

THE GOVERNMENT

No. 164/2013/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

Hanoi, November 12, 2013

DECREE

AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE GOVERNMENT'S DECREE NO. 29/2008/ND-CP DATED MARCH 14, 2008, PROVIDING FOR INDUSTRIAL PARKS, EXPORT PROCESSING ZONES AND ECONOMIC ZONES

Pursuant to the December 25, 2001 Law on organization of Government;

Pursuant to the November 29, 2005 Law on investment;

Pursuant to the November 29, 2005 Law on enterprises;

At the proposal of Minister of Planning and Investment;

The Government promulgates Decree amending and supplementing a number of articles of the Government's Decree No. 29/2008/ND-CP dated March 14, 2008, providing for industrial parks, export processing zones and economic zones.

Article 1. To amend and supplement a number of Articles of the Government's Decree No. 29/2008/ND-CP dated March 14, 2008, providing for industrial parks, export processing zones and economic zones:

1. To amend Clause 4, Clause 5 and supplement Clause 8 to Article 2 as follows:

“4. *Coastal economic zone* means an economic zone that is located in coastal areas and localities adjacent to coastal areas, established under the conditions, orders and procedures specified in Decree No. 29/2008/ND-CP.

Border-gate economic zone means an economic zone that is located in inland border areas and localities adjacent to inland border areas, where exists an international border gate or major border gate, and established under the conditions and according to the order and procedures specified in Decree No. 29/2008/ND-CP.

Coastal economic zones and border-gate economic zones are collectively referred to as economic zones, unless they are specifically referred to.”

“5. *Industrial land area* means a land area of an industrial park which is used for lease or sublease to investors for the implementation of investment projects on production or business in this industrial park, has been determined in detailed planning on construction of industrial park already been approved by competent state agencies.”

“8. The filling rate of an industrial park means percentage of industrial land area which has been conducted lease or sublease by investors for production or business activities over total industrial land area of such industrial park.”

2. To amend and supplement Article 5 as follows:

“Article 5. Conditions for grant of investment certificate for new investment and expansion of industrial parks

1. Conditions for grant of investment certificate of project of investment in infrastructure construction and business of industrial parks:

- In line with the master plan on development of industrial parks; planning and plan on land use already been approved by competent agencies.

- At least 60% of the total industrial land area of industrial parks already established in the territory of the province or centrally run city where this industrial zone is to be located has been leased or sub-leased to investment projects which have been registered or granted investment certificates.

2. Conditions for grant of investment certificate for expansion of industrial parks:

- In line with the master plan on development of industrial parks; planning and plan on land use already been approved by competent agencies.

- This industrial park has reached the filling rate of at least 60%.

- This industrial park has already built and put into use a concentrated wastewater treatment work.

3. For industrial parks occupying 500 hectares or more each in which many investors join in infrastructure construction and business investment in separate plots or industrial zones linked with other urban or concentrated business centers under a overall scheme, general construction plannings must be elaborated under the Ministry of Construction’s guidance before detailing plannings are made.

4. For industrial parks occupying 200 hectares or more each, or located near national highways, regional or national defense zones, historical sites, beauty spots and ecological conservation zones or in grade-II, grade-I or special-grade urban centers, written consents of the Construction Ministry, the Ministry of Planning and Investment and concerned ministries and sectors to the detailed plans on construction of these industrial parks are required before these parks are approved by the provincial-level Peoples Committees.

5. In case where a industrial park already been established and the expanded part of such industrial park has not same investor for infrastructure development, conditions for grant of investment certificate for project on investment in construction and business of the expanded part

of such industrial park will apply conditions like as conditions for industrial parks which are established newly as prescribed at Clause 1 of this Article.

6. Dossiers, process of, procedures for and authority to decide on establishment or expansion of industrial parks shall comply with Articles 8, 10 and 15 of Decree No. 29/2008/ND-CP.”

3. To amend Clause 2 and Clause 5 of Article 6 as follows:

“2. In line with the socio-economic development planning; the national land use planning and plan; the regional and urban construction planning; the technical infrastructure planning; the planning on use of minerals and other natural resources.”

“5. Ensuring the conformity with the national defense arrangement, requirements on defense, security, and protection of environment, natural resources and historical and cultural relics.”

4. To amend Clause 1 of Article 8 as follows:

“1. Procedures for the grant of investment certificates for investment projects on infrastructure construction and business of industrial zones shall comply with the legislations on investment:

If an industrial park or the expansion of an industrial park has been included in the approved master plan on development of industrial park or general planning on construction of an economic zone, agency granting investment certificate shall consult for verification of the Ministry of Planning and Investment and concerned Ministries and sectors during carrying out investment procedures for projects on investment in infrastructure construction and business.

