

ASEAN ROUNDUP



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SINGAPORE

DREW & NAPIER LLC

Commercial Litigation, Real Estate and Tax Legal update

Court of Appeal Clarifies Law on Resulting Trusts and Illegality in 99-1 Property Arrangements *Wong Mei Lee Millie v Ngor Shing Rong Jake* [2026] SGCA 27

Date of publication: 26 May 2026

Introduction

In *Wong Mei Lee Millie v Ngor Shing Rong Jake* [2026] SGCA 27, the Court of Appeal granted an appeal against the trial judge's decision that a resulting trust arose over the property.

The Court of Appeal emphasised that the presumptions of resulting trust and advancement are tools of last resort. The first step must be to analyse the evidence of the transferor's intention. In modern times it will be rare that such evidence on intention will be unavailable.

The Court of Appeal also considered illegality in the context of 99-1 arrangements as a method of purchasing two residential properties without incurring Additional Buyer's Stamp Duty ("**ABSD**"). Where this does not involve a trust structure, the Court of Appeal declined to provide a definitive view.

However where a trust over the first property is involved, illegality may arise in two scenarios either at the second stage of "decoupling" (ie when one co-owner transfers his/her share of the first property to the other co-owner) or at the last stage of buying the second property.

Background

The Appellant ("**Ms Wong**") and the Respondent ("**Mr Ngor**") met in mid-2018 and entered into a romantic relationship shortly thereafter. They exercised an option to purchase a condominium unit in Hillcrest Arcadia ("**Property**") on 19 December 2019 and registered the Property 99:1 in Ms Wong's favour. Ms Wong and Mr Ngor broke up in November 2020, and Mr Ngor sued Ms Wong in the High Court seeking a declaration of his beneficial ownership.

The High Court allowed Mr Ngor's claim and declared that Ms Wong held 54.22% of the Property on trust for Mr Ngor.

Ms Wong appealed against the High Court's decision. The Court of Appeal allowed Ms Wong's appeal and held that:

- a) the "*clear intention of the parties was that they would legally and beneficially own the Property in accordance with their registered interests*";
- b) therefore, no resulting trust arose; and
- c) in the alternative, the "*illegality contemplated by [Mr Ngor] at the time the Property was acquired would have been tax evasion*". The doctrine of

illegality would have been an “*independent basis for denying* [Mr Ngor’s] *claim*”.

The Court of Appeal’s judgment provides clarity on the framework for resolving trust claims (as set out in *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 (“*Chan Yuen Lan*”)), including the proper analytical sequence to assess the evidence, and on the important issue of 99-1 arrangements to avoid incurring ABSD which are commonly utilised by couples in Singapore.

Presumptions of resulting trust and advancement

The Court of Appeal referred to the framework in *Chan Yuen Lan* and the four scenarios in *Khoo Phaik Ean Patricia v Khoo Phaik Eng Katherine* [2025] 1 SLR 758 and reiterated that where a resulting trust is alleged, the “*most critical question ... is the intention of the transferor*” at the time of the transfer or registration of the property.

The Court of Appeal noted that the presumptions of resulting trust and advancement “*operate as evidentiary tools*”, but that such a label “*does not explain how they should be applied or how their application impacts the analysis of the evidence in relation to the transferor’s intention*”. The Court of Appeal further noted that cases “*have not applied the presumptions clearly or consistently*”.

KEYPOINT

In modern times, it will be rare that evidence on the transferor’s intention will be unavailable

After considering the historical origins of the presumptions as well as past cases and secondary materials discussing the presumptions, the Court of Appeal held that the first step “*must be to analyse the evidence of the transferor’s intention*”. The court must evaluate the “*relevance, reliability, credibility, and persuasiveness of the evidence*” no matter how challenging such an exercise may be, and no matter whether the evidence is “*biased, uncorroborated, contradictory, or difficult to comprehend*”.

It is only where there is “*no or insufficient evidence of the transferor’s intention*” that the court may have recourse to the presumptions. The presumptions are therefore “*tools of last resort*”.

The Court of Appeal noted that “*in modern times, it will be rare that such evidence on intention will be unavailable*”. Where a transferor is “*available to give direct evidence of his intention, it is difficult to conceive when the application of the presumptions will be necessary*”. Even where the transferor is “*deceased or unable to give evidence, contemporaneous documentary evidence will likely exist to shed light on [the transferor’s] intentions at the material time*”.

KEYPOINT

Where a transferor is available to give direct evidence of his intention, it is difficult to conceive when the application of the presumptions will be necessary. Even where the transferor is deceased or unable to give evidence, contemporaneous documentary evidence will likely exist to shed light on the transferor's intentions

The Court of Appeal further clarified that there is an important difference between applying the presumptions before or after the evidence is evaluated. This is because applying the presumptions at the start shifts the evidential burden to the other party to rebut the presumption. In contrast, applying the presumption as a last resort results in *"the transferor-claimant bear[ing] the evidential burden from the start to prove that he did not intend to benefit the transferee-defendant with his financial contributions. This will require the transferor-claimant to adduce sufficient evidence to discharge or at least shift the evidential burden"*.

The Court of Appeal held that there should be no recourse to presumptions in the present case because the evidence was *"sufficient to reveal the parties' actual intentions as to the ownership of the Property"*.

On the facts, the Court of Appeal found that parties *"intended for the 99:1 ratio to reflect their legal and beneficial ownership of the Property"*. The Court of Appeal accepted the Appellant's evidence and found that the Respondent's evidence was inconsistent, unreliable, and illogical.

Illegality in 99:1 property arrangements

Although not strictly necessary to consider given the Court of Appeal's finding that no resulting trust arose on the facts, the Court of Appeal went on to consider whether, even if there was a resulting trust, such a resulting trust would be unenforceable for illegality.

As described by the Court of Appeal, a 99:1 arrangement which enables co-owners to purchase two residential properties without incurring ABSD operates in three stages:

- a) First, the co-owners purchase the first property in a 99:1 ratio to allow them to *"obtain housing loans in both their names and to access both their CPF moneys to finance the purchase"*;
- b) Second, the co-owners *"decouple their interests in the first property. The 1% owner ("X") transfers his 1% share to the 99% owner ("Y"), and the parties pay stamp duty on that 1% transfer"*; and
- c) Third, X (who no longer retains an interest in the first property) purchases a second property in his name without incurring ABSD.

The Court of Appeal noted that the 99:1 arrangement “*does not require the use of a trust structure in relation to either property purchased*”. The Court of Appeal declined to provide a definitive view on whether such a 99-1 arrangement without a trust structure amounts to “*avoidance of ABSD*”.

However, where the 99:1 arrangement involves a trust over the first property, under-stamping and tax evasion can manifest in two different scenarios:

- a) In the first scenario, “*X transfers his entire beneficial interest to Y but represents to the authorities that only his 1% interest is being transferred, so that stamp duty is levied on only that 1% interest*”. X must know of his larger beneficial interest in order to transfer it, and this therefore constitutes both under-stamping and tax evasion at the decoupling stage. As X no longer has any interest in the first property, there is no under-stamping or tax evasion when he purchases a second property without incurring ABSD.
- b) In the second scenario, “*X transfers only a 1% share of the property to Y and pays stamp duty on the transfer of that 1% share*”. The correct amount of stamp duty is paid, so there is no under-stamping or tax evasion at the decoupling stage. However, X still retains a beneficial interest in the first property (less the 1% transferred). When X buys a second property and falsely represents to the authorities that he does not have any interest in the first property, he thereby commits: (a) under-stamping where he was ignorant of his beneficial interest in the first property; or (b) tax evasion where he knew of his beneficial interest in the first property but fraudulently conceals it when purchasing the second property.

