

## CONSTRUCTION LAW

Pursuant to the Constitution of the Socialist Republic of Viet Nam;  
The National Assembly enacts the Construction Law.

### Chapter I GENERAL PROVISIONS

#### Article 1. Scope of regulation

This Law provides for the rights, obligations and responsibilities of agencies, organizations, individuals and the state management of construction investment activities.

#### Article 2. Application entities

This law applies to domestic agencies, organizations and individuals; foreign organizations and individuals involved in construction investment activities on the territory of Viet Nam.

Where international treaty of which the Socialist Republic of Viet Nam is a member contains provisions different from the provisions of this Law, the provisions of that treaty shall apply.

#### Article 4. Basic principles of construction investment activity

1. Ensure that construction investment of works shall be in accordance with planning, design, and landscape and environment protection; be suitable to natural and social conditions, cultural characteristics of each locality; ensure stability of people's life; combine socio-economic development with national defense, security and respond to climate change.
2. Properly use resource, natural resource in project area, ensure proper purpose, target and sequence of construction investment.
3. Comply with technical standards, codes, legal regulations for the use of building materials; ensure the need of convenient and safe access and use of works for the disable, the elderly, children in public buildings, high-rise buildings; application of science and technology, building information system application in construction investment activity.
4. Ensure the building quality, schedule, safety; life, health of human and asset; prevention, protection against fire, explosion; environmental protection.
5. Ensure the inclusive construction of each works and inclusive of technical social infrastructure works.
6. Organization and individual involved in construction activity should have adequate qualification appropriate to the project type; type, class of construction works and work under provisions of this Law.
7. Ensure openness and transparency, economy and efficiency; prevention and fight against corruption, waste, loss and other negative acts in construction investment activity.
8. Clearly define functions of State management in construction investment activity versus management functions of investment owner appropriate to each type of capital source used.

#### Article 6. Application of technical standards, codes in construction investment activity

1. Construction investment activity should comply with national technical codes.
2. Standards shall be applied in construction investment based on principle of voluntariness, except standards cited from technical codes or other relevant legal documents.
3. Standards applied to construction works should be considered and accepted by investment decision maker.
4. Application of standards should ensure following requirements:
  - a) Be in accordance with requirements of national technical codes and provisions of relevant legislations;

- b) Ensure uniformity, feasibility of the system of applied standards.
- 5. Application of solutions of technique, technology, new materials in construction investment activity should meet requirements of national technical codes and provisions of relevant laws.
- 6. The Ministry of Construction, Ministries that manage specialized construction works shall be responsible for the formulation of national technical standards, codes applicable to specialized construction works in accordance with provisions of legislation on technical standards and codes.

#### Article 7. Investment owner

1. Investment owner shall be decided by investment decision maker prior to project formulation or project approval.
2. Depending upon capital source used for the project, investment owner shall be determined as follows:
  - a) For project using state budget capital and state extra-budgetary capital, investment owner shall be agency, organization assigned by investment decision maker to manage and use capital for construction investment;
  - b) For project using loan, investment owner shall be agency, organization or individual borrowing loan for construction investment;
  - c) For project implemented in the form of project contract, public-private partnership contract, investment owner shall be project business established as agreed by investor in accordance with provisions of the law;
  - d) For project not as subject stipulated in points a, b and c of this item, investment owner shall be organization, individual who owns the capital.
3. Based on specific conditions of project using state budget capital, investment decision maker of the project shall assign specialized management board of construction investment project, area management board of construction investment project to be investment owner; in case there is no any project management board, the investment decision maker shall select agency, organization having adequate qualification to be the investment owner.
4. Investment owner shall be responsible before the law and investment decision maker within the scope of own rights and obligations under the provisions of this Law and provisions of other relevant legislations.

#### Article 8. Supervision, assessment of construction investment project

1. The construction investment project should be supervised, assessed in accordance with each type of capital sources as follows:
  - a) For project using state funding, competent state agency shall carry out supervision, assessment in accordance with provisions of legislation on public investment and legislation on construction according to approved assessment content and criteria;
  - b) For project using other source of funding, the competent state agency shall carry out supervision, assessment against objectives and compliance with relevant urban plan, land use, construction investment progress and environmental protection.
2. For infrastructure construction investment project using state funding, funding contributed by community and funding from domestic organization and individual, supervision by the community shall be carried out.

Within the scope of own duties and powers, the Viet Nam Fatherland Front at construction area shall organize the implementation of supervision by community.
3. The Government shall provide in detail for this Article.

#### Article 10. Promotion policy in construction investment activity

1. Domestic organization, individual and foreign organization, individual shall be encouraged and facilitated to study and apply advanced construction science and technology, use new building materials, save energy and natural resources, protect the environmental and respond to climate change; to preserve, restore and promote value of historic relic, cultural heritage, belief, religion; facilitate organization and individual to develop social housing, be involved in construction investment activities in accordance with urban plan in mountainous areas, areas of special socio-economic difficulties, and areas affected by climate change.

2. Entities involved in construction investment activity of all economic sectors shall be treated equally before the law, encouraged and facilitated in construction investment activities; priority shall be given to contractor who has received award for construction works quality from the State, when taking part in bidding for construction activity.
3. Step by step transfer some of public services supplied by state management agencies in construction investment activities to qualified social professional organizations.

Article 11. International cooperation in construction investment activity

1. Domestic organization, individual shall be encouraged to expand international cooperation in construction investment activity, to transfer technique, technology, managerial experience and to use new materials.
2. The State shall protect Vietnamese construction brands abroad; support and take measure to promote the signing and implementation of international treaty, international agreement in construction activity between domestic organization, individual and foreign organization, individual on the basis of ensuring basic principles of construction investment activity specified in Article 4 of this Law.

Article 12. Prohibited act

1. Construction investment decision not in accordance with provisions of this Law.
2. Commencement of building construction fails to meet all the conditions under provisions of this Law.
3. Construction works built in prohibited areas; construction works built in encroachment to protection corridor for construction works of defense, security, transport, irrigation, dikes, power, historical-cultural relic area and other works protection area as stipulated by law; construction works built in the area warned of the risk of landslide, flash flood, tubular flood, except construction work built to overcome this phenomenon.
4. Construction works built not in accordance with construction plan, except the case of construction permit with time limit; in violation of construction line, construction altitude; construction built not in accordance with construction permit issued.
5. Formulation, appraisal, approval of design and estimate of construction works using the state funding contrary to provisions of this Law.
6. Contractor involved in construction activity fails to have adequate qualification to perform construction activity.
7. Contractor selected by investment owner fails to have adequate qualification to perform construction activity.
8. Construction works built not in compliance with technical standards and codes selected applicable for the works.
9. Production and use of building material harmful to public health and environment.
10. Violation of regulations on occupational safety, asset, prevention and protection against fire, explosion, security, order and environmental protection in construction.
11. Use of works not in accordance with purpose, functional use; expansion of construction works in encroachment area, of space under lawful management, use of another organization, individual and of public area, common use area.
12. Making, taking bribe in construction investment activity; abuse of another legal entity for participating in construction activity; arrangement, collusion to falsify result of project formulation, survey, design and supervision of construction works.
13. Abuse of position or authority for violation of legislation on construction; screening, slow in treating violation of legislation on construction.
14. Obstructing construction activity in accordance with the law.

Chapter II  
CONSTRUCTION PLANNING  
Section 1  
GENERAL PROVISIONS

Article 13. Construction planning and basic for construction planning

1. Construction planning includes following categories:
  - a) Regional planning;
  - b) Urban planning;
  - c) Specific functional areas planning;
  - d) Rural planning.
2. Construction planning is made based on following content:
  - a) Strategy, master plan for socio-economic development, defense and security, sectoral planning, master plan orientation for national urban system, relevant construction planning that has been approved;
  - b) Technical code on construction planning and other related codes;
  - c) Maps, documents and data on current socio-economic state, natural conditions of the locality.
3. Urban planning shall be carried out in accordance with provisions of legislation on urban planning.