If an industrial park or the expansion of an industrial park has not yet been included in the approved master plan on development of industrial park, the provincial-level Peoples Committee shall carry out procedures for the addition or expansion of this industrial zone into the master plan on development of industrial park under Articles 6 and 12 of Decree 29/2008/ND-CP.”

5. To amend Clause 1 of Article 9 as follows:

“1. If the establishment or expansion of an economic zone has been included in the approved master plan on development of economic zones, the Ministry of Planning and Investment shall carry out procedures for evaluating the establishment or expansion of this economic zone under Article 13 of this Decree.

If the establishment or expansion of an economic zone has not yet been included in the approved master plan on development of economic zones, procedures for the addition or expansion of this economic zone into the master plan on development of economic zones must be carried out under legislations on the elaboration, approval and management of master plans on socio-economic development, in which providing explanations on ability to meet conditions specified at Article 7 of Decree No. 29/2008/ND-CP.”

6. To amend Clause 2 of Article 14 as follows:

“2. During the course of elaborating the detailed plan on construction of industrial park, if the actually-measured area of an industrial park is larger or smaller by under 10% than the approved planned area and the difference does not exceed 20 hectares, the provincial-level Peoples Committee may decide on the adjustment of the planned area to match the actual area after consulting the Ministry of Construction and the Ministry of Planning and Investment without having to propose it to the Prime Minister for approval.”

7. To amend Article 18 as follows:

“Article 18. Exit, entry, travel, residence and sojourn in economic zones

1. Foreigners and overseas Vietnamese, who work, invest or conduct business activities in economic zones and members in their families may be granted visas for multiple entry and exit and with validity durations in accordance with regulations; and may permanently reside or temporarily reside in economic zones as prescribed by law on residence, and law on exit, entry, residence of foreigners in Vietnam.

2. For a border-gate economic zone, the exit, entry and residence shall comply with the following provisions:

a) Citizens residing in a bordering country’s district opposite to Vietnam’s border-gate economic zone may travel across the border into this zone with their laissez-passers granted by the bordering country’s competent authority and other valid papers in accordance with law, International treaties between Vietnam and the relevant bordering country. If these persons wish to enter other places of the province having the border-gate economic zone, the provincial police office shall grant them single travel permits with a specified validity duration.

b) Holders of passports ineligible for visa exemption (citizens of a bordering country or a third country) are exempt from entry visas or may stay in the border-gate economic zone for no more than 15 days. If these persons wish to travel as tourists to other areas of Vietnam under programs organized by Vietnamese international travel enterprises, the competent immigration management agency shall consider and grant them entry visas at the border-gate economic zone.

c) Means of transport carrying cargoes of a neighboring country or a third country may enter the border-gate economic zone under business contracts between Vietnamese enterprises and foreign partners, comply with regulations of Agreement on road and waterway transport between Vietnam and other bordering countries, suffer the examination, inspection, supervision of functional forces at border gates. If these means of transport wish to deliver or receive cargoes at other places outside the border-gate economic zone, current relevant regulations must be complied with.

Operators of means of transport (crewmembers on board ships, vehicle drivers and their assistants) may enter and leave the border-gate economic zone with their passports, crewmember books, border laissez passers or other valid papers granted by foreign authorities, in accordance with International treaties between Vietnam and relevant bordering countries.

d) It is allowed to expand the reception in the border-gate economic zone of tourists from neighboring countries traveling with passports, identity cards or other equivalent papers to other provinces and cities throughout the country according to Item b, Clause 2 of this Article.

dd) Vietnamese cargo or vehicle owners who have business ties with neighboring countries partners may escort their cargoes and vehicles into these countries to deliver or receive cargoes with border laissez-passers or other valid papers granted by Vietnamese competent authorities.

e) Vietnamese citizens who conduct business or reside in the communes, wards and townships having a border-gate economic zone may travel into the bordering country with their border laissez-passers or other valid papers in accordance with a treaty between Vietnam and the relevant bordering country or when obtaining this country's consent.”

9. To amend Clause 2, Clause 3, Clause 5 and supplement Clause 7 to Article 21 as follows:

“2. Export processing zones or enterprises are separated from inland Vietnam with fence and wall systems which have entry and exit gates and doors to ensure conditions for the examination, supervision, and control by customs and relevant functional agencies.

