

Special Alert

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Decree 135 on Rooftop Solar Power Development for Self-Production and Self-Consumption

On 22 October 2024, the Government issued Decree No. 135/2024/ND-CP (“**Decree 135**”), which took immediate effect. This Decree introduces a legal framework and sets forth clearer procedures, including guidance for legal administration, aimed at facilitating the development of rooftop solar power (“**RSP**”) for self-production and self-consumption.

What’s new?

Decree 135 brings several important adjustments and clarifications regarding RSP system models and outlines the process for selling surplus electricity to EVN. In this special alert, we aim to focus on the key takeaways from Decree 135 and highlight the incentives it offers.

New Definitions

- **Self-Produced and Self-Consumed Electricity.** “*Self-produced, self-consumed electricity*” is defined as energy generated and used solely by consumers to meet their own needs¹. This definition as well as Decree 135 do not address the origin of the ownership of the RSP systems used to generate electricity, implying that consumers may legally acquire ownership of RSP systems through purchase, borrowing, or renting.
- **RSP system.** RSP systems for self-production and self-consumption by households, individual residences; public offices and facilities identified as public property considered as technology equipment attached to the building².

¹ Article 3.2 of Decree 135.

² Article 8.6 of Decree 135.

RSP System Models

Off-Grid RSP System

- This model applies to a self-produced and self-consumed RSP system not connecting to the national grid³. While this model serves on-site needs of consumers, Decree 135 does not specify if it can be transferred to nearby facilities.
- In developing this system, required licensing includes notifying the provincial Department of Industry and Trade (the “**DOIT**”) and EVN about the system's capacity and location, as well as other relevant construction and fire prevention and firefighting authorities⁴. Importantly, Off-Grid RSP System is not required to obtain an electricity generation license and not limited in its capacity⁵.

On-Grid RSP System

- This model applies to a self-produced and self-consumed RSP system connecting to the national grid or on-site loads linked to the grid⁶. Excess electricity generated from an RSP system, limited to 20% of installed capacity, can be sold to the national grid at the average market price of the previous year⁷. The sale of excess electricity is applicable to an RSP system that is within the electricity planning or with a capacity of below 100 kW⁸. However, it should be noted that RSP systems installed on the roof of a public office, or a construction work classified as public property are not allowed to sell excess electricity⁹.
- Required licensing involves notifying DOIT (for systems below 1,000 kW) or registering with DOIT as the case may be.¹⁰ Additionally, the RSP system with an installed capacity of 1,000 kW (or more) requires carrying out procedures for electricity planning with the competent authorities and obtaining an electricity generation license.¹¹

³ Article 3.3 of Decree 135.

⁴ Article 6 of Decree 135.

⁵ Article 8.1(a) of Decree 135.

⁶ Article 3.4 of Decree 135.

⁷ Article 8.7(b) of Decree 135.

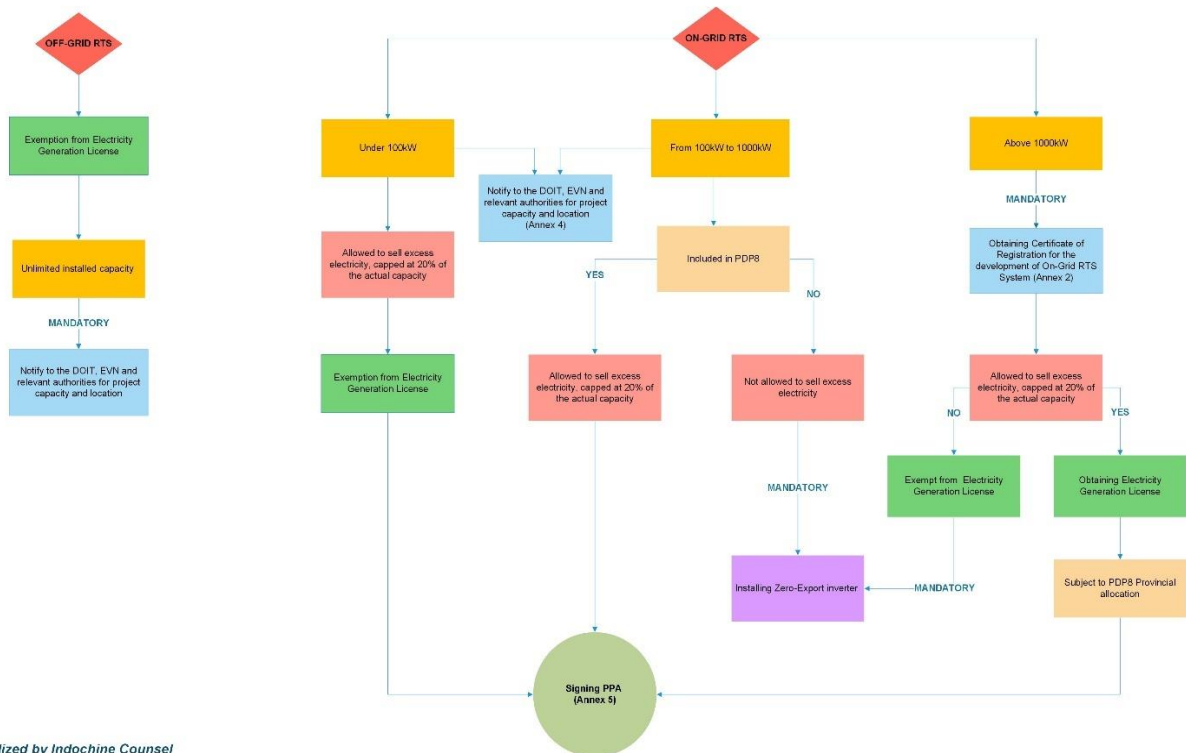
⁸ Article 8.7 of Decree 135.

