

Further Discussion on Land Law Modification – And Regulations for Industrial Zones Land

Nguyen Trong Diep, PhD¹, Nguyen Anh Thu, PhD^{2*} & Dinh Tran Ngoc Huy, MBA³

^{1,2}University of Law, Vietnam National University, Hanoi, Vietnam. ³Banking University HCMC Ho Chi Minh City, Vietnam – International University of Japan, Japan. Corresponding Author (Nguyen Anh Thu) Email: thuna@vnu.edu.vn*



DOI: <https://doi.org/10.46382/MJBAS.2023.7203>

Copyright: © 2023 Nguyen Trong Diep et al. This is an open access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

Article Received: 10 March 2023

Article Accepted: 24 April 2023

Article Published: 12 May 2023

ABSTRACT

National plans, as well as land use master plans, and master plans on sectors and fields that use land, must be consistent, unified, synchronous, closely linked, and promote each other for development. Land use master plans and plans are made at the national, provincial and district levels, meeting the requirements of the implementation of the Strategy for rapid and sustainable socio-economic development; ensuring national defense and security; environmental protection, adaptation to climate change. Land law modifications (Draft) has brought many innovations and meet the needs of the Government as well as needs and aspirations of the people, promoting land resources for socio-economic development.

Keywords: Land law; Regulations; Industrial zones.

1. Introduction

Land in industrial zones or land in industrial zones belonging to non-agricultural production and business land. This is land to build industrial clusters, industrial parks, export processing zones and other concentrated production and business zones with the same land use regime.

Hence we choose this topic with Research questions:

Question 1: What are **FURTHER DISCUSSION ON LAND LAW MODIFICATION – And Regulations for Industrial Zones Land?**

2. Methodology

Authors have used qualitative and analytical methods, descriptive method for primary model, synthesis and discussion methods in this paper.

We also used historical materialism method.

3. Main Findings

3.1. Relevant regulations – Land in Industrial zones

First, According to Point dd, Clause 2, Article 10 of the 2013 Land Law, non-agricultural production and business land, including land in industrial parks, industrial clusters and export processing zones; commercial and service land; land for non-agricultural production establishments; land used for mineral activities; land for production of building materials and pottery.

Thus, industrial park land is understood as non-agricultural production and business land used to build industrial clusters, export processing zones and production zones.

Second, Regulations on land use in industrial zones. The use of industrial park land is specified in Article 149 of the Land Law 2013 as follows:

- The use of land for construction of industrial parks, export processing zones, industrial clusters and craft villages must conform to master plans, plans on land use, detailed construction planning already approved by competent state agencies.

When planning and establishing an industrial park or an export processing zone, it must concurrently make planning and building residential areas and public works located outside the industrial parks and export processing zones to serve the lives of workers working in the zones. industrial and export processing zones.

- The State leases land to economic organizations, overseas Vietnamese and foreign-invested enterprises to invest in the construction and business of infrastructure in industrial parks, industrial clusters, and zones.

For the land leased area with annual land rental payment, the person to whom the land is leased by the State has the right to sublease the land in the form of annual land rental payment;

For the land leased area with one-off rental payment for the entire lease period, the person to whom the land is leased by the State has the right to sublease the land in the form of one-time payment of land rent for the entire lease period or payment of rent. Investors are exempted from land rent for the land area for construction of infrastructure for common use in industrial parks, industrial clusters and export processing zones.

- Economic organizations, households, individuals, overseas Vietnamese, foreign-invested enterprises investing in production and business in industrial parks, industrial clusters, and export processing zones. may sublease land associated with infrastructure from individuals or organizations, including:

+ Other economic organizations;

+ Vietnamese people residing abroad;

+ Foreign-invested enterprises invest in the construction and business of infrastructure.

At the same time, have the following rights and obligations:

+ In case of sub-leasing land with one-off rental payment for the entire lease period, the organization shall have the rights and obligations of the organization that is allocated land by the State with collection of land use levy, or leases land with one-off rental payment for the entire lease period. lease period according to Article 174 of the Land Law 2013;

+ In case of sub-leasing land with annual rental payment, the rights and obligations of economic organizations and public non-business organizations that use leased land with annual rental payment are specified in Article 175 of the 2013 Land Law.

- Land users in industrial parks, industrial clusters or export processing zones must use the land for the right purposes and be granted a certificate of land use rights and ownership of houses and other assets attached to it. land and have the rights and obligations as prescribed.

- Economic organizations, households, individuals, overseas Vietnamese investing in production and business in industrial parks, industrial clusters or export processing zones which have been allocated or transferred land by the State. Land use rights associated with infrastructure of the following individuals and organizations:

+ Other economic organizations;

+ Overseas Vietnamese invest in the construction and business of infrastructure in industrial parks, industrial clusters, and export processing zones.

If they are allocated land or receive land use rights transfer before July 1, 2014, they may continue to use the land for the remaining term of the project without having to change to land lease. At the end of the project implementation period, if there is a need, the State will consider leasing land according to regulations.

Third, Term of land use in industrial zones:

The land use term of the industrial park according to Clause 1, Article 51 of Decree 43/2014/ND-CP (amended in Clause 36, Article 2 of Decree 01/2017/ND-CP) is as follows:

- The duration of land use in industrial parks, export processing zones, industrial clusters, craft villages according to the term of the investment project.