#### Article 14. Requirements and principles for compliance with construction planning

1. Requirements for construction planning include:
  - a) Be consistent with objectives of strategy, master plan for socio-economic development; ensure national defense and security, create driving force for sustainable socio-economic development; be consistent with sectoral development planning; be open, transparent, ensure harmonious combination among interests of the nation, communities and individuals;
  - b) Organize, arrange territorial space on the basis of proper use and exploitation of natural resources, land, historical relic, cultural heritage and resources in accordance with natural, socio-economic conditions, historical and cultural characteristics, science and technology level at each stage of development;
  - c) Meet the demand for usage of infrastructure works system; ensure connectivity and unification of regional, national and international infrastructure works;
  - d) Environmental protection, prevention and protection against natural disaster, adaptation to climate change, mitigation of adverse impact to community, preserve, restore and promote the value of historic relic, cultural heritage, belief, religion; ensure synchronization of architectural space, system of social and technical infrastructure;
  - e) Establish basis for planning, investment management and construction investment attraction, management, exploitation and use of construction works in the region, specific functional areas and rural areas.
2. Principles for compliance with construction planning include:
  - a) Implementation of construction investment program and activity, management of space, architecture and landscape should comply with approved construction plan and suitable to mobilized resources;
  - b) Level of construction planning should ensure consistency and accordance with higher level planning.

#### Article 16. Responsibility for obtaining opinions on construction planning

1. Agency, investment owner that organizes construction planning shall be responsible for obtaining opinions from relevant agencies, organizations, individuals and communities on the tasks and construction planning projects.  
Concerned People's Committee shall be responsible for coordinating with construction planning agency, construction project investment owner in obtaining opinions.
2. For task and construction planning project under the approval authority of the Prime Minister, the Ministry of Construction shall be responsible for obtaining opinions from relevant ministries, agencies, other central organizations; Provincial People's Committees shall be responsible for obtaining opinions from relevant agencies, organizations, individuals and communities at localities.
3. The opinions should be fully compiled, explained, accepted and reported to competent state agency for consideration and decision.

#### Article 17. Form, time for obtaining opinions on construction planning

1. Obtaining opinions from concerned agency, organization and individual on construction planning task and scheme shall be done in the form of sending dossier, document or organizing conference and seminar. Agency, organization and individual that are requested for giving opinions shall be responsible for giving opinions in writing or directly.
2. Obtaining opinions from community on construction planning task and scheme shall be done by consultation with community representatives in the form of circulating questionnaire and conducting interview. The community representative shall be responsible for consolidating opinions from the community in accordance with provisions of legislation on conduct of grass root democracy.
3. Consultation with local community about zoning planning task and scheme, detailed construction plan and commune general construction plan, construction plan of rural residential areas shall be conducted by feedback sheet in the form of public display or introduction of planning scheme on mass media.
4. Time for consultation on construction planning shall be at least 20 days for agencies, 40 days for organizations, individuals and communities.
5. Construction planning agency, organization shall be responsible for considering and accepting opinions from consulted agencies, organizations and communities to complete construction planning task and scheme; in case of not accepting the opinion, there should be reply in writing and clearly state the reasons before approval of planning.
6. The Government shall provide in detailed for obtaining opinions on construction planning task and projects of agencies, organizations, individuals and communities concerned.

## Section 2 REGIONAL CONSTRUCTION PLANNING

Article 22. Regional construction planning and responsibility for organizing formulation of regional construction plan

1. Regional construction plan shall be made for following regions:
  - a) Inter-provincial region;
  - b) Provincial region;
  - c) Inter-district region;
  - d) District region;
  - e) Typical functional region;
  - e) Region along inter-provincial highways, economic corridors.
2. In construction planning scheme of inter-provincial region, provincial region, the planning of system of infrastructure works shall be specified through specialized infrastructure schemes.
3. Responsibility for organizing formulation of regional construction plan is stipulated as follows:
  - a) The Ministry of Construction takes lead in coordination with other concerned ministries, provincial People's Committees and agencies, organizations to organize the formulation of construction planning task and scheme of inter-provincial region, specific functional region, region along the highways, inter-provincial economic corridors;
  - b) Ministry in charge of management of specialized construction works shall organize formulation of technical infrastructure planning task and scheme of inter-provincial region.
  - c) Provincial People's Committee shall organize formulation of construction planning task and scheme of other regions of administrative units under their jurisdiction.

## Section 3 CONSTRUCTION PLANNING OF SPECIFIC FUNCTIONAL AREA

Article 24. Entity and responsibility for formulating construction plan of specific functional area

1. Construction plan of specific functional area shall be made for following functional areas:
  - a) Economic zone;
  - b) Industrial zone, export processing zone, hi-tech zone;
  - c) Tourist area, ecological area;
  - d) Reservation area; historical-cultural, revolutionary relic area;
  - e) Research and training area; sport area;

- e) Airport and seaport;
  - g) Technical infrastructure headworks;
  - h) Other typical functional areas that are defined in accordance with approved regional construction plan or are established by decision of competent state agency.
2. Responsibility for organizing formulation of construction plan for specific functional area shall be defined as follows:
- a) The Ministry of Construction shall organize formulation of construction planning task and scheme of national-level specific functional area;
  - b) Provincial People's Committee shall organize formulation of construction general planning task and scheme of specific functional area, except plan stipulated in point a item 2 of this Article and zoning planning task and scheme for specific functional area;
  - c) District People's Committees or investment owner of construction investment project shall organize formulation of detailed construction planning task and scheme for construction area under own management or investment.

#### Section 4 RURAL CONSTRUCTION PLANNING

Article 29. Subjects, levels and responsibilities to organize the formulation of rural construction planning

1. Rural construction planning is made for the subjects of districts and rural residential points.
2. Rural construction planning includes the following levels:
  - a) Construction master planning is made for the entire administrative boundaries of districts;
  - b) Construction detailed planning is made for rural residential points.
3. District People's Committee organizes the preparation of tasks and rural construction planning projects.

#### Section 6 ADJUSTMENT OF CONSTRUCTION PLAN

Article 35. Conditions for the adjustment of construction plan

1. Regional construction plan shall be adjusted in one of the following cases:
  - a) There is adjustment of regional master plan of socio-economic development, of sectoral development; of regulation on natural resources and environmental protection; of land use plan and schedule; of defense and security strategies; of driving force project for regional development;
  - b) There is change in the natural geographic condition, administrative boundary, large fluctuations in population and socio-economic affairs.
2. Construction plan of specific functional area shall be adjusted in one of the following cases:
  - a) There is adjustment of master plan of socio-economic development, of sectoral development planning of the region;
  - b) Formation of key projects of national significance exerting large impact on land use, environment, spatial arrangement of functional areas;
  - c) Construction plan has not been implemented or its implementation has caused adverse impact to socio-economic development, defense, security, social livelihood and environmental ecology, historical-culture relic and public opinion;
  - d) There is change in climate, geology, and hydrology;
  - e) To serve national interest and public interest.
3. Rural construction plan shall be adjusted in one of the following cases:
  - a) There is adjustment of socio-economic development plan of locality;
  - b) There is adjustment of regional construction plan;
  - c) There is adjustment of land use plan and schedule of locality;
  - d) There is change in geographic and natural conditions.

## Section 7

### ORGANIZATIONS OF IMPLEMENTATION OF CONSTRUCTION PLANNING

#### Article 40: Publication of construction planning

1. Within 30 days from the date of approval, construction planning project should be publicized.
2. Content for publication of construction planning includes basic content of construction planning scheme and management regulation for compliance with promulgated construction plan, except content related to defense, security and state secret.
3. Construction planning management agency shall be responsible for adequate update of implementation of approved construction planning scheme so that competent state agency shall promptly make publication to organizations, individuals for knowledge, supervision during implementation process.

#### Article 41. Responsibility for organizing publication of construction plan

1. For regional construction plan it is stipulated as follows:
  - a) The Ministry of Construction shall take lead in coordination with concerned provincial People's Committee to make publication of inter-provincial construction plan under approval authority of the Prime Minister;
  - b) Provincial People's Committee in planning region shall organize publication of regional construction plan under approval authority of the Prime Minister, except plans specified in point a of this item;
  - c) People's Committee at district, commune levels in planning region shall organize publication of regional construction plan under the approval authority of provincial People's Committee.
2. For construction masterplan of specific functional area, it is stipulated as follows:
  - a) The Ministry of Construction shall take lead in coordination with concerned provincial People's Committee to make publication of construction plan of inter-provincial specific functional area under approval authority of the Prime Minister;
  - b) People's Committee at all levels shall be responsible for making publication of construction master plan of specific functional area within administrative boundaries under own management.
3. People's Committee at all levels shall be responsible for making publication of approved zoning construction planning scheme and detailed construction plan scheme for specific functional area within administrative boundaries under own management for people to implement and to supervise implementation.
4. District People's Committee shall organize the publication of construction planning of districts and rural residential points.
5. Within 30 days from the date of approval of construction plan, People's Committee at all levels shall be responsible for making publication of construction plan.
6. Person responsible for making publication of construction plan, if fails to make publication or delays in making publication, makes wrong publication of content of approved construction plan, subject to nature, level of violation, shall be disciplined, liable to prosecution, if causing damage, shall pay compensation as stipulated by law.