The Court of Appeal held that on the facts, if Mr Ngor did not intend to benefit Ms Wong with his financial contributions or for her to own 99% of the Property, he must have intended to have (and knew that he had) an interest in the Property larger than his 1% registered interest. The logical corollary is that Mr Ngor knew he would “*continue to retain an interest in the Property after he transfers his 1% interest to [Ms Wong]*”, which “*points to a paradigm case of tax evasion*”.

The Court of Appeal also clarified that their comment in *Ting Siew May v Boon Lay Choo* [2014] 3 SLR 609 that “*any abandonment of an original unlawful intention can be taken into account only if there was an ignorance of the unlawfulness of the intention in the first place*” was meant to refute the respondents’ argument in that specific case. The Court of Appeal did not endorse such an abandonment as an “*exception*”.

In weighing the illegality against the consequences of denying the claim, the Court of Appeal held that “*where the illegal purpose in question involves dishonesty, it would be extremely rare that the financial consequences of denying a claim would outweigh the gravity of the illegality*”.

In the circumstances, the Court of Appeal held that even if there was a resulting trust, the issue of illegality would have been an independent basis for denying Mr Ngor’s claim.

KEYPOINT

Where the illegal purpose in question involves dishonesty, it would be extremely rare that the financial consequences of denying a claim would outweigh the gravity of the illegality

Commentary

This case makes clear that purchasers of property should not register property in 99-1 shares to save on ABSD if they do not truly intend their beneficial ownership to be 99-1. If they do so, the 1% purchaser runs the risk of losing a substantial part of his contributions to the purchase.

The Court of Appeal's decision in this case also provides significant clarity on various aspects of the law.

Prior to this decision, cases have not applied the presumptions of resulting trust or advancement clearly or consistently. The Court of Appeal's judgment has emphasised that the proper approach is to first analyse the evidence of the transferor's intention and only apply the presumptions where there is no or insufficient evidence of such intention.

This is notwithstanding the presumption of resulting trust appearing to be the first step in the *Chan Yuen Lan* analytical framework.

Further, the Court of Appeal made clear that in modern times, it would be rare for evidence of intention to be unavailable, such that the presumptions of resulting trust and advancement are only evidential tools of last resort.

This makes clear that any party seeking to argue a resulting trust cannot simply rely on the presumption of resulting trust without adducing sufficient evidence of the parties' actual intentions. It is extremely important for parties arguing a resulting trust to review the relevant documents and evidence carefully.

The Court of Appeal's judgment also helpfully clarifies how illegality may arise in 99:1 arrangements. The potential illegality of 99-1 arrangements has been a recent hot topic.

This decision makes clear that 99:1 arrangements involving a trust over the first property may give rise to illegality in the form of under-stamping and/or tax evasion, depending on the exact scenario. Even though the framework on illegality allows the court to consider whether disallowing the claim is proportionate, dishonesty in the form of tax evasion is serious and the financial consequences of denying a claim would rarely outweigh the gravity of the illegality.

Finally, the Court of Appeal has left open the question of whether 99:1 arrangements which do not involve trust structures amount to the avoidance of ABSD. Such 99-1 arrangements are common. While there is reason to argue that a plain 99-1 arrangement would not constitute tax evasion because all aspects of the transactions are above board, the exact legality of such arrangements remains unresolved.

This case has far-reaching implications for parties who own or plan to register properties in a 99:1 arrangement to save ABSD, or who have already done so and are currently involved in a dispute.

Anyone potentially affected or involved in disputes relating to 99-1 property transactions should seek legal advice. The authors of this update, Director Terence Tan and Associate Director Zachary Tong, acted for the successful appellant in this matter.

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Employment and Commercial Litigation Legal Update

Wrongful Dismissal - Terminating employment in accordance with contract is no longer sufficient

JGP v JGQ [2026] SGECT 1

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Introduction

In *JGP v JGQ* [2026] SGECT 1 (“**JGP v JGQ**”), which was widely covered in the media, Tribunal Magistrate Jared Kang Chern Wey (“**Magistrate**”) allowed a claim for wrongful dismissal. The dismissal arose from 62 reimbursement claims that the employee submitted over 7 months in respect of products from a clinic that she was not allowed to seek reimbursement for under the employer’s Medical Claims Policy (“**Claims Policy**”), such as skincare products, chicken essence and an electric toothbrush.

The Magistrate provided detailed guidance on the law on wrongful dismissal in the first reported decision from the Singapore Employment Claims Tribunals (“**ECT**”). We discuss below the key legal principles on wrongful dismissal claims from *JGP v JGQ*, the Magistrate’s decision on the facts of the case, as well as the key takeaways.

Applicable legal principles in wrongful dismissal

The two types of claims for wrongful dismissal

There are two types of claims for “wrongful dismissal”; claims at common law and statutory claims.

a) **Common law claims**

Common law claims for wrongful dismissal turn on whether the employer brought the employee’s engagement to an end in accordance with the contract. Such claims must be brought in the civil courts and not the ECT. The common law does not inquire into the merits or fairness of the reason for termination insofar as termination is in accordance with the contract. At common law, there is no general duty to show good cause or to conduct a hearing before dismissal. As common law claims for wrongful dismissal are largely viewed through a contractual lens, the primary remedy is an award of damages intended to put the employee in the position they would have been in had the contract been properly performed. Typically, this means the employee can only recover salary and benefits corresponding to the notice period that the employer should have given.

b) **Statutory claims**

The second type of claim is statutory. Claims made under Sections 14(2) and 84(1)(b) of the Employment Act 1968 focus on whether the dismissal was made “without just cause or excuse” or “without sufficient cause” respectively

(“**Statutory Claims**”). Compensation under Statutory Claims seeks to place employees in the pecuniary position they would have been in had they not been dismissed without just cause or excuse, while separately recognising the non-pecuniary harm of such a dismissal. Such claims may only be filed in the ECT, not the civil courts, and are accordingly subject to the ECT’s claim limit of S\$20,000 (or S\$30,000 in specified circumstances). The ECT will not merely review the employer’s decision for error, but will determine *de novo* whether the dismissal was with or without just cause or excuse.

1. Where a reason is provided for the dismissal

Where a reason is provided for the dismissal, the employer must prove that the material particulars are true and the dismissal proportionate, ie dismissal rather than a lesser penalty must be warranted, having regard to the nature of the breach and how comparable cases have been handled. In this regard:

- where misconduct is alleged, it must typically be proved that there was dishonesty or serious rule breaches that eroded trust and warranted dismissal;
- where performance is invoked, the focus turns to objective shortfall, prior warnings, and opportunity to improve; and
- where redundancy is cited, there must be genuine redundancy tied to business needs, and fair selection of the individuals to be retrenched.

If the stated reason for dismissal is not proved, but the ECT finds that a lesser wrong was committed by the employee, the ECT may nevertheless go on to consider whether there was just cause or excuse for the dismissal, if (a) the lesser basis for dismissal was within the gravamen of what was fairly put to the employee before dismissal; (b) it does not contradict the notice of dismissal’s core account of why the relationship had to end; and (c) the employee had a real opportunity to meet the lesser case during the internal process or proceedings.