- In case the term of the investment project is longer than the remaining land use term of the industrial park, export processing zone, industrial cluster or craft village, the enterprise investing in the construction and business of infrastructure of the industrial park, export processing zones, industrial clusters and craft villages must:

Apply for permission from a competent state agency for permission to adjust the land use term accordingly, but the total land use term must not exceed 70 years and must pay land use levy or land rent for the extended land area.

3.2. Land Law Modifications

There are some new modifications in Land Law:

Completing legal regulations related to the real estate market;

Including the market for land use rights. Promote commercialization of land use rights. Building a real estate market information system associated with land information; adopt policies to encourage the development of the land use right market, especially the agricultural land rental market.

Completing the state's regulations on regulation to ensure the healthy, safe and sustainable development of the real estate market. Compulsory registration of land use rights and registration of land changes, and at the same time have specific and synchronous sanctions to prevent transactions not registered at state agencies (According to Clause 9, Article 14 of the draft Land Law (amended)).

Expansion of agricultural land users;

Completing mechanisms and policies on management and use of agricultural land in the direction of expanding subjects and quotas for receiving transfer of agricultural land use rights, and regulations for agricultural land users to convert production purposes crops, livestock, improve the efficiency of agricultural land use according to the planning.

Strengthen soil quality management, overcome land degradation and deterioration. Regulations on banks leasing agricultural land. There are regulations to effectively manage and use land of agricultural and forestry origin, and settle residential and production land for ethnic minorities (According to Article 170, Article 171, Article 172 of the draft Land Law (amended)).

Regulations on the management and use of land in combination with multi-purposes;

Proposing regulations on management and use of land in combination with multi-purpose, residential land in combination with commerce and services; agricultural land combined with trade and services; land for national defense and security combined with economy; land for tourism projects with spiritual elements; land for construction of aerial works, underground works, land formed from sea reclamation activities (According to Article 209 of the draft Land Law (amended)).

4. Discussion and Conclusion

Through synthesizing and studying the opinions of agencies, organizations and individuals, there are many opinions that agree with the basic content of the draft Law, evaluate the Draft has brought many innovations and meet the needs of the Government as well as needs and aspirations of the people, promoting land resources for socio-economic development, thereby contributing to strict land management, economical and efficient use of land.

Declarations

Source of Funding

This study did not receive any grant from funding agencies in the public or not-for-profit sectors.

Conflict of Interests

The authors declare that there is no conflict of interest regarding the publication of this paper.

Consent for Publication

The authors declare that they consented to the publication of this study.

Acknowledgement

Thank you editors, friends to assist this publication.

References

- Aarnio, A. (2011). Luentoja lainopillisen tutkimuksen teoriasta. Helsingin yliopiston oikeustieteellinen tiedekunta.
- Ahonen, J. (2015). Valvontaviranomainen yleisen edun valvojana lupaprosessissa – Esimerkkinä jätevedenpuhdistamoiden typenpoisto. Ympäristöjuridiikka.
- Al-Damkhi, A.M., Khuraibet, A.M., Abdul-Wahab, S.A., & Al-Attar, F.A. (2009). Commentary: Toward defining the concept of environmental crime on the basis of sustainability. *Environmental Practice*, 11(2): 115–124. doi: <https://doi.org/10.1017/S1466046609090115>.
- Almer, C., & Goeschl, T. (2010). Environmental crime and punishment: empirical evidence from the German penal code. *Land Economics*, 86(4): 707–726. doi: <https://doi.org/10.3368/le.86.4.707>.
- Lynch, M.J. (2019). County-level environmental crime enforcement: A case study of environmental/green crimes in Fulton County, Georgia, 1998-2014. *Deviant Behavior*, 40(9): 1090–1104. doi: <https://doi.org/10.1080/01639625.2018.1461746>.

- Lynch, M.J., Stretesky, P.B., & Long, M.A. (2019). Environmental crime prosecutions in Ireland, 2004–2014. *International Journal of Comparative and Applied Criminal Justice*, 43(4): 277–293.
- ND Trung, DTN Huy, LL Yen, NT Diep (2022). Assessment of the Advantages, Achievements and Limitations and shortcomings in the construction of industrial infrastructure in Hanoi-and recommendations for building IC. *Journal of Language and Linguistic Studies*, 17(2).
- DTN Huy (2012). Estimating Beta of Viet Nam listed construction companies groups during the crisis. *Journal of Integration and Development*, 15(1): 57–71.
- Minh Ngoc Dao, Thi Hong Viet Bui (2022). Measurement of Vietnam cultural resources attractiveness: the case of Vietnam. *International Journal of Ecosystems and Ecology Science*, 13(1).
- Pham V.L. (2018). Crime on the environment Some theoretical and practical issues.
- Pauku E. (2022). Environmental crime in a welfare state- a case study on the prosecution of environmental crimes in Finland 2015-2020, *International Journal of Comparative and Applied Criminal Justice*, 2. doi: <https://doi.org/10.1080/01924036.2022.2087701>.
- Statistisk sentralbyrå (2021). Offences investigated. Retrieved October, 19 2021, from <https://www.ssb.no/en/sosiale-forhold-og-kriminalitet/kriminalitet-og-rettsvesen/statistikk/etterforskede-lovbrudd>.
- Stretesky, P.B., Long, M.A., & Lynch, M. (2014). *The treadmill of crime: Political economy and green criminology*, Routledge.
- Z Wang, M Akhavan, MNI Kashkouli, MJC Opuencia, DTN Huy. (2022). Sustainable wastewater management from shale oil production wells: emerging opportunities and barriers, *Applied Water Science* 12(7): 1–6.