#### Article 42. Form of making publication of construction plan

1. Approved construction planning scheme should be publicized on the website of state management agency on construction planning.
2. Apart from the publication as specified in item 1 of this Article, the competent person shall make decision on the form of publication of construction plan as follows:
  - a) Organize conference of publication of construction plan with representatives of relevant organizations and agencies, the Viet Nam Fatherland Front, representatives of citizens in planning area, press and media agency;
  - b) Make public regular constant exhibition of panels, drawings, models at public place, construction planning management agency of all levels, at commune People's Committee in regard to detailed construction plan;

- c) Publish and disseminate widely construction planning map, regulation of management of approved construction plan.

Article 44. Construction setting out on the site

1. Setting out on the site shall be done for construction master planning scheme, construction zoning planning scheme and construction detailed planning scheme.
2. Setting out in accordance with approved construction plan shall include redline, right of way line, construction altitude, boundary of construction-prohibited area in accordance with approved setting out dossier.
3. After construction planning scheme has been approved by competent state agency, People's Committees at all levels shall have following responsibilities:
  - a) Organize formulation of and approve setting out dossier in accordance with approved construction plan scheme. Time for formulation and approval of setting out dossier shall not exceed 30 days from the date of approval of the construction plan. Setting out on the site should be completed within 45 days from the date of approval of setting out dossier;
  - b) Implement setting out on the site for construction detailed planning scheme after selection of investment owner has been done.
4. Responsibility for organizing, implementing setting out on the site is stipulated as follows:
  - a) Provincial People's Committees shall guide implementation of construction setting out for construction planning scheme within administrative boundaries under own management;
  - b) District People's Committees shall organize implementation of construction setting out for construction planning scheme within administrative boundaries under own management;
  - c) Commune People's Committees shall organize implementation of construction setting out for construction planning scheme within administrative boundaries under own management.
5. Setting out dossier shall be formulated by professional units.
6. Stakes for Setting out should ensure durability, have standard size and shall be recorded with indicators as stipulated, easily identifiable and safe for people, transport means and suitable with topography, geomorphology of setting out area.
7. Commune People's Committee shall be responsible for protecting stakes on site.
8. Construction planning management agency shall archive approved setting out dossier and be responsible to provide documents related to stakes to organization, individual when required.
9. When construction plan is adjusted, setting out shall be performed in accordance with the adjusted plan.
10. Person who commits act of wrongly setting out construction layout, construction altitude, location, or of relocating, vandalizing stakes, construction altitude, depending on nature and seriousness of violation, shall be disciplined, penalized for administrative violation, liable to prosecution, compensate if causing damage, in accordance with the law.

Chapter III  
BUILDING CONSTRUCTION INVESTMENT PROJECT  
Section 1  
GENERAL PROVISIONS

Article 51. Requirements for construction investment project

Construction investment project, regardless of the type of funding source, should meet following requirements:

1. In accordance with socio-economic development master plan, sectoral development plan, construction plan, and land use plan and schedule in locality where construction project is implemented.
2. There are suitable technology alternative and construction design alternative available.
3. Ensure quality and safety in construction, operation, exploitation and use of works, prevention and protection against fire, explosion and environmental protection, adaptation to climate change.
4. Ensure provision of adequate capital in accordance with project schedule, financial efficiency, and socio-economic efficiency of project.
5. Comply with provisions of other relevant legislation.



Section 2  
ESTABLISHMENT, APPRAISAL OF PROJECT  
AND DECISION OF CONSTRUCTION INVESTMENT

Article 56. Appraisal of construction investment project

1. Construction investment project should be appraised before making investment decision.
2. Dossier submitted for appraisal of construction investment projects shall include:
  - a) Request letter for project appraisal by investment owner;
  - b) Construction investment feasibility study report or construction investment technical-economic report;
  - c) Related documents and materials.
3. Content of project appraisal shall be as stipulated in Article 58 of this Law.

Article 57. Authority for appraisal of construction investment project

1. For project of national importance, the State Appraisal Council established by the Prime Minister shall be responsible for appraisal of construction investment pre-feasibility study report, construction investment feasibility study report.
2. For project using state budget capital, construction professional agency according to hierarchical order shall be responsible for organizing appraisal of content as stipulated in Article 58 of this Law.
3. For project using state extra-budget funding, authority for appraisal of construction investment project is stipulated as follows:
  - a) Construction professional agency according to hierarchical order shall be in charge of appraisal of basic design as stipulated in points a, b, d, d', e, f and g, item 2, Article 58 of this Law;
  - b) Professional agencies under investment decision maker shall be in charge of appraisal of technology design (if any), and other content of construction investment feasibility study report.
4. For project funded by other sources, authority for appraisal of construction investment project is stipulated as follows:
  - a) Construction professional agency according to hierarchical order shall make appraisal of basic design of construction investment project of special class, class 1, public works, construction works exerting large impact on landscape, environment and community safety. Professional agency under investment decision maker shall be in charge of appraisal of technology design (if any), and other content of construction investment feasibility study report;
  - b) For project using other funding that is not specified in point a of this item, project appraisal shall be made by investment decision maker;
  - c) Project implemented in the form of project contract, public-private partnership agreement with state share, construction professional agency according to hierarchical order shall be in charge of appraisal of project basic design. Competent state agency as stipulated by law on investment shall make appraisal of other contents in the construction investment feasibility study report.
5. For construction project that only requires formulation of construction investment technical-economic report, authority for appraisal of construction investment project is stipulated as follows:
  - a) In case of using state budget funding, professional construction agency shall be responsible for conducting appraisal of contents of construction investment technical-economic report as stipulated in item 4, Article 58 of this Law;
  - b) In case of using state extra-budget funding, construction professional agency according to hierarchical order shall make appraisal of execution drawing design and construction cost estimate. Professional agency under investment decision maker shall make appraisal of the technology design (if any), and other contents of construction investment technical-economic Report.
  - c) In case of using other sources of funding, investment decision maker, investment owner shall organize on own account appraisal of execution drawing design, construction estimate, except construction works of special class, class 1 and works exerting large impact to landscape, environment and safety of the community and shall be solely responsible for own appraised content.

6. Construction investment project with requirement on prevention and protection against fire and explosion, environmental protection, ensuring national defense and security should be appraised by competent state agency.
7. Construction professional agency, investment decision maker shall be allowed to invite organization and individual having expertise and experience to be involved in appraisal of project or to ask investment owner to select organization and individual having adequate qualification in construction operation, professional practice who has been registered on electronic information website on qualification in construction operation under provisions of this Law to verify project, as the basis for project appraisal and approval. The cost for verification, fee for appraisal of project and basic design shall be incorporated in total project investment cost.
8. Lead agency for appraisal shall be responsible for consolidating project appraisal result to submit to competent investment decision maker for consideration and decision.
9. Organization and individual involved in appraisal, verification of project shall be responsible before the law for own appraisal, verification result. Organization and individual shall not be allowed to participate in appraisal and verification of project which has been formulated by them.

#### Article 58. Content of appraisal of construction investment project

1. Appraisal of construction investment project includes appraisal of basic design and other contents of construction investment feasibility study report.
2. Content of basic design appraisal includes:
  - a) Appropriateness of basic design to construction detailed plan; approved general layout or line of works that was selected for works built in line;
  - b) Appropriateness of basic design to location of construction site, ability of connection to infrastructure in the area;
  - c) Appropriateness of the technology alternative, technological line selected to works with requirement of technology design;
  - d) Appropriateness of design solutions to ensure construction safety, environmental protection, prevention and protection against fire and explosion;
  - d') Compliance with technical standards and codes in design;
  - e) Condition of qualification in construction operation of organization, qualification in practice of individual consultant making the design;
  - g) Appropriateness of solution for implementation of project in phases, works items to requirement of basic design.
3. Other contents of construction investment feasibility study report to be appraised include:
  - a) Assessment of rationale of construction investment including suitability to investment policy, ability to meet increased demands of scale, capacity, capability of exploitation and utilization to meet requirements of socio-economic development, ensuring national defense and security in each period;
  - b) Assessment of factors ensuring feasibility of project, including suitability to sectoral development plan, construction plan; ability to meet the need of land use, building site clearance; need to use resources (if any), ensuring input factors and meeting outputs of project product; solution for organization of implementation; management experience of investment owner; solution for environmental protection; prevention and protection against fire and explosion; ensuring national defense, security and other factors;
  - c) Assessment of factors ensuring effectiveness of project, including total investment cost, progress of project implementation; operational exploitation cost; ability to mobilize capital as required by progress, risk analysis, financial performance and socio-economic efficiency of project.
4. For project that only requires construction investment technical-economic report as stipulated in item 3, Article 52 of this Law, the content of appraisal includes:
  - a) Assessment of rationale of investment, scale; implementation time; total investment cost, socio-economic efficiency;
  - b) Consideration of factors that ensure feasibility, including demand for land use, site clearance possibility; factors affecting works such as defense, security, environment and provisions of other relevant legislation;

- c) Rationality of building construction design solution; compliance with applicable technical standards, codes, stipulation of the law for use of building materials for construction; rationality of selection of technology line and equipment for design of works with technology requirements; compliance with regulation on environmental protection, prevention and protection against fire and explosion;
- d) Assessment of suitability of design solution of works to functional use of works, the level of building safety and ensuring safety towards neighboring buildings;
- d') Assessment of conformity between volume of estimate and volume of design; correctness and rationality of the application, deployment of norms, building construction unit cost; determination of the estimated value of works;
- e) Construction operation qualification of organization, individual to carry out survey, construction design, formulation of construction investment technical-economic report.

#### Article 61. Adjustment of construction investment project

1. Cases in which construction investment project using state budget funding could be adjusted include:
  - a) Due to impact of natural disaster, environmental incident, enemy-inflicted destruction, fires and other force majeure factors;
  - b) Appearance of factor that brings about greater efficiency for project after being proven by investment owner for financial, social, economic efficiency created by adjustment of project;
  - c) When change in the construction plan causes direct impact to project;
  - d) When construction price index announced by the Ministry of Construction, provincial People's Committee during implementation of project is greater than that which is used to calculate inflation contingency in approved total investment capital.
2. Adjustment of project using state budget funding shall be decided by investment decision maker.
3. Adjustment of project using other sources of funding shall be decided by investment decision maker on the basis of ensuring meeting requirements on planning, safety, environmental protection, prevention and protection against fire and explosion, national defense, security accepted by competent state agency.
4. In case adjustment of project causes change in objective, scale, construction location, it should be accepted by competent state agency.
5. Adjustment of construction investment project should be appraised and approved.
6. The Government shall provide in detail for preparation, appraisal, approval, adjustment of the construction investment project.

#### Section 4

#### RIGHTS AND OBLIGATIONS OF INVESTMENT OWNER, CONSTRUCTION INVESTMENT PROJECT MANAGEMENT BOARD, CONSULTANT CONTRACTOR AND INVESTMENT DECISION MAKER

#### Article 68. Rights and obligations of investment owner in the preparation and implementation management of construction investment project

1. Investment owner has following rights:
  - a) Prepare, manage project when having adequate qualification in accordance with this Law;
  - b) Require relevant agency, organization to provide information, document for preparation, management of project;
  - c) Select and sign contract with consultant contractor for preparation, management of project;
  - d) Organize formulation, management of project; make decision on establishment, dissolution of management board of a construction investment project within own jurisdiction;
  - e) Other rights stipulated by law.
2. Investment owner has following obligations:
  - a) Determine requirement, content of task for project formulation; provide information, document needed in case of hiring consultant to formulate project; organize acceptance of result of project formulation and archive dossier of construction investment project;

- b) Select consultant organization to formulate project that has adequate qualification as stipulated by this Law;
- c) Be responsible for legal basis, accuracy of information, material provided to consultant for project formulation; submit project to competent agency for approval as stipulated by law;
- d) Select consultant organization, individuals that has adequate qualification, experience to verify project at request of project appraisal agency, organization and of investment decision maker;
- d') Organize management of project in accordance with stipulation of Article 66 of this Law;
- e) Control, supervise project implementation; conduct periodic report on project implementation to investment decision maker, competent state agency;
- g) Make capital recovery, repayment of loan for project that requires capital recovery, loan repayment;
- h) Other obligations as stipulated by law.

Article 72. Rights and responsibilities of construction investment decision maker

1. Construction investment decision maker has following rights:

- a) Approve or authorize approval of project, design, construction estimates and clearance of final account of construction investment capital;
- b) Not approve project when it fails to meet investment objective and project performance;
- c) Suspend implementation of construction investment project that has been approved or has been underway, if required in accordance with provisions of law;
- d) Change, adjust construction investment project, if necessary in accordance with provisions of Article 61 of this Law;
- d') Other rights as stipulated by law.

2. Construction investment decision maker has following responsibilities:

- a) Organize appraisal of project and make decision on construction investment;
- b) Ensure source of funding for implementation of construction investment project;
- c) Control construction investment project of investment owner; organize supervision, assessment of construction investment project in accordance with provisions of Article 8 of this Law;
- d) Approve clearance of final account of completed construction investment capital;
- d') B responsible before the law for own decisions;
- e) Other obligations as stipulated by law.

Chapter IV  
CONSTRUCTION SURVEY AND CONSTRUCTION DESIGN  
Section 1  
CONSTRUCTION SURVEY

Article 73. Type of construction survey

1. Topographic survey.
2. Construction works geological survey.
3. Hydro-geological survey.
4. Construction works status quo survey.
5. Other survey work to serve construction investment activity determined by investment decision maker.

Article 74. Requirement for construction survey

1. Survey task, technical alternative of construction survey should be formulated in accordance with type, class of construction works, type of survey, design step and requirement of preparation of construction design.
2. Technical alternative for construction survey should meet requirement of task of construction survey and comply with applicable technical standards, codes for construction survey.
3. Construction survey should comply with technical alternative for construction survey, ensure safety and environmental protection, meet requirement of approved construction survey task and shall be controlled, supervised, accepted as per stipulation.

4. Construction survey result should be made into report, ensure faithfulness, objectivity, reflecting true reality and should be approved.
5. Construction survey contractor should have adequate qualification in accordance with type, class of construction works, type of survey.

#### Article 76. Rights and obligations of investment owner in construction survey

1. Investment owner has following rights:
  - a) Implement construction survey when having adequate qualification;
  - b) Negotiate, sign construction survey contract; supervise, ask construction survey contractor to comply with signed contract;
  - c) Approve construction survey tasks, technical alternative made by design consultant or by survey contractor and assign survey task to construction survey contractor;
  - d) Adjust construction survey task following reasonable request of construction design consultant;
  - d') Suspend implementation or terminate construction survey contract as stipulated by law;
  - e) Other rights as stipulated by law.
2. Investment owner has following obligations:
  - a) Select construction survey contractor, supervise construction survey in case of being not able to conduct construction survey, construction survey supervision on own account;
  - b) Provide to construction survey contractor information, document related to survey;
  - c) Determine requirement for survey and ensure condition for survey contractor performance;
  - d) Comply with signed construction survey contract;
  - d') Organize supervision of construction survey work; accept, approve survey result as stipulated by law;
  - e) Compensate for damage if providing inappropriate information, material, violating construction survey contract;
  - g) Other obligations as stipulated by contract and by relevant law.

## Section 2 CONSTRUCTION DESIGN

#### Article 78. General provisions on construction design

1. Construction design includes preliminary design in pre-feasibility study report, basic design in feasibility study report, engineering design, execution drawing design in the phase of project implementation and other design steps (if any) under international convention.
2. Construction design shall be performed in one or more steps depending on the size, nature, type and class of construction works. Investment decision maker shall make decision of number of design steps when approving construction investment project.
3. Design of building construction shall be done in sequence of one step or multiple steps as follows:
  - a) One-step design is execution drawing design;
  - b) Two-step design includes basic design and execution drawing design;
  - c) Three-step design includes basic design, engineering design and execution drawing design;
  - d) Design in other steps (if any).
4. Construction design dossier following basic design shall include design description, design drawing and relevant construction survey document, building construction estimate and technical instructions (if any).
5. The Government shall provide in detail for construction design steps, appraisal and approval of construction design.

#### Article 79. Requirements for construction design

1. Meet requirements of design task; be in accordance with approved content of construction project, construction plan, architecture landscape, natural, cultural-social conditions at construction area.
2. Content of building construction design should meet requirement of each design step.
3. Comply with applicable technical standards, codes, provisions of legislation on use of building materials, meet the requirement of functional utility, applied technology (if any); ensure load bearing

- safety, safety in use, aesthetics, environmental protection, response to climate change, prevention and protection against fire, explosion and other safety conditions.
4. Have appropriate design solution with reasonable construction cost; ensure comprehensiveness in each works and related works; ensure condition of comfort, hygiene and health for user; facilitate the use for people with disability, elderly, children. Fully exploit advantages and limit disadvantages of natural conditions; give priority to use of local materials, materials friendly to environment.
  5. Construction design should be appraised, approved under provisions of this Law, except as stipulated in item 7 of this Article.
  6. Construction design contractor should have adequate qualification appropriate to the type, class of works and job performed.
  7. Construction design of individual residential building is defined as follows:
    - a) Construction design of individual residential building shall meet design requirements specified in item 3 of this Article;
    - b) Household shall be allowed to design individual residential building having total construction floor area of less than 250 m<sup>2</sup> or less than 3 stories or less than 12 meters in height, in accordance with approved construction plan and take responsibility before the law on design quality, impact of construction works on environment and safety of adjacent buildings.

Article 82. Authority for appraisal, approval of engineering design, execution drawing design and construction estimate

1. For construction works using state budget it is stipulated as follows:
  - a) Construction professional agency shall according to hierarchical order be in charge of appraising engineering design, construction estimate in case of two-step design;
  - b) Investment decision maker shall approve engineering design, construction estimate in case of three-step design; approve execution drawing design, construction estimate in case of two-step design. Investment owner shall approve execution drawing design in case of three-step design.
2. For construction works using non-state budget it is stipulated as follows:
  - a) Construction professional agency shall according to hierarchical order be in charge of appraising engineering design, construction estimate in case of three-step design; execution drawing design, construction estimate in case of two-step design. The design of technology and others (if any) shall be appraised by professional agency under the investment decision maker.
  - b) Investment decision maker shall approve engineering design, construction estimate in case of three-step design, investment owner shall approve execution drawing design. For the case of two-step design, investment owner shall approve execution drawing design, construction estimate of works.
3. For construction works for which other source of capital is used it is stipulated as follows:
  - a) Construction professional agency shall according to hierarchical order be in charge of appraising engineering design in case of three-step design, execution drawing design in case of two-step design for construction works of special class, class I, public buildings, construction works exerting large affect on landscape, environment and community safety. The design of technology (if any), construction estimate shall be appraised by professional agency under the investment decision maker.
  - b) Professional agency under investment decision maker shall appraise engineering design, execution drawing design and construction estimate for remaining construction works.
  - c) Investment decision maker, investment owner shall approve design, construction estimate.
4. Construction professional agency, investment decision maker are allowed to invite organization, individual having professional knowledge, experience to take part in appraising construction design or shall require investment owner to select organization, individual having operation qualification, practicing qualification who has been registered on the webpage on construction operation qualification to verify design, construction estimate as the basis for the appraisal, approval of design, construction estimate. The cost for verification, fee for appraising design, construction estimate shall be incorporated in the total investment cost of the project.

5. State agency authorized by law shall be responsible for appraisal on environment, prevention and protection against fire, explosion and other matters according to the law when appraising construction design.
6. Agency, organization, individual conducting verification, appraisal, approval of design, construction estimate shall be held responsible before the law for the result of verification, appraisal, approval of design, construction estimate on own account.

#### Article 84. Adjustment of construction design

1. Construction design which has been approved shall be only allowed to be adjusted in following cases:
  - a) When adjustment of construction investment project requires construction design adjustment;
  - b) During construction execution process there is a requirement for adjustment of construction design to ensure works quality and project effectiveness.
2. When adjusting construction design in accordance with item 1 of this Article causing changes in building geology, design load, structural solution, material of load bearing structure, execution organization measure affecting load bearing safety of construction works, the adjustment should be appraised and approved according to stipulation in Article 82 of this Law.

#### Article 85. Right and obligation of investment owner in construction design

1. Investment owner has the following rights:
  - a) Make on own account construction design when having adequate operation qualification, practicing qualification appropriate to type and class of construction works;
  - b) Negotiate, sign construction design contract; supervise and ask design contractor to follow properly the signed contract;
  - c) Require construction design contractor to revise, supplement design or select another design contractor to conduct revision, supplement or change of design in case the previous design contractor refused to do it.
  - d) Suspend the implementation or terminate construction design contract in accordance with the contract and stipulation of related laws;
  - d') Other rights in accordance with the contract and stipulation of related laws.
2. Investment owner has following obligations:
  - a) Select construction design contractor in the case not able to make construction design on own account;
  - b) Determine construction design task;
  - c) Provide adequate information, document to construction design contractor;
  - d) Comply properly with the signed construction design contract;
  - d') Submit for appraisal, approval the design, construction estimate and pay fee for appraisal of design, construction estimate;
  - e) Archive construction design dossier;
  - g) Compensate for damage when violating construction design contract;
  - h) Other obligations as stipulated by construction design contract and stipulation of related law.

### CHAPTER V CONSTRUCTION PERMIT

#### Article 89. Target and types of permit

1. Before starting construction, investment owner has to have construction permit issued by competent state agency in accordance with stipulation of this Law, except case as provided in item 2 of this Article.
2. Works that are excepted from construction permit include:
  - a) Works of state secret, construction works at emergency command and works located in the territory of two or more provincial administrative units;
  - b) Works under construction investment project approved by Prime Minister, Minister, Leader of Minister-level agency, Chairman of People's Committee at different levels for investment.
  - c) Temporary construction works serving execution of main works.

- d) Construction works lined outside of urban area, which is in accordance with construction plan approved by competent state agency or accepted by competent state agency for the line of works;
  - d') Construction works under projects of industrial park, export processing zone, high-tech park having detailed urban plan at 1/500, which has been approved by competent state agency and construction design appraised in accordance with stipulation of this Law;
  - e) Residential building under urban development project, housing development project with the size of below 7 stories and total floor area of below 500 m<sup>2</sup> having detailed urban plan at 1/500 which has been approved by competent state agency;
  - g) Construction works under repair, renovation, installation of equipment inside which do not change load bearing structure, nor functional uses, nor affect the environment, works safety;
  - h) Construction works under repair, renovation which change the architectural appearance but not adjacent to urban street with architecture management requirement;
  - i) Technical infrastructure works in rural area which only requires formulation of technical-economic construction investment Report and where there is no any approved detailed urban plan for rural settlement;
  - k) Construction works in rural area where there is no urban development plan nor detailed urban plan approved; individual dwelling house in rural area, except those constructed in preservation, historical-cultural heritage areas;
  - l) Investment owner of construction works exempted from construction permit in accordance with points b, d, d' and i of this item shall be responsible for giving notice on the time of construction commencement together with construction design dossier to local construction management agency for monitor and dossier archiving.
3. Construction permit shall include:
- a) Permit for new construction;
  - b) Permit for repair, renovation;
  - c) Permit for works relocation.
4. Works of special class and class 1 shall be granted with construction permit in stages when there is construction design appraised in accordance with stipulation of this Law.
5. For construction investment project comprising many works, construction permit shall be granted for one, some or all works under the project when the infrastructure part of the works construction area has been executed in accordance with the construction plan approved by competent state agency.

#### Article 102. Procedure for issuing, reissuing, revision and extension of construction permit

1. Procedure for issuing construction permit and revision of construction permit shall be stipulated as follows:
- a) Investment owner shall submit 02 sets of dossier requesting construction permit issuance to construction permit issuance competent agency;
  - b) Construction permit issuance competent agency is responsible for receiving dossier from organization, individual requesting issuance, revision of construction permit; checking dossier; giving out receipt when dossier meets requirement or guiding investment owner to complete dossier in case of non-meeting requirement;
  - c) Within 07 working days from the date of receiving dossier, construction permit issuance competent agency shall conduct the appraisal of dossier, check of site. When appraising dossier, construction permit issuance competent agency shall ascertain any missing document, document not in accordance with stipulation nor with the practice, in order to give notice once in writing to investment owner to supplement, complete the dossier. In case the supplemented document does not meet requirement as set out in the notice, within 05 working days, the competent agency shall give notice in writing to guide the investment owner to further complete dossier.
  - d) Based on the size, nature, type of works and location of construction specified in the dossier for requesting construction permit issuance, construction permit issuance competent agency shall review against conditions as stipulated in this Law in order to send request in writing to state management agencies to get opinions on subjects relevant for the construction works in accordance with the law.



