



Forvis Mazars Legal Vietnam

Thought catalyst

**Key Developments under Vietnam's Law on
Construction 2025: Alignment with International
Construction Practice**

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Introduction

Vietnam's Law on Construction No. 135/2025/QH15 dated 10 December 2025 (the "LOC 2025"), entering into force from 1 July 2026, introduces several changes that move the country's construction regulatory framework closer to international project delivery practices. Key developments include, but not limited to, the introduction of Front-End Engineering Design (the "FEED") in feasibility studies, the formal recognition of liquidated damages as a remedy for contractual breaches, and a more structured treatment of force majeure and fundamental changes in circumstances in construction projects.

Against this background, this article reviews these several key developments under LOC 2025 and discusses their practical implications for construction contracting in Vietnam, while also highlighting areas where further clarification may be required.



Key highlights in Vietnam’s Law on Construction No. 135/2025/QH15

1. Use of Front-End Engineering Design (FEED) in feasibility studies

One of the central reforms under LOC 2025 concerns the project preparation phase, particularly the addition of design choices for feasibility studies, as well as the simplification of the approval process for later design stages, allowing the project to move more efficiently from planning to implementation.

1.1. Introduction of FEED

Under the Law on Construction No. 50/2014/QH13 dated 18 June 2014 (the “LOC 2014”), feasibility studies, a component of the application dossier to obtain authority approval of the project, were generally prepared on the basis of the project’s basic design¹. In practice, however, basic design often does not provide enough detail to properly plan or allocate risks in complex infrastructure projects such as metro systems, airports or high-speed rail.

FEED addresses this limitation by allowing projects to be defined with greater technical detail from its early stage of development, including clearer specifications, scope definition and more reliable cost estimates. In fact, this approach has been widely used in international infrastructure and energy projects to improve project planning, management and quality.

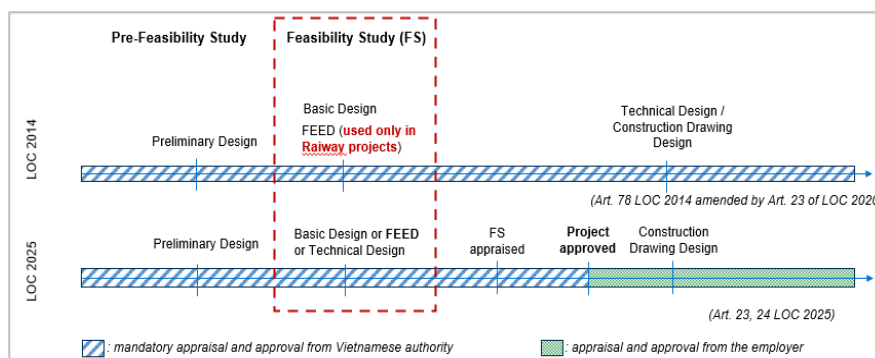
LOC 2025 now allows FEED to replace the basic design in feasibility studies and expands its use from a few pilot railway projects² to all construction projects³. This change is expected to improve the project preparation stage and reduce uncertainties during later design and construction phase.

1.2. Reform of the design approval process

The effectiveness of FEED is supported by changes to the design approval process.

Previously, even after the construction project receives approval from Vietnamese competent authorities, subsequent design stages - such as technical design or construction drawings - often required additional approvals from state authorities⁴, creating delays and administrative burdens.

The LOC 2025 adopts a different approach to reduce administrative layers. To be more specific, once the project itself is approved, responsibility for appraising, controlling and approving later design stages shifts to the employer⁵. Detailed design and construction drawings may therefore proceed without returning to authorities for approval at each stage.



¹ Article 3.41 and Article 54.1 of LOC 2014

² Resolution No. 188/2025/QH15 dated 19 February 2025

³ Article 24.4 of LOC 2025

⁴ Article 82.1, 82.2, 82.3 of LOC 2014

⁵ Article 29.1 of LOC 2025

Key highlights in Vietnam's Law on Construction No. 135/2025/QH15

2. Introduction of liquidated damages as a contractual remedy

LOC 2025 also introduces significant changes to contractual risk allocation, particularly through the formal recognition of liquidated damages.

2.1. Remedies for contractual breach prior to LOC 2025

a. Statutory remedies under Vietnamese law

Before LOC 2025, Vietnamese law generally recognised two financial remedies for contractual breach: compensation for actual damage and contractual penalties.

Compensation for actual damage, stipulated in Article 585 of the Law No. 91/2015/QH13 dated 24 November 2015 ("Civil Code") and Articles 146.5 of LOC 2014, allows for compensation claim where damage has actually occurred. In practice, this means the injured party shall bear the burden to prove⁶:

- A contractual breach must exist;
- The damage is quantifiable at the time of determining the compensation⁷; and
- there must be a direct causal relationship between the breach and the damage.