2. Where no reason is provided for the dismissal

Where no reason is provided for the dismissal, the employee must prove that there is no just cause or excuse for dismissal. This may be done by proving that no legitimate cause likely existed, for instance by showing that an ordinary and reasonable employer would not have dismissed the employee. Should the employer choose to remain silent on the reason for dismissal, it risks being unable to answer the evidence put forward by the employee.

Due inquiry and the contractual disciplinary framework

Due inquiry is required under Section 14(1) of the Employment Act whenever an employer relies on misconduct as the basis for ending the employment, regardless of whether the dismissal is with or without notice. Due inquiry

generally connotes a modest and fact-sensitive standard of basic fairness: adequate and reasonably clear notice of the case, a genuine opportunity to answer it, and fair consideration of that answer before deciding on the matter. An appeal process is not necessary to satisfy the statutory requirement for due inquiry.

For common law claims of wrongful dismissal, a failure to conduct due inquiry may be treated as unlawful if the employer has breached the agreed disciplinary process.

However, breaches of a contractual framework are not freestanding grounds of liability in claim under Section 14(2) of the Employment Act, which provides only *substantive* protection. Lapses in the inquiry process will simply be weighed for what they show about the strength, reliability and proportionality of the employer's case.

The tripartite guidelines on wrongful dismissal ("Tripartite Guidelines")

The Tripartite Guidelines articulate a concept of wrongful dismissal that is wider than that at common law. Courts should therefore be careful to avoid relying on notions of wrongful dismissal in the Tripartite Guidelines to determine common law claims.

In Statutory Claims, the ECT is obliged to have regard to the Tripartite Guidelines by reason of Section 20(7)(a) of the Employment Claims Act 1968, but the Tripartite Guidelines are not binding, and must be read subject to the Employment Act.

The Magistrate's Decision on the Facts

The claim in *JGP v JGQ* arose from the employer's internal review of staff medical-benefit claims, conducted as a result of a high volume of claims being submitted in respect of expenses incurred at a particular clinic. The review revealed that a substantial number of employees had sought reimbursement for retail items that were not claimable under the employer's Claims Policy. Various Disciplinary Committees ("DC") were convened and around 40 employees were dismissed, each having been assessed by the various DCs to have intentionally, wilfully and/or dishonestly committed serious breaches of the Claims Policy by making impermissible claims.

The decision in *JGP v JGQ* focused on the claim by a particular employee, Ms C, who had been dismissed for misconduct aggravated by dishonesty. The Claims Policy provided that claims for under \$200 did not have to be supported by an itemised invoice. Ms C had, over 7 months, made 62 transactions, many on consecutive days, that were typically just below \$200. The DC relied chiefly on this pattern of behaviour in coming to its finding that she had dishonestly made claims in respect of products that were not claimable.

The Magistrate disagreed with the DC, finding that Ms C's pattern of behaviour was also consistent with a cohort misunderstanding that non-itemised counter sales below the \$200 threshold were claimable. The Magistrate went on to explain that where both an inculpatory and an exculpatory account are plausible, the employer must point to affirmative indicators that the employee knew the

claims were impermissible, such as a training acknowledgment, warning that was provided and/or admission. The Magistrate also had regard to the fact that (a) a large number of staff had made similar claims; (b) the typical claim was for a modest amount, which made it less likely that the employees would have knowingly risked their careers for such returns; and (c) the DC itself recorded Ms C as being junior and simple minded.

The Magistrate found that the evidence supported a finding that Ms C committed the lesser wrong of negligently making impermissible claims by relying on practice rather than formal policy. However, he found this to be insufficient to justify dismissal, as, among other things (a) Ms C was junior and had not engaged in prior misconduct; (b) the DC itself initially decided that a warning and bonus reduction were appropriate before being asked to reconsider the appropriate sanction; and (c) other employees with comparable patterns were warned or had bonuses reduced rather than being dismissed. In the premises, the Magistrate held that there was no just cause or excuse for dismissal.

Analysis / Commentary

KEYPOINT

Adhering to the contract may not, on its own, be enough for an employer to avoid liability for wrongful dismissal under the Employment Act

The key takeaway arising from the decision in *JGP v JGQ* is that a Statutory Claim may lie against the employer even if the employer has effected dismissal in accordance with the employment contract. This is significant because of the widespread practice of employers dismissing employees with notice without providing a reason for the dismissal – a practice founded upon the traditional wisdom that termination in accordance with the contract will insulate the employer from a claim for wrongful dismissal. Indeed, the Tripartite Guidelines suggest that an employee dismissed with notice and without reasons must substantiate a wrongful reason (such as discrimination or retaliation) to succeed in a claim for wrongful dismissal.

However, the ECT's decision makes clear that adhering to the contract may not, on its own, be enough for an employer to avoid liability for wrongful dismissal under the Employment Act. If an employee adduces sufficient evidence to make out a *prima facie* case that an ordinary and reasonable employer would not have dismissed the employee, for instance by showing that they had been performing well in their role, the employer must be prepared to demonstrate that there was "just cause or excuse" or "sufficient cause" for the dismissal. Otherwise, pursuant to the Second Schedule of the Employment Claims Regulations 2017, the employer may be liable for (i) any loss of income by the employee; and (ii) up to 3 months' salary for the non-pecuniary harm caused to the employee by reason of the dismissal.

Accordingly, it is more important than ever for employers to ensure that even in cases of dismissal with notice, legitimate reasons for the dismissal are properly documented. Where the dismissal is without cause, it would also be prudent for employers to record their reasons for dismissing the employee in question,

including documenting why they decided to terminate the employment of the employee in particular, as opposed to another employee in a similar position.

On a related note, proper documentation from the moment an employee is onboarded is important, especially in cases of dismissal for misconduct or breaches of internal policies. Among other things:

- a) without evidence of employees receiving proper training on internal policies or an acknowledgement that they read and understood the same, employers may face an uphill task proving that employees were aware of the relevant internal policies. Such documentation should be obtained at the onboarding stage, as well as whenever new policies are implemented or existing policies are substantially updated; and
- b) documentation showing that there was due inquiry is critical in cases of dismissal for misconduct, even where the employee is dismissed with notice. The Disciplinary Committee should provide reasons in respect of its findings as to whether there was misconduct, as well as the appropriate disciplinary action to be taken. The proportionality and consistency of disciplinary outcomes remain important, but will take on special importance in cases where multiple employees are disciplined for misconduct of a similar nature.

Ultimately, the decision in *JGP v JGQ* is likely to result in a proliferation of claims being made in the ECT. Employees who are dismissed with notice but without reasons are now incentivised to bring a claim in the ECT, given the low fees for commencing a claim and the limited consequences for withdrawing the claim. This would essentially force the employer to submit a response to the claim, setting out the reasons for the dismissal with supporting evidence. Based on what the employer is able to put forth in its response, the employee may then consider whether to proceed with the claim or withdraw. This is a practical consideration that employers should have regard to when deciding whether and how it dismisses its employees.

That said, insofar as the Magistrate indicated that the employer was seeking leave to appeal against his decision, it remains to be seen whether the principles espoused in *JGP v JGQ* will be affirmed subsequently.

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INDONESIA

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Employment Legal Update

Indonesian New Ministry of Manpower Regulation No. 7 of 2026 on Outsourcing: Significant Implications and a Step Towards Regulatory Certainty

Date of publication: 21 May 2026

Following the enactment of Ministry of Manpower Regulation No. 7 of 2026 on Outsourcing (“**MOM Reg. 7/2026**”), the Indonesian government has reverted to a more restrictive outsourcing framework after a period of broader flexibility and introduced new requirements for outsourcing arrangements. This advisory explores the legal implications and key requirements arising from MOM Reg. 7/2026.