- d') Within 12 days for works and individual residential buildings from the date of receiving dossier, state management agencies being asked for opinions shall reply in writing on contents under their management obligations. After that time, if these agencies do not have opinions, it could be assumed that they have agreed and they shall be held responsible for contents under their management obligations; construction permit issuance agency shall based on current stipulations decide the issuance of construction permit.
  - e) From the date of receiving adequate suitable dossier, construction permit issuance competent agency shall review dossier for issuance of permit within 30 days for construction permit issuance, including construction permit with time limit, construction permit revised, permit for relocation and within 15 days for individual residential building. In case when the deadline of permit issuance is approaching, but there is some more time needed, the construction permit issuance agency has to give notice in writing to investment owner on the reason, at the same time to report to competent levels of immediate management for consideration and instruction for implementation, but not exceeding 10 days from the deadline as stipulated in this item.
2. Procedure for extension, reissuance of construction permit is stipulated as follows:
    - a) Investment owner shall submit 02 sets of dossier requesting extension, reissuance of construction permit to construction permit issuance competent agency;
    - b) Within 05 working days from the date of receiving adequate suitable dossier, the construction permit issuance competent agency shall consider extension of construction permit or reissuance of construction permit.
  3. Receipt of result, paying fee for construction permit issuance are stipulated as follows:
    - a) Investment owner shall receive construction permit together with design dossier submitted for construction permit issuance application having stamp of the construction permit issuance competent agency in the place where dossier is accepted according to the deadline set out in the receipt;
    - b) Investment owner shall pay fee in accordance with stipulation when submitting dossier requesting construction permit issuance.
  4. In case the dossier is not qualified for construction permit issuance within the time stipulated in item 2 of this Article, construction permit issuance competent agency shall give notice in writing to investment owner about reason. If the deadline set out in the receipt is over without response by the competent agency, investment owner shall be allowed to start execution of construction works in accordance with design dossier which has been appraised, approved in the application dossier for construction permit issuance.
  5. The Government shall provide in detail for application dossier for construction permit issuance, extension, reissuance, withdrawal of construction permit for each type of construction permit, each type of construction works.
  6. Minister of Construction shall provide in detail for application template, design drawing in the application dossier for construction permit issuance.

#### Article 104. Responsibility of construction permit issuance competent agency

1. Announce publicly and explain, advice stipulations of the law on construction permit issuance.
2. Monitor, return result or give notice to investment owner about dossier not qualified for construction permit issuance.
3. Issue construction permit in accordance with procedure and within stipulated time as set out in Article 102 of this Law.
4. Be in charge of and coordinate with relevant functional agency the check of construction execution in accordance with construction permit; to suspend, withdraw construction permit as per competence when investment owner violates seriously during construction process.
5. Construction permit issuance competent person shall be responsible before the law and compensate for damage caused by wrong or delayed issuance of permit in accordance with the law.

#### Article 105. Responsibility of agency, organization related to construction permit issuance

1. To exercise obligations as stipulated in point d, item 1, Article 102 of this Law.

2. To take necessary measures when receiving notice from competent agency treating violation toward construction works not according to the plan, construction without construction permit or not properly as stipulated by construction permit issued.

CHAPTER VI  
BUILDING CONSTRUCTION  
Section 1  
PREPARATION FOR BUILDING CONSTRUCTION

Article 107. Condition for commencement of building construction

1. Start of building construction should ensure following conditions:
  - a) There is site space for construction which could be transferred wholly or in part according to construction schedule;
  - b) There is construction permit for works as stipulated to have construction permit in accordance with stipulation in Article 89 of this Law;
  - c) There is execution drawing design of the works items, works to be commenced which has been approved and investment owner has checked, certified on drawings;
  - d) There is construction execution contract signed between investment owner and selected contractor;
  - d') There is adequate capital arrangement according to construction schedule;
  - e) There are measures for safety, environment protection during construction execution.
2. The construction commencement for individual residential building should only meet conditions as stipulated in point b, item 1 of this Article.

Article 108. Preparation of construction site

1. Land acquisition, land allocation, land lease, compensation, site clearance for construction shall be dealt with in accordance with stipulation of the law on land. People's Committee at different levels shall guide and arrange compensation, support for site clearance, resettlement for construction investment project in accordance with the law.
2. Time for construction site clearance should meet requirement of project implementation progress which has been approved or decided by competent person.
3. Transfer of the whole or part of construction site for execution shall be agreed upon between investment owner and execution contractor.
4. It is to ensure funding for compensation, support for site clearance, resettlement (if any).

Article 109. Requirement for construction site

1. Investment owner is responsible for installation of works notice board at construction site, except individual residential building with the size of below 07 floors. The content of the notice board includes:
  - a) Name, size of works;
  - b) Date of commencement, date of completion;
  - c) Name, address, telephone number of investment owner, execution contractor, construction design organization and construction execution supervision organization or individual;
  - d) Perspective drawing of works.
2. Construction execution contractor is responsible for management of the entire construction site in accordance with the law, except the case investment owner arranges the management. The content of construction site management includes:
  - a) Surrounding construction site there should be fencing, guardroom, notice board easy to see, easy to notice to ensure separation between construction site and the outside;
  - b) Arrangement of construction site within the area of execution of works should be in accordance with design drawing of general execution layout approved and specific conditions of the construction location.
  - c) Material, equipment awaiting installation should be arranged tidily in accordance with design drawing of general execution layout;

- d) Within construction site there should be notice boards indicating total layout scheme, safety, prevention and protection against fire and explosion and other necessary notice boards.
3. Construction execution contractor should have measures to ensure safety for persons and equipment coming in and out of construction site, appropriate collection and treatment of construction waste, not affecting adversely the environment surrounding construction site.

## Section 2 BUILDING CONSTRUCTION EXECUTION

### Article 111. Requirement for building construction execution

1. Follow approved construction design, technical standards, codes applicable for works, stipulation of law on use of building material; ensure load bearing safety, safety in use, aesthetics, environment protection, prevention and protection against fire and explosion and other safety conditions as stipulated by law.
2. Ensure safety for construction works, people, execution equipment, underground works and adjacent works; have necessary measures to limit damage to assets and people once incident occurs during construction execution.
3. Take particular technical safety measure for works items, work that require strict safety at work and against fire and explosion.
4. Use material, building material in proper type, specification, amount as required by construction design, ensuring economical use during construction execution.
5. Conduct check, supervision and acceptance of construction outcome, important execution stage when necessary, acceptance of works item, completed works for operation and use.
6. Contractor for building construction execution should have adequate qualification appropriate to type, class of works and nature of construction.

### Article 112. Right and responsibility of investment owner in building construction execution

1. Investment owner has following rights:
  - a) Execute on own account building construction when have adequate qualification in building construction execution or to select contractor for construction execution;
  - b) Negotiate, sign contract for construction execution; supervise and require contractor of construction execution to follow properly signed contract;
  - c) Suspend execution or terminate contract with contractor of construction execution in accordance with the law and construction contract;
  - d) Suspend building construction execution, require contractor of construction execution to remedy consequence when violating stipulations on works quality, safety and environment protection;
  - d') Require relevant organization, individual to coordinate during building construction execution;
  - e) Other rights as stipulated by the law.
2. Investment owner has following obligations:
  - a) Select contractor who has adequate qualification in construction execution appropriate to type, class of works and nature of construction;
  - b) Coordinate, participate together with People's Committees at different levels in conducting compensation for damage, site clearance for construction in order to transfer to contractor of construction execution;
  - c) Organize supervision and quality management during building construction execution appropriate to form of management of project, construction contract;
  - d) Check execution measure, measure for safety, environmental hygiene;
  - d') Organize acceptance, payment, account clearance for works;
  - e) Hire qualified consultant organization to verify quality of works when necessary;
  - g) Consider, decide proposals related to design of contractor during construction execution;
  - h) Archive dossier of building construction
  - i) Be responsible for quality, origin of material, building material, equipment, construction products provided on own account and used in construction works;
  - k) Compensate for damage caused by contract violation and other violation acts on own account

- l) Other obligations as stipulated by the law.

Section 3  
SUPERVISION OF CONSTRUCTION EXECUTION, ACCEPTANCE, TRANSFER OF  
CONSTRUCTION WORKS

Article 120. Supervision of building construction execution

1. Construction works shall be supervised for quality, volume, progress, work safety and environment protection during construction execution.

The State encourages construction execution supervision for individual dwelling house.

2. Supervision of building construction execution should meet following requirements:
  - a) Supervision shall be conducted throughout execution process from construction commencement, during execution until completion and acceptance of work, of construction works;
  - b) Construction execution of works shall be supervised according approved construction design, applicable standards, technical codes, stipulation on management, use of building material, technical specification and construction contract;
  - c) Faithful, objective, free of corruption.
3. Construction execution supervision contractor selected shall have proposal on supervision solution and procedure of control of quality, volume, progress, work safety, environment protection, procedure for check and acceptance, measure for dossier management during supervision process and other necessary content.