Vietnamese courts typically require clear evidence of the actual loss - such as documents, invoices or financial records. Consequently, speculative or difficult-to-quantify losses, including loss of future profits or opportunity costs, are often difficult to recover.

Contractual penalties, stipulated in Article 418 of the Civil Code, are pre-agreed financial sanctions intended to deter contractual breaches. Unlike compensation for actual damage, proof of actual loss is not required to apply this remedy.

However, the caveat is contractual penalties must be expressly agreed in the contract and may be subject to statutory caps. Indeed, for projects using public funding, the maximum penalty is 12% of the breached contractual value⁸.

b. Liquidated damages as an additional remedy in practice

Alongside these statutory remedies, the use of international standard forms - such as FIDIC and NEC standard form of contracts - has introduced the concept of liquidated damages, as a common law concept, into Vietnamese construction practice.

In FIDIC contracts, liquidated damages commonly appear as delay damages, for example under Sub-Clause 8.7 of the FIDIC Red Book 1999 or Sub-Clause 8.8 of the FIDIC Red Book 2017, where the contractor pays a predetermined amount for each day of delay beyond the time for completion.

Such clauses address the practical difficulty of proving the precise quantum of actual loss caused by delays in large construction projects.

Prior to LOC 2025, however, Vietnamese law did not explicitly recognise liquidated damages as a separate legal concept. As a result, the Vietnamese courts often attempted to characterise these clauses either as compensation for actual damage or as contractual penalties, leading to inconsistent judicial approaches.

⁶ Cassation Protest Decision No. 11/2020/KN-KDTM dated 9 June 2020 of the Supreme People's Court; Articles 13 and 360 of Civil Code

⁷ Article 3.1 of Resolution No. 02/2022/NQ-HDTP dated 6 September 2022 on guidelines for applications of some provisions of the Civil Code on tort liability.

⁸ Article 146.2 of LOC 2014

Key highlights in Vietnam’s Law on Construction No. 135/2025/QH15

2. Introduction of liquidated damages as a contractual remedy

2.2. Recognition of liquidated damages under LOC 2025

As a progressive development towards recognizing liquidated damages, in Judgment No. 660/2022, the People’s Court of Ho Chi Minh City recognised liquidated damages as a separate contractual remedy based on the principle of freedom of contract, although the court also suggested that the amount applied should not significantly exceed the actual loss suffered.

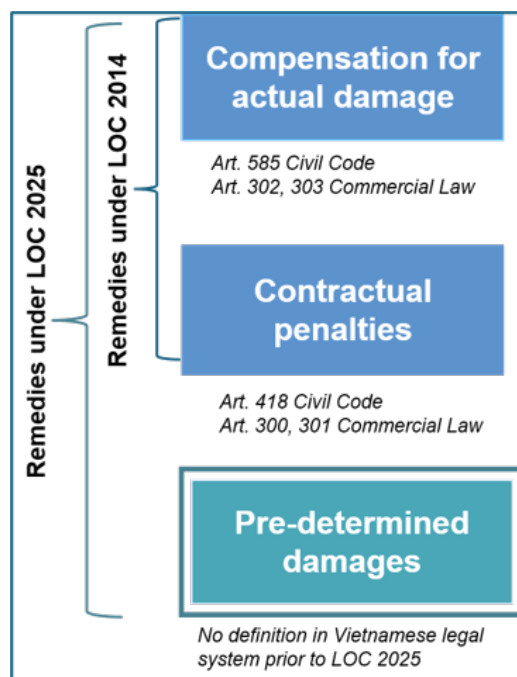
The approach reflected in the above decision has now been largely incorporated into the LOC 2025.

Under Article 86.1, liquidated damages – or predetermined damages when word-by-word translated – are accepted with two key conditions:

- they must be linked to a specific breached obligation; and
- the predetermined amount must correspond to the degree of the breach.

This reform represents a significant step toward aligning Vietnamese construction law with international contractual practice. Importantly, the claimant is no longer required to prove actual damage, and liquidated damages are not subject to the statutory caps applicable to contractual penalties.

Nevertheless, disputes may still arise where the agreed amount appears disproportionate to the actual loss. In such situations, the responding party may argue that the predetermined sum does not reasonably correspond to the breached obligation or the seriousness of the breach.



