises etc.)
- Restriction on the insurance enterprises from borrowing money to invest or entrust investment in securities; to invest into precious metals and gems; to invest into derivative securities or derivative contracts; except for listed derivative securities for the purpose of hedging risk arising from insurance policies.
- Adding the concept of foreign reinsurance enterprises branch and regulations on establishment of branch of foreign reinsurance enterprises in Vietnam; supplementing regulations affirming that foreign investors are allowed to own up to 100% of the charter capital of insurance enterprises, reinsurance enterprises to be in line with the commitment of Vietnam in the WTO and other commercial treaties in insurance service sectors.

3. Decree on amendment of regulations on the operation and conditions of carrying out automobile transport business

On 19 July 2022, the Government issued Decree No. 47/2022/ND-CP on amendment and supplementation of a number of articles of Decree No. 10/2020/ND-CP dated 17 January 2020 of the Government regulating the operation and conditions of automobile transport business (“**Decree 47**”) which will take effect from 1 September 2022. The primary amendments and supplements of Decree 47 are:

- Supplementing the conditions for passenger transport business, subsequently, after the effective date of Decree 47, automobiles with 10 seats or more (including driver) can no longer be converted to accommodate less than 10 passengers (including driver) to implement passenger transport business. Automobile with 9 seats or more (including driver) or similar design will no longer allowed to be used as passenger transport business by taxi.
- Tightening regulations on transport business subjected to camera installation in accordance with regulations on Decree 10/2020/ND-CP. Accordingly, from 1 July 2023, automobile for transport business subjected to camera installation must be installed with surveillance device with integrated camera to be granted with badges and signs. Moreover, surveillance device with integrated camera is also required to satisfy all the conditions in Decree 10/2020/ND-CP.

4. Circular providing guidance on Decree 98/2021/ND-CP on management of medical equipment

To guide and ensure the implementation of Decree No. 98/2021/ND-CP of the Government on management of medical equipment (“**Decree 98**”), on 1 August 2022, the Minister of Health has issued Circular No. 05/2022/TT-BYT providing detailed guidance for the implementation of a number of articles of Decree 98 (“**Circular 05**”). Circular 05 stipulates the following crucial points:

- Providing the classification of medical equipment, whereby medical equipment is classified into groups based on the level of risk and circulation. Specifically, the rules for classification of risk into A, B, C, D levels in accordance with Appendix I of Circular 05 are used as the basis for classifying the medical equipment.
- Supplementing the list of in vitro diagnostic medical device not being subject to quality assessment by the competent authority of Vietnam.
- Regulating the list of different equipment in accordance with Decree 98. In details, the said equipment is (i) medical device of B, C, D categories which are purchased and sold as normal equipment; (ii) medical device subject to assessment on safety and technical specification; and (iii) medical device required to be licensed for importation.

Contact us

Hanoi

46th Floor, Keangnam Landmark 72,
E6 Pham Hung, Me Tri, Nam Tu Liem

T: +84 (24) 3946 1600

Ho Chi Minh City

10th Floor, Sun Wah Tower,
115 Nguyen Hue, Ben Nghe, District 1

T: +84 (28) 3821 9266

Da Nang

D3, 5th Floor, Indochina Riverside Towers,
74 Bach Dang, Hai Chau I, Hai Chau

T: +84 (236) 351 9051

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2022 KPMG Limited, KPMG Tax and Advisory Limited, KPMG Law Limited, KPMG Services Company Limited, all Vietnamese one member limited liability companies and member firms of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.



Scan to visit our website: kpmg.com.vn

Email: kpmghcmc@kpmg.com.vn