

# LEGAL ALERT

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## Author

### Cess Principe

Senior Associate  
ZICO Law Laos  
tuchakorn.kitcharoen  
@zicolaw.com

### Tuchakorn Kitcharoenname

Senior Associate  
ZICO Law Laos  
cess.principe@zicolaw.com

## New Penal Code Implemented in Laos

The Lao Government has published the new Penal Code, which takes effect on 1 November 2018. The new law aims to ensure that penalties for offences are harmonised and is intended to make it easier for the relevant authorities, such as investigative officials, prosecutors, and judges, to refer to and enforce the relevant laws.

This landmark legislation is the first legal code enacted in Laos, as it not only provides amendments to the Penal Law 2005 but also incorporates the penal provisions of twenty other laws encompassing a range of topics from commercial law, women and children's law, health law, and environmental law, into one code. The Penal Code has notably amended most of these laws by imposing increased penalties or stipulating additional acts that constitute offences.

For instance, under the [Enterprise Law](#), any person operating a business without registration or in a way that is inconsistent with the registered purpose of the enterprise is sanctioned only with a fine. Article 297 of the Penal Law 2018 now levies a stiffer penalty for these offences by imposing the possibility of imprisonment from three months to one year in addition to a fine ranging from LAK5 million to LAK10 million.

Meanwhile, in the [Law on Foreign Currency Management](#), violations were levied with fines and criminal measures were only pursued for repeat offenders. The amendment in the Penal Code now criminalises violations even at the first instance by imposing imprisonment for a period ranging from six months to two years in addition to a fine ranging from LAK3 million to LAK10 million. Activities that violate this Law includes: labelling or advertising prices in foreign currency; provision of loan or receiving loan and trade credit in foreign currency without permission; receiving payment of goods, services, debts, salary, and fees in foreign currency (without permission); inaccurate specification, advertisement or operation relating to the exchange rate by a service provider; opening a bank account in foreign currency without permission from the Bank of Lao PDR; failure to report incomes and expenses in foreign currency to the Bank of Lao PDR; operating a foreign currency business or currency exchange business without a licence; and import or export of currency exceeding permitted amounts without permission from the Bank of Lao PDR.

In a similar vein, the [Law on Business Competition](#) did not directly impose any criminal penalty against unlawful trading activities as it merely referred to the Penal Law 2005 and other instruments as a means of defining adequate criminal sanction. The Penal Code now expressly deals with this offence with the introduction of Article 303, which provides for punishable anti-competitive activities. Amendments are also noted as to price manipulation offences, for instance, the unlawful opportunistic increase of retail price and the hoarding of goods now have stricter fines in the Penal Code in comparison to its counterpart in the Penal Law 2005.

Interestingly, for the [Law on Intellectual Property](#), the Penal Code replaces the penal clause of the 2011 version of this law by introducing harsher sanctions against infringement and unfair competition activities. However, an amended version of the Law on Intellectual Property has very recently taken effect on 9 June 2018. In this amendment, the criminal penalty for infringement is not specified but will be based on the circumstances of the case, possibly leaving the determination thereof to enforcing authorities or in implementing regulations. This raises the question on applicability due to the differing sanctions imposed



by the two different laws. There may be a need for confirmation if Laos has indeed reverted to its orthodox approach in imposing sanctions for intellectual property offences.

Other laws with penal clauses affected by the Penal Code includes the Insurance Law, Telecommunication Law, Anti-Corruption Law, Anti-Money Laundering and Counter-Financing of Terrorism Law, Commercial Bank Law, Securities Law, Standardisation Law, Law on Cybercrime, Forestry Law, Wildlife Law, Fisheries Law, Law on Anti-Human Trafficking, Law on Resistance and Prevention of Violence Against Women and Children, Law on the Protection of Rights and Benefits of Children, Law on Addictive Substances, and the HIV AIDS Control and Prevention Law.

While a few questions remain as to the enforcement of the Penal Code provisions relevant to the laws it amends, the new sanctions regime moves Laos in the right direction and signals the strong determination of the Lao Government to deter criminal activities and advance the rule of law in the country. Foreign investors are thus urged to take note of the amended penal clauses relevant to their sector for the conduct of their business activities in Laos.

If you have any questions or require any additional information, please contact [Cess Principe](#), [Tuchakorn Kitcharoen](#), or the ZICO Law Partner you usually deal with.

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