

LAW 50 ON CONSTRUCTION

Dated 18 June 2014

As amended by Law 62 dated 17 June 2020

TABLE OF CONTENTS

CHAPTER I	1
GENERAL PROVISIONS.....	1
Article 1 <i>Governing scope</i>	<i>1</i>
Article 2 <i>Applicable entities</i>	<i>1</i>
Article 3 <i>Interpretation of terms</i>	<i>1</i>
Article 4 <i>Fundamental principles in investment activities for construction</i>	<i>6</i>
Article 5 <i>Types and levels of construction works</i>	<i>7</i>
Article 6 <i>Application of standards and technical regulations in investment activities for construction.....</i>	<i>7</i>
Article 7 <i>Developers</i>	<i>8</i>
Article 8 <i>Supervision and evaluation of investment project for construction</i>	<i>9</i>
Article 9 <i>Insurance in investment activities for construction</i>	<i>9</i>
Article 10 <i>Policy of encouragement in investment activities for construction</i>	<i>10</i>
Article 11 <i>International co-operation in investment activities for construction</i>	<i>10</i>
Article 12 <i>Conduct which is strictly prohibited</i>	<i>11</i>
CHAPTER II	12
CONSTRUCTION MASTER PLANNING	12
SECTION 1	12
GENERAL PROVISIONS	12
Article 13 <i>Construction master plans and bases for formulation of construction master plans</i>	<i>12</i>
Article 14 <i>Requirements and principles of compliance in respect of construction master plans</i>	<i>12</i>
Article 15 <i>Review of construction master plans</i>	<i>13</i>
Article 16 <i>Responsibility to seek opinions on construction master plans</i>	<i>13</i>
Article 17 <i>Form and time for seeking opinions on construction master plans</i>	<i>14</i>
Article 18 <i>Selection of consultants for formulation of construction master plans</i>	<i>14</i>
Article 19 <i>Expenditure for the work of formulation of construction master plans</i>	<i>15</i>
Article 20 <i>Sequence for formulation and approval of construction master plans</i>	<i>15</i>
Article 21 <i>Archiving files on drawings of construction master plans</i>	<i>15</i>
SECTION 2	15
REGIONAL CONSTRUCTION MASTER PLANNING.....	15
Article 22 <i>Regional construction master planning and responsibility for organizing formulation of regional construction master plans.....</i>	<i>15</i>
Article 23 <i>Tasks and contents of drawings of regional construction master plans</i>	<i>16</i>
SECTION 3	17
CONSTRUCTION MASTER PLANS FOR SPECIAL FUNCTIONAL ZONES	17
Article 24 <i>Entities and responsibility to formulate construction master plans for special function zones</i>	<i>17</i>
Article 25 <i>Levels of construction master planning for special functional zones</i>	<i>18</i>
Article 26 <i>General construction master plan for special functional zones.....</i>	<i>18</i>

Article 27	<i>Zoned construction master plan for special functional zones</i>	19
Article 28	<i>Detailed construction master plans for special functional zones</i>	20
SECTION 4		20
MASTER PLANNING FOR RURAL CONSTRUCTION		20
Article 29	<i>Entities, levels and responsibility for formulating master plans for rural construction</i>	20
Article 30	<i>General construction master plans for communes</i>	21
Article 31	<i>Detailed construction master plans for rural residential areas</i>	21
SECTION 5		22
APPRAISAL AND APPROVAL OF CONSTRUCTION MASTER PLANS		22
Article 32	<i>Authority to appraise tasks and drawings of construction master plans</i>	22
Article 33	<i>Appraisal councils and contents of appraisal of tasks and drawings of construction master plans</i>	22
Article 34	<i>Authority to approve tasks and drawings of construction master plans</i>	23
SECTION 6		24
AMENDMENT TO CONSTRUCTION MASTER PLANS		24
Article 35	<i>Conditions for amendment to construction master plans</i>	24
Article 36	<i>Principles of amendment of construction master plans</i>	25
Article 37	<i>Types of amendments of construction master plans</i>	25
Article 38	<i>Sequence of overall amendment of construction master plans</i>	25
Article 39	<i>Sequence of partial amendment of construction master plans</i>	26
SECTION 7		26
ORGANIZATION OF IMPLEMENTATION OF CONSTRUCTION MASTER PLANS		26
Article 40	<i>Public proclamation of construction master plan</i>	26
Article 41	<i>Responsibility to organize public proclamation of construction master plans</i>	27
Article 42	<i>Form of public proclamation of construction master plan</i>	27
Article 43	<i>Provision of information about construction master plans</i>	28
Article 44	<i>Positioning of construction boundary markers on site</i>	28
SECTION 8		30
ADMINISTRATION OF CONSTRUCTION IN ACCORDANCE WITH CONSTRUCTION MASTER PLAN		30
Article 45	<i>Principles of administration of construction in accordance with construction master plan</i>	30
Article 46	<i>Introduction of construction locations</i>	30
Article 47	<i>Construction master plan permit</i>	30
Article 48	<i>Organization of administration of implementation of construction master plans</i>	31
CHAPTER III		31
INVESTMENT PROJECTS FOR CONSTRUCTION FOR WORKS		31
SECTION 1		31
GENERAL PROVISIONS		31
Article 49	<i>Classification of investment projects for construction</i>	31
Article 50	<i>Sequence of investment in construction</i>	32
Article 51	<i>Requirements applicable to investment projects for construction</i>	33
SECTION 2		33
FORMULATION AND APPRAISAL OF PROJECTS AND INVESTMENT DECISIONS FOR CONSTRUCTION		33
Article 52	<i>Formulation of investment project for construction</i>	33
Article 53	<i>Content of pre-feasibility study report for investment in construction [shall comprise]....</i>	34
Article 54	<i>Content of feasibility study report for investment in construction</i>	35
Article 55	<i>Content of eco-technical report for investment in construction</i>	36
Article 56	<i>Appraisal of feasibility study report for investment in construction and eco-technical report for investment in construction</i>	36

Article 57	Appraisal of feasibility study report for investment in construction or eco-technical report for investment in construction by investment decision-making person.....	37
Article 58	Appraisal of feasibility study report for investment in construction by professional agency for construction.....	39
Article 59	Period for appraisal of feasibility study report for investment in construction.....	40
Article 60	Authority to make decision on investment in construction.....	40
Article 61	Changes to investment projects for construction.....	41
SECTION 3		41
MANAGEMENT OF IMPLEMENTATION OF INVESTMENT PROJECTS FOR CONSTRUCTION		41
Article 62	Form of organization of management of investment project for construction.....	42
Article 63	Specialized management unit for investment projects for construction and regional management unit for investment project for construction.....	42
Article 64	Management unit for single investment project for construction.....	43
Article 65	Engagement of management consultant for investment project for construction.....	43
Article 66	Content of management of investment project for construction.....	43
Article 67	Management of schedule of implementation of investment project for construction.....	43
SECTION 4		44
RIGHTS AND OBLIGATIONS OF DEVELOPERS, MANAGEMENT UNITS FOR INVESTMENT PROJECTS FOR CONSTRUCTION, CONSULTANT CONTRACTORS AND INVESTMENT DECISION-MAKING PERSONS		44
Article 68	Rights and obligations of developer in terms of formulation and management of implementation of investment project for construction.....	44
Article 69	Rights and obligations of management unit for investment project for construction.....	45
Article 70	Rights and obligations of consultant contractor contracted to formulate project or manage investment project for construction.....	45
Article 71	Rights and responsibilities of agencies and organizations appraising and verifying feasibility study report for investment in construction and eco-technical report for investment in construction.....	46
Article 72	Rights and responsibilities of investment decision-making person.....	47
CHAPTER IV		48
CONSTRUCTION SURVEY AND DESIGN FOR CONSTRUCTION		48
SECTION 1		48
CONSTRUCTION SURVEY		48
Article 73	Forms of construction survey.....	48
Article 74	Requirements applicable to construction survey.....	49
Article 75	Principal items of report on construction survey result [shall comprise].....	49
Article 76	Rights and obligations of developer in relation to construction survey.....	49
Article 77	Rights and obligations of construction survey contractor.....	50
SECTION 2		51
DESIGN FOR CONSTRUCTION		51
Article 78	General provisions on design for construction.....	51
Article 79	Requirements applicable to design for construction.....	51
Article 80	Principal items of design for construction formulated after preliminary design [shall comprise].....	52
Article 81	Contest for and selection of architectural designs for construction works.....	53
Article 82	Appraisal and approval of construction designs formulated after preliminary design.....	53
Article 83	Appraisal of design for construction formulated after preliminary design by developer..	54
Article 83a	Appraisal of construction design formulated after preliminary design by professional agency for construction.....	55
Article 84	Change to design for construction.....	56
Article 85	Rights and obligations of developers during construction design.....	56

Article 86	<i>Rights and obligations of contractors for design for construction of works</i>	57
Article 87	<i>Rights and responsibilities of professional agencies for construction during appraisal of construction designs</i>	58
Article 87a	<i>Rights and obligations of organizations verifying construction designs</i>	58
Article 88	<i>Archiving files of construction work</i>	58
CHAPTER V		59
CONSTRUCTION PERMITS		59
Article 89	<i>General provisions on issuance of construction permits</i>	59
Article 90	<i>Principal items of construction permit</i>	60
Article 91	<i>Conditions for issuance of construction permit applicable to works in urban areas</i>	61
Article 92	<i>Conditions for issuance of construction permit applicable to works not along routes outside urban areas</i>	61
Article 93	<i>Conditions for issuance of construction permit applicable to separate dwelling-houses</i>	62
Article 94	<i>Conditions for issuance of definite term construction permits</i>	62
Article 95	<i>Application file for issuance of construction permit for new works</i>	63
Article 96	<i>Application files for issuance of construction permit in the case of repair or renovation of works</i>	65
Article 97	<i>Application file for issuance of construction permit in the case of relocation of works</i>	65
Article 98	<i>Amendments to construction permits</i>	65
Article 99	<i>Extension of construction permit</i>	66
Article 100	<i>Re-issuance of construction permit</i>	66
Article 101	<i>Withdrawal and cancellation of construction permit</i>	67
Article 102	<i>Process of issuance, re-issuance, amendment and extension of construction permits</i> ..	67
Article 103	<i>Authority to issue, amend, extend, re-issue and withdraw construction permits</i>	69
Article 104	<i>Responsibilities of agencies delegated with authority to issue construction permits</i>	69
Article 105	<i>Responsibilities of agencies and organizations involved in issuance of construction permits</i>	70
Article 106	<i>Rights and obligations of applicants for issuance of construction permits</i>	70
CHAPTER V		70
CONSTRUCTION OF WORKS		70
SECTION 1		70
PREPARATION FOR CONSTRUCTION OF WORKS		71
Article 107	<i>Conditions for commencement of construction of works</i>	71
Article 108	<i>Preparation for construction site</i>	71
Article 109	<i>Requirements applicable to construction sites</i>	71
Article 110	<i>Building materials</i>	72
SECTION 2		73
EXECUTION OF BUILDING WORKS.....		73
Article 111	<i>Requirements applicable to execution of building works</i>	73
Article 112	<i>Rights and obligations of developers throughout execution of building works</i>	73
Article 113	<i>Rights and obligations of contractors for execution of building works</i>	74
Article 114	<i>Rights and obligations of design contractors during execution of building works</i>	75
Article 115	<i>Safety during execution of building works</i>	76
Article 116	<i>Environmental protection during execution of building works</i>	77
Article 117	<i>Relocation of construction works</i>	77
Article 118	<i>Dismantling of construction works</i>	77
Article 119	<i>Building works incidents</i>	79
SECTION 3		79
SUPERVISION OF EXECUTION OF BUILDING WORKS,		79

CHECK AND ACCEPTANCE, AND HANDOVER OF CONSTRUCTION WORKS.....	79
Article 120 <i>Supervision of execution of building works</i>	80
Article 121 <i>Rights and obligations of developers throughout supervision of execution of building works</i>	80
Article 122 <i>Rights and obligations of contractors for supervision of execution of building works</i>	81
Article 123 <i>Check and acceptance of constructed works</i>	82
Article 124 <i>Hand-over of constructed works</i>	82
SECTION 4	83
WARRANTY AND MAINTENANCE OF CONSTRUCTED WORKS	83
Article 125 <i>Warranty of constructed works</i>	83
Article 126 <i>Maintenance of constructed works</i>	84
Article 127 <i>Cessation of exploitation or use of constructed works</i>	84
SECTION 5	84
CONSTRUCTION OF SPECIAL WORKS	84
Article 128 <i>Special building works</i>	85
Article 129 <i>Construction of State secret works</i>	85
Article 130 <i>Construction of emergency works</i>	85
Article 131 <i>Construction of temporary works</i>	86
CHAPTER VII.....	87
COSTS OF INVESTMENT IN CONSTRUCTION AND CONSTRUCTION CONTRACTS.....	87
SECTION 1	87
MANAGEMENT OF COSTS OF INVESTMENT IN CONSTRUCTION	87
Article 132 <i>Principles of management of costs of investment in construction</i>	87
Article 133 <i>Items subject to management of costs of investment in construction</i>	88
Article 134 <i>Total investment in construction</i>	88
Article 135 <i>Estimated budget for construction</i>	88
Article 136 <i>Construction norms, construction prices for works and construction price index</i>	89
Article 137 <i>Payments and finalization of investment projects for construction</i>	90
SECTION 2	90
CONSTRUCTION CONTRACTS.....	90
Article 138 <i>General provisions on construction contracts</i>	90
Article 139 <i>Effectiveness of construction contracts</i>	91
Article 140 <i>Types of construction contracts</i>	91
Article 141 <i>Contents of construction contracts</i>	92
Article 142 <i>File on construction contracts</i>	93
Article 143 <i>Changes to construction contracts</i>	93
Article 144 <i>Payments for construction contracts</i>	94
Article 145 <i>Temporary suspension and termination of construction contracts</i>	95
Article 146 <i>Bonuses and penalties in construction contract, compensation for loss and damage due to breaches, and resolution of disputes in construction contracts</i>	96
Article 147 <i>Finalization and liquidation of construction contracts</i>	97
CHAPTER VIII.....	97
CONDITIONS ON CAPABILITY FOR CONSTRUCTION ACTIVITIES	97
Article 148 <i>General provisions on conditions on capability of organizations and individuals for construction activities</i>	97
Article 149 <i>Practising certificates for construction activities</i>	98
Article 150 <i>Conditions applicable to organizations formulating design of construction master plan</i>	99

Article 151	Conditions applicable to organizations formulating and verifying investment projects for construction.....	99
Article 152	Conditions applicable to project management consultants and management units of investment projects for construction.....	99
Article 153	Conditions applicable to organizations undertaking construction survey.....	100
Article 154	Conditions applicable to organizations undertaking design or verifying design for construction of works.....	100
Article 155	Conditions applicable to consultants undertaking supervision of execution of building works or construction inspection.....	100
Article 156	Conditions applicable to control of costs of investment in construction.....	100
Article 157	Conditions applicable to organizations undertaking execution of building works.....	101
Article 158	Conditions applicable to individuals who independently practise	101
Article 159	Management of capability for construction activities	101
CHAPTER VII.....		102
RESPONSIBILITIES OF STATE AGENCIES FOR STATE ADMINISTRATION OF INVESTMENT ACTIVITIES FOR CONSTRUCTION		102
Article 160	Content of State administration of investment activities for construction	102
Article 161	Responsibilities of the Government	102
Article 162	Responsibilities of the Ministry of Construction.....	103
Article 163	Responsibilities of ministries and ministerial equivalent agencies	104
Article 164	Responsibilities of people's committees at levels	105
Article 165	Construction inspectorate	106
CHAPTER X.....		107
IMPLEMENTING PROVISIONS.....		107
Article 166	Transitional clause.....	107
Article 167	Effectiveness	107
Article 168	Detailed regulations.....	107

[18 June 2014]
As amended 17 June 2020

LAW ON CONSTRUCTION¹

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly hereby promulgates the Law on Construction.