Work that can be outsourced

Following the issuance of Law No. 6 of 2023 on the Enactment of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law (“**Job Creation Law**”), which amended and revoked several provisions under Law No. 13 of 2003 on Manpower, including provisions relating to outsourcing, there was no longer any explicit limitation restricting outsourcing only to certain types of work (ie non-core business), nor was there any clear differentiation between manpower supply arrangements and contracting-out of work. As a result, outsourcing practices in Indonesia became significantly more flexible in terms of the types of work that could be outsourced.

However, following the issuance of Constitutional Court Decision No. 168/PUU-XXI/2023, the Constitutional Court mandated that the Minister of Manpower determine, through an implementing regulation, which types of work may legally be outsourced.

MOM Reg. 7/2026 now reintroduces clearer restrictions by limiting outsourcing only to the following auxiliary (non-core) services:

- a) cleaning services;
- b) food and beverage services;
- c) security services;
- d) provision of drivers and transportation for workers;
- e) operational support services; and
- f) supporting services in the mining, oil, gas, and electric power sectors.

Unfortunately, MOM Reg. 7/2026 does not further elaborate on what constitutes “operational support services” or “supporting services in the mining, oil, gas, and electric power sectors”, leaving room for varying interpretations and potentially inconsistent implementation in practice.

Another issue arising from MOM Reg. 7/2026 is that several examples of permissible outsourced activities may conceptually resemble procurement of services (pemborongan pekerjaan/jasa) rather than mere supply of manpower.

Historically, Indonesian outsourcing regulations distinguished between:

- a) contracting out of work or services (pemborongan pekerjaan/jasa); and
- b) supply of manpower (penyediaan jasa pekerja/buruh).

This distinction is important because labour unions have historically objected primarily to arrangements involving the supply of manpower, where workers are formally employed by the outsourcing company but work under the direction and control of the user company. Such structures may prevent workers from becoming employees of the user company itself.

If workers were employed directly by the user company, they could potentially acquire permanent employee status because Indonesian manpower laws impose restrictions on the nature and duration of fixed-term employment arrangements. By contrast, where workers remain employed by the outsourcing company, the outsourcing structure may in practice result in workers continuously performing work for the same user company without obtaining permanent employment status with that user company.

This differs conceptually from genuine service procurement arrangements, such as catering or cleaning services, where the service provider generally delivers an integrated service package that includes not only manpower, but also operational supervision, equipment, consumables, and responsibility for the overall performance of the services.

Accordingly, clarification may still be necessary regarding the distinction between procurement of services and supply of manpower. In practice, procurement of services may cover a broad range of business activities and operational support functions that may not appropriately be treated in the same manner as manpower supply arrangements. Applying the same regulatory approach to both types of arrangements may create practical and compliance challenges, particularly where the service provider is engaged to deliver an independent result-oriented service rather than merely supplying workers to the user company.

Outsourcing Agreement Provisions

MOM Reg. 7/2026 also reintroduces mandatory minimum provisions that must be included in outsourcing agreements, namely:

- a) the work outsourced to the outsourcing company;
- b) the term of the outsourcing agreement;
- c) the location where the work will be performed;
- d) the number of outsourced workers;

- e) the protection and rights of outsourced workers, at a minimum including wages, overtime pay, working hours and rest periods, annual leave, occupational health and safety rights, social security, religious holiday allowance, and rights upon the expiry or termination of employment; and
- f) the rights and obligations of the outsourcing company and the company assigning part of its work.

Outsourcing Agreement Registration

In addition, MOM Reg. 7/2026 reintroduces the requirement for outsourcing companies to register outsourcing agreements with the local manpower office having jurisdiction over the location where the outsourced work will be performed, within three business days after execution of the outsourcing agreement. Such registration is evidenced by the issuance of an outsourcing agreement registration receipt.

Before issuing the registration receipt, the local manpower office will review whether the outsourcing agreement complies with prevailing laws and regulations, including whether the outsourced scope of work falls within the categories permitted under the outsourcing regime. If the authority determines that the agreement is non-compliant, it may refuse to issue the registration receipt.

This registration mechanism therefore appears to function not merely as an administrative filing requirement, but also as a substantive compliance review process.

Failure to register an outsourcing agreement, or outsourcing work that is not legally permitted, may expose companies to administrative sanctions ranging from written warnings to revocation of business licenses.

MOM Reg. 7/2026 does not expressly address the legal status of a non-compliant outsourcing agreement. Nevertheless, because such arrangement would be inconsistent with applicable law, there remains a risk that the agreement could be challenged and potentially deemed null and void by a court or industrial relations tribunal.

Expanded Responsibilities

Under MOM Reg. 7/2026, the protection and fulfilment of outsourced workers' rights remain the responsibility of the outsourcing company and must be implemented in accordance with applicable laws and regulations.

However, the user company is also required to ensure that the outsourcing company properly fulfils those obligations. This provision may increase the practical compliance burden and potential exposure of user companies, particularly where manpower authorities or courts take the view that user companies failed to adequately supervise the outsourcing provider.

Transition Period

Outsourcing companies that have already carried out outsourcing activities for types or scopes of work that are not compliant with MOM Reg. 7/2026 are granted a two-year transition period from the enactment of MOM Reg. 7/2026, ie until 30 April 2028, to achieve compliance. During this transition period, existing outsourcing agreements remain valid until their expiry.

Conclusion

MOM Reg. 7/2026 effectively shifts Indonesia's outsourcing regime back toward a more restrictive framework that limits outsourcing primarily to auxiliary or non-core activities, similar to the position that existed prior to the Job Creation Law.

Companies should therefore reassess their existing outsourcing arrangements to determine whether:

- a) the outsourced work falls within the categories permitted under MOM Reg. 7/2026;
- b) outsourcing agreements contain the mandatory provisions required by the regulation; and
- c) the relevant outsourcing arrangements can satisfy the new registration and compliance review requirements.

MOM Reg. 7/2026 also reflects the government's apparent intention to strengthen legal protection for outsourced workers by reintroducing a registration regime that is subject to substantive review by manpower authorities, while simultaneously expanding the responsibilities of both outsourcing companies and user companies.

Nevertheless, the regulation continues to leave important areas unresolved, particularly regarding the scope of "operational support services" and "supporting services in the mining, oil, gas, and electric power sectors", as well as the distinction between procurement of services and supply of manpower. Because these concepts are not clearly defined, their interpretation may ultimately depend on evolving enforcement practices and the approach taken by local manpower offices in reviewing outsourcing arrangements.

In addition, certain aspects of outsourcing arrangements remain unregulated under MOM Reg. 7/2026, including matters such as the maximum duration of outsourcing agreements. In the absence of express regulatory guidance, such matters should remain subject to contractual arrangements between the parties, supported by appropriate legal review and risk assessment.

M&T Advisory is a digital publication prepared by the Indonesian law firm, Makarim & Taira S. It informs generally on the topics covered and should not be treated as legal advice or relied upon when making investment or business decisions. Should you have any questions on any matter contained in M&T Advisory, or other comments in general, please contact us at the emails provided at the end of this article.

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A faint, light green map of Southeast Asia is visible in the background, showing the outlines of countries like Thailand, Laos, Vietnam, Cambodia, and Malaysia. The map is centered and serves as a subtle backdrop for the text.