3. Export processing enterprises may purchase building materials, office equipment and stationery, food, foodstuffs and consumer goods from inland Vietnam to build works, serve the administration of their office apparatus and daily-life activities of their staff members and workers.

Export processing enterprises and buyers or suppliers of export processing enterprises may choose to or not to carry out import, export and customs procedures for these goods.”

“5. Export processing enterprises may sell their liquidated assets and goods in inland market as prescribed by law on investment and commerce. Relations of exchanging the produced goods between export processing zones and enterprises and other areas in the Vietnamese territory, except for non-tariff areas, are regarded as import and export relations.”

“7. Export processing enterprises which have been granted permits for trading in goods purchase and sale and activities directly related to goods purchase and sale in Vietnam must establish separate branches outside of export processing zones and enterprises to implement these activities.

The Ministry of Finance, the Ministry of Industry and Trade, and the Ministry of Planning and Investment shall guide specifically this Article.”

10. To supplement Articles 21b and 21c at behind Article 21 as follows:

“Article 21b. Rights and obligations of enterprises operating in industrial parks, economic zones and investors who conduct infrastructure construction and business of industrial parks, economic zones

1. Enterprises operating in industrial parks, economic zones and investors who conduct infrastructure construction and business of industrial parks, economic zones have full rights and obligations of investors as prescribed by law on investment, enterprises and relevant law.

2. The investors in infrastructure construction and business of industrial parks, economic zones shall determine the price of lease, sublease of land which has build technical infrastructure, charges of kinds for using other relevant infrastructure in accordance with law and register price bracket and charges of kinds with the management boards. Registration of price bracket and charges shall be conducted biannually or upon having adjustments different from the registered price bracket.

3. Implementing financial obligation with State.

4. Implementing the regime of accounting, statistics and insurance as prescribed by law.

5. Complying with regulations on security, order, ensuring labor safety, culture of enterprises, industrial hygiene, ecological-environment protection, environmental protection and fire and explosion prevention. Coordinating with Police and local forces in elaborating plans on fire and explosion prevention, assurance of security, order and social safety in the zone.

6. Reporting monthly, quarterly and annually about activities of enterprise; sending reports to the Ministry of Planning and Investment, the provincial People's Committees and management boards, and other specialized reports at the request of relevant Ministries and sectors.

“Article 21c. Housing development for laborers in industrial parks and economic zones

1. The state encourages households and individuals to invest in house construction to supply lease houses for objects being laborers at industrial parks.

2. Households and individuals investing in construction of dwelling houses for lease as prescribed at Clause 1 of this Article must ensure standards on area, quality of works, landscape, safety and environment.

3. People's Committees at all levels shall be responsible for facilitating for laborers to use the health, cultural and social services in their localities.

4. The planning on dwelling houses for laborers in industrial parks must be associated with planning on industrial parks in localities. The provincial People's Committees shall make plans and allocate residential land fund in suitable positions for agencies, organizations and enterprises to build dwelling houses for laborers in industrial parks. During the course of implementation of procedures for the grant of investment certificates for investment projects on infrastructure construction and business of industrial zones, the investors in infrastructure construction and business of industrial zones must report to agencies granting investment certificates about plans to solve dwelling houses for laborers in industrial parks.

5. For industrial parks with difficulties about dwelling houses for laborers, base on specific conditions, on the basis of proposals of investors in infrastructure construction and business of industrial zones, the provincial People's Committees shall adjust the detailed planning on construction of industrial zones so as to save a land part in industrial parks of which ground clearance has been finished for investment in construction of social apartments for laborers after reaching the written unified consent of the Ministry of Construction, the Ministry of Planning and Investment and implement procedures for adjusting the planned area of the industrial parks in accordance with regulations.

If area planned for housing development locates beside industrial parks, the provincial People's committee shall approve the detailed planning on construction of industrial parks in association with planning on construction of apartments for laborers in industrial parks.

The Ministry of Construction, and the Ministry of Planning and Investment shall guide specifically this Article.”

11. To supplement Clause 8, Clause 9 and Clause 10 to Article 24 as follows:

“8. To assume the prime responsibility for, and coordinate with Ministry of Internal Affairs in formulating Circular guiding the function, tasks, powers and organizational structure of management boards.

9. To assume the prime responsibility for formulating the scheme on consolidating the state management apparatus at industrial parks, economic zones from central to local levels.