CHAPTER I General Provisions

Article 1 *Governing scope*

This Law regulates the rights, obligations and responsibilities of agencies, organizations and individuals, and State administration of investment activities for construction.

Article 2 *Applicable entities*

This Law shall apply to domestic agencies, organizations and individuals and to foreign organizations and individuals conducting investment activities for construction in the territory of Vietnam.

Where an international treaty of which the Socialist Republic of Vietnam is a member contains provisions which are different from those in this Law, the provisions of such international treaty shall apply.

Article 3 *Interpretation of terms*

In this Law, the following terms are construed as follows:

- 1². *Pre-feasibility study report on investment in construction* means the document expressing items of the preliminary study of the necessity, feasibility and efficiency of investment in construction and providing a basis for decision on or approval of the investment policy for construction.
2. *Feasibility study report on investment in construction* means the document expressing items of the study of the necessity, feasibility and efficiency of investment in construction in accordance with the selected plan for preliminary design³ and providing a basis for consideration and decision on investment in construction.
3. *Eco-technical report on investment in construction* means the document expressing items on the necessity, feasibility and efficiency of investment in construction in accordance with the design plan for

¹ *Allens Note:* Law 50 is amended by Law 62/2020/QH14 dated 17 June 2020.

² *Allens Note:* Amended by Law 62.

³ *Allens Note:* The literal translation is "basic design".

construction drawings for small-sized works and providing a basis for consideration and decision on investment in construction.

- 4⁴. *Ministry for management of specialized construction works* means the ministry which is assigned with the task to manage construction works in the construction specialization under its management in accordance with this Law.
5. *Red-lined boundary* means boundaries which are fixed in drawings of master plans and on actual sites in order to classify the boundary line between the land on which construction works are permitted to be constructed and the land reserved for roads or technical infrastructure works and other public spaces.
6. *Construction boundary* means the boundary marking the limits of permission to build main works on any one block of land.
7. *Land use norms in construction master planning* means the specified norms for control of space or architectural development for an area or a block of land including the construction ratio, land use coefficients, and maximum or minimum construction height of works.
8. *Eco-technical norms of a construction master planning project* means the norms which are forecasted, fixed or selected as the bases for proposing plans or solutions for construction master planning including population scale, land and norms in relation to technical infrastructure, social infrastructure and the environment.
9. *Construction developer (hereinafter referred to as the developer)* means the agency, organization or individual who owns or borrows capital or is assigned to directly manage and expend capital to carry out investment activities for construction.
- 10⁵. *Construction works* means a product which is built in accordance with a design, created with human labour and building materials and equipment installed in the works, and attached to a fixed area of land which may include sections above and under the ground or water surfaces.
11. *Standard ground floor level⁶ of construction works* means the compulsory minimum ground floor height of construction works which must be complied with and selected in conformity with master planning in terms of the standard ground height and rain-water drainage.
12. *State administrative agency for construction* comprises the Ministry of Construction, people's committees of provinces and cities under central authority (hereinafter referred to as the provincial people's committees) and people's committees of districts, towns and provincial cities (hereinafter referred to as the district people's committees).
- 13⁷. *Professional agency for construction* means the agency assigned with construction management under a ministry for management of specialized construction works or a provincial people's committee; the agency assigned with construction management under a district people's committee; [or] an industrial zone, export processing zone, high tech zone or economic zone management board.

⁴ Allens Note: Amended by Law 62.

⁵ Allens Note: Amended by Law 62.

⁶ Allens Note: The literal translation is "height above sea level of the ground floor".

⁷ Allens Note: Amended by Law 62.

14. *Professional agency under the investment decision-making person* means the agency or organization which has the speciality in conformity with the nature and content of the project and is assigned with the task of appraisal by the investment decision-making person.
15. *Investment project for construction* means a collection of proposals relating to expenditure of capital to carry out construction activities to construct new construction works, [or] repair or renovate existing construction works in order to develop, maintain or improve the quality of the works or the quality of a product or service within a certain period of time and with fixed costs. In the period of preparation for an investment project for construction, the project shall be expressed in a pre-feasibility study report for investment in construction, a feasibility study report for investment in construction or an eco-technical report for investment in construction.
- 15a⁸. *Investment project for construction of an urban zone* means an investment project for mixed use functions and synchronous construction of the system of technical infrastructure, social infrastructure, residential housing and other works in accordance with the construction master plan approved by the competent authority for the purpose of new construction, renovation or renewal of the urban zone.
16. *Rural residential area* means a place of concentrated residence of many households closely associated with each other for production and living purposes and for other social activities within the scope of a fixed area formed by natural conditions, by socio-economic conditions, by culture and by other factors.
17. *Construction permit* means the legal document issued by the competent State agency to a developer for construction of a new work, or for repair, renovation or relocation of a work.
18. *Definite term construction permit* means the construction permit issued for construction of a work or separate dwelling-house and used in a definite term as per the plan for implementation of a construction master plan.
19. *Phased construction permit* means the construction permit issued for each part of the work or each work of a project when the design for construction of the work or of the project has not yet been completed.
20. *Investment activities for construction* mean the process of implementation of construction activities comprising construction of new works, [or] repair and renovation of construction works.
21. *Construction activities* shall comprise formulation of construction master plans, formulation of investment projects for construction for works, construction survey, construction design, execution of building works, construction supervision, management of projects, selection of contractors, check and acceptance and commissioning of works, warranty and maintenance of construction works and other activities relating to construction of works.
22. *System of technical infrastructure works* shall comprise traffic works, information and communications works, energy supply works, public lighting works, water supply works, works for collection and treatment of sewage and solid waste, cemetery and other works.
23. *System of social infrastructure works* shall comprise buildings for health care, culture, education, sports, commercial services, public services, trees, parks and other works.
24. *Investment consultancy activities for construction* shall comprise formulation of construction master

⁸ Allens Note: Added by Law 62.

plans, formulation of investment projects for construction of works, survey or construction design, verification, inspection, testing, management of projects, supervision of execution of building works and other consultancy works relating to the investment activities for construction.

25. *Special functional zone* means the area which is developed for a specialized or mixed function such as economic zones, industrial zones, export processing zones, high-tech zones; resorts, ecological zones; reserves, historical and cultural heritage zones; research and training zones; sports and physical exercise zones; airports, seaports; and focal areas of technical infrastructure or other special functional zones which are defined under the approved regional construction master planning or established under the decision of the competent State agency.
26. *Formulation of an investment project for construction* shall comprise the preparation of a pre-feasibility study report for investment in construction (if any), a feasibility study report for investment in construction or an eco-technical report for investment in construction and implementation of necessary works for preparation of investment in construction.
27. *Investment decision-making person* means the individual or legal representative of the agency, organization or enterprise delegated with authority to approve projects and make the decision on investment in construction.
28. *Contractor in investment activities for construction (hereinafter referred to as "the contractor")* means an organization or individual satisfying all conditions on capability for construction activities or on capability for construction practice upon participation in a contractual relationship in investment activities for construction.
- 29⁹. *Separate dwelling-house* means works built within the parameters of land for which the land use right is owned by a household of individual in accordance with law.
30. *Construction master planning* means organization of urban or rural space and special functional zones; organization of systems of technical and social infrastructure works; and creation of a living environment appropriate for the inhabitants in all areas of the territory, ensuring harmonious co-ordination between the national interests and community interests and satisfying the objectives of socio-economic development, national defence and security, protection of the environment and response to climate change. *Construction master planning* shall be expressed in drawings of a construction master plan comprising charts, drawings, mock-ups and commentaries.
31. *Regional construction master planning* means organization of urban or rural systems, special functional zones and systems of technical and social infrastructure works within the administrative boundaries of any one province or district or inter-provincial or inter-district area consistent with the requirements for socio-economic development in each period.
32. *Construction master planning for a special functional zone* means organization of architectural space and landscape and systems of technical and social infrastructure works within one special function zone. Construction master planning for a special function zone shall comprise general construction master planning, zoned construction master plan and detailed construction master plan.
33. *Rural construction master planning* means organization of space, land use and systems of rural

⁹ *Allens Note:* Removed by Law 62 but retained for reference.

technical and social infrastructure works. The rural construction master planning shall comprise general construction master planning for communes and detailed construction master planning for rural residential areas.

- 34. *Building works incident* means a breakdown beyond permissible safety limits which creates a danger of collapse of the construction works or support structures for execution of construction works, or an actual breakdown of part or all [of the construction works] during the process of execution of building works and exploitation and utilization of works.
- 35. *General construction contractor* means a contractor entering into a contract directly with a developer in order to receive an entire contract for one or several types of work or the whole work of the investment project for construction.
- 36¹⁰. *Appraisal* means the inspection and/or evaluation by an investment decision-making person, a developer or professional agency for construction of the necessary contents during the process of preparation and implementation of an investment project for construction in accordance with this Law, including the appraisal by the investment decision-making person or developer for the purposes of making the decision on investment in construction and approving the design for construction; [and] the appraisal by the professional agency for construction for the purpose of controlling compliance with law by the entities involved in construction activities.
- 37. *Verification* means examination and evaluation in terms of the speciality of an organization or individual satisfying all conditions on capability for construction activities or capability for construction practice in respect of the necessary items during the process of preparation and implementation of an investment project for construction to provide the basis for the work of appraisal.
- 38. *Execution of building works* comprises construction and installation of equipment in new works; of works being repaired, renovated, relocated, up-graded or restored; dismantling of works; and warranty and maintenance of construction works.
- 39. *Equipment installed at works* comprises building equipment and technological equipment. *Building equipment* means equipment which is installed in construction works in accordance with a construction design. *Technological equipment* means equipment within a technological line which is installed in construction works in accordance with a technological design.
- 40. *Concept design*¹¹ means the design which is prepared in the pre-feasibility study report for investment in construction expressing the initial concept of the design for construction of works, and preliminary selection of a technological line and equipment to provide the basis for determining an investment policy for construction of works.
- 41. *Preliminary design*¹² means the design which is prepared in the feasibility study report for investment in construction on the basis of the selected design option expressing principal technical norms in conformity with the applicable standards and technical regulations and shall be the basis for commencing the subsequent design steps.
- 42. *Technical design* means the design which concretizes the preliminary design after the investment

¹⁰ *Allens Note:* Amended by Law 62.

¹¹ *Allens Note:* The literal translation is "preliminary design".

¹² *Allens Note:* The literal translation is "basic design".

project for construction of works is approved in order to express in full solutions, technical norms and materials to be used in conformity with the applicable standards and technical regulations and shall be the basis for commencing the formulation of design drawings for execution of building works.

- 43. *Design drawings for execution of building works* means the design which expresses in full technical norms, materials to be used and components in conformity with the applicable standards and technical regulations and ensures satisfaction of all conditions for commencing execution of building works.
- 44. *Term of construction master planning* means the defined period which shall be the basis for forecasting and calculating eco-technical norms for formulation of drawings of a construction master plan.
- 45. *Zoned area* means the territorial space which is limited to one or more administrative units as decided by the competent State agency.
- 46¹³. *Dangerous area during execution of building works* means the boundary marking the limits of areas in a construction site and areas surrounding the construction site in which dangerous factors may appear and cause loss and damage to persons, construction works, property, equipment and facilities caused by the process of execution of the building works as determined in accordance with standards and technical regulations and measures for organizing execution of building works.

Article 4 *Fundamental principles in investment activities for construction*

- 1¹⁴. Ensure that investment in construction of works is conducted in accordance with master plans, designs and [requirements for] landscape and environmental protection; [ensure] conformity with the natural conditions and socio-cultural features in each locality; ensure stable life of people; and [ensure] combination of socio-economic development with national defence and security, natural disaster prevention and fighting, and response to climate change.
- 2. Reasonably use resources and natural resources in the area in which the project is located, and ensure the proper purpose, objects and sequence of investment in construction.
- 3. Comply with standards, technical regulations and laws on use of construction materials; satisfy requirements for invalids, the aged and children to have access to and use works in a convenient and safe manner at public works or high-rise buildings; introduce science and technology and apply information systems to construction works during investment activities for construction.
- 4. Ensure the quality, schedule and safety of works; ensure the lives and health of people and property; ensure fire fighting and prevention, and explosion prevention; and protect the environment.
- 5. Ensure synchronous construction of each building work, and synchronous construction of technical infrastructure works and social infrastructure works.
- 6¹⁵. Organizations and individuals involved in construction activities must have sufficient conditions on capability in accordance with regulations; and be responsible for the quality of the work performed by them in accordance with this Law.

¹³ *Allens Note:* Added by Law 62.

¹⁴ *Allens Note:* Amended by Law 62.

¹⁵ *Allens Note:* Amended by Law 62.

7. Ensure publicity, transparency, cost saving and efficiency, ensure anti-corruption, and ensure that there is no waste of expenditure or loss and that there are no other negative elements in investment activities for construction.
- 8¹⁶. Clearly distinguish between the function of State administration in investment activities for construction and the function of management by investment decision-making persons and developers consistent with each type of source of capital expended.
- 9¹⁷. When preparing and implementing construction master plans, investment in construction, management and operation of construction works or developing construction materials, there must be technical and managerial solutions aimed at ensuring economical and effective use of energy and resources and protecting the environment.

Article 5¹⁸ *Types and levels of construction works*

1. Types of construction works are determined by the structural nature and use functions of the works.
2. Levels of construction works are determined for each type of works, comprising:
 - (a) Levels of construction works servicing management of investment activities in construction prescribed in this Law are determined based on the scale, importance and technical specifications of the works, consisting of special level, level I, level II, level III and level IV, except in the case prescribed in sub-clause (b) below;
 - (b) Levels of construction works servicing design for construction of works are prescribed in technical regulations and standards. Levels of construction works servicing management of other contents are implemented in accordance with provisions of relevant laws.
3. The Government provides detailed regulations on types of construction works.
4. The Minister of Construction provides detailed regulations on the levels of construction works prescribed in clause 2(a) above.

Article 6 *Application of standards and technical regulations in investment activities for construction*

1. Investment activities for construction must comply with the national technical regulations.
2. The standards shall be applicable in investment activities for construction on the voluntary principle, except for standards which are referred to in the technical regulations or other relevant legal documents.
3. The standards applicable to the construction works must be considered and approved by the investment decision-making person upon making the investment decision.
4. The application of standards must satisfy the following requirements:

¹⁶ *Allens Note:* Amended by Law 62.

¹⁷ *Allens Note:* Added by Law 62.

¹⁸ *Allens Note:* Amended by Law 62.

- (a) Conform with the requirements of the national technical regulations and relevant laws;
 - (b) Ensure the synchronism and feasibility of the system of standards to be applied.
5. The application of technical solutions, technology or new materials in investment activities for construction must satisfy the requirements of the national technical regulations and relevant laws.
 6. The Ministry of Construction and ministries for management of specialized construction works shall be responsible to formulate standards and national technical regulations applicable to specialized construction works in accordance with the law on standards and technical regulations.