2.3. Practical recommendations for drafting

In light of the new framework, several drafting considerations may help reduce the risk of disputes:

- **Link each remedy to a clearly defined obligation:** contracts should specify which remedies apply to particular breaches, such as delay damages for late completion.
- **Maintain records supporting the agreed damages:** internal documentation explaining the commercial rationale for predetermined damages (for example financing costs or expected revenue impacts) may help demonstrate that the agreed amount is reasonable.
- **Avoid stacking multiple remedies for the same breach:** combining liquidated damages, contractual penalties and broad claims for actual damages may create characterization issues.
- **Address compensation for actual damage explicitly:** although this remedy traditionally exists by law, the wording of LOC 2025 suggests contracts should address it explicitly to avoid uncertainty.

Key highlights in Vietnam's Law on Construction No. 135/2025/QH15

3. Force majeure and fundamental changes in circumstances

LOC 2025 also provides greater clarity regarding the legal concept of force majeure and fundamental changes in circumstances in construction projects⁹.

While these concepts have been generally defined under the Civil Code¹⁰, the new law introduces a non-exhaustive list of events that may qualify as such within the context of a construction project. These events broadly correspond with concepts commonly found in international form of contracts, including "Exceptional Event" under Sub-Clause 18.1, "Archaeological and Geological findings" under Sub-Clause 4.23 of FIDIC Red Book 2017 or some commonly seen "Compensation Events" under Clause 60.1 of the NEC contract.

However, the inclusion of any event under this list does not automatically constitute a lawful force majeure or fundamental changes in circumstances. The event must still satisfy the definitions and requirements under the Civil Code - namely that it must be unforeseeable, beyond the parties' control and unavoidable even if reasonable measures are taken.

Another distinction concerns the legal function of force majeure. Under Vietnamese law, it primarily allows parties to avoid liability or suspend or terminate contractual obligations, whereas international construction contracts often treat similar events as grounds for extension of time or additional payment.

4. Capacity requirements for local contractor

Vietnamese construction law distinguishes between foreign contractors and domestic contractors.

Before signing a construction contract to do any construction work in Vietnam, foreign contractors, which are foreign companies without an establishment in Vietnam, must obtain a construction operating license. This requirement remains unchanged under the new LOC 2025.

The more significant changes relate to domestic contractors. Under the LOC 2014, domestic contractors were required to (i) satisfy prescribed capacity requirements to perform construction activities and (ii) obtain a capacity certificate issued by the competent authority¹¹.

LOC 2025 adopts a more flexible approach. The law no longer mentions or requires capacity certificates or detailed statutory capacity requirements. Instead, as an attempt to alleviate licensing burdens for local actors in the construction sector, under the Draft Decree on Construction Capacity, contractors will be required to:

- self-assess their capacity and classify themselves into Group I, Group II or Group III; and
- publish their capacity information on the website of the Ministry of Construction.

Under this proposed framework, the employers are expected to review the disclosed information and determine whether a contractor is suitable for their projects.

While this reform may reduce administrative burdens and improve market access, uncertainties remain - particularly regarding whether employers, especially state authorities in public projects, will have full discretion to select contractors solely on the basis of disclosed information. Further clarity is expected once the implementing decree and guidance are officially issued.

⁹ Article 13 of LOC 2025

¹⁰ Article 156.1 and Article 420.1 of Civil Code

¹¹ Railway Law No. 95/2025/QH15 dated 27 June 2025 put an end to the capacity certificate but keep capacity requirements

Key highlights in Vietnam's Law on Construction No. 135/2025/QH15



Conclusion

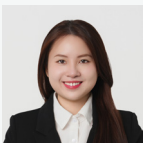
LOC 2025 introduces several reforms that bring Vietnam's construction regulatory framework closer to international practice. The recognition of FEED, the formal introduction of liquidated damages and the more flexible approach to local contractor capacity requirements aim to enhance the speed of development of the construction and infrastructure sector, as Vietnam aims for unprecedented economic growth in the next few years. However, the practical impact of these reforms will depend on further clarification through implementing decrees and their application in practice.

Numbers of reforms introduced by LOC 2025, such as liquidated damages and Dispute Boards, leads to the usage of international standard construction contracts. Present in Vietnam's major infrastructure projects for many years, the use of FIDIC or NEC is now encouraged on a broader scale. This approach is intended to provide greater legal certainty and to reassure international contractors, who have often been reluctant to adopt bespoke contractual arrangements.

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**This technical series by Forvis Mazars Legal Vietnam offers a concise overview of Vietnamese Construction Law and relevant international standards. The information and analysis provided are generic and based on quoted or interpreted regulations.*

We recommend that the clients contact Forvis Mazars Vietnam's experts for project-specific clarification or professional advice tailored to your circumstance.

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