10. To promulgate guide on implementing the reporting and statistics regime about industrial parks and economic zones.”

12. To supplement Clause 4, Clause 5 to Article 25 as follows:

“4. To coordinate with the Ministry of Planning and Investment in formulating Circular guiding the function, tasks, powers and organizational structure of management boards.

5. To coordinate with the Ministry of Planning and Investment in formulating the scheme on consolidating the state management apparatus at industrial parks and economic zones from central to local levels.”

13. To supplement Clause 3 to Article 27 as follows:

“3. To guide the authorization to the management board in conducting tasks of construction state management specified at Clause 2 Article 37 of Decree No. 29/2008/ND-CP amended and supplemented in this Decree and some tasks of construction state management in industrial parks and economic zones as prescribed by law on construction.”

14. To amend Clause 2 and Clause 3 of Article 28 as follows:

“2. To authorize management boards to grant certificates of origin for goods manufactured in industrial parks and economic zones; to grant, re-grant, amend, supplement and extend permits for setting up trade representative offices of foreign organizations and traders in industrial parks and economic zones; grant the certificates of business eligibility for commodities restrained business or subject to conditional business as prescribed by law.

“3. To guide management boards in granting, re-granting, amending and supplementing business licenses for goods purchase and sale and activities directly related to goods purchase and sale to foreign-invested enterprises and foreign investors that invest in industrial parks and economic zones.”

15. To amend Clause 3 of Article 29 as follows:

“3. To guide the authorization to the management board in conducting tasks of environmental state management specified at Clause 2 Article 37 of Decree No. 29/2008/ND-CP amended and supplemented in this Decree and some tasks of natural resource and environmental state management in industrial parks and economic zones as prescribed by law on environmental protection.”

16. To amend Article 31 as follows:

To guide the authorization to the management board in conducting tasks of labor state management specified at Clause 2 Article 37 of Decree No. 29/2008/ND-CP amended and supplemented in this Decree and some tasks of labor state management in industrial parks and economic zones as prescribed by law on labor

17. To supplement Clause 3 to Article 32 as follows:

“3. To assume the prime responsibility for, and coordinate with the Ministry of National Defense in guiding implementation of regulations on exit, entry, transit and residence involving foreigners in economic zones.”

18. To supplement Article 32a as follows:

“Article 32a. Powers and duties of the Ministry of National Defense

1. To implement function of national defense state management and coordinate with the Ministry of Public Security in protecting national security, keeping order and social safety at economic zones, border-gate economic zones and sea port border gates of economic zones as prescribed by law.

2. To direct and guide Border Guard in organizing, arranging, using forces and means to coordinate in implementing task of controlling exit, entry, examination, control persons and vehicle going out and in, operating at border-gate economic zones and sea port border gates of economic zones.

3. To coordinate with the Ministry of Public Security in guiding implementation of legislations on exit, entry, transit and residence involving foreigners in economic zones."

19. To amend Clause 2 of Article 33 as follows:

"2. To guide the authorization to management boards for grant, re-grant, amendment, supplementation and extension of permits for setting up representative offices and branches of foreign tourist companies in economic zones.

20. To supplement Article 33a as follows:

"Article 33a. Powers and duties in state management of the Government Inspectorate

To coordinate with relevant Ministries and sectors in guiding the activities of inspection over industrial parks and economic zones."

21. To amend Clause 2 and supplement Clause 3 to Article 37 as follows:

"2. Management boards shall perform the following tasks as prescribed by law:

a) Managing, disseminating, guiding, examining, and supervising the implementation of regulations, plannings and plans on industrial parks and economic zones already approved by competent state agencies;

b) Making investment registration; verifying and granting, modifying and revoking investment certificates for investment projects under their competence as prescribed by law on investment;

c) Coordinating with functional agencies when functional agencies organize inspections over the implementation of regulations, plannings and plans on industrial parks and economic zones;

d) Examining and supervising the achievement of investment objectives specified in investment certificates, schedules of capital contribution and implementation of investment projects; the observance of committed clauses by projects enjoying investment incentives and the observance of laws on construction, labor, wage and social insurance for laborers, protection of lawful interests of laborers and labor users, operation of socio-political organizations, fire and explosion prevention and fight, security and order and protection of the ecological environment by projects in industrial parks and economic zones; proposing on the sanctioning of administrative violations according to regulations for violations on fields under their management scope in industrial parks and economic zones;

dd) Coordinating with Police units in examining the work of keeping security, order, formulating and proposing measures to perform the work of ensuring security and order, organizing guard forces and forces for fire prevention and fighting in industrial parks and economic zones.