⁹ Article 8.7(c) of Decree 135.

¹⁰ Articles 7.1, 7.5, and 7.6 of Decree 135.

¹¹ Article 8.2 of Decree 135.

Framework for Developing Self-Produced, Self-Consumed Rooftop Solar Models Under Decree 135



Visualized by Indochine Counsel

Legal Administration

Decree 135 includes five (5) annexes that provide a pivotal administration process for developing RSP systems for self-production and self-consumption purposes. In particular,

- *Annex 1* is the template for registering the development of On-Grid RSP System with a capacity of 1,000 kW (or more)¹²;
- *Annex 2* is the template for the certificate of registration for the development of On-Grid RSP System with a capacity of 1,000 kW (or more) to be issued by the DOIT¹³;
- *Annex 3* is the template for Report by Provincial People's Committee to Ministry of Industry and Trade on RSP development for self-production and self-consumption businesses¹⁴;
- *Annex 4* is the template for notifying the authorities regarding the development of the On-Grid RSP System with a capacity of less than 1,000 kW¹⁵; and

¹² Article 10.2(a) of Decree 135.

¹³ Article 12.1(b) of Decree 135.

¹⁴ Article 20 of Decree 135.

¹⁵ Articles 7.5 & 7.6 of Decree 135.

- *Annex 5* is the template for Power Purchase Agreement (PPA) applicable to On-Grid RSP System when selling excess electricity to EVN under Decree 135¹⁶.

Other Incentives Policies

- The development of RSP system is entitled to incentives policies in respect of tax incentives¹⁷ and simplified administrative procedures¹⁸.
- The installation of the RSP system does not require changes in land use purpose or construction function of the construction work where such a system is installed¹⁹.
- Individual households are exempt from obtaining or adjusting their business licenses when deploying their RSP systems²⁰.

Transitional RSP Systems

- For RSP systems installed before 1 January 2021 and eligible for EVN sale, consumers are not permitted to register to install additional RSP systems at the same site²¹.
- RSP systems installed after 1 January 2021 must be registered with competent authorities and may qualify to sell excess electricity if satisfying Decree 135 conditions²².

Conclusion

Decree 135 marks a progressive step in the development of RSP power in Vietnam, offering both regulatory clarity and support for sustainable energy initiatives. However, it appears that Decree 135 primarily promotes RSP systems for self-production and self-consumption by individuals, households, and businesses in order to increase green energy consumption nationwide and move closer to achieving the net-zero emission plan by 2050 by the government, rather than encouraging investment from professional investors.

¹⁶ Article 18.4 of Decree 135.

¹⁷ Article 8.3 of Decree 135.

¹⁸ Article 8.4 of Decree 135.

¹⁹ Article 8.5 of Decree 135.

²⁰ Article 8.8 of Decree 135.

²¹ Article 25.1 of Decree 135.

²² Article 25.2 of Decree 135.

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