Article 7¹⁹ Developers

1. A developer is determined prior to formulation of an investment project for construction or upon approval of the project or otherwise in accordance with provisions of relevant laws.
2. Subject to the source of capital expended for the investment project for construction, a developer shall be determined as follows:
 - (a) With respect to projects using public investment capital, determination of the developer shall be made in accordance with clause 3 below and the law on public investment;
 - (b) With respect to projects using State capital in accordance with provisions of relevant laws (hereinafter referred to as projects using non-public investment State capital), the developer shall be an agency or organization which is delegated by the investment decision-making person to manage and expend capital for investment in construction;
 - (c) With respect to investment projects in the form of a public private partnership (hereinafter referred to as PPP projects), the developer shall be the PPP project enterprise which is established in accordance with the law on investment in the form of a public private partnership;
 - (d) With respect to projects using lawful investment capital sources of organizations or individuals which do not fall into the cases stipulated in sub-clauses (a), (b) and (c) above (hereinafter referred to as projects using other capital) where the law on investment requires selection of an investor for project implementation, the developer shall be the investor approved by the authorized State agency. Where more than one investor is involved, the investors may establish an organization or authorize an investor to act as the developer. Where relevant laws regulate the selection and recognition of a developer, the selection and recognition of the developer must meet the conditions and comply with the provisions of the relevant laws;
 - (dd) With respect to projects not covered by paragraphs (a), (b), (c) and (d) of this clause, the developer shall be the organization or individual expending capital to invest in construction.
3. Based on the specific conditions of the project using public investment capital, the investment decision-making person shall delegate the specialized management unit for investment projects for construction or the regional management unit for investment projects for construction to act as the developer. Where there is no project management unit or the existing project management unit does not have all the

¹⁹ *Allens Note:* Amended by Law 62.

conditions for performance [of the role], the investment decision-making person shall assign an agency or organization with management experience and capability to act as the developer.

4. The developer shall be responsible before the law, to the investment decision-making person and to the authorized State agency within the scope of its rights and obligations prescribed in this Law and other relevant laws.

Article 8 *Supervision and evaluation of investment project for construction*

1. Investment projects for construction shall be supervised and evaluated in conformity with each source of capital as follows:
 - (a) With respect to projects funded by public investment capital, the competent State agency shall conduct supervision and evaluation in accordance with the law on public investment and the law on construction on the basis of the approved items and criteria of evaluation;
 - (b) With respect to projects funded by capital from other sources, the competent State agency shall conduct supervision and evaluation in terms of the objectives and conformity with the relevant master plan, land use, schedule of investment in construction and environmental protection.
2. Investment projects for construction of infrastructure funded by public investment capital, capital contributed by the community and capital funded by domestic organizations and individuals shall be subject to community supervision.

The Vietnam Fatherland Front of the area in which construction is carried out shall, depending on its duties and powers, organize community supervision.

3. The Government shall provide detailed regulations on this article.

Article 9 *Insurance in investment activities for construction*

1. Insurance in investment activities for construction shall comprise:
 - (a) Insurance for works during the construction period;
 - (b) Professional indemnity insurance for investment and construction consultants;
 - (c) Insurance in respect of supplies, materials, means and equipment for execution of building works and for employees;
 - (d) Insurance for civil liability to third parties;
 - (dd) Insurance for warranty for construction works.
2. The responsibility to purchase compulsory insurance in investment activities for construction shall be provided as follows:
 - (a) Developers shall purchase insurance for the works during the period of construction in respect of works having an affect on the safety of the community or the environment and works with special technical requirements or complex conditions of execution of building works;
 - (b) Consultant contractors shall purchase professional indemnity insurance for investment and

construction consultants in respect of construction survey or design for construction works at Level II or higher levels;

(c²⁰) Contractors for execution of building works shall purchase insurance for employees involved in execution of building works on the construction site and third party civil liability insurance.

3. Developers, consultant contractors and construction contractors are encouraged to purchase types of insurance in investment activities for construction, except for the case prescribed in clause 2 of this article.
4. The Government shall provide detailed regulations on responsibilities to purchase compulsory insurance, and on conditions, levels of insurance premium, and minimum insurance proceeds with which organizations and individuals participating in insurance and insurers are obliged to comply.

Article 10 *Policy of encouragement in investment activities for construction*

- 1²¹. The following are encouraged: Investment activities for construction in order to preserve, embellish and promote the value of historical heritage, cultural heritage, beliefs and religions; to construct social residential housing; and investment activities for construction in accordance with master plans in mountainous areas, marine islands, areas with specially difficult socio-economic conditions and areas adversely affected by climate change.
2. Entities in various economic sectors participating in investment activities for construction shall be equally treated before the law, and are encouraged and facilitated in investment activities for construction; and contractors with works for which the State offers an award for the quality of construction works shall be given priority when they participate in tendering in construction activities.
3. Some public services which currently are performed by the State administrative agencies in investment activities for construction shall be step-by-step transferred to eligible socio-occupational organizations with full capability for performance.
- 4²². The State has policies to encourage research and application of advanced science and technology, and application of information technology in investment activities for construction; activities of investment in and certification of construction works which economically and effectively use energy and resources and which ensure environment protection requirements; and development of ecological urban zones and smart urban zones which adapt to climate change and sustainable development.

Article 11 *International co-operation in investment activities for construction*

1. Domestic organizations and individuals are encouraged to expand international co-operation in investment activities for construction, to transfer technology, techniques or managerial experience and to use new materials.
2. The State shall protect Vietnamese construction brands overseas; and facilitate, support and take

²⁰ Allens Note: Amended by Law 62.

²¹ Allens Note: Amended by Law 62.

²² Allens Note: Amended by Law 62.

measures to promote the signing and performance of international treaties or agreements in investment activities for construction between domestic organizations or individuals and foreign organizations or individuals on the basis of assurance of the fundamental principals in investment activities for construction prescribed in article 4 of this Law.

Article 12 *Conduct which is strictly prohibited*

1. Making a decision on investment in construction contrary to the provisions of this Law.
2. Commencing construction of a work when all conditions for commencement of construction prescribed in this Law have not yet been satisfied.
3. Constructing works in areas in which construction is prohibited; constructing works which encroach on or illegally occupy protection corridors for works for national defence and security, traffic routes, irrigation works, dyke embankments, energy works, cultural or historical heritage sites and on areas which are protection corridors for other works in accordance with law; and constructing works in areas where there is a warning of danger of landslide and flash floods, except for construction works to remedy these dangers.
4. Constructing works which are contrary to the construction master plan, unless there is a definite term construction permit; or which are in violation of construction boundaries or standard ground floor level²³ of construction works; or constructing works incorrectly in terms of the provisions of an issued construction permit.
5. Formulating, appraising or approving a design or estimated budget for construction works funded by public investment capital, non-public investment State capital, contrary to the provisions of this Law.
6. A contractor participating in construction activities when it fails to satisfy all conditions on capability for construction activities.
7. A developer selecting an unqualified contractor to conduct construction activities.
8. Constructing works which fail to comply with the standards and technical regulations which are selected for application to such works.
9. Manufacturing or using construction materials which are harmful to the community's health or the environment.
10. Breaching regulations on safety of labour and property, on fire prevention and fighting, explosion prevention, security and order, and environmental protection in construction.
11. Using works for an improper purpose or use function; or building an extension encroaching on or illegally occupying the space which is currently being lawfully managed or used by another organization or individual and of public areas or of areas for common use.
12. Giving or receiving bribes in investment activities for construction; taking advance of other legal entities to participate in construction activities; making arrangements or collusion to distort the result of

²³ *Allens Note:* The literal translation is "height above sea level of the ground floor".

formation of a project, survey, design or supervision of execution of building works.

13. Abusing a position or power to breach the law on construction; concealing or delay in dealing with conduct in breach of the law on construction.
14. Obstructing lawful investment activities for construction.

CHAPTER II

Construction Master Planning

SECTION 1

General Provisions

Article 13 *Construction master plans and bases for formulation of construction master plans*

1. Construction master plans shall comprise the following types:
 - (a) Regional master plans;
 - (b) Urban master plans;
 - (c) Master plans of special functional zones;
 - (d) Rural master plans.
2. Construction master plans shall be formulated on the basis of the following items:
 - (a) The strategy or general master planning for socio-economic development, national defence and security, master plans for a branch; orientation for general master planning for a national urban system and relevant construction master plans which have been approved;
 - (b) Technical regulations on construction master plans and other relevant technical regulations;
 - (c) Maps, documents and data on current socio-economic status and natural conditions of localities.
3. Urban master plans shall be implemented in accordance with the law on urban master planning.

Article 14 *Requirements and principles of compliance in respect of construction master plans*

1. Requirements in respect of construction master plans comprise:
 - (a) Conformity with the objectives of the strategy or general master planning for socio-economic development; assurance of national defence and security, creation of the impetus for sustainable socio-economic development; consistency with the master plan for branch development; and publicity, transparency and harmonious co-ordination with the national interests, community interests and interests of individuals;
 - (b) Organization and arrangement of the territorial space on the basis of reasonable exploitation and use of natural resources, land, historical or cultural heritage and resources in conformity with the natural or socio-economic conditions, historical or cultural characteristics, and scientific

and technological level in each period of development;

- (c) Satisfaction of requirements for use of systems of technical infrastructure works; assurance of the connection and consistency of technical infrastructure works of areas, regions, nation and the world;
- (d) Environmental protection, prevention and fighting against natural disasters and response to climate change, minimisation of adverse impact on the community, preservation, embellishment and promotion of the value of historical and cultural heritage, beliefs and religions; and assurance of consistency in terms of architectural space, systems of social infrastructure works and technical infrastructure works;
- (dd) Creation of a base for the work of planning and management of investment and attraction of investment in construction, and management, exploitation and use of construction works in areas, special functional zones and rural areas.

2. Principles of compliance in respect of construction master plans shall comprise

- (a) Implementation of programs and investment activities for construction, management of space, architecture and general landscape must comply with the approved construction master plans and conform with the raised resources;
- (b) The construction master plan at a level must ensure unification and conformity with the master plan at a higher level.

Article 15 *Review of construction master plans*

- 1. Construction master plans shall be periodically considered, reviewed and evaluated during the process of implementation for amendment in a timely manner in order to adapt to the status of socio-economic development in each period. The interval between various periodical reviews of a construction master plan shall be ten (10) years in the case of regional master plans, five (5) years in the case of general master plans and zoned master plans or three (3) years in the case of detailed master plans as from the date on which the construction master plan is approved.
- 2. People's committees at all levels shall be responsible to review the approved construction master plans.
- 3. The review result of the construction master plans must be reported in writing to the State agency delegated with authority to approve construction master plans for its consideration and decision.

Article 16 *Responsibility to seek opinions on construction master plans*

- 1. The agency or developer which organizes formulation of a construction master plan shall be responsible to seek opinions about the tasks and drawings of a construction master plan from relevant agencies, organizations, individuals and the community of citizens.

The relevant people's committee shall be responsible to co-ordinate with the agency organizing formulation of the construction master plan or the developer of the investment project for construction to seek opinions.

- 2. With respect to tasks and drawings of construction master plans within the approval authority of the Prime Minister of the Government, the Ministry of Construction shall be responsible to seek opinions

from other relevant ministries, agencies and organizations at the central level; and provincial people's committees shall be responsible to seek opinions from relevant agencies, organizations, individuals and communities of citizens in their localities.

3. Opinions must be fully compiled, explained, acquired and reported to the competent State agency for consideration and decision.

Article 17 *Form and time for seeking opinions on construction master plans*

1. Opinions about the tasks and drawings of construction master plans from relevant agencies, organizations and individuals shall be sought by way of sending documentation or data or holding conferences or seminars. The agencies, organizations and individuals who are asked for opinions shall be responsible to make a response in writing or directly provide an opinion.
2. Opinions about the tasks and drawings of general construction master plans from the community of citizens shall be sought via the opinions from the representatives of the community of citizens by way of delivering questionnaires or conducting interviews. The representatives of the community of citizens shall be responsible to compile opinions of the community of citizens in accordance with the law on implementation of democracy at the grass-roots level.
3. Opinions about the tasks and drawings of zoned master plans, detailed construction master plans and general construction master plans for communes or construction master plans for rural residential areas from the community of citizens shall be sought by recommendation forms by way of publicly displaying or introducing the options of planning on the mass media.
4. The period for seeking opinions about a construction master plan shall be at least twenty (20) days in respect of agencies and forty (40) days in respect of organizations, individuals and communities of citizens.
5. The agency or organization formulating a construction master plan shall be responsible to acquire opinions from agencies, organizations and communities of citizens which are asked for opinions aimed at finalizing the tasks and drawings of the construction master plan; and in the case of failure to acquire [such opinions], must respond in writing and specify the reason therefor before approval of the master plan.
6. The Government shall provide detailed regulations on seeking of opinions about tasks and drawings of construction master plans from relevant agencies, organizations, individuals and communities of citizens.

Article 18 *Selection of consultants for formulation of construction master plans*

1. The agency organizing formulation of a construction master plan shall make the decision on the form of selection of a consultant participating in formulation of the construction master plan in accordance with law.
2. Upon selection of a consultant for formulation of a construction master plan, the agency organizing formulation of the construction master plan or the developer must consider the capability of the consultant for formulation of a construction master plan as the basis in accordance with this Law and shall be responsible before the law for any loss and damage resulting from selection of an unqualified consultant.
3. The selection of consultants for formulation of a construction master plan by way of competitive

examination shall be encouraged in respect of general construction master plans for special functional zones on a large scale or of special significance, zoned construction master plans, and detailed construction master plans for areas of important significance in special functional zones.

Article 19 *Expenditure for the work of formulation of construction master plans*

1. The State ensures expenditure for the work of formulation of construction master plans in accordance with the law.
2. The State encourages domestic or foreign organizations and individuals to fund expenditure for formulation of construction master plans.

Article 20 *Sequence for formulation and approval of construction master plans*

A construction master plan shall be expressed in drawings of the construction master plan and shall be implemented in the following sequence:

1. Formulation and approval of the tasks of [formulating] the construction master plan;
2. Investigation and survey on site; collection of maps, documents and data about the natural conditions, current status of socio-economic conditions, general master planning for socio-economic development and master plans for development of relevant branches in order to formulate drawings of the construction master plan;
3. Preparation of drawings of the construction master plan;
4. Appraisal and approval of the drawings of the construction master plan.

Article 21 *Archiving files on drawings of construction master plans*

1. Agencies, organizations and developers formulating construction master plans shall archive files on drawings of approved construction master plans in accordance with the law on archives.
3. The State administrative agency for construction master plans and the administrative agency for land at all levels shall be responsible to archive files on construction master plans and provide such archived documents to the competent State agencies, organizations and individuals in accordance with law.

SECTION 2

Regional Construction Master Planning

Article 22 *Regional construction master planning and responsibility for organizing formulation of regional construction master plans*

1. Regional construction master plans shall be formulated for the following regions:

- (a) Inter-provincial regions;
 - (b) Provincial regions;
 - (c) Inter-district regions;
 - (d) District regions;
 - (dd) Special functional regions;
 - (e) Regions along highway routes or inter-provincial economic corridors.
2. The section of the master plan for systems of technical infrastructure works shall be concretized by drawings specialized in technical infrastructure in the drawings of a construction master plan for an inter-provincial region or provincial region.
 3. The responsibility to organize formulation of regional construction master plans is regulated as follows:
 - (a) The Ministry of Construction shall preside over and co-ordinate with ministries, provincial people's committees and relevant agencies or organizations to organize formulation of tasks and drawings of a construction master plan in respect of inter-provincial regions, special function regions of national significance and regions along highway routes or inter-provincial economic corridors;
 - (b) Ministries for management of specialized construction works shall organize formulation of tasks and drawings of master plans specialized in technical infrastructure in inter-provincial regions;
 - (c) Provincial people's committees shall organize formulation of tasks and drawings of construction master planning for other regions belonging to the administrative unit under their management.