MALAYSIA

SHEARN DELAMORE & CO.

Immigration Legal Update

Implementation of Succession Plan under the Revised Employment Pass Salary Policy Deferred to 1 January 2027 and Transition from ESD to MIDA Expatriate System ("MES") for Affected Companies

Date of publication: 26 June 2026

Revised Employment Pass Salary Policy Effective 1 June 2026: Implementation of Succession Plan under the Revised Employment Pass Salary Policy Deferred to 1 January 2027

Background

Pursuant to the Ministry of Home Affairs press release dated 14 January 2026, and following Cabinet approval on 17 October 2025, Malaysia has implemented a revised Expatriate Salary and Employment Pass ("EP") Policy with effect from 1 June 2026.

The revised framework forms part of the Government's ongoing efforts to strengthen the expatriate employment regime in line with the objectives of the Thirteenth Malaysia Plan and principles of Malaysia MADANI.

Revised employment pass salary threshold and duration framework

As a recap, under the revised framework, the minimum salary thresholds for EP Categories I, II, and III have been increased, and a structured employment duration framework has been introduced. These measures are intended to ensure that expatriate employment is limited to high-impact roles and do not displace opportunities for the local workforce.

EP Categories	Current Minimum Salary	Revised Minimum Salary (Effective 1 June 2026)	Employment Pass Duration
Category I	RM10,000 and above	RM20,000 and above	Up to 10 years
Category II	RM5,000 – RM9,999	RM10,000 – RM19,999 (with succession plan)	Up to 10 years
Category III	RM3,000 – RM4,999	RM7,000 – RM9,999 (manufacturing & manufacturing-related services) RM5,000 – RM9,999 (general sectors)	Up to 5 years (with succession plan)

All new and renewal EP applications submitted on or after 1 June 2026 must comply with the revised requirements.

Importantly, the calculation of an expatriate's maximum employment period is premised on being in employment with the same employer, position, and EP category. This limitation is intended to prevent prolonged reliance on expatriates and to encourage the progressive development of local talent.

Notwithstanding the maximum employment duration, the approval period for each EP remains subject to current practice:

- a) EP Category I: up to five years;
- b) EP Category II: up to two years; and
- c) EP Category III: up to one year.

Once an expatriate has reached the maximum employment duration for the relevant EP category, further renewals under the same category will not be permitted. However, where there is a change in EP category, the employment duration will be recalculated from the issuance date of the new category.

Succession plan requirements

As part of the revised framework, a mandatory succession plan requirement has been introduced as a supporting document for EP Category II and Category III applications (both new and renewal). This requirement is intended not to restrict the hiring of expatriates, but to ensure that such employment genuinely complements the development of local talent.

A succession (or replacement) plan refers to a structured and clearly defined framework by the employer to prepare local employees to assume the role of the expatriate within a specified timeframe. At the time of this alert, there is no official template published by the governing bodies for a succession plan. However, the plan should, at a minimum, encompass the following:

- a) Identification of positions and functions to be transferred to local employees;
- b) Training, mentoring, and knowledge transfer from expatriates to local workers;
- c) A reasonable timeframe to ensure local employees are ready in terms of skills and competencies; and
- d) Operational continuity planning to ensure that the transition does not affect productivity or organisational performance.

In respect of assessment and monitoring, the succession plans are monitored through documentation requirements and periodic reporting under the revised policy. Therefore, employers should maintain proper records to demonstrate that the succession plan is being implemented, such as training and mentoring records, knowledge transfer activities completed, competency development milestones, timeline updates etc.

In May 2026, the relevant authorities, including MyXpats Centre and the Malaysia Digital Economy Corporation, announced that the implementation of the succession plan requirement would be deferred to 1 January 2027. This forms part of a phased implementation approach to allow organisations sufficient time to prepare and align with the new requirement.

Practical implications for companies

Notwithstanding the deferment, companies are strongly encouraged to begin preparing and documenting appropriate succession planning measures in anticipation of applications submitted on or after 1 January 2027.

Employers should consider:

- a) Identifying suitable Malaysian employees for knowledge transfer;
- b) Mapping key expatriate roles within the organisation; and
- c) Implementing structured training and handover frameworks to support compliance readiness.

Companies with ongoing reliance on expatriate personnel are further advised to review their workforce planning strategies early to ensure that succession arrangements can be substantiated with adequate internal documentation when required.

Transition from the Expatriate Services Division (“ESD”) to the MIDA Expatriate System (“MES”) for affected companies

The Malaysian Investment Development Authority (“MIDA”) has enhanced its digital platform, InvestMalaysia, by enhancing an expatriate module known as MES for companies under MIDA’s purview, to facilitate comprehensive expatriate applications.

Effective 1 June 2026, MES will replace ESD as the sole submission platform for all expatriate-related applications for the Manufacturing and Selected Services sectors under MIDA’s purview. These include the Global Services Hub, Representative/Regional Offices, R&D services, hotel and tourism projects, private higher education (science courses) and technical & vocational training institutions, oil & gas services, green technology (renewable energy, integrated waste management, EV charging stations, solar leasing), integrated logistics services, cold chain facilities, digital infrastructure, and smart logistics complexes.

Accordingly, all existing access to Xpats Gateway and ESD Online for affected companies had been deactivated, and submissions through ESD Online for MIDA-related applications will no longer be accepted or processed with effect from the aforementioned date. All new expatriate-related applications for the Manufacturing and Selected Services sectors under MIDA’s jurisdiction must be submitted exclusively through the MES platform via Single Sign-On access on the XPATS Gateway.

Notwithstanding the above, companies are still required to obtain the Department

of Labour, Peninsular Malaysia approval under section 60K of the Employment Act 1955 (Act 265), as well as the MYFutureJobs Advertisement Acknowledgement Letter through the XPATS Gateway platform. This implementation is in line with the revised expatriate policy and forms part of the Government's initiative towards a more streamlined and centralised expatriate management system.

Companies are encouraged to familiarise themselves with the MES platform, ensure their InvestMalaysia account access is updated, and review their internal processes to facilitate a smooth transition to the new system.

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LAOS

TILLEKE & GIBBINS

Intellectual Property Legal Update

Laos Includes Copyright Disputes in New Administrative IP Review Rules

Date of publication: 13 May 2026

Laos has significantly broadened its industrial property administrative review framework, most notably by extending it to cover copyright and related rights for the first time. Decision No. 0306/IC on the Administrative Resolution of Disputes Concerning Industrial Property Registration, New Plant Variety Registration, and Copyright and Related Rights Notification took effect on April 24, 2026, replacing the previous rules from 2023, which had covered only industrial property and new plant variety matters.

Decision No. 0306/IC governs how Laos' Department of Intellectual Property ("DIP") and provincial offices handle formal challenges to industrial property registrations and applications. The proceedings covered include oppositions to pending applications, appeals of refused applications, requests for cancellation of existing registrations, and— a new addition —disputes concerning the notification and interpretation of copyright and related rights.

These administrative proceedings within the DIP are heard by a government-appointed Administrative Dispute Resolution Committee (the "**Committee**"), which functions similarly to the opposition and review boards found in other jurisdictions.

Key Changes

Decision No. 0306/IC covers four categories of administrative proceedings:

- a) **Oppositions:** Third-party challenges to a pending industrial property application before it is granted.
- b) **Refusal appeals:** Challenges to the DIP's decision to refuse an application.
- c) **Cancellation or deletion requests:** Applications to invalidate an existing registered right on the grounds that it should not have been granted.
- d) **Copyright and related rights disputes:** Challenges to or interpretations of copyright and related rights notifications, including determinations of whether a work qualifies for copyright protection under Lao law.