e) Solving problems and difficulties facing investors in industrial parks and economic zones, and proposing the Prime Minister, concerned ministries, branches and provincial-level Peoples Committees in solving problems falling beyond their competence;

g) Receiving statistical reports and financial statements of enterprises operating in industrial parks and economic zones; appraising the efficiency of investment in industrial parks and economic zones;

h) Coordinating with the Ministry of Planning and Investment in building and managing the system of information on industrial parks and economic zones under their management;

i) Sending periodical reports to the Ministry of Planning and Investment, concerned ministries, sectors and provincial-level Peoples Committees on: the construction and development of industrial parks and economic zones; granting, modifying and revoking investment certificates; organizing the implementation of investment projects; fulfilling obligations toward the State; attracting and employing laborers; complying with the labor law and settling labor disputes and applying measures to protect the ecological environment in industrial parks and economic zones;

k) Organizing emulation and reward movements for enterprises in industrial parks and economic zones;

l) Organizing and coordinating with state management agencies in conducting inspection, examination and settlement of complaints and denunciations, prevention and combat of corruption, waste, negative acts, and handling of administrative violations in their zones;

m) Performing tasks in accordance with law and provincial-level Peoples Committees' regulations on management of finance, assets and budget funds allocated to them; collecting and managing the use of various charges and fees; conducting scientific researches and applying scientific and technological advances; cooperating with domestic and foreign organizations and individuals in domains related to investment in the construction and development of industrial parks and economic zones; managing the organizational structure, state payroll, cadres, civil servants and public employees, and providing professional training and retraining for their cadres, civil servants and public employees of management boards; recommending jobs for laborers working in industrial zones and economic zones;

n) Performing other tasks assigned by provincial-level Peoples Committees.”

“3. Management boards shall perform the following tasks under authorization and guide of Ministries, sectors and the provincial-level People's Committees and competent state agencies:

a) Granting, re-granting, amending, supplementing and extending permits for setting up trade representative offices of foreign organizations and traders in industrial zones and economic zones; business licenses for goods purchase and sale and activities directly related to goods purchase and sale to foreign-invested enterprises and foreign investors that invest in industrial parks and economic zones, certificates of business eligibility for commodities restrained business or subject to conditional business;

- b) Granting kinds of certificates of origin for goods manufactured in industrial parks and economic zones;
- c) Adjusting approved detailed plannings on construction of industrial parks and functional areas in economic zones without changing use purposes of land plots and planning structure; evaluating basic designs of group-B or group-C projects or grant and extend construction permits for construction works for which these permits are required under the law on management of investment projects on construction of works;
- d) Granting, re-granting, and revoking working permits for laborers being citizens of foreign countries working in industrial parks and economic zones; receiving registration of labor rules; collective labor agreements; systems of wage ranks and tables, labor norms; and plans on sending laborers on under-90 day overseas skill practice tours for enterprises in industrial parks and economic zones;
- e) Granting some other kinds of permits, certificates in industrial parks and economic zones;
- g) Certifying contracts and title deeds of real estate in industrial parks and economic zones for concerned organizations; receiving registration of price bracket of land lease, sublease and charges for infrastructure in industrial parks, economic zones of the investors who conduct infrastructure construction and business in industrial parks, economic zones;
- h) Organizing evaluation and approval of environment impact assessment reports for investment projects under competence for decision of the provincial People's Committees in industrial parks, economic zones; granting certification for objects subject to registration of commitments on environmental protection operating in industrial parks, economic zones; evaluating, approving and checking, certifying the detailed schemes on environmental protection and simple schemes on environmental protection for projects located in industrial parks, economic zones;
- “4. Management boards shall be act as focal agencies in managing investment activities in industrial parks, economic zones in localities. When Ministries, sectors and local state management agencies carry out specialized tasks at industrial parks, economic zones, they are responsible for coordination and consulting management boards, ensuring the unified state management operation in industrial parks, economic zones, avoiding status of overlapped operation and facilitating for enterprises to operate in accordance with law.”

Article 2. Effect

1. This Decree takes effect on January 01, 2014.
2. Within 6 months after this Decree takes effect, relevant ministries and sectors shall guide or authorize the provincial People's Committees and management boards in implementing tasks specified in this Decree.

Article 3. Responsibilities for implementation

Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, chairpersons of People's Committees of provinces and central-affiliated cities, heads of management boards in industrial parks, export processing zones, economic zones and relevant organizations and individuals shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung