

**LEGAL UPDATE**

October 2024

**ON THE NEW DECREE REGULATING THE SELF-CONSUMPTION ROOFTOP SOLAR POWER****KEY TAKEAWAYS**

- After several years of waiting, on 22 October 2024, the Vietnamese government issued a decree (Decree 135) regulating the development of self-consumption rooftop solar power projects by individuals and companies in Vietnam.
- Decree 135 has significantly expanded its scope of application to cover various types of self-consumption rooftop solar power and developers. It even allows certain developers to sell their surplus energy to EVN, up to a maximum capped volume. However, the development and sale of energy by large companies to EVN are still unanswered.

**OVERVIEW**

After nearly four years of development, with significant changes between drafts, the Vietnamese government finally issued Decree No. 135/2024/ND-CP (“**Decree 135**”) on 22 October 2024 regulating the development of self-consumption rooftop solar power (“**SRSP**”) by individuals and companies in Vietnam.

Unlike its previous drafts, Decree 135 has significantly expanded its scope of application. Under Decree 135:

- (a) SRSP can be generated/developed on rooftops of houses, office buildings, factories in special zones such as industrial, economic zones, and any other manufacturing or business establishments.<sup>1</sup> In simpler terms, unlike previous drafts that limited development to individuals/households on their homes or office owners on their buildings, Decree 135 apparently allows all types of individuals and businesses to develop rooftop solar power on their properties for self-consumption; and
- (b) Some developers (as detailed below) are allowed to sell a portion of their surplus generated power to the Vietnam Electricity (EVN) or its subsidiaries.

**KEY POINTS OF DECREE 135**

The key points of Decree 135 can be summarized as follows:

- (a) The development of SRSP must comply with regulations on electrical safety, investment, construction, environment, and fire prevention and fighting;<sup>2</sup>
- (b) An SRSP system may or may not be connected to the national electrical grid. The development of any SRSP system, whether connected to the grid or not, must follow the

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<sup>1</sup> Article 1 of Decree 135.

<sup>2</sup> *Id.*, Article 4.4.

provisions of Decree 135 and the regulations mentioned in Item (a) above;

- (c) The development of an SRSP system must undergo either notification or registration procedure. Notification must be made to the provincial/city Department of Industry and Trade (“DOIT”) where the system is located, and the local construction, fire prevention, and electricity authorities.<sup>3</sup> Registration must be made to the provincial/city DOIT.<sup>4</sup> The specific cases requiring notification or registration are detailed in the table in the attached Schedule 1;
- (d) For a system connected to the national grid, the developer must base the project’s scale and electricity output on the condition that the developed capacity is less than or equal to the total installed capacity of the existing load, consistent with the electricity consumption output in the last 12 months;
- (e) The use of land plots for SRSP systems does not require adjustments to the energy and functional land planning under existing land laws and regulations;<sup>5</sup>
- (f) The use of a battery energy storage system (BESS) is not mandatory. However, developers are encouraged to use them;<sup>6</sup>
- (g) The import and use of used photovoltaic panels and DC-AC converters are prohibited;<sup>7</sup> and
- (h) Within 45 days from the effective date of Decree 135, Provincial/City People’s Committees are responsible for promulgating a simplified licensing process to create favorable conditions for developers in registering their SRSP systems.

Other key points of Decree 135 are described in the table in Schedule 1 attached.<sup>8</sup>

## UNCLEAR POINTS

The wording of certain provisions in Decree 135 suggests that developers with approved installed capacities of 1,000 kW or more may be able to sell surplus energy to EVN.<sup>9</sup> However, Decree 135 does not provide specific details regarding the terms of such sales, including volume and pricing.

## EFFECTIVENESS

Decree 135 took effect on the date of its issuance (i.e., 22 October 2024). Although not expressly stated,<sup>10</sup> Decree 135 replaces the portion on SRSP under Decision 13/2020/QD-TTg of the Prime

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<sup>3</sup> Articles 6 and 7 of Decree 135.

<sup>4</sup> *Id.*, Article 9.1.

<sup>5</sup> *Id.*, Article 5.8.