Article 121. Right and responsibility of investment owner in supervision of building construction execution

1. Investment owner has following rights:
  - a) Conduct supervision of building construction execution on own account when having adequate qualification for supervision of building construction execution and be responsible for own supervision;
  - b) Negotiate, sign contract for supervision of building construction execution; monitor, supervise and require contractor of supervision of building construction execution to follow properly signed contract;
  - c) Change or require consultant organization to change supervising personnel in case this person does not comply with stipulation;
  - d) Suspend or terminate contract for supervision of building construction execution as stipulated by the law;
  - d') Other rights in accordance with contract and stipulation of relevant law.
2. Investment owner has following obligations:
  - a) Select supervision consultant having adequate qualification appropriate to type, class of works for signing contract of supervision of building construction execution in case of being not able to conduct on own account supervision of building construction execution;
  - b) Give notice to relevant parties on right and responsibility of supervision consultant;
  - c) Deal promptly with proposals of supervisor;
  - d) Exercise adequately responsibilities as agreed in contract for supervision of building construction execution;
  - d') Archive result of supervision of building construction execution;
  - e) Compensate for damage when selecting wrongly supervision consultant having no qualification for supervision of building construction execution, conducting wrong acceptance of volume, making wrong design and other violation causing damage on own account;
  - g) Other obligations in accordance with stipulation of contract and of related law.

**Article 127. Suspension of use of construction works**

1. Investment owner, proprietor of works or competent state agency shall decide suspension of use of construction works when works run out of useful life, are in danger of safety failure, incident affecting safety of users, safety of adjacent works, environment and community.

2. When deciding suspension of use for works under common use, investment owner, proprietor of works or competent state agency shall give notice in writing to organizations, individuals, households using works about own decision.
3. Use of construction works shall be continued only when remedy of incident has been done or dangers causing safety failure have been removed. In case works running out of useful life, if required further to be in use, owner or user shall conduct quality verification, consolidation, renovation, repair of damage (if any) to ensure safety, use function of works.

CHAPTER VII  
CONSTRUCTION INVESTMENT COST AND CONSTRUCTION CONTRACT  
Section 1  
MANAGEMENT OF CONSTRUCTION INVESTMENT COST

**Article 132. Principle for management of construction investment cost**

1. Management of construction investment cost should ensure investment objective, project effectiveness, in accordance with procedure of construction investment, source of capital used. Construction investment cost should be calculated correctly, adequately for to each project, works, construction package in accordance with design requirement, construction condition and market price level.
2. The State exercises management of construction investment cost through issuance, guidance, check for compliance of stipulations of law; guidance of method for establishment and management of construction investment cost, quantity survey of works, price of machinery and equipment shift, adjustment of construction estimate, construction index, control of cost in construction investment; guidance and management of granting construction valuation certificate; announcement of construction criteria, norms, construction price index.
3. Investment owner is responsible for management of construction investment cost from the stage of project preparation until construction completion and putting project into operation and use within the approved total investment capital. Investment owner is allowed to hire consultant organization, individual for cost management having adequate qualification for establishment, verification and control of construction investment cost.
4. Inspection, check, audit of construction investment cost shall be conducted based on condition, method for defining construction investment cost which has been accepted by investment decision maker, investment owner in accordance with stipulations, guidance of establishment, management of construction investment cost and procedure of construction investment.
5. Construction investment cost of projects for which state budget is used shall be defined in accordance with stipulation on establishment and management of construction investment cost.

**Article 136. Construction norm, price and construction price index**

1. Construction norm system consists of technical-economic norm and cost norm. Construction price of works includes detailed construction unit price and general construction price for group, type of construction work, structural unit, part of works or works.
2. Construction unit price of works is defined based on market price or construction norm and price of building material, labour, execution machinery, other necessary cost factors appropriate to market price level in the construction area.
3. System of norms and construction prices as stipulated in item 1 of this Article announced by competent state agency is the basis for investment owner to use, refer to when determining and managing construction investment cost.
4. Construction price index is the indicator showing the level of change of construction prices in time and as the basis for determination, adjustment of total investment capital, construction estimate of works, price of construction contract and management of construction investment cost of works. The Ministry of Construction shall announce national construction price index, provincial People's Committee shall announce local construction price index.

**Article 137. Payment, final account clearance of construction investment project**

1. Payment, final account clearance of construction investment project shall be handled according to the law on construction investment management. Investment owner or lawful representative of investment owner is responsible before the law for the accuracy, lawfulness of unit prices, volume and value proposed for payment in payment dossier.
2. Construction works after being completed, accepted and transferred for use should be provided with final account clearance of construction investment project. For project using state budget, investment decision maker shall approve final account clearance of investment project within limit of approved total investment capital. The time for final account clearance of construction investment project is stipulated by the Government.
3. Payment, final account clearance of construction contract are handled in accordance with stipulation in Article 144 and Article 147 of this Law.

## Section 2 CONSTRUCTION CONTRACT

### Article 138. General provisions on construction contract

1. Construction contract is a civil contract agreed in writing between bid giving party and bid receiving party for carrying out a part or whole work in construction investment activity.
2. Principle for signing construction contract includes:
  - a) Voluntary, equal, cooperative, not contrary to the law and social moral;
  - b) Adequate capital is ensured for payment according to agreement of contract;
  - c) Selection of contractor is done and contract negotiation is finished;
  - d) In case bid receiving party is contractor partnership, there should be partnership agreement. Members of partnership shall undersign, stamp (if any) on construction contract, except otherwise agreed between parties.
3. Principle for construction contract implementation includes:
  - a) Parties of contract should carry out properly commitments in contract on scope of work, quality requirement, amount, type, time, method and other agreements;
  - b) Faithful, cooperative and following the law;
  - c) No infringement upon interest of State, community and lawful interest of other organizations, individuals.
4. Language used in construction contract is Vietnamese. In case that construction contract involves foreign party, language used is Vietnamese and other language is agreed upon by contracting parties.
5. Construction contract shall be signed and carried out in accordance with this Law and stipulation of related law.

### Article 143. Adjustment of construction contract

1. Adjustment of construction contract includes adjustment in volume, progress, contract unit price and other contents agreed upon by parties in contract. Adjustment of construction contract shall only be applicable during the time of contract implementation.
2. Cases of adjustment of construction contract
  - a) Agreed by parties in contract in accordance with stipulations of this Law and other related law;
  - b) When the State changes policies affecting directly the implementation of construction, except otherwise agreed by contracting parties;
  - c) When project is adjusted affecting contract, except otherwise agreed by contracting parties;
  - d) Force majeure cases as stipulated by the law.
3. In addition to stipulations set out in item 1 and item 2 of this Article, adjustment of construction contract price under project using state budget has to comply with following stipulations:
  - a) Adjustment of unit prices for contract implementation is only applicable for contract following adjusted unit price and contract following time;
  - b) Unit price in contract shall be adjusted according to content, scope, method and basis for contract adjustment shall be agreed upon by parties in contract in accordance with stipulation of the law;

- c) Adjustment of contract that makes change to investment objective, time of contract implementation, exceeding approved estimate of construction bid package shall get permit from investment decision maker.

Article 144. Payment of construction contract

1. Payment of construction contract should be in accordance with type of contract, contract price and conditions in contract signed by parties.
2. Contracting parties shall agree on method of payment, time of payment, payment dossier and payment condition.
3. Bid giving party shall pay adequately value of each payment time to bid receiving party after deducting advanced payment, payment for works guarantee as agreed in contract, except otherwise agreed by parties.
4. For lump sum contract, payment shall be carried out in percentage rate of contract price or works price, works item, work volume respective to payment period agreed by parties in contract.
5. For fixed unit price contract and adjusted unit price contract, payment shall be carried out based on real volume accomplished, accepted and contract unit price or adjusted unit price following contract agreement.
6. For contract following time, payment for consultant expert fee shall be determined based on expert wage level and costs related to operation of consultant expert multiplied with real working time accepted (in months, weeks, days, hours).
7. For contract following cost, adding fee, payment shall be carried out based on direct cost for carrying out work of contract and management costs, profit of bid receiving party as agreed.
8. Payment for arising volume which has no unit price in construction contract shall be carried out according to agreement in contract.
9. Currency used in construction contract payment shall be Vietnamese Dong; case of using foreign currency for payment shall be agreed upon by contracting parties, but not contrary to stipulation of law on foreign exchange.