The most significant development is the Committee's new jurisdiction over copyright matters. The Committee is now empowered to resolve disputes concerning copyright and related rights notification—this includes the authority to determine whether a work qualifies for copyright protection and to interpret the scope of an existing notification. Parties who believe a competitor has improperly recorded copyright over a work, or who wish to contest the scope of such a notification, now have a dedicated administrative channel for relief without proceeding directly to court.

Under the decision, new plant variety registration disputes are explicitly brought within the Committee's jurisdiction, providing a clear administrative review pathway for the agricultural and life sciences sectors.

In addition, the decision codifies clear, step-by-step timelines (see below) for each type of proceeding and clarifies filing venues, with the DIP in Vientiane handling a number of matters and the Vientiane or provincial branches of the Department of Industry and Commerce handling others, depending on the specific circumstances and type of dispute.

Procedural Timelines

Key points from the decision's timelines for administrative review proceedings are as follows:

- a) **Opposition to a pending application:** Upon receiving a notice that an opposition has been filed against their application within 7 working days, an applicant has 60 days to submit clarifications and supporting evidence to the DIP. The DIP then has 30 days from receipt of complete information to issue its decision, with any dissatisfied party having a further 30 days to request reconsideration.
- b) **Appeal of a refused application:** Once the DIP notifies an applicant of a refusal, the applicant has 60 days to respond with clarifications and evidence before the DIP proceeds to a final determination.
- c) **Reconsideration by a newly appointed committee:** If reconsideration is sought—for either opposition or refusal proceedings—a new Committee will be appointed to review the matter. Parties have 30 days to request reconsideration, and this window is strictly enforced—failing to file within this period will be deemed as having accepted the original decision, with no further administrative recourse.

Procedural Considerations

All submissions must be in the Lao language. Documents in English or other languages must be accompanied by a certified Laotian translation. In addition, oppositions must include a certificate of registration of the relevant industrial property right from the applicant's country of origin. Foreign parties should plan for this requirement well in advance, as obtaining such certificates can take time.

Upon receipt of a complete submission, the receiving office will forward the complete dossier to the central DIP within three working days.

The Administrative Dispute Resolution Committee charged with hearing administrative proceedings within the DIP system typically consists of three to five members and may appoint technical experts to assist with complex matters. All participants are subject to strict confidentiality obligations.

Outlook

Decision No. 0306/IC represents a meaningful step forward in Laos's industrial property administrative framework. Copyright holders now have a formal administrative mechanism to challenge improper copyright notifications or to seek a ruling on whether a work qualifies for copyright protection, without immediately resorting to court proceedings. Companies in the agricultural

sciences and plant biotechnology sectors have a clear administrative review pathway for new plant variety registration disputes. For trademark, patent, and industrial design portfolios, third parties have the right to file structured oppositions within defined timelines.

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MYANMAR

TILLEKE & GIBBINS

**Banking &
Finance and
Corporate M&A
Legal Update**

Myanmar Issues New Foreign Remittance Business Regulations

Date of publication: 9 June 2026

On April 28, 2026, the Central Bank of Myanmar (“**CBM**”) issued Notification No. 18/2026 introducing the new Foreign Remittance Business Regulations. The new regulations apply to companies intending to operate foreign remittance businesses in Myanmar that are not licensed banks, non-bank financial institutions, or other financial institutions. The regulations supersede and replace the previous regulatory framework governing foreign remittance businesses under CBM Notification No. 21/2019.

While the overall structure remains familiar, the new regulations introduce more detailed requirements for licensing, operations, reporting, and compliance, with a stronger focus on transparency and regulatory oversight.

Broader Licensing Requirements

Under the new regulations, applicants must submit detailed business plans describing the use of information technology and mobile platforms, along with clear plans for handling remittances from workers abroad and resolving customer complaints.

Financial Thresholds and Reporting Requirements

The baseline financial thresholds remain unchanged. Licensees must maintain a security deposit of MMK 100 million in an escrow account, along with a separate revolving fund dedicated solely to remittance operations.

The new regulations introduce more structured reporting obligations. Licensees are now required to submit daily remittance transaction data by the next business day before noon, in addition to monthly and periodic reporting requirements. Foreign bank account statements must also be submitted regularly, and licensees must provide updates on business operations every six months.

Strengthened AML and CFT Framework

The new regulations place a greater emphasis on anti-money laundering (“**AML**”) and counter financing of terrorism (“**CFT**”), with tighter controls over management changes. Any changes in shareholding, share transfers, or the appointment of key management personnel such as the managing director require prior approval from the CBM.

Licensing Fees and Validity

The new regulations increase licensing costs, while maintaining the same validity period of three years.

Fee Type	2019 Regulations	2026 Regulations
Initial License Fee	MMK 1,000,000	MMK 3,000,000
Annual Fee	MMK 100,000	MMK 300,000
Renewal Fee	MMK 1,000,000	MMK 1,000,000

The new regulations provide more detailed grounds for suspension and revocation of licenses. These include failure to commence operations within one year, delays in remittance processing, and non-compliance with regulatory requirements. Penalties remain significant, with fines of at least MMK 10 million for certain violations.

Currency Requirement

A key highlight of the new regulations is the requirement that all outward remittance transactions must be conducted in Myanmar kyat (“**MMK**”). Specifically, remittance businesses are required to receive funds in MMK and disburse payments to customers exclusively in MMK.

Outlook

Remittance businesses operating in Myanmar should review their current practices against the new regulations. In particular, businesses may need to update their internal compliance frameworks, strengthen reporting systems, and ensure that ownership and governance structures align with the new approval requirements.

Companies planning to enter the market should prepare for a more detailed licensing process and ensure that all supporting documentation, particularly in relation to foreign operations and AML/CFT compliance, is in place before applying.

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A faint, light green map of Southeast Asia is visible in the background, showing the outlines of Thailand, Laos, Cambodia, Vietnam, and the Indonesian archipelago.

THAILAND

TILLEKE & GIBBINS

Technology Legal Update

Thailand Tightens Telecom Registration, Data, and IP Address Rules to Combat Tech Crime

Date of publication: 19 May 2026

Thailand's telecommunications regulator has introduced a range of new compliance obligations for telecom licensees aimed at preventing and suppressing technology crime. On May 15, 2026, the National Broadcasting and Telecommunications Commission ("**NBTC**") published in the *Government Gazette* Notification on Measures for Prevention and Suppression of Technology Crime No. 2, which amends the original NBTC notification dated August 24, 2025. The amendment derives its authority from the Emergency Decree on Measures for Prevention and Suppression of Technology Crime B.E. 2566 (2023), as amended in 2025, and took effect on May 16, 2026.

SIM Card Registration Cap for Non-Thai Nationals

Persons without Thai nationality are now limited to a maximum of three SIM cards per person per service provider. Identity verification must be done primarily via passport. For those without a passport, acceptable alternatives include travel documents or certificates of identity issued by foreign governments, accompanied by additional Thai government-issued documents, as well as pink ID cards (for persons without Thai nationality) and white ID cards (for persons without registration status). Registration must be done in person at a branch or authorised dealer. Service providers must develop their identity verification systems and obtain NBTC approval before deployment.

SIM Activation Deadline and SIM Box Prohibition

Both Thai and non-Thai service users must activate their registered SIM within 60 days of registration. If they fail to do so, they must re-verify their identity in person before activation, confirming they are the same person who originally registered.

Service providers must prohibit SIM box and gateway devices capable of supporting four or more SIMs from connecting to their mobile networks unless the device has received a license under the Radio Communications Act.

Blacklist Enforcement

Service providers must refuse registration of additional mobile numbers for persons listed on a technology crime-related database maintained by the Royal Thai Police.

IP Address Restrictions

International telecommunications licensees must not use Thai-registered IP addresses to provide services in foreign countries. An exception applies to mobile devices carried abroad by users.

Data Retention Obligations

Service providers must retain the personal data of active users for at least 180 days throughout the service period, and for at least 180 days following contract expiration. The scope of retained data is limited to what is necessary for technology crime proceedings, to be jointly determined by the NBTC Office, the Royal Thai Police, and the licensee.

Key Implications

Telecom operators and mobile virtual network operators face a significant compliance burden. They must build or update identity verification systems subject to NBTC preapproval, enforce the three-SIM cap for non-Thai users, implement SIM box detection mechanisms, restrict IP address usage, integrate with police blacklist databases, and comply with new data retention timelines.

Foreign nationals and expatriates will face reduced ability to register multiple SIM cards and must present a passport or specified alternative ID in person. Registered SIMs not activated within 60 days will require reverification.

The 180-day post-termination data retention obligation—and the joint determination of retained data scope with police—may raise questions about proportionality and compliance with Thailand's Personal Data Protection Act (“PDPA”), particularly regarding lawful basis and data minimisation.

IoT and enterprise deployments could be affected by the SIM box ban on devices supporting four or more SIMs, unless those devices are properly licensed under the Radio Communications Act.

Next Steps

Telecommunications licensees operating in Thailand should assess their current systems, processes, and contractual arrangements against the new requirements. In particular, licensees should prioritise obtaining NBTC approval for identity verification systems, implementing mechanisms to enforce the SIM registration cap, and reviewing data retention practices to ensure compliance with both the new notification and the PDPA.

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Energy and Technology Legal Update

Thai Cabinet Advances Draft Amendments to Liberalise Nine Foreign Business Activities

Date of publication: 25 May 2026

After several years of policy discussion and continued efforts led by the Ministry of Commerce to relax the list of reserved businesses under the Foreign Business Act B.E. 2542 (1999) (“**FBA**”), the reform process has now reached a significant milestone.

On May 12, 2026, the Thai cabinet approved in principle two draft subordinate legislative instruments aimed at delisting certain reserved business activities under the FBA and reducing licensing requirements for foreign business operators. These developments signal a renewed and concrete effort by the government to modernise Thailand’s business regulatory framework in order to attract foreign investment and boost Thailand’s competitiveness in the global market.

Nine Businesses Set for FBA Delisting

Below is a list of the nine businesses that are being targeted for delisting from the FBA’s restrictions. A draft ministerial regulation would delist the first eight reserved businesses, while a royal decree has been drafted to delist the ninth business:

- a) Telecommunications services (Type 1 license only, covering operators without their own telecommunications infrastructure), under the supervision of the Office of the National Broadcasting and Telecommunications Commission;
- b) Treasury center services subject to the Foreign Exchange Control Act B.E. 2485 and under the supervision of the Bank of Thailand;
- c) Securities-collateralised lending, pursuant to the laws governing securities and exchange and derivatives regulated by the Securities and Exchange Commission;
- d) Agency, dealer, advisory, or fund management services relating to derivatives where the underlying assets fall outside the scope of the Derivatives Act B.E. 2546 (2003);
- e) Intra-group shared services, including administrative, human resources, and IT functions;
- f) Intra-group domestic debt guarantee services;
- g) Leasing of partial space for installation of financial service machines and automatic vending machines for employee use;
- h) Petroleum drilling services; and

- i) Trading of agricultural product derivatives through a futures exchange, with physical delivery or receipt of agricultural products at a futures exchange-designated warehouse.

These delistings were made on the basis that they would not adversely affect Thai businesses, as the relevant activities (1) are already subject to regulation and supervision under specific laws and by competent regulatory authorities; (2) provide services exclusively to affiliated or group companies; (3) are for the benefit of the company's own employees; or (4) are provided solely to concessionaires. Foreign businesses benefiting from these exemptions must nonetheless comply fully with all applicable laws and regulatory requirements.

Both draft instruments have been submitted to the Office of the Council of State for review. While the timeline for passage of the regulations is still uncertain, upon enactment and publication in the Government Gazette, they will come into effect.

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VIETNAM

TILLEKE & GIBBINS

Technology Legal Update

Vietnam Takes Major Step in AI Governance with New Guiding Decree

Date of publication: 5 June 2026

Vietnam's AI regulatory framework has reached an important milestone. While the Law on Artificial Intelligence No. 134/2025/QH15 ("**AI Law**") established the foundation for AI governance, many practical compliance requirements were left to implementing regulations.

On April 30, 2026, the government issued Decree No. 142/2026/ND-CP ("**Decree 142**"), which took effect on May 1, 2026, and provides the first detailed guidance on the implementation of the AI Law. Although an official list of high-risk AI systems is still pending from the prime minister, Decree 142 provides valuable insight into how Vietnam's risk-based AI regulatory framework will operate in practice.

Risk Classification Framework

The AI Law adopts a risk-based approach under which AI systems are classified as high-risk, medium-risk, or low-risk. Decree 142 builds on this framework by providing detailed guidance on how these classifications are determined.

High-risk AI systems are determined based on factors such as (i) their potential impact on life, health, property, human rights, public interests, or national security; (ii) the sector in which they are deployed; and (iii) the scale of affected users or integration with critical infrastructure. The latest draft list of high-risk AI systems appears to follow these same principles.

Medium-risk AI systems generally include systems that may mislead, influence, or manipulate users, particularly where users may not realise they are interacting with AI or AI-generated content. The focus is therefore on transparency and authenticity risks rather than broader societal or safety concerns.

Low-risk AI systems are those that do not meet the criteria for either high-risk or medium-risk classification.

Importantly, Decree 142 seeks to avoid over-classification. Certain systems may fall outside the high-risk or medium-risk regimes, including internal-use systems, office-support tools, technical editing applications, certain back-end processing systems, and AI systems used in artistic, gaming, cinematic, or other creative contexts.

Providers must also review and reclassify AI systems where significant changes materially alter the system's risk profile, where serious incidents reveal a higher level of risk, or where required by regulatory developments or competent authorities.

Key Compliance Requirements

Risk Classification Documentation and Notification of Medium- and High-Risk AI Systems

Before deployment, providers of medium-risk and high-risk AI systems must prepare risk classification dossiers containing key information regarding the system, its intended purpose, deployment context, affected users, principal input data, and applicable risk management measures.

Decree 142 limits disclosure obligations to information within the provider's lawful access and control. Providers are generally not required to disclose source code, model parameters, raw training data, or protected confidential information. The decree also recognises equivalent international technical documentation standards and, where an AI system uses personal data, permits a personal data processing impact assessment dossier prepared in accordance with personal data protection laws to replace or be integrated into the risk classification dossier, thereby reducing duplicative compliance requirements.

Providers must then notify the Ministry of Science and Technology of the risk classification results through the national AI one-stop portal before deployment. The notification follows a self-declaration model and automatically generates an AI system identification code and electronic confirmation.