Article 23 *Tasks and contents of drawings of regional construction master plans*

1. Tasks of a regional construction master plan shall comprise:
 - (a) Fixing grounds and bases for formation of the boundaries of the region;
 - (b) Fixing objectives of regional development;
 - (c) Forecasting a scale of regional population and demand for technical infrastructure and social infrastructure for each period of development;
 - (d) Fixing requirements for arrangement of space in respect of urban systems, rural areas, regions and principal functional zones, and systems of technical or social infrastructure works within a region as per each period.
2. Contents of drawings of a regional construction master plan shall comprise:
 - (a) Construction master plans for inter-provincial regions, provincial regions, inter-district regions or district regions which must fix and analyse potential and impetus for regional development; forecast a rate of urbanization; solutions for zoning of functions and allocation of urban systems and rural residential areas; and fix specialized functional zones, production establishments, and

a system of focal technical and social infrastructure works of regional significance;

- (b) Construction master plans for special functional zones which are formed on the basis of socio-economic potential, national defence and security, cultural heritage and general natural landscape; and which fix and analyse potential for development, possibility of exploitation, zoning of functions, arrangement of inhabitants and organization of systems of technical infrastructure works consistent with the nature and objectives of regional development;
- (c) Construction master plans for regions along highway routes or inter-provincial economic corridors which must analyse impetus and impact of such routes or corridors in respect of the development of areas along the routes, solutions for exploitation and use of land, organization of architectural space and general landscape, systems of technical infrastructure works consistent with the nature of the routes or corridors and assurance of the traffic safety in the whole routes;
- (d) Specialized construction master plans for technical infrastructure which must forecast development and requirements for land use; and fix locations and scale of focal works, auxiliary works, main transmission networks, distribution networks and protection scope and safe corridors of works;
- (dd) Based on the scale and nature of regions, the regional construction master plans shall be studied on the basis of the topographic map to a scale of 1/25,000 – 1/250,000;
- (e) Master planning in respect of regional construction master plans shall be formulated for a period of 20 years to 25 years and have the outlook for 50 years;
- (g) The approved regional construction master plan shall provide the basis for commencement of formulation of urban master plans, construction master plans for special functional zones, rural construction master plans and master plans for systems of technical infrastructure works at the regional level.

3. The Government shall provide detailed regulations on this article.

SECTION 3

Construction Master Plans for Special Functional Zones

Article 24 *Entities and responsibility to formulate construction master plans for special function zones*

1. Construction master plans for special functional zones shall be formulated for the following functional zones:
 - (a) Economic zones;
 - (b) Industrial zones, export processing zones and high-tech zones;

- (c) Resorts and ecological zones;
 - (d) Reserves; historical-cultural or revolution heritage sites;
 - (dd) Research or training zones; sports and physical exercise zones;
 - (e) Airports and seaports;
 - (g) Focal technical infrastructure zones;
 - (h) Other special functional zones which are fixed according to the approved regional construction master plan or which are established under the decision of the competent State agency.
2. Responsibilities for formulating construction master plans for special functional zones shall be provided as follows:
- (a) The Ministry of Construction shall organize formulation of tasks and drawings of general construction master plans for special functional zones at the national level;
 - (b) Provincial people's committees shall organize formulation of tasks and drawings of general construction master plans for special functional zones, except for the master plans prescribed in clause 2(a) of this article and tasks and drawings of zoned construction master plans for special functional zones;
 - (c) District people's committees or developers of investment projects for construction shall organize formulation of tasks and drawings of detailed construction master plans for areas for which they are delegated to undertake management or investment.

Article 25 *Levels of construction master planning for special functional zones*

- 1. A general construction master plan shall be formulated for special functional zones of a scale of 500 or more hectares to provide the basis for formulation of zoned construction master plans and detailed construction master plans.
- 2. A zoned construction master plan shall be formulated for special functional zones of a scale of less than 500 hectares to provide the basis for formulation of detailed construction master plans.
- 3. A detailed construction master plan shall be formulated for areas within a special function zone to provide the basis for issuance of construction permits and formulation of investment projects for construction.

Article 26 *General construction master plan for special functional zones*

- 1. Tasks of the general construction master plan for a special functional zone shall comprise:
 - (a) Argument and bases for forming and fixing boundaries of a special function zone;
 - (b) Fixing the nature and forecasting a scale of population of the special functional zone, requirements for orientation for space development, and for technical and social infrastructure

works in each period of the master plan;

- (c) With respect to general construction or renovation master plans for a special function zone, in addition to the items prescribed in clause 1(a) of this article, fixing areas which must be cleared or retained for renewal and areas which must be protected and other specific requirements subject to the characteristics of each special functional zone.

2. Drawings of the general construction master plan for a special functional zone shall comprise:

- (a) Contents of the drawings of the general construction master plan for the special functional zone comprising fixing objectives and impetus for development, a scale of population, land, norms in relation to technical and social infrastructure; development model, orientation for space development of functional zones, administrative, service, commercial, cultural, educational, training or health care centres, parks, sports, physical exercise areas; a system of frame technical infrastructure works above or on ground and under water surfaces or ground; strategic environmental evaluation; and a plan for priority investment and resources for implementation.
- (b) Drawings of the general construction master plan for the special functional zone expressed to a scale of 1/5,000 or 1/10,000;
- (c) The master plan for a period of 20 years to 25 years;
- (d) The drawings of the approved general construction master plan for the special functional zone shall provide the basis for formulation of zoned construction master plans, and detailed construction master plans for areas and for formulation of investment projects for construction for frame technical infrastructure within the special function zone.

3. Contents of drawings of the general construction master plan for a specialized special functional zone shall comprise fixing a scale of population, land, norms of technical or social infrastructure; orientation for space development of functional zones; master plans for a system of frame technical infrastructure works; strategic environmental evaluation; plan for priority investment and resources for implementation.

Article 27 *Zoned construction master plan for special functional zones*

1. Tasks of the zoned construction master plan for a special functional zone shall comprise:

- (a) Required area of land to be used, the scale and scope of the zoned master plan, systems of technical and social infrastructure works in the zone the subject of master planning;
- (b) Preparation of a list of proposed measures for renovation of the works which are required to be retained within the area the subject of master planning for renovation;
- (c) Other requirements in respect of each zone the subject of master planning.

2. Drawings of the zoned construction master plan for a special functional zone shall comprise:

- (a) Contents of drawings of the zoned construction master plan for the special function zone comprising fixing the use function for each area of land; principles of organization of space, architecture of general landscape for the whole zone for which the master plan is being prepared; norms in terms of population, land use, a system of technical infrastructure works in respect of each block of land; arrangement of a system of social infrastructure works consistent with

requirements for use; arrangement of a network of technical infrastructure works to streets in conformity with periods of development of the whole special function zone; and strategic environmental evaluation;

- (b) Drawings of the zoned construction master plan for the special functional zone which are expressed to a scale of 1/2,000;
- (c) Term of a master plan in respect of zoned construction master plans for special functional zones shall be fixed on the basis of the term of the general master plan and the requirements for management and development of such special functional zone;
- (d) The drawings of the approved zoned construction master plan for the special functional zone shall provide the basis for fixing investment projects for construction in the special functional zone and formulation of a detailed construction master plan.

Article 28 *Detailed construction master plans for special functional zones*

1. Tasks of the detailed construction master plan for a special functional zone shall comprise:
 - (a) Required area of land to be used, a scale and scope of the detailed master plan, urban design, and systems of technical and social infrastructure works within the area the subject of master planning;
 - (b) Preparation of a list of proposed measures for renovation of the works which are required to be retained within the area the subject of master planning for renovation;
 - (c) Other requirements applicable to each area the subject of master planning.
2. Drawings of the detailed construction master planning for the special functional zone shall comprise:
 - (a) Contents of drawings of the detailed construction master plan comprising fixing norms in terms of population, land use, technical and social infrastructure and requirements for arrangement of space and architecture for the whole area the subject of master planning; arrangement of social infrastructure works consistent with the requirements for use; required architecture of works in respect of each block of land, urban design; arrangement of a system of technical infrastructure works to the boundary of the block of land; and evaluation of the strategic environment.
 - (b) Drawings of the detailed construction master plan which are expressed to a scale of 1/500;
 - (c) Term of the detailed construction master plan shall be fixed on the basis of the investment plan;
 - (d) The drawings of the approved detailed construction master plan shall provide the basis for issuance of construction permits and formulation of investment projects for construction.

SECTION 4

Master Planning for Rural Construction

Article 29 *Entities, levels and responsibility for formulating master plans for rural construction*

1. Master plans for rural construction shall be formulated for entities being communes and rural residential

areas.

2. Master plans for rural construction shall comprise the following levels:
 - (a) General construction master plans formulated for the whole administrative boundaries of communes;
 - (b) Detailed construction master plans formulated for rural residential areas.
3. People's committees of communes shall preside over formulation of tasks and drawings of master plans for rural construction.

Article 30 *General construction master plans for communes*

1. Tasks of the general construction master plan for a commune shall comprise objectives and boundaries of the commune; fix elements impacting on socio-economic development of the commune; and forecast a scale of population and labour; a scale of land and principal eco-technical norms; required principles of arrangement and allocation of functions of agricultural production, industry, small-scale industries, traditional craft villages, residential housing, and services and a system of technical infrastructure works.
2. Drawings of the general construction master plan for a commune shall comprise:
 - (a) Contents of the general construction master plan for a commune fixing potential and impetus for development, a scale of population and labour, scale of land and network of rural residential areas; orientation for development of functional zones for agricultural production, industry, small-scale industries, traditional craft villages, residential housing, and services and a system of technical infrastructure works;
 - (b) Drawings of a general construction master plan for a commune which are expressed to a scale of 1/5000 or 1/10,000 or 1/25,000;
 - (c) The term of the master plan being 10 years to 20 years;
 - (d) The approved general construction master plan for a commune shall provide the basis for formulation of detailed construction master plans for rural residential areas comprising the centre of the commune, residential areas and other functional zones in the commune.

Article 31 *Detailed construction master plans for rural residential areas*

1. Tasks of the detailed construction master plan for a rural residential area shall comprise forecast of a scale of population and labour; a scale of land; requirements for use of land allocated for construction works, conservation or renewal; and technical and social infrastructure works in the rural residential area.
2. Drawings of the detailed construction master plan for a rural residential area shall comprise:
 - (a) Content of the drawings of the detailed construction master plan for a rural residential area fixing positions and construction areas of the following works: the headquarters of administrative agencies of the commune, educational, health care, cultural, sports, commercial, service and residential housing works; and include a master plan of technical infrastructure and infrastructure serving production;

- (b) Drawings of the detailed construction master plan for a rural residential area which are expressed to a scale of 1/500 or 1/2000;
- (c) The term of a master plan shall be based on the investment plan and resources for implementation;
- (d) The drawings of the approved detailed construction master plan for a rural residential area shall provide the basis for formulation of investment projects for construction and issuance of construction permits.

SECTION 5

Appraisal and Approval of Construction Master Plans

Article 32 *Authority to appraise tasks and drawings of construction master plans*

1. The Ministry of Construction shall appraise tasks and drawings of construction master plans which are within the approval authority of the Prime Minister of the Government.
2. Administrative agencies for construction master plans under provincial people's committees shall appraise tasks and drawings of construction master plans which are within the approval authority of the same level people's committee.
3. Administrative agencies for construction master plans under district people's committees shall appraise tasks and drawings of construction master plans which are within the approval authority of the same level people's committee.

Article 33 *Appraisal councils and contents of appraisal of tasks and drawings of construction master plans*

1. The Ministry of Construction shall make the decision establishing an appraisal council for tasks and drawings of construction master plans which are within the approval authority of the Prime Minister of the Government and for drawings of construction master plans for which the Ministry of Construction organizes formulation. The Ministry of Construction shall act as the standing agency of the appraisal council.
2. A people's committee shall make the decision establishing an appraisal council for tasks and drawings of construction master plans which are within its approval authority. The administrative agency for construction master plans under a provincial or district people's committee shall act as the standing agency of the same level appraisal council.
3. The composition of the appraisal council shall comprise representatives of the State administrative agencies, socio-occupational organizations and experts in the relevant sectors.
4. Contents of appraisal of the tasks of a construction master plan shall comprise:
 - (a) Consistency of the tasks of the construction master plan with the strategy and master planning for socio-economic development, national defence, security, environmental protection and response to climate change, relevant construction master plans and the zoning and plan for land use;

- (b) Required items applicable to each type of tasks of construction master plans prescribed in articles 23, 26, 27, 28, 30 and 31 of this Law.
5. Contents of appraisal of the drawings of a construction master plan shall comprise:
- (a) Satisfaction of conditions applicable to organizations designing construction master plans prescribed in article 150 of this Law;
 - (b) Bases for formulation of the drawings of the construction master plan prescribed in article 13.2 of this Law;
 - (c) Consistency of the drawings of the construction master plan with the tasks and required items applicable to each type of construction master plan prescribed in Sections 2, 3 and 4 of this Chapter.

Article 34 *Authority to approve tasks and drawings of construction master plans*

1. The Prime Minister of the Government shall approve tasks and drawings of the following construction master plans:
 - (a) Construction master plans for inter-provincial regions, for provincial regions, for special functional zones, or for regions along highway routes or inter-provincial economic corridors; and specialized master plans for technical infrastructure of inter-provincial regions;
 - (b) General construction master plans for economic zones or for high-tech zones;
 - (c) General construction master plans for resorts, ecological zones; reserves, zones of historical-cultural or revolution heritage sites, research and training zones; sports and physical exercise zones and other special functional zones at the national level;
 - (d) Other construction master plans which the Prime Minister of the Government delegates the Ministry of Construction to organize formulation.
2. Provincial people's committees shall approve tasks and drawings of the following construction master plans:
 - (a) Construction master plans for inter-district regions or for district regions;
 - (b) General construction master plans for special functional zones, except for the master plans prescribed in clause 1(c) of this article;
 - (c²⁴) Zoned construction master plans for functional zones.
- 3²⁵. District people's committees shall approve tasks and drawings of detailed construction master plans and rural master plans within the administrative boundaries under their management after obtaining written agreement from the administrative agency for construction master plans under the provincial people's committee.

²⁴ *Allens Note:* Added by Law 62.

²⁵ *Allens Note:* Amended by Law 62.

4. People's committees at all levels organize formulation of construction master plans and are responsible for submitting same to the people's council at the same level for its decision before the competent State agency considers and approves [the master plans].
5. Form and content of approval of tasks and drawings of a construction master plan shall comprise:
 - (a) The tasks and drawings of the construction master plan must be approved in writing;
 - (b) The written approval of the construction master plan must contain the main items of the drawings of a construction master plan prescribed in articles 23, 26, 27, 28, 30 and 31 of this Law and a list of approved drawings as attachments.

SECTION 6

Amendment to Construction Master Plans

Article 35 *Conditions for amendment to construction master plans*

1. Regional construction master plans shall be amended in any one of the following circumstances:
 - (a) There is a change in the general master planning for socio-economic development of the region, the master plan for development of a branch in the region, or the regulations on protection of resources and environment, or the plan for land use; the strategy for national defence and security or the project for impetus of development of the region;
 - (b) There is a change in natural conditions or administrative boundaries or a material change in population numbers or in socio-economic conditions.
2. Construction master plans for special functional zones shall be amended in any one of the following circumstances:
 - (a) There is a change in the general master planning for socio-economic development, the construction master plan or the master plan for development of a branch in the region;
 - (b) A prioritized project of national significance is being formed and materially affects the land use, the environment or space arrangement of the functional zone;
 - (c) It is impossible to implement the construction master plan or the implementation thereof causes adverse effect on socio-economic development, national defence, security, social security and ecological environment, cultural and historical heritage and community opinions;
 - (d) There is a change in climate, geological or hydrographic conditions;
 - (dd) [The amendment] serves national and community interests;
3. Rural construction master plans shall be amended in any one of the following circumstances:
 - (a) There is a change in the master planning for socio-economic development of the locality;
 - (b) There is a change in the regional construction master plan;
 - (c) There is a change in the land use zoning or plan of the locality;

- (d) There is a change in geographical or natural conditions.

Article 36 *Principles of amendment of construction master plans*

1. Any amendment of a construction master plan must be made on the basis of analysis and evaluation of the current status and result of implementation of the existing master plan and clearly fix required renovation and renewal of the area in order to propose an amendment of the norms in terms of land use, solutions for space arrangement and general landscape in respect of each area; and solutions for renovation of the system of technical and social infrastructure works in conformity with the requirements for development.
2. The amended items of the construction master plan must be subject to appraisal and approval in accordance with this Law; and the unamended items of the drawings of the approved construction master plan shall continue to be implemented.

Article 37 *Types of amendments of construction master plans*

1. Overall amendment of construction master plans is regulated as follows:
 - (a) Overall amendment of a construction master plan shall be made when the nature, function or scale of the region or of the area the subject of master planning is changed or proposed amendments will cause a change to the structure or orientation for general development of the region or area the subject of master planning;
 - (b) Overall amendment of a construction master plan must satisfy actual requirements, conform with the trend of socio-economic development and orientation for development in the area or region in the future, improve the quality of the living environment, infrastructure and general landscape, ensure tradition of inheriting and not materially affect investment projects for construction in progress.
2. Partial amendment of construction master plans is regulated as follows:
 - (a) Partial amendment of a construction master plan shall only be applicable to special functional zones;
 - (b) Partial amendment of the construction master plan for a special functional zone shall be made if the proposed amendments do not materially affect the nature, function, scale of boundaries, orientation for general development of the area the subject of master planning and main solutions for master planning for the area for which a zoned construction master plan or detailed construction master plan is formulated;
 - (c) Partial amendment of the construction master plan for a special functional zone must clearly fix the scope, level and amended items; ensure the continuity and synchronism of the existing general construction master plan for the special functional zone or the existing zoned construction master plan or the existing detailed construction master plan on the basis of analysis and clarification of causes for amendment; socio-economic effects of the amendment; and solutions for remedying problems resulting from the amendment of the construction master plan.

Article 38 *Sequence of overall amendment of construction master plans*

1. Based on the status of socio-economic development and elements impacting on the process of development of the region, special functional zone or rural area; and conditions for amendment and upon review of the construction master plan, the agency organizing formulation of the construction master plan shall submit a report to the agency delegated with authority to approve construction master plans for its consideration and overall amendment of the construction master plan.
2. The agency or individual delegated with authority to approve construction master plans shall approve in principle the overall amendment of the construction master plan.
3. The arrangement for formulating, seeking opinions, appraising and approving tasks and drawings of a master plan for overall amendment of the construction master plan and proclamation of the amended construction master plan shall be conducted in accordance with articles 16 and 17 and Sections 2, 3, 4 and 5 of this Chapter.

Article 39 *Sequence of partial amendment of construction master plans*

1. The agency organizing formulation of the construction master plan shall prepare a report on items and a plan for partial amendment of the construction master plan, seek opinions from the community of inhabitants in the area the subject of the amended master plan and directly affected surrounding areas and submit the same to the agency delegated with authority to approve construction master plans for its consideration and decision on partial amendment of the construction master plan.
2. The agency or individual delegated with authority to approve construction master plans shall make the written decision on partial amendment on the basis of the opinion of the agency undertaking appraisal of the construction master plan.
3. The agency organizing formulation of the construction master plan shall be responsible to update and express the amended items in the construction master plan file. The amended items of the construction master plan must be publicly proclaimed in accordance with article 42 of this Law.

SECTION 7

Organization of Implementation of Construction Master Plans

Article 40 *Public proclamation of construction master plan*

1. Drawings of a construction master plan must be publicly proclaimed within a period of thirty (30) days from the date of approval.
2. Items of a construction master plan to be publicly proclaimed shall comprise basic items of the drawings of the construction master plan and the issued regulations on management according to the drawings of the construction master plan, except for the items relating to national defence and security, and State secrets.
3. The administrative agency for construction master plans is responsible to update in full the status of implementation of the drawings of the approved construction master plan for the competent agency to

publicly proclaim in a timely manner to organizations and individuals for information and supervision during implementation thereof.

Article 41 *Responsibility to organize public proclamation of construction master plans*

1. In the case of regional construction master plans, the following provisions apply:
 - (a) The Ministry of Construction shall preside over and co-ordinate with the relevant provincial people's committees to proclaim the construction master plans for inter-provincial regions which are within the approval authority of the Prime Minister of the Government;
 - (b) Provincial people's committees in the region the subject of master planning shall organize proclamation of regional construction master plans which are within the approval authority of the Prime Minister of the Government, except for the master plans prescribed in paragraph (a) of this clause;
 - (c) People's committees of districts or communes in the region the subject of master planning shall organize proclamation of regional construction master plans which are within the approval authority of the provincial people's committee.
2. In the case of general construction master plans for special functional zones, the following provisions apply:
 - (a) The Ministry of Construction shall preside over and co-ordinate with the relevant provincial people's committees to proclaim construction master plans for inter-provincial special functional zones which are within the approval authority of the Prime Minister of the Government;
 - (b) People's committees at levels shall be responsible to organize proclamation of the drawings of general construction master plans for special functional zones located within the administrative boundaries under their management.
3. People's committees at levels shall be responsible to organize proclamation of the drawings of the approved zoned construction master plans and detailed construction master plans for special functional zones located within the administrative boundaries under their management for all people to implement and supervise the implementation thereof.
4. People's committees of communes shall organize proclamation of construction master plans for communes and rural residential areas.
5. People's committees at all levels shall, within a period of thirty (30) days from the date of approval of a construction master plan, be responsible to organize proclamation of the construction master plan.
6. Any person who is responsible to proclaim the construction master plan but fails to organize proclamation or is late in proclamation or proclaims wrong items of the approved construction master plan shall, depending on the nature and seriousness of the breach, be disciplined or subject to prosecution for criminal liability and must pay compensation for loss and damage in accordance with law.

Article 42 *Form of public proclamation of construction master plan*

1. Drawings of the approved construction master plan must be proclaimed on the website of the State administrative agency for construction master plans.

2. In addition to the form of proclamation prescribed in clause 1 of this article, the competent person shall make the decision on the following forms of public proclamation of a construction master plan:
 - (a) Holding meetings for proclamation of the construction master plan with the participation of representatives of relevant organizations and agencies, of the Vietnam Fatherland Front and of people in the area the subject of master planning, and of press agencies;
 - (b) Publicly, regularly and continuously displaying panels, drawings and mock-ups in public places and at the administrative agencies for construction master plans at all levels and at people's committees of communes in the case of detailed construction master plans;
 - (c) Printing and issuing widely maps of the construction master plan and regulations on management of the approved construction master plan.

Article 43 *Provision of information about construction master plans*

1. Information about a construction master plan shall be provided in the following forms:
 - (a) Publicizing the construction master plan file;
 - (b) Explaining the construction master plan;
 - (c) Providing information in writing.
2. The administrative agency for construction master plans shall be responsible to provide information about construction locations, construction boundaries, red boundaries, standard ground floor level and other information relating to the master planning upon request of organizations and individuals within the scope of drawings of the construction master plan under its management.

People's committees at levels shall be responsible to organize receipt, processing and provision of information upon request.

The administrative agency for construction master plans shall be responsible to provide information in writing to agencies, organizations and individuals no later than fifteen (15) days from the date of their request.

3. An agency, organization or individual requesting provision of information in writing shall be liable to pay a fee for provision of information at its or his request.
4. The agency or organization providing information shall be responsible before the law for the time taken to provide information and the accuracy of the provided documents or data.

Article 44 *Positioning of construction boundary markers on site*

1. Construction boundary markers shall be positioned on site in respect of drawings of general construction master plans, zoned construction master plans and detailed construction master plans.
2. Boundaries for which markers are positioned in accordance with the approved construction master plan shall comprise red-lined boundaries, construction boundaries, standard ground floor levels and

boundary lines of areas in which construction is prohibited in accordance with the approved boundary marker file.

3. After the competent State agency approves the drawings of a construction master plan, people's committees at all levels shall be responsible for:
 - (a) Organizing formulation and approval of a file for positioning boundary markers in accordance with the approved construction master plan. The period of formulation and approval of the boundary marker file shall not exceed thirty (30) days from the date of approval of the drawings of the construction master plan. The positioning of boundary markers on site must be completed within a period of forty five (45) days from the date of approval of the boundary marker file;
 - (b) Organizing positioning of boundary markers on site in respect of drawings of a detailed construction master plan after selection of a developer.
4. Responsibilities to organize and carry out positioning of boundary markers shall be provided as follows:
 - (a) Provincial people's committees shall direct positioning of construction boundary markers in respect of drawings of construction master plans within the administrative boundaries under their management;
 - (b) District people's committees shall organize positioning of construction boundary markers in respect of drawings of construction master plans within the administrative boundaries under their management;
 - (c) Commune people's committees shall carry out positioning of construction boundary markers in respect of drawings of construction master plans within the administrative boundaries under their management.
5. Professional entities shall prepare files for positioning of boundary markers.
6. Boundary markers must have the durability and standard dimensions, record information in accordance with regulations and be recognizable and safe for people and vehicles going past and suitable for the terrain and geomorphic conditions of the area in which markers are positioned.
7. Commune people's committees shall be responsible to protect boundary markers on site.
8. The administrative agency for construction master plans shall keep the approved file of positioning of boundary markers and shall be responsible to provide documents relating to boundary markers to organizations and individuals at their request.
9. When the construction master plan is amended, the boundary markers shall be adjusted in accordance with the amended master plan.
10. Any person who conducts positioning of boundary markers or standard ground floor levels at a wrong position, removes or damages a boundary marker or standard ground floor level shall, depending on the nature and seriousness of the breach, be disciplined or subject to penalty for administrative offences or prosecution for criminal liability and must pay compensation for loss and damage in accordance with law.

SECTION 8

Administration of Construction in Accordance with Construction Master Plan

Article 45 *Principles of administration of construction in accordance with construction master plan*

1. Investment in construction shall be administered on the basis of the construction master plan approved by the competent agency.
2. Investment in construction of new works, repair, renovation of architectural works, technical or social infrastructure works and residential houses must conform with the approved detailed construction master plan and the law on construction.

Article 46 *Introduction of construction locations*

1. The administrative agency for construction master plans shall be responsible to introduce locations for investment in construction to developers at their request.
2. The locations which are introduced for investment in construction must conform with the construction master plan, scale and nature of investment, economic [use] of land areas for construction; and must not affect socio-economic development and the environment of the region, special functional region and rural areas.

Article 47 *Construction master plan permit*

1. A construction master plan permit means the document issued by the competent State agency to the developer of an investment project for construction in a special functional zone to provide the basis for formulation of a detailed master plan or a project when no zoned master plan or detailed construction master plan is approved.
2. Construction master plan permits shall be issued on the basis of requirements for administration and control of development of the special functional zone, technical regulations in relation to construction master plans and regulations on administration in accordance with the general construction master plan for the special functional zone.
3. The content of a construction master plan permit shall include the scope and scale of the area for which a master plan is formulated, permissible norms of land use subject to the construction master plan, requirements for exploitation and use of land, arrangement of architectural space, technical and social infrastructure above or underground, protection of general landscape and the environment in respect of the project area and the term of the construction master plan permit.
4. Authority to issue construction master plan permits is regulated as follows:
 - (a) Provincial people's committees shall issue construction master plan permits for investment projects for construction in national special functional zones;
 - (b) District people's committees shall issue construction master plan permits for investment projects for construction other than those prescribed in paragraph (a) of this clause.

5. Organizations and individuals who are issued with a construction master plan permit shall pay a fee in accordance with the law on fees and charges.
6. The Government shall provide detailed regulations on contents and sequence of issuance of construction master plan permits.

Article 48 *Organization of administration of implementation of construction master plans*

1. Provincial people's committees are responsible to direct formulation of a program or plan for implementation of construction master plans for rural or urban development and for special functional zones in the locality under their management in accordance with the approved construction master plan.
- 2²⁶. The Ministry of Construction is responsible to direct and co-ordinate management of construction master plans for inter-provincial regions, comprising:
 - (a) Fixing a list of programs and plans for implementation of master plans and prioritized investment projects for construction of regional systems of technical and social infrastructure works;
 - (b) Attracting and allocating investment capital from sources for development of regional systems of technical and social infrastructure works;
 - (c) Reviewing, amending and checking, and inspecting the implementation of construction master plans for inter-provincial regions;
 - (d) Presiding over and co-ordinating with chairmen of relevant provincial people's committees to periodically report on the implementation of construction master plans for inter-provincial regions as per periods of implementation of the master plans to the Prime Minister of the Government.
3. The plan for implementation of a construction master plan must fix a period of implementation of the master plan for each specific area on the basis of conformity with the objectives of the construction master plan and resources for implementation of the construction master plan.

CHAPTER III

Investment Projects for Construction for Works

SECTION 1

General Provisions

Article 49²⁷ *Classification of investment projects for construction*

1. Investment projects for construction are classified on the basis of the scale, importance; use functions, specialized nature of works and management purpose; and sources of capital to be expended and form of investment.
2. On the basis of the scale and importance, investment projects for construction are classified into projects of national importance, Group A projects, Group B projects and Group C projects in accordance with the criteria stipulated in the law on public investment.

²⁶ *Allens Note:* Removed by Law 62 but retained for reference.

²⁷ *Allens Note:* Amended by Law 62.

3. On the basis of use functions, the specialized nature of works and management purpose, investment projects for construction are classified as follows:
 - (a) Investment projects for construction of civil works;
 - (b) Investment projects for construction of industrial works;
 - (c) Investment projects for construction of technical infrastructure works;
 - (d) Investment projects for construction of traffic works;
 - (dd) Investment projects for construction of works serving agriculture and rural development;
 - (e) Investment projects for construction of works for national defence and security purposes;
 - (g) Investment projects for construction of residential housing, investment projects for construction of urban zones and other investment projects for construction of works with mixed use functions.
4. On the basis of sources of capital to be expended and forms of investment, investment projects for construction are classified as follows:
 - (a) Investment projects for construction using public investment capital;
 - (b) Investment projects for construction using non-public investment State capital;
 - (c) PPP projects;
 - (d) Projects using other capital.
5. One investment project for construction may use one or more different capital sources; and contain one or more works of different types and levels.
6. The Government shall provide detailed regulations on this article.

Article 50 *Sequence of investment in construction*

1. The sequence of investment in construction shall comprise three phases, namely preparation of the project, implementation of the project, and finalization of construction for commissioning of the project works, except for the case of construction of separate dwelling-houses.
- 2²⁸. The division of an investment project for construction into component projects and the phasing of investment are stipulated as follows:
 - (a) An investment project for construction is divided into component projects where each component project may be independently operated and/or exploited. Component projects after division shall be managed as independent projects. With respect to projects using public investment capital, the division into component projects shall be carried out in accordance with the law on public investment. With respect to the remaining projects, the division into component projects is

²⁸ *Allens Note:* Amended by Law 62.

decided by the investment-decision making person prior to formulating the project or to making the decision on investment for construction, ensuring the requirement stated in the decision on or approval of the investment policy for construction or relevant laws (if any), except where otherwise stipulated by law;

- (b) The phasing of investment is demonstrated in the feasibility study for investment in construction and the decision on investment in construction and matches the project implementation schedule and timing in the contents of the decision on or approval of the investment policy for construction.
- 3. Based on the specific conditions of the project, the investment decision-making person shall decide whether the works are implemented in order one after another or jointly together, or alternately in the phases of implementation of the project and of finalization of construction for commissioning of the works.

Article 51 *Requirements applicable to investment projects for construction*

Investment projects for construction, regardless of types of sources of capital to be expended, must satisfy the following requirements:

- 1. Complying with the general master plan for socio-economic development, the master plan for development of branches, the construction master plan and the zoning and plan for land use in the locality in which the investment project for construction is located.
- 2. Having an appropriate technology plan and construction design plan.
- 3. Ensuring quality and safety during construction, operation, exploitation and use of the works; firefighting and prevention and explosion prevention; environmental protection and response to climate change.
- 4. Ensuring funding of sufficient capital in accordance with the schedule of the project, the financial efficiency and the socio-economic effectiveness of the project.
- 5. Complying with other relevant laws.

SECTION 2

Formulation and Appraisal of Projects and Investment Decisions for Construction

Article 52²⁹ *Formulation of investment project for construction*

- 1. Upon investment in construction, a developer or the agency or organization assigned with the task of project preparation must prepare a feasibility study report for investment in construction, except for the cases prescribed in clauses 3 and 4 of this article. The content of the feasibility study report for investment in construction must conform with requirements applicable to each type of project. The preparation of a feasibility study report for investment in construction must comply with this Law and other relevant laws.
- 2. Before preparing a feasibility study report for investment in construction, the preparation of a pre-

²⁹ *Allens Note:* Amended by Law 62.

feasibility study report for investment in construction is regulated as follows:

With respect to projects of national importance and Group A projects using public investment capital; PPP projects in accordance with the law on investment in the form of public private partnership; and projects subject to the authority for investment policy approval of the National Assembly or the Prime Minister in accordance with the Law on Investment, a pre-feasibility study report for investment in construction must be prepared;

With respect to projects not subject to sub-clause (a) above, the investment decision-making person shall make the decision on the preparation of a pre-feasibility study report for investment in construction;

The sequence for preparation and appraisal of a pre-feasibility study report for investment in construction is carried out in accordance with the law on public investment, the law on investment in the form of public private partnership and other relevant laws;

The content of a pre-feasibility study report for investment in construction is carried out in accordance with article 53 of this Law, except for PPP projects.

3. Investment projects for construction only require an eco-technical report for investment in construction to be prepared in the following circumstances:
 - (a) Construction works used for religious purposes;
 - (b) Small-scale construction works and other works as stipulated by the Government.
4. Upon construction of a separate dwelling-house, preparation of a feasibility study report for investment in construction or an eco-technical report for investment in construction is not required.

Article 53 *Content of pre-feasibility study report for investment in construction [shall comprise]*

1. Necessity for the investment and conditions for implementation of investment in construction.
2. Proposed objectives, scale, location and the form of investment in construction.
3. Requirements for use of land and resources.
4. Preliminary design plan for construction, explanations, technology, techniques and appropriate equipment.
5. Proposed period for implementation of the project.
6. Preliminary figure for total invested capital; a plan for raising capital; ability to recover capital and repay loans (if any); and preliminary calculations of the socio-economic effectiveness and evaluation of impact of the project.
- 7³⁰. Preliminary assessment of environmental impact in accordance with the law on environmental protection and other content in accordance with relevant laws.

³⁰ *Allens Note:* Added by Law 62.

Article 54 *Content of feasibility study report for investment in construction*

1. A preliminary design is formulated to achieve the objectives of the project, appropriate for construction works of the project and ensuring integration between [various] works upon commissioning. The preliminary design, comprising an explanation and drawings shall show the following items:
 - (a) The position of construction, direction of the route of works, list and scale, type and level of works on the total surface area for construction;
 - (b) Selected technology or technical plan and equipment (if any);
 - (c) Architectural solutions, surface area, sections and elevation of works, dimensions and principal structures of construction works;
 - (d) Solutions for construction, main materials to be used and estimated costs of construction for each work;
 - (dd) Plans for connecting between internal and external technical infrastructure and solutions for fire fighting and prevention and explosion prevention;
 - (e) Applicable standards and technical regulations and construction survey results for formulation of a preliminary design.
2. Other items of the feasibility study report for investment in construction shall comprise:
 - (a) Necessity and investment policy, objectives of the investment in construction, location of construction and land area to be used, scale of the capacity [output] and the form of investment in construction;
 - (b) Possible assurance for elements for implementation of the project such as use of resources, selection of technology and equipment, employment of labour, technical infrastructure, sale of products, requirements for use and exploitation, period of implementation, a plan for site clearance for construction, resettlement (if any), solutions for organization and management of implementation of the project, operation and use of works and environmental protection;
 - (c) Evaluation of impact of the project relating to the resumption of land, site clearance, and resettlement; protection of the general landscape, ecological environment and safety during building, fire fighting and prevention and explosion prevention and other necessary items;
 - (d) Total invested capital and raising of capital, financial analysis, risks, expenses of exploitation and use of works, evaluation of socio-economic effectiveness of the project; and proposal for mechanism of co-ordination, incentive policy and support for implementation of the project;
 - (d1³¹) With respect to investment projects for construction of residential housing and investment projects for construction of urban zones, in addition to the content prescribed in sub-clauses (a), (b), (c) and (d) above, there must be information on the types of residential housing and implementation of the requirement on social residential housing (if any). With respect to investment projects for construction of urban zones, there must be explanatory notes on the plan

³¹ *Allens Note:* Added by Law 62.

for synchronous construction of the technical infrastructure and social infrastructure of the project and connection with the technical infrastructure and social infrastructure outside the project and plan for works handover. The Government shall stipulate this sub-clause in detail;

(dd) Other relevant items.

Article 55 *Content of eco-technical report for investment in construction*

1. Design drawings for execution of building works, technological design (if any) and estimated budget for construction.
2. Other items of the eco-technical report for investment in construction shall comprise the explanation on necessity for investment, purpose of construction, location of construction, land area to be used, scale, capacity and level of works, solutions for execution of building works, safety during building, a plan for site clearance for construction and environmental protection, arrangement of a budget for implementation and effectiveness of investment in construction of works.

Article 56³² *Appraisal of feasibility study report for investment in construction and eco-technical report for investment in construction*

1. With respect to projects of national importance using public investment capital, appraisal shall be implemented in accordance with the law on public investment.
2. With respect to PPP projects, appraisal shall be implemented in accordance with the law on investment in the form of public private partnership. Appraisal by professional agencies for construction shall be implemented in accordance with article 58 of this Law.
3. The appraisal of investment projects for construction not falling under clauses 1 and 2 above shall be implemented as follows:
 - (a) The investment decision-making person is responsible to organize appraisal, or assign the subsidiary professional agency or an organization or individual with suitable expertise for the nature and content of the project if there is no subsidiary professional agency (hereinafter referred to as the agency presiding over appraisal) to carry out appraisal of the feasibility study report for investment in construction or eco-technical report for investment in construction with respect to the contents prescribed in article 57 of this Law;
 - (b) A project as stipulated in article 58.1 of this Law must also be appraised by the professional agency for construction with regards to the contents prescribed in clauses 2 and 3 of article 58 of this Law, except for projects which require only an eco-technical report for investment in construction to be formulated;
 - (c) Investment projects for construction with requirements on fire prevention and fighting and explosion prevention, environmental protection, assurance of national defence and security, and projects using technologies the transfer of which is limited or which may have an adverse impact on the environment and use technologies must also obtain an opinion from or must be appraised or evaluated by the competent State agency in accordance with relevant laws;

³² *Allens Note:* Amended by Law 62.

- (d) In the case of a project which is required to carry out the provisions in sub-clauses (b) and (c) above, the developer may submit the file to the professional agency for construction and the competent State agency at the same time. The results of implementation of requirements on fire prevention and fighting, explosion prevention and environmental protection prescribed in sub-clause (c) above shall be sent to the professional agency for construction to provide the basis for concluding the appraisal.

With respect to the procedures to obtain opinions on fire prevention and fighting solutions of a preliminary design file in accordance with the law on fire prevention and fighting, the developer may submit the file to the professional agency for construction according to the one-stop inter-service mechanism. The professional agency for construction is responsible to send the file to the competent State agency to obtain an opinion as the basis for concluding the appraisal;

- (dd) The agency presiding over appraisal [and/or] the professional agency for construction may invite a qualified and experienced organization or individual to participate in appraisal or require the developer to select an organization or individual satisfying all conditions on capability for verification of the contents required to provide the basis for appraisal. The selection of an organization or individual conducting verification to service appraisal of the professional agency for construction shall be implemented in accordance with regulations of the Government. The fees for appraisal of a project and the construction design and the verification costs are included in the total investment amount of the project;
- (e) The agency presiding over appraisal is responsible to compile the results of implementation prescribed in sub-clauses (a), (b), (c), (d) and (dd) above to submit to the investment decision-making person to approve the project or to make the decision on investment for construction.

4. The file submitted for appraisal prescribed in clause 3 above comprises:

- (a) Submission of the developer;
- (b) Feasibility study report for investment in construction or eco-technical report for investment in construction;
- (c) Relevant documents and materials.

5. The Minister of Defence and the Minister of Public Security shall provide regulations on the authority and sequence for appraisal of feasibility study reports for investment in construction and eco-technical reports for investment in construction in conformity with special requirements on industry management with respect to investment projects for construction for national defence and security purposes.

Article 57³³ *Appraisal of feasibility study report for investment in construction or eco-technical report for investment in construction by investment decision-making person*

- 1. The contents of appraisal of an investment project for construction prescribed in sub-clauses (a) and (c) of clause 1 of article 58 of this Law by the investment decision-making person comprise the following:
 - (a) Appropriateness of the planning, objectives, investment scale and other requirements

³³ *Allens Note:* Amended by Law 62.

- determined in the decision on or approval of investment policy for construction;
- (b) Consistency of the preliminary design solution with the design tasks; list of applicable standards;
 - (c) Solution for organizing implementation of the project; project management experience and capability of the developer, site clearance plan, and form of implementing the project;
 - (d) Factors for ensuring efficiency of the project, comprising determination of the total investment amount of investment in construction; capital sources and possibility to raise capital in accordance with the schedule; and analysis of risks, financial efficiency and socio-economic effectiveness;
 - (dd) Appropriateness of the technology solution (if any);
 - (e) Other contents as prescribed by relevant laws and requested by the investment decision-making person.
2. With respect to projects using non-public investment State capital not falling under article 58.1(c) of this Law, the investment decision-making person appraises the contents prescribed in clause 1 above and article 58.2 of this Law.
 3. The contents of appraisal of a project which requires only an eco-technical report to be formulated and uses public investment capital or non-public investment State capital by the investment decision-making person comprise the following:
 - (a) Appropriateness of the planning, objectives, investment scale and other requirements determined in the decision on or approval of investment policy for construction;
 - (b) Satisfaction by the design drawings for execution of building works of the requirements on assurance of works safety and measures for ensuring safety of adjacent works;
 - (c) Preparation of the total investment amount for construction and determination of the value of the total investment amount for construction;
 - (d) Solution for organizing implementation of the project; site clearance plan; and form of implementing the project;
 - (dd) Appropriateness of the technology solution (if any);
 - (e) Other contents as prescribed by relevant laws and requested by the investment decision-making person.
 4. With respect to projects using other capital, the investment decision-making person shall decide the contents of appraisal to ensure satisfaction of the business and investment requirements and [compliance with] relevant laws.
 5. Investment projects for construction using technologies the transfer of which is limited or investment projects for construction which may have an adverse impact on the environment and use technologies in accordance with the law on technology transfer must be appraised or given an opinion regarding the technologies in accordance with Government regulations by the agency performing the function of managing the industry or field. The content and time of appraisal or provision of an opinion on

technologies comply with the law on technology transfer. The appraisal result or opinion of the agency performing the function of managing the industry or field is sent to the agency presiding over appraisal of the investment decision-making person for compilation.

Article 58³⁴ *Appraisal of feasibility study report for investment in construction by professional agency for construction*

1. Professional agencies for construction shall conduct appraisal of feasibility study reports for investment in construction with respect to the following projects:
 - (a) Projects using public investment capital;
 - (b) PPP projects;
 - (c) Investment projects for construction using non-public investment State capital on a scale of Group B or higher, or containing works with major effects on the safety and interests of the community;
 - (d) Investment projects for construction using other capital on a large scale or containing works with major effects on the safety and interests of the community.
2. In the case of an investment project for construction stipulated in sub-clauses (a), (b) and (c) of clause 1 above, the professional agency for construction shall appraise the following contents:
 - (a) Compliance with the law on formulation of investment projects for construction and preliminary designs; conditions on capability of construction practising organizations and individuals for construction activities;
 - (b) Consistency of the preliminary design with the construction master plan or the master plan of a technical nature or other specialized master plan in accordance with the law on planning or [consistency of the preliminary design with] the works route plan or works location approved by the competent State agency;
 - (c) Compliance of the project with the investment policy decided or approved by the competent State agency, with the implementation plan or program, and other requirements of the project in accordance with relevant laws (if any);
 - (d) Connectability with the regional technical infrastructure; ability to satisfy the technical infrastructure and delegation of works management responsibility in accordance with relevant laws with regards to investment projects for construction of urban zones;
 - (dd) Compliance of the preliminary design solution with regards to ensuring construction safety; and implementation of the requirements on fire-fighting and prevention and explosion prevention and environmental protection;
 - (e) Compliance with technical regulations and application of standards in accordance with the law on technical regulations and standards;

³⁴ *Allens Note:* Amended by Law 62.

- (g) Compliance with the law on determination of total investment amount for construction.
- 3. In the case of an investment project for construction stipulated in clause 1(d) of this article, the professional agency for construction shall appraise the contents stipulated in sub-clauses (a), (b), (c), (d), (dd) and (e) of clause 2 of this article.
- 4. The Government provides detailed regulations on investment projects for construction on a large scale or containing works with major effects on the safety and interests of the community.

Article 59³⁵ *Period for appraisal of feasibility study report for investment in construction*

- 1. The period for appraisal of a feasibility study report for investment in construction shall commence on the date the agency or organization conducting appraisal receives the valid and complete file.
- 2. The period for appraisal of a feasibility study report for investment in construction of a project using public investment capital is stipulated as follows:
 - (a) The period for appraisal shall be implemented in accordance with the law on public investment in the case of projects of national importance;
 - (b) The period for appraisal shall not exceed forty (40) days, of which the period for appraisal by the professional agency for construction shall not exceed thirty five (35) days in the case of Group A projects;
 - (c) The period for appraisal shall not exceed thirty (30) days, of which the period for appraisal by the professional agency for construction shall not exceed twenty five (25) days in the case of Group B projects;
 - (d) The period for appraisal shall not exceed twenty (20) days, of which the period for appraisal by the professional agency for construction shall not exceed fifteen (15) days in the case of Group C projects.
- 3. The period for appraisal of a feasibility study report for investment in construction of an investment project for construction not falling w clause 2 above shall be considered and decided by the investment-decision making person. Where appraisal by a professional agency for construction is required for a project, the period for appraisal by the professional agency for construction shall be implemented in accordance with clause 2 above; with regards to projects of national importance not using public investment capital, the period for appraisal by the professional agency for construction shall not exceed eighty (80) days.

Article 60³⁶ *Authority to make decision on investment in construction*

- 1. With respect to projects using public investment capital, the authority to make decisions on investment is subject to the law on public investment.
- 2. With respect to investment projects for construction of enterprises using State investment capital, the

³⁵ *Allens Note:* Amended by Law 62.

³⁶ *Allens Note:* Amended by Law 62.

authority to make decisions on investment in construction is subject to the law on management and use of State capital invested in business or production in enterprises and other relevant laws.

3. With respect to PPP projects, the authority to make decisions on investment in construction is subject to the law on investment in the form of public private partnership.
4. With respect to investment projects for construction using non-public investment State capital, except for projects prescribed in clause 2 above and projects using other capital, owners or representatives of owners shall make decisions on investment in construction or comply with relevant laws.

Article 61 *Changes to investment projects for construction*

1. An investment project for construction funded by public investment capital, non-public investment State capital may be changed in the following circumstances:
 - (a) Due to an event being a natural disaster, environmental incident, enemy-inflicted destruction, fire or other event of force majeure;
 - (b) Upon appearance of factors which yield higher efficiency for the project when the developer has proved the financial or socio-economic efficiency resulting from the change to the project;
 - (c) When the construction master plan changes and such change directly affects the project;
 - (d) When the construction price index published by the Ministry of Construction or provincial people's committee during the period of implementation of the project is larger than the construction price index used for calculation of a reserve for inflation in the approved total investment capital of the project;

(dd³⁷) Upon an adjustment of the investment policy which necessitates an adjustment of the project.
2. The investment decision-making person shall make the decision changing a project funded by public investment capital, non-public investment State capital.
3. The investment decision-making person shall make the decision changing a project funded by capital [from other sources] on the basis of satisfaction of the requirements in terms of the master plan, safety, environmental protection, fire fighting and prevention, explosion prevention, national defence and security approved by the competent State agency.
4. Where the change to the project causes a change to the objective, scale and location of construction, the approval of the competent State agency shall be required.
5. Any change to an investment project for construction must be appraised and approved.
6. The Government shall provide detailed regulations on formulation, appraisal, approval and change to investment projects for construction.

SECTION 3

Management of Implementation of Investment Projects for Construction

³⁷ *Allens Note:* Added by Law 62.

Article 62³⁸ *Form of organization of management of investment project for construction*

1. Based on the scale, nature and source of capital expended and conditions of implementation of the project, the investment decision-making person shall make the decision applying one of the following forms of organization of management of the project:
 - (a) Specialised management unit for investment projects for construction or regional management unit for investment projects for construction;
 - (b) Management unit for a single investment project for construction;
 - (c) The developer uses its own professional apparatus;
 - (d) A project management consultant organization.
2. A specialised management unit for investment projects for construction or regional management unit for investment projects for construction shall apply to investment projects for construction using public investment capital when [the project management unit] is assigned by the investment decision-making person to implement simultaneously, successively or continuously projects in the same speciality or in the same locality.
3. Any project management unit or consultant organization managing an investment project for construction must have sufficient conditions on capabilities in accordance with article 152 of this Law.
4. The Government shall provide detailed regulations on this article.

Article 63 *Specialized management unit for investment projects for construction and regional management unit for investment project for construction*

- 1³⁹. Ministers, heads of ministerial equivalent agencies, chairmen of provincial people's committees, chairmen of district people's committees and authorized representatives of State enterprises shall make decisions establishing specialized management units for investment projects for construction or regional management units for investment projects for construction to manage several projects in the same speciality, along the same route or in the same locality.
2. The specialized management unit for investment projects for construction or regional management unit for investment projects for construction shall be assigned to act as the developer of several projects and perform the function and duties to manage the projects or participate [in the projects] as the project management consultant when necessary.
3. A specialized management unit for investment projects for construction or regional management unit for investment projects for construction shall have the following responsibilities:
 - (a) To exercise the rights and perform the obligations of an developer prescribed in article 68 of this Law, directly manage the projects assigned by the investment decision-making person and exercise the rights and perform the obligations prescribed in article 69 of this Law;
 - (b) To handover works to the agency or entity managing operation, exploitation or use; and where necessary, directly manage operation, exploitation or use of the works as assigned by the

³⁸ *Allens Note:* Amended by Law 62.

³⁹ *Allens Note:* Removed by Law 62 but retained for reference.

investment decision-making person.

4. The specialized management unit for investment projects for construction or regional management unit for investment projects for construction may act as the project management consultant for other projects upon request and exercise the rights and perform the obligations prescribed in article 70 of this Law.

Article 64 *Management unit for single investment project for construction*

- 1⁴⁰. A developer shall establish a management unit for a single investment project for construction for direct project management.
2. A management unit for a single investment project for construction shall have a seal and a [bank] account and perform the duties and exercise the powers as authorized by the developer. The organizational structure of the project management unit shall comprise the director, deputy director(s) and professional staff and specialists depending on the requirements and nature of the project. Members of the project management unit shall work full-time or concurrently hold another position in accordance with the decision of the developer.

Article 65 *Engagement of management consultant for investment project for construction*

1. A developer shall sign a project management consultancy contract with an organization or individual who satisfies all conditions on capacity for construction activities in accordance with this Law in order to undertake one, several or all works of project management.
2. The developer shall be responsible to supervise the work of the project management consultant and may authorize the consultant to perform the project management tasks under the project management contract.

Article 66 *Content of management of investment project for construction*

1. Items of management of investment projects for construction shall comprise management of the scope and plan for works; volume of works; construction quality; schedule of implementation; costs of investment in construction; safety during execution of building works; environmental protection during building; selection of contractors and construction contracts; risk control; management of the communication system of works and other necessary items to be implemented in accordance with this Law and other relevant laws.
2. The developer shall be responsible to undertake or assign the project management unit, the project management consultant or the head contractor (if any) to undertake part or all of the items of project management prescribed in clause 1 of this article.

Article 67 *Management of schedule of implementation of investment project for construction*

1. The investment decision-making person shall make the decision on the period and schedule of implementation upon approval of the project. With respect to works of projects funded by public investment capital, the schedule of execution of building works shall not exceed the period for execution of building works approved by the investment decision-making person.

⁴⁰ *Allens Note:* Amended by Law 62.

2. The developer and contractors undertaking execution of building works must formulate a plan for the schedule and measures for execution of building works and manage implementation of the project in accordance with the approved schedule of execution of building works.
3. The developer shall be responsible to make advances and pay for the completed volume in accordance with the schedule of performance of the construction contract.
4. The developer and construction contractors are encouraged to propose and apply technical or technological solutions and organize reasonable management aimed at shortening the duration of construction of works.

SECTION 4

Rights and Obligations of Developers, Management Units for Investment Projects for Construction, Consultant Contractors and Investment Decision-Making Persons

Article 68 *Rights and obligations of developer in terms of formulation and management of implementation of investment project for construction*

1. Developers have the following rights:
 - (a) To formulate and manage a project when they satisfy all conditions on capability prescribed in this Law;
 - (b) To request relevant agencies and organizations to provide information and documents in relation to formulation and management of the project;
 - (c) To select and sign a contract with a consultant contractor for formulation and management of the project;
 - (d) To organize formulation and management of the project; and to make the decision establishing or dissolving a management unit for a single investment project for construction depending on their authority;
 - (dd) Other rights in accordance with law.
2. Developers have the following obligations:
 - (a) To fix requirements and contents of tasks of formulation of the project; to provide necessary information and documents in the case of engagement of a consultant to formulate projects; to organize check and acceptance of the project formulation result and archive files of investment projects for construction;
 - (b) To select a consultant which satisfies all conditions on capability prescribed by this Law for formulation of projects;
 - (c) To be responsible for the legal bases and accuracy of information and documents provided to the consultant upon formulation of the project; and to submit projects to the competent agency for approval in accordance with law;

- (d) To select a consultant being an organization or individual who has full capability and experience to verify the projects upon request of the agency or organization appraising the projects and of the investment decision-making person;
- (dd) To organize management of implementation of the projects in accordance with article 66 of this Law;
- (e) To check and supervise implementation of projects; and to periodically report the implementation of the projects to the investment decision-making person or the competent State administrative agency;
- (g) To recover capital and repay loans in respect of projects which require capital recovery or loan repayment;
- (h) Other obligations in accordance with law.

Article 69 *Rights and obligations of management unit for investment project for construction*

1. Management units for investment projects for construction have the following rights:
 - (a) To exercise the right to manage projects as authorized by the developer;
 - (b) To propose a plan or solution to organize management of the projects and petition the developer for resolution of issues falling outside their authority;
 - (c) To engage a consultant to participate in project management where necessary after the investment decision-making person or the developer so approves.
2. Management units for investment projects for construction have the following obligations:
 - (a) To perform the obligations of the developer to manage projects within the scope of their authorization;
 - (b) To organize management of investment projects for construction to meet the requirements in terms of the schedule, quality, costs, safety and environmental protection during building;
 - (c) To report their work to the developer during management of the projects;
 - (d) To be responsible for any breach of the law during management of implementation of the projects;
 - (dd) Other obligations in accordance with law.

Article 70 *Rights and obligations of consultant contractor contracted to formulate project or manage investment project for construction*

1. Consultant contractors which are contracted to formulate or manage investment projects for construction have the following rights:
 - (a) To request the developer to provide information and documents relating to the assigned consultancy tasks;

- (b) To be entitled to protection of the intellectual property rights in respect of their consultancy products in accordance with law;
 - (c) To refuse to implement illegal requirements of the developer;
 - (d) Other rights in accordance with the contract and relevant laws.
2. Consultant contractors which are contracted to formulate or manage investment projects for construction have the following obligations:
- (a) To perform the obligations in accordance with the items of the signed contract in conformity with the conditions on capability for construction activities prescribed by law;
 - (b) To be liable for the quality of the work in accordance with the signed contract;
 - (c) To compensate for loss and damage caused by inappropriate use of information, documents, standards, technical regulations, or technical solutions or organization of management and breaches of the contract causing loss and damage to the developer.
 - (d) Other obligations in accordance with the contract and relevant laws.

Article 71⁴¹ *Rights and responsibilities of agencies and organizations appraising and verifying feasibility study report for investment in construction and eco-technical report for investment in construction*

1. The agency presiding over appraisal has the following rights:
- (a) To request the developer or the organization or individual formulating and/or verifying the feasibility study report for investment in construction or eco-technical report for investment in construction to provide, explain and clarify information serving the appraisal;
 - (b) To request the developer to engage a consultant organization to conduct verification or invite an organization or individual with sufficient conditions on capabilities and experience to participate in appraisal where necessary;
 - (c) To reserve the results of appraisal and to refuse to implement any request for falsifying results of appraisal or any request which exceeds the capability and scope of appraisal in accordance with regulations.
2. The agency presiding over appraisal has the following responsibilities:
- (a) To appraise feasibility study reports for investment in construction and eco-technical reports for investment in construction in accordance with this Law and to compile opinions and appraisal results of relevant agencies and organizations to submit to the investment-decision making person for approving projects or making decisions on investment in construction;
 - (b) To be responsible before the law and the investment decision-making person for the result of the work performed by it.

⁴¹ *Allens Note*: Amended by Law 62.

3. A professional agency for construction has the following rights:
 - (a) To request the developer or the organization or individual formulating and/or verifying the project and/or the preliminary design to provide, explain and clarify information serving the appraisal;
 - (b) To request the agency managing planning and architecture in the locality in which the project is located to provide information about the relevant master plan where necessary;
 - (c) To request the developer to engage a consultant organization to conduct verification or invite an organization or individual with sufficient conditions on capabilities and experience to participate in appraisal where necessary;
 - (d) To reserve the results of appraisal and to refuse to implement any request for falsifying results of appraisal.
4. A professional agency for construction has the following responsibilities:
 - (a) To appraise feasibility study reports for investment in construction in accordance with this Law;
 - (b) To notify opinions and results of appraisal in writing to the developer and relevant agencies;
 - (c) To be responsible before the law for the result of the work performed by it.
5. A verifying organization has the following rights:
 - (a) To request the developer or the organization or individual formulating the feasibility study report for investment in construction or the eco-technical report for investment in construction and/or the preliminary design to provide, explain and clarify information serving the verification;
 - (b) To reserve the results of verification and to refuse to implement any request for falsifying results of verification or any request which exceeds the capability and scope of verification.
6. A verifying organization has the following responsibilities:
 - (a) To verify feasibility study reports for investment in construction and eco-technical reports for investment in construction as requested by developers and regulated by this Law;
 - (b) To explain and clarify verification results for serving the appraisal;
 - (c) To be responsible before the law and the developer for the result of the work performed by it.

Article 72 *Rights and responsibilities of investment decision-making person*

1. Investment decision-making persons have the following rights:
 - (a⁴²) To approve or authorize [others] to approve a project and finalization of capital invested in construction. With respect to a project using public investment or a PPP project, the delegation of authority or authorization for approval of the project shall accord with the law on public investment and the law on investment in the form of public private partnership;

⁴² *Allens Note:* Amended by Law 62.

- (b) Not to approve a project which fails to satisfy the investment objectives and its effectiveness;
- (c) To suspend implementation of an investment project for construction which has been approved or which is under progress when they consider it necessary in conformity with law;
- (d) To change or amend an investment project for construction when they consider it necessary in conformity with article 61 of this Law;
- (dd) Other rights in accordance with law.

2. Investment decision-making persons have the following responsibilities:

- (a) To organize appraisal of projects and make the decision on investment in construction;
- (b) To ensure the availability of funds for implementation of the investment project for construction;
- (c) To inspect implementation of investment projects for construction of the developers; and to organize supervision and evaluation of the investment projects for construction in accordance with article 8 of this Law;
- (d⁴³) To approve the finalization of capital invested in construction of completed [works];
- (dd) To be responsible before the law for their decision;
- (e) Other obligations in accordance with law.

CHAPTER IV

Construction Survey and Design for Construction

SECTION 1

Construction Survey

Article 73 *Forms of construction survey*

1. Survey of topography.
2. Survey of geology of works.
3. Hydro-geological survey.
4. Survey of current status of works.
5. Other surveying work which services investment activities for construction as determined by the investment decision-making person.

⁴³ *Allens Note:* Removed by Law 62 but retained for reference.

Article 74 *Requirements applicable to construction survey*

1. Formulated surveying tasks or technical plan for construction survey must be appropriate for the type and level of the construction works, the surveying form, design steps and requirements of formulation of design for construction.
2. A technical plan for construction survey must meet requirements of the surveying tasks for construction and comply with the applicable standards and technical regulations on construction survey.
3. The work of construction survey must comply with the technical plan for construction survey, ensure safety and environmental protection, meet requirements of the approved surveying tasks for construction, and shall be examined, and be subject to supervision, check and acceptance in accordance with regulations.
4. Construction survey results shall be made in a report, and must be truthful and objective, correctly reflect the realities and must be approved.
5. The construction survey contractor must satisfy all conditions on capabilities appropriate for the type and level of construction works and the surveying form.

Article 75 *Principal items of report on construction survey result [shall comprise]*

1. Bases and process and the methods of the survey;
2. Survey data, analysis and assessment of survey results;
3. Conclusion on survey results and recommendations.

Article 76 *Rights and obligations of developer in relation to construction survey*

1. Developers have the following rights:
 - (a) To carry out construction survey when they satisfy all conditions on capability;
 - (b) To negotiate and sign construction survey contracts; and supervise and require construction survey contractors to correctly implement the signed contracts;
 - (c) To approve the surveying tasks for construction or technical plan for construction survey formulated by the design consultant or by the construction survey contractor and assign the surveying tasks to the construction survey contractor;
 - (d) To change surveying tasks for construction upon reasonable request from the construction design consultant;
 - (dd) To suspend the implementation of or terminate a construction survey contract in accordance with law;
 - (e) Other rights in accordance with law.
2. Developers have the following obligations:

- (a) To select construction survey contractors and supervise the construction survey in the case where they do not themselves carry out the construction survey or supervise the construction survey;
- (b) To provide information and documents relating to the work of survey to the construction survey contractor;
- (c) To fix requirements in respect of the construction survey and to facilitate the construction survey contractor in carrying out the work;
- (d) To perform correctly the signed construction survey contract;
- (dd) To organize supervision of the work of construction survey; and check and acceptance and to approve the survey results in accordance with law;
- (e) To compensate for loss and damage caused by provision of inappropriate information or documents, or arising from any breach of the construction survey contract;
- (g) Other obligations in accordance with the contract and relevant laws.