<sup>6</sup> *Id.*, Article 8.9.

<sup>7</sup> *Id.*, Article 4.6.

<sup>8</sup> In preparing the table, the author has referred to the table prepared by GIZ-ESP. It is worth noting, however, that the GIZ-ESP’s table contains various errors which have been corrected in the author’s table in Schedule 1. The GIZ-ESP’s table can be found at: <https://nangluongvietnam.vn/nghi-dinh-135-ve-dien-mat-troi-tu-san-tu-tieu-phan-anh-tu-doanh-nghiep-y-kien-cua-chuyen-gia-33356.html> (last visit on 10 November 2024).

<sup>9</sup> See, for example, Articles 8.2 and 23.2 of Decree 135.

<sup>10</sup> A legal normative document can only be replaced by another legal normative document issued by the same

Minister dated 6 April 2020 on incentives for development of solar power in Vietnam. However, other forms of solar power projects and incentives under this decision (e.g., development of solar power projects by companies to sell to EVN) are not regulated by Decree 135. In fact, these matters remain untouched.

We hope our article has been helpful to you. Please feel free to contact us if you have any further inquiries.

**Scientia**

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authority (e.g., a government decision or decree can only be replaced by another decision or decree), as stipulated by the Law on Issuance of Legal Normative Documents of 2015 (as amended in 2020).

**Schedule 1 – OTHER KEY POINTS OF DECREE 135**

Type	Installed Capacity	Notification			Registration			Operation Permit			Development Limits			SCADA Connection Requirement			AMI/AMR Connection Requirement			Sale of Surplus Energy		
		H.	O.	Biz.	H.	O.	Biz.	H.	O.	Biz.	H.	O.	Biz.	H.	O.	Biz.	H.	O.	Biz.	H.	O.	Biz.
Non-Connection	Unlimited	Yes			None			None			None			None			None			None		
Connection	<100kW	Yes	Yes	Yes	No	No	No	No	No	No	No	No	No	No	No	No	Yes*	Yes*	Yes*	Yes†	No	No
	100kW – 1,000kW	Yes	Yes	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
	≥1,000kW	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	PDP8	PDP8	PDP8	Yes	Yes	Yes	Yes	Yes	Yes	Mb	Mb	Mb
	<100kW + Zero Export	Yes	Yes	Yes	No	No	No	No	No	No	No	No	No	No	No	No	N/A	N/A	N/A	No	No	No
	100kW – 1,000kW + Zero Export	Yes	Yes	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	N/A	N/A	N/A	No	No	No
	≥1,000kW + Zero Export	No	No	No	Yes	Yes	Yes	No	No	No	N/A	N/A	N/A	Yes	Yes	Yes	N/A	N/A	N/A	No	No	No

Of which:

- (a) “AMI/AMR Connection Requirement” means the requirement for connection to the Automatic Meter Reading/Automatic Metering Infrastructure;
- (b) “Biz.” means developers with properties for rooftop solar power development other than houses and office buildings;
- (c) “Connection” means an SRSP system that connects to the national electrical grid;
- (d) “Development Limits” means the limits that require compliance with the Power Development Plan VIII, the current power development plan of Vietnam for the period of 2021 – 2030 with a vision to 2050 (“**PDP8**”);
- (e) “H.” means developers with properties for rooftop solar power development being houses;
- (f) “Mb” means “maybe,” as Decree 135 only briefly mentions the possibility of these developers selling surplus energy to EVN without providing specific details on the process;
- (g) “Non-Connection” means an SRSP system that does not connect to the national electrical grid;
- (h) “N/A” means not available (i.e., not clearly provided in Decree 135);
- (i) “O.” means developers with properties for rooftop solar power development being office buildings;
- (j) “Operation Permit” means the statutory Electricity Operation Permit; and
- (k) “SCADA Connection Requirement” means the requirement for connection to the electricity collection, monitoring, and control system of EVN.

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\* The connection requirement is only applicable when the surplus energy will be sold to EVN.

† Developers being individuals or households with SRSP systems on houses can sell up to 20% of the surplus energy to EVN.