Governance Requirements for High-Risk AI Systems

Decree 142 clarifies that mandatory third-party conformity certification applies only to certain categories of high-risk AI systems. For other high-risk systems, providers may conduct self-assessments or engage accredited conformity assessment organisations, while remaining responsible for the assessment results.

Providers of high-risk AI systems must also establish and maintain risk management systems addressing risk assessment, data quality, human oversight, risk mitigation measures, and ongoing reviews following significant system changes. Reassessment is required where material changes affect the original conformity assessment results.

Deployers are subject to corresponding obligations, including monitoring system performance, maintaining human oversight, implementing risk controls, and notifying providers and authorities where serious risks or incidents arise.

Transparency Requirements for All AI Systems

Transparency is a central feature of Decree 142. Providers must implement machine-readable technical markings for AI-generated or AI-modified audio, image, and video content, such as metadata, digital signatures, or other provenance verification measures. Separately, deployers making AI-generated content available to the public must provide clear notifications where such content could mislead users regarding authenticity, particularly in relation to deepfakes, simulated voices, and recreated real-world events.

The decree recognises a number of exceptions, including certain technical edits, internal-use content, and research or testing activities. Overall, the framework

adopts a dual-layer approach combining technical traceability with user-facing transparency.

Incident Reporting for All AI Systems

Decree 142 further clarifies the AI Law's serious incident regime. Covered incidents include those involving death, serious health impacts, significant property damage, serious infringements of rights and interests, or disruptions to public services, essential services, national security, or public order.

Providers and deployers must submit preliminary reports within 72 hours for urgent incidents or within five working days for other serious incidents, preserve relevant logs and data, and submit follow-up reports within 15 days. Where incident reporting obligations also arise under cybersecurity, personal data protection, or sector-specific regulations, reporting must additionally comply with those requirements.

Foreign Providers

The AI Law requires foreign providers of certain high-risk AI systems, which are subject to mandatory conformity certification to establish a commercial presence or appoint an authorised representative in Vietnam. Decree 142 does not further clarify the scope of this requirement, leaving uncertainty regarding its application to cross-border AI services.

Other Notable Developments

Decree 142 introduces a controlled regulatory sandbox mechanism for AI systems. Depending on the risk level, deployment scope, and data involved, participants may benefit from certain regulatory flexibilities during testing while remaining subject to regulatory oversight and compliance with cybersecurity and personal data protection laws.

The decree also contains transitional provisions pending the launch of the national AI one-stop portal. However, as of the date of writing, the portal has not yet been launched and no formal alternative submission mechanism has been announced.

Outlook

Decree 142 represents a significant step toward operationalising Vietnam's AI Law by introducing detailed compliance obligations, governance requirements, and implementation procedures, particularly for high-risk AI systems. However, several important elements remain pending, including the prime minister's official list of high-risk AI systems, further guidance on conformity assessment methodologies, and the launch of the national AI one-stop portal. Businesses should therefore continue monitoring forthcoming regulations and guidance to assess the practical impact of the regime on their AI-related activities in Vietnam.

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Corporate M&A and Regulatory Affairs Legal Update

Clearer Picture of Extended Producer Responsibility Emerges in Vietnam

Date of publication: 22 April 2026

A new decree in Vietnam brings significant implementation clarity to the country's existing extended producer responsibility ("**EPR**") legal framework.

An EPR mechanism was first codified in Vietnam in the 2020 Law on Environmental Protection amid ongoing challenges surrounding the collection and treatment of product and packaging waste. The mechanism was progressively detailed through Decree No. 08/2022/ND-CP and its successive amendments, but the regulatory framework remained insufficiently developed, notably in terms of support mechanisms for waste collection, recycling, and treatment.

The newly launched regulations in Decree No. 110/2026/ND-CP ("**Decree 110**"), issued on April 1, 2026, and taking effect on May 25, 2026, stipulate fully and clearly the responsibility of manufacturers and importers to recycle products and packaging and to treat waste. Some key provisions of Decree 110 for manufacturers, importers, and related stakeholders are presented below.

Subjects of EPR

The Law on Environmental Protection assigns responsibility to manufacturers and importers for product and packaging recycling (under Article 54) or waste collection and treatment (under Article 55), depending on the type of products and packaging they produce or import. Decree 110 elaborates on these EPR provisions by specifying the responsible entities and listing out the types of products and packaging subject to recycling and waste treatment responsibilities.

Decree 110 clarifies the responsible entities in special cases, such as when products under the same brand are made by multiple manufacturers, when there is a contract manufacturing or entrusted import relationship, and when the manufacturer or importer is part of a corporate group.

Notably, exemptions may be applied in some scenarios, such as for manufacturers and importers of products and packaging exclusively for export, temporary import and re-export, or research and testing purposes, as well as for entities with annual revenue from related products not exceeding VND 30 billion.

Recycling Responsibilities

Decree 110 clearly lists different types of products and packaging subject to recycling, along with mandatory recycling rates and mandatory recycling measures. For example, for aluminium packaging for food products, the mandatory recycling rate is 22% via at least one of two measures: production of commercial aluminium billets or production of packaging or specific products.

Mandatory recycling rates will be adjusted every three years, with each adjustment capped at 10%. The first adjustment is expected in 2029. Excess

recycling achieved through advanced technology may be carried forward to offset future obligations.

If recyclable materials are collected for export for recycling or refurbishment abroad, such activities must comply strictly with notification and control requirements under the Basel Convention.

Compliance may be achieved by conducting recycling activities—such as direct recycling by manufacturers or importers with existing appropriate environmental permits or through third parties such as licensed recyclers or qualified organisations authorised to take responsibility for recycling—or by making a financial contribution to the Vietnam Environmental Protection Fund (“**VEPF**”).

Information on recycling entities and authorised organisations responsible for recycling will be published by the Ministry of Agriculture and Environment on the National EPR Information System, details of which are further specified in Decree 110.

Manufacturers and importers must, on an annual basis, register recycling plans or declare financial contributions by April 1 for products and packaging placed on the market in the preceding year. Entities opting for financial contributions must complete payment to the VEPF by April 20. To facilitate the contribution value, the recycling cost norms (F_s) for each product and type of packaging are issued in other legal documents. Manufacturers and importers may apply the formula in Decree 110 to calculate the contribution value to the VEPF.

In cases where manufacturers have proactively established packaging recovery and reuse systems with a high recovery rate, the system may help to waive such recycling responsibility.

Waste Treatment Responsibilities

For six specific groups of products and packaging, instead of the recycling responsibility mentioned above, waste treatment responsibilities (via payment to the VEPF) will be imposed.

Decree 110 lists the relevant financial contribution rates to support waste treatment activities. For example, for each plastic bottle or plastic box (with a size of less than 500 ml) of finished pesticides, an amount of VND 50 (about USD 0.002) will be imposed as payment to the VEPF.

Waste treatment contribution rates will be adjusted every five years, with each adjustment capped at 15% of the rate applied in the previous period. The first adjustment is expected in 2031. Manufacturers and importers must declare waste treatment contributions annually by April 1 via the National EPR Information System and complete payment to the VEPF by April 20.

Outlook

Decree 110 consolidates Vietnam’s EPR regime into a centralised, transparent, and more coherent regulatory framework. It enhances compliance mechanisms for manufacturers and importers while strengthening the capacity of authorities to

manage and supervise EPR implementation. The decree also underscores Vietnam's strong policy commitment to sustainable development, waste reduction, recycling, and efficient resource use.

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