Article 145. Suspension and termination of construction contract

1. Contracting parties have the right to suspend construction contract implementation in following cases:
  - a) Bid giving party has the right to suspend construction contract implementation when bid receiving party does not meet requirement on quality, work safety and progress according to signed contract;
  - b) Bid receiving party has the right to suspend construction contract implementation when bid giving party violates agreements on payment.
2. Bid giving party has the right to terminate construction contract implementation in following cases:
  - a) Bid receiving is bankrupt or dissolved;
  - b) Bid receiving party refuses or does constantly not carry out work according to contract leading to violation on implementation progress according to contract.
3. Bid receiving party has the right to terminate contract in following cases:
  - a) Bid giving party is bankrupt or dissolved;
  - b) Due to fault of bid giving party, work has been suspended continuously exceeding time agreed by parties, except otherwise agreed by parties;
  - c) Bid giving party fails to make payment to bid receiving party exceeding time agreed upon by parties from the date bid giving party has received adequate valid payment dossier, except otherwise agreed by parties.
4. Before a party suspends, terminates construction contract implementation as stipulated in items 1, 2 and 3 of this Article, notice should be given to the other party in writing, whereby indicating clearly reason for suspension, termination of contract; in case of not informing in writing that causes damage for the other party, compensation for damage should be made.

Article 146. Bonus, penalty for construction contract, compensation for damage due to violation and solution of construction contract dispute

1. Bonus, penalty for construction contract should be agreed by parties and written in contract.

2. For construction works using state budget, contract penalty shall not exceed 12% of value of part of contract which has been violated. In addition to penalty as agreed, violating party has to compensate for damage to the other party, the third party (if any) according to stipulation of this Law and other relevant law.
3. Bid receiving party has to compensate for damage to bid giving party in following cases:
  - a) Quality of work has not been ensured as agreed in contract or completion time has been prolonged due to fault of bid receiving party;
  - b) Due to reason by bid receiving party causing damage to people and asset during guarantee period.
4. Bid giving party has to compensate to bid receiving party in following cases:
  - a) Due to bid giving party work causing work according to contract interrupted, implementation slowing down from schedule, risk encounter, coordination of machinery, equipment, material and component in stock for bid receiving party;
  - b) Bid giving party provides necessary document, condition for work in accordance with agreements in contract so that bid receiving party has to redo execution, suspend or change work;
  - c) In case in construction contract there is stipulation that bid giving party has to provide material, equipment, other requirements but not in time and per requirement as stipulated;
  - d) Bid giving party is slow in making payment according to agreement in contract.
5. In case a party does not fulfill contract duty or does fulfill contract duty but not in accordance with stipulation, after accomplishment of duty or after remedy measure has been taken, this party is also responsible for compensation of damage if the other party suffers from other damage, the level of compensation shall be equal to damage of the other party.
6. In case a party violates contract due to the third party, the violating party shall be responsible for the violation to the other party. Dispute between violating party and the third party shall be dealt with in accordance with stipulation of the law.
7. In case violating act of a party trespasses on body, right, property of the other party, the damage suffering party has the right to ask the other party to bear responsibility of contract violation in accordance with agreement in contract and other stipulation of related law.
8. Principle and procedure of construction contract dispute settlement is stipulated as follows:
  - a) To respect contract agreements and commitments during contract implementation, to ensure equality and cooperation;
  - b) Contracting parties are responsible for negotiation on own account for dispute settlement. In case contracting parties are not able to negotiate, the dispute case shall be resolved through conciliation, commercial arbitration or court in accordance with the law.

#### Article 147. Final account clearance, liquidation of construction contract

1. Bid receiving party is responsible for final account clearance of construction contract with bid giving party appropriate to type of contract and form of applicable contract price. Content of final account clearance of construction contract shall be in accordance with agreement in construction contract.
2. Time for carrying out final account clearance of construction contract shall be agreed upon by parties. Particularly for construction contract using state budget, time for final account clearance shall not exceed 60 days from the date of acceptance of accomplished whole work of contract, including arising work (if any). In case construction contract has a large scope, time for carrying out final account clearance could be extended but not exceeding 120 days.
3. Construction contract shall be liquidated in following cases:
  - a) Parties have fulfilled obligations according to contract;
  - b) Construction contract has been terminated or cancelled according to stipulation of law.
4. Time for construction contract liquidation shall be agreed upon by contracting parties. For construction contract using state budget, time for contract liquidation is 45 days from the date contracting parties have fulfilled obligations according to contract or contract has been terminated in accordance with item 2 Article 145 of this Law. For construction contract with large scope, contract liquidation could be extended but not exceeding 90 days.

## CHAPTER VIII



## QUALIFICATION IN CONSTRUCTION OPERATION

Article 148. General provisions on qualification in construction operation of organization, individual

1. Individual involved in construction operation should have diploma, certificate of training appropriate to work assumed issued by lawful training institutions.
2. Contractor as foreign organization, individual involved in construction operation in Viet Nam have to comply with stipulation of the law on tendering and shall be granted operational license by state management agency on construction.
3. Job titles, individuals practicing in construction operation independently should have practicing license as stipulated, including work safety; project manager, individual directly involved in project management; head, team leader of design, check of construction design; construction site chief manager; construction execution supervisor; construction verification; construction valuation. Practicing licenses shall be categorized in class I, class II, class III.
4. Organizations participating in construction operation shall be categorized in class I, class II, class III, judged and granted with qualification certificate by competent state agency on construction. Ministry of Construction shall grant qualification certificate of class I; Construction Department qualification certificate of class II, class III. Organization participating in construction operation should register trade business in accordance with stipulation of the law.
5. The Government shall provide in detail for qualification condition of organization, individual involved in construction operation; condition, authority, sequence, procedure of granting operational license of contractor as foreign organization, individual; program, content, form of examination for granting practicing license, qualification certificate of organization and condition of institutions for training, professional fostering on construction operation.

Article 159. Management and supervision of construction operation qualification

1. Organization involved in construction operation shall be responsible for registering information on own construction operation qualification with Ministry of Construction, Provincial Department of Construction where the head office of the organization is located.
2. Individual practicing independently in construction operation shall be responsible for registering information on own practicing qualification with Provincial Department of Construction where the individual is residing.
3. Ministry of Construction, Provincial Department of Construction shall be responsible for guiding registration of information on construction operation qualification of organization, practicing qualification of individual on the webpage under its management; checking, dealing with violation in compliance with stipulations on operation qualification of investment owners, organizations, individuals involved in construction operation.
4. Investment owner shall be responsible for checking, assessing statement on construction operation qualification, construction practicing qualification of contractor taking part in tendering in accordance with requirement of bid package and information on construction operation qualification registered in accordance with stipulation of this Article.

Article 165. Construction inspection

1. Construction inspectorate under Ministry of Construction, Provincial Department of Construction shall carry out inspection functions on administration and construction against organizations, individuals involved in construction investment operation.
2. Ministry of Construction shall be responsible for guiding, arranging specialized inspection on construction investment operation nationwide. Provincial Department of Construction shall be responsible for arranging specialized inspection on construction investment operation at locality.
3. Specialized inspection on construction investment operation includes:
  - a) Inspection on compliance with the law by agency, organization, individual in construction investment operation;
  - b) Finding out, prevention and treatment according to competency or request to competent state agency for treatment of violation of law on construction.
4. The Government shall provide in detail for construction inspection.

CHAPTER X  
IMPLEMENTATION PROVISIONS

Article 166. Transitional provisions

1. Construction investment project approved before the date of effectiveness of this Law shall not be reapproved, next operations which have not yet been carried out shall follow stipulation of this Law.
2. Construction investment project management unit of a project using state budget which has been established before the date of effectiveness of this Law shall not be transformed in form of project management organization according to stipulation in item 1 and item 2 Article 62 of this Law.
3. Works constructed before the date of effectiveness of this Law, existing in accordance with construction plan, but after site clearance no more appropriate in regard to architecture, shall be allowed to exist as it is; in case of renovation, repair, upgrading of works, stipulation of this Law shall apply.
4. The Government shall provide in detail for item 1 of this Article.

Article 167. Implementation effect

1. This Law shall become effective from 01 January 2015.
2. Construction Law no. 16/2003/QH11 and Article 1 of the Law on revision, supplement of some articles of laws related to capital construction investment no. 38/2009/QH12 shall be out of effect from the date this Law become effective.

Article 168. Detailed provisions

The Government, competent agency shall provide in detail articles, items as assigned in the Law.

*This Law was passed by National Assembly of the Social Republic of Viet Nam, Session 7, on 18 June 2014.*

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CHAIRMAN OF NATIONAL ASSEMBLY  
Nguyễn Sinh Hùng