Article 77 *Rights and obligations of construction survey contractor*

1. Construction survey contractors have the following rights:
 - (a) To request the developer and relevant parties to provide relevant information and data in accordance with the contract in order to undertake the construction survey;
 - (b) To refuse to perform requirements outside the construction survey contract;
 - (c) To engage a subcontractor to undertake the construction survey in accordance with the construction survey contract;
 - (d) Other rights in accordance with the contract and relevant laws.
2. Construction survey contractors have the following obligations:
 - (a) To perform correctly requirements of the construction survey in accordance with this Law and the construction survey contract;
 - (b) To propose further surveying tasks when they detect factors directly affecting design solutions;
 - (c) To be responsible for the construction survey results and the quality of the survey undertaken by them; and to be responsible to control the quality of the survey and survey results of the subcontractor (if any). Any subcontractor when it participates in construction survey must be responsible to the head contractor and before the law for the survey results;
 - (d) To compensate for loss and damage caused by incorrect performance of the surveying tasks, by use of inappropriate information, data, standards and technical regulations, or by any breach of the construction survey contract;
 - (dd) Other obligations in accordance with the contract and relevant laws.

SECTION 2
Design for Construction

Article 78⁴⁴ *General provisions on design for construction*

1. Designs for construction comprise the following:
 - (a) Concept design in the pre-feasibility study report for investment in construction;
 - (b) Preliminary design in the feasibility study report for investment in construction or design drawings for execution of the building works in the eco-technical report on investment in construction of the works;
 - (c) Designs formulated after the preliminary design, comprising front end engineering design (FEED); technical design; design drawings for execution of the building works; and other designs (if any) in accordance with international practice.
2. A design for construction of works may be formulated in one or more steps as follows:
 - (a) One step design, namely the design drawings for execution of building works;
 - (b) Two step design, namely the preliminary design and the design drawings for execution of building works;
 - (c) Three step design, namely the preliminary design, the technical design, and the design drawings for execution of building works;
 - (d) Multi-step design in accordance with international practice.
3. The investment decision-making person shall decide the number of design steps when approving the project or making the decision on investment in construction.
4. A design file for construction formulated after the preliminary design comprises an explanation on the design, design drawings, relevant data on construction survey, estimated budget for construction of works and technical instructions (if any) as requested by the developer.
5. The design drawings for execution of building works shall be prepared by a design consultant organization or by a contractor for execution of building works for all or each item of works or for each stage of execution of the building works as requested by the developer.
6. The Government shall provide detailed regulations on design steps for construction and on appraisal, approval and amendment of construction designs.

Article 79 *Requirements applicable to design for construction*

1. [The design for construction] must satisfy the requirements of the designing tasks; and conform with the content of the approved investment project for construction, the construction master plan, the

⁴⁴ *Allens Note:* Amended by Law 62.

architectural landscape and natural or socio-cultural conditions in the area in which construction is carried out.

2. The content of the design for construction of works must satisfy the requirements of each design step.
3. [The design for construction] must comply with the applicable standards, technical regulations and the law on use of building materials and satisfy the requirements in relation to the use function and applicable technology (if any); and ensure safety in terms of load bearing or use, a beautiful design, environmental protection, response to climate change, fire fighting and prevention and explosion prevention and other conditions in relation to the safety.
4. There is an appropriate design solution and reasonable construction costs; [the design for construction] must ensure synchronous construction of each building work and integrate with related works; must be favourable, hygienic and healthy for users of the works; facilitate disabled persons, the aged and children in using the works. [The design for construction] makes maximum use of favourable natural conditions and minimization of unfavourable natural conditions; and gives priority to use of local materials or environmentally friendly materials.
5. The design for construction must be subject to appraisal and approval in accordance with this Law, except for the case prescribed in clause 7 of this article.
6. The design contractor must satisfy all conditions on capability appropriate for the type and level of works and for its job to be performed.
7. Construction design of separate dwelling-houses shall be regulated as follows:
 - (a) The construction design of a separate dwelling-house must satisfy the requirements of a design prescribed in clause 3 of this article;
 - (b) A household may itself do the design of a separate dwelling-house which has a total floor construction area of less than two hundred and fifty (250) square metres or less than three storeys or a height of less than twelve (12) meters and which conforms with the approved construction master plan, and shall be responsible before the law for the quality of the design and the effect of the construction work on the environment and the safety of adjacent works.

Article 80 *Principal items of design for construction formulated after preliminary design [shall comprise]*

1. Architectural plan.
2. Technology plan (if any).
3. Use function.
4. Life span and process of operation and maintenance of works.
5. Structural plan and types of principal materials;
6. Technical instructions.
7. Plan for fire fighting and prevention and for explosion prevention.

8. Plan for economic and efficient use of energy.
9. Solutions on environmental protection and response to climate change.
10. Estimated budget for construction appropriate for the construction design step.

Article 81 *Contest for and selection of architectural designs for construction works*

1. A contest for or selection of an architectural design for construction works must be held for large-scale public works which have special architectural requirements before a feasibility study report for investment in construction is formulated. The investment decision-making person shall make the decision on contest for or selection of an architectural design for construction works.
2. Costs of the contest for or selection of an architectural design for construction works shall be included in the total investment capital of the project.
3. The copyright of an author who is the winner in the contest or whose architectural design is selected shall be protected, and such author shall be given priority to formulate the investment project for construction and design for construction if the author satisfies all conditions on capability in accordance with regulations.
4. The Government shall provide detailed regulations on contest for and selection of architectural designs for construction works.

Article 82⁴⁵ *Appraisal and approval of construction designs formulated after preliminary design*

1. Unless otherwise stipulated by the investment decision-making person in the decision on investment in construction, the developer is responsible to organize appraisal of design steps for construction taken after the preliminary design as stipulated in clause 2 of this article in order to provide the basis for approval. For the remaining design steps, the developer decides the control of design in accordance with the contract between the developer and the contractor and relevant laws.
2. A developer shall appraise the following design steps in accordance with the contents stipulated in article 83 of this Law:
 - (a) FEED in the case of implementation of an engineering, procurement and construction contract (EPC contract);
 - (b) Technical design in the case of three step design;
 - (c) Design drawings for execution of the building works in the case of two step design;
 - (d) The other design step immediately following the preliminary design step in the case of multi-step design in accordance with international practice.
3. Construction works stipulated in article 83a.1 of this Law must also have their construction design appraised by a professional agency for construction in accordance with the contents stipulated in article 83a.2 of this Law. The appraisal agency may invite an organization or individual with sufficient conditions on capabilities and experience to participate in the appraisal of the construction design.

⁴⁵ *Allens Note:* Amended by Law 62.

4. Construction works requiring fire prevention and fighting and explosion prevention, environmental protection and assurance of national defence and security must obtain opinions from or be evaluated by a competent State agency in accordance with relevant laws.
5. With respect to construction works stipulated in clauses 3 and 4 of this article, the developer may submit the file to the professional agency for construction and the competent State agency at the same time. The results of implementation of the requirements for fire prevention and fighting and explosion prevention and environmental protection stipulated in clause 4 above shall be sent to the professional agency for construction to provide the basis for concluding the appraisal.
6. With respect to construction works with major effects on the safety and interests of the community, the construction design must be verified by an organization or individual qualified to carry out construction activities in terms of safety of works and compliance with technical regulations and standards to provide the basis for appraisal.
7. The developer is responsible to compile documents of the professional agency for construction and relevant agencies and organizations; to satisfy requirements (if any); and approve the construction design in accordance with clause 8 below.
8. The developer approves the design step for construction taken after the preliminary design prescribed in clause 2 above. The developer may decide the approval of the remaining design steps.
9. The Minister of Defence and the Minister of Public Security shall provide regulations on the authority to and sequence for appraising and approving construction designs in conformity with special requirements on industry management with respect to works for national defence and security purposes.

Article 83⁴⁶ *Appraisal of design for construction formulated after preliminary design by developer*

1. With respect to construction works using public investment capital or construction works using non-public investment State capital, the developer shall appraise the following items:
 - (a) Compliance of requirements of the construction design with the design tasks, provisions of the design contract and relevant laws;
 - (b) Consistency of the construction design with the requirements on technological chains [lines] and equipment (if any);
 - (c) Preparation of the estimated budget for construction of the works; compliance of the estimated value for construction of the works with the total investment amount for construction; and fixing the estimated value for construction of the works.
2. With respect to construction works in a PPP project, the items of appraisal of the construction design shall be as stipulated in clause 1 of this article and the provisions in the PPP project contract.
3. With respect to the construction works stipulated in article 82.6 of this Law and not covered by article 83a.1 of this Law, the developer shall organize appraisal and approval of the construction design based

⁴⁶ *Allens Note:* Amended by Law 62.

on the provisions of clause 1 of this article and article 83a.2 of this Law.

4. With respect to the construction works not stipulated in clauses 1, 2 and 3 of this article, the developer shall make a decision on the items of appraisal to ensure satisfaction of the requirement of the design tasks, provisions of the design contract and relevant laws.

Article 83a⁴⁷ *Appraisal of construction design formulated after preliminary design by professional agency for construction*

1. A professional agency for construction shall appraise steps for construction design stipulated in article 82.2 of this Law with respect to the following construction works:
 - (a) Construction works using public investment capital;
 - (b) Construction works using non-public investment State capital of a project of Group B or higher scale or construction works with major effects on the safety and interests of the community;
 - (c) Construction works in a PPP project;
 - (d) Construction works using other capital with major effects on the safety and interests of the community which are built in an area where there is no construction master plan for urban zones, construction master plan for functional areas or detailed construction master plan for rural residential areas.
2. With respect to construction works stipulated in sub-clauses (a) and (b) of clause 1 of this article and construction works in a PPP project with a component using public investment capital, the items of appraisal of the construction design by the professional agency for construction shall comprise:
 - (a) Compliance with the law on formulation and verification of construction designs; and conditions on capability for conducting construction activities of organizations and individuals involved in conducting the survey, design and verification of the design;
 - (b) Consistency of the construction design with the preliminary design appraised by the professional agency for construction;
 - (c) Inspection of the results of verification provided by the consultant organization in terms of satisfaction of requirements on safety of works and compliance with technical regulations and the law on application of standards in design in a case where the design is required to be verified in accordance with article 82.6 of this Law;
 - (d) Compliance with the law on fixing the estimated budget for construction;
 - (dd) Inspection of implementation of the requirements on fire prevention and fighting and explosion prevention, and environmental protection;
 - (e) Inspection of implementation of other requirements in accordance with relevant laws.
3. With respect to construction works stipulated in clause 1(d) of this article and construction works in PPP projects which are not covered by clause 2 of this article, the professional agency for construction

⁴⁷ Allens Note: Added by Law 62.

shall appraise the items stipulated in sub-clauses (a), (b), (c), (dd) and (e) of clause 2 of this article.

Article 84 *Change to design for construction*

1. An approved design for construction may only be changed in the following circumstances:
 - (a) When the investment project for construction of works is amended and such amendment requires a change in the design for construction;
 - (b) During execution of building works, there is a requirement for change to the design for construction in order to ensure the quality of the works and efficiency of the project.
2. When a change to the design for construction prescribed in clause 1 of this article results in a change in the engineering geology, designed load, structural solutions, materials of load bearing structures or measures to organize execution of building works affecting the load bearing safety of works, the change to the design for construction must be subject to appraisal and approval as prescribed in article 82 of this Law.

Article 85⁴⁸ *Rights and obligations of developers during construction design*

1. A developer has the following rights:
 - (a) To itself carry out the design or verify the construction design upon satisfaction of the conditions on capability for construction activities and on practising capability appropriate for the type and level of construction works;
 - (b) To select a contractor for construction design or verification of the construction design if [the developer] itself does not carry out the design or verify the construction design;
 - (c) To negotiate and sign a contract for construction design or verification of the construction design; to conduct supervision and request that the contractor comply correctly with the signed contract; and to suspend or terminate the contract in accordance with the provisions of the contract and relevant laws;
 - (d) Other rights in accordance with the contract and relevant laws.
2. A developer has the following obligations:
 - (a) To select contractors for construction design and verification of the construction design qualified to carry out construction activities and having practising capability appropriate for the type and level of construction works;
 - (b) To determine the design tasks;
 - (c) To provide complete information and documents to the contractor for construction design or for verification of the construction design;
 - (d) To perform correctly the signed contract; and to compensate for loss and damage when committing a breach of the signed construction design contract;

⁴⁸ *Allens Note:* Amended by Law 62.

- (dd) To appraise and approve the construction design in accordance with this Law;
- (e) To be responsible before the law and the investment decision-making person for the results of the work performed by it;
- (g) To store/archive the file of the construction design;
- (h) Other obligations in accordance with the contract and relevant laws.

Article 86 *Rights and obligations of contractors for design for construction of works*

1. Contractors for the design for construction have the following rights:

- (a) To request the developer and relevant agencies to provide information and documents relevant to design work;
- (b) To refuse to implement any requests outside design tasks and outside the contract for construction design;
- (c) To have copyright in their design for construction;
- (d) To hire a subcontractor(s) to carry out designs for construction in accordance with the contract for construction design;
- (dd) Other rights in accordance with the contract for construction design and relevant laws.

2. Contractors for the design for construction have the following obligations:

- (a) Only to accept a contract to perform the design for construction appropriate in terms of their capability for activities or their practising capability for design for construction;
- (b) To comply with the standards and technical regulations applicable to the works; and to formulate the construction design file meeting requirements of the design tasks, design steps and the contract for construction design and relevant laws;
- (c) To be responsible for the quality of the design products that they undertake to do, including the items prescribed in articles 79 and 80 of this Law; and to be responsible for the quality of the design work of the subcontractor (if any). A subcontractor which participates in design for construction must be responsible for the design result to the head contractor and before the law;
- (d) To conduct the author's supervision during the process of execution of building works;
- (dd) Not to appoint any manufacturer of building materials and supplies or of construction equipment in the contents of designs for construction of works funded by public investment capital, non-public investment State capital;
- (e) To compensate for loss and damage when setting inappropriate surveying tasks; or when using inappropriate information, documents, standards, technical regulations on construction, technical or technological solutions which affect the quality of the works; or which are in breach of the contract for construction design;

- (g) Other obligations in accordance with the contract for construction design and relevant laws.

Article 87⁴⁹ *Rights and responsibilities of professional agencies for construction during appraisal of construction designs*

1. A professional agency for construction has the following rights:
 - (a) To request the organizations or individuals formulating and verifying the construction design to provide information and explanations where necessary as the basis for appraisal in accordance with regulations;
 - (b) To request the developer to select a consultant organization for verification; and to invite an organization or individual with sufficient conditions on capabilities and experience to participate in the appraisal where necessary;
 - (c) To reserve the results of appraisal and to refuse any request for falsifying results of appraisal or any request exceeding the capability or scope of the appraisal work.
2. A professional agency for construction has the following responsibilities:
 - (a) To appraise the construction design in accordance with this Law;
 - (b) To send a written notice of the opinion or results of appraisal to the developer and the local State administrative agency for construction for the purpose of monitoring and managing the execution of construction;
 - (c) To be responsible before the law for the results of the work performed by it.

Article 87a⁵⁰ *Rights and obligations of organizations verifying construction designs*

1. A verifying organization has the following rights:
 - (a) To request the developer or the organization or individual formulating the construction design to provide, explain and clarify information serving the verification;
 - (b) To reserve the results of verification and to refuse to implement any request for falsifying results of verification or any request which exceeds the capability and scope of verification.
2. A verifying organization has the following responsibilities:
 - (a) To verify the construction design in accordance with the scope requested by the developer;
 - (b) To explain and clarify the verification results as the basis for the appraisal by the developer and the professional agency for construction;
 - (c) To be responsible before the law and the developer for the result of the work performed by it.

Article 88 *Archiving files of construction work*

⁴⁹ *Allens Note:* Amended by Law 62.

⁵⁰ *Allens Note:* Added by Law 62.

1. Developers shall be responsible to archive files on finalization of construction works. Contractors involved in construction activities shall be responsible to archive files on the work that they performed.
2. Files relevant to management and use of construction works shall be archived by the manager or user of the works for a minimum duration equal to the use period of the works in accordance with law.
3. Files on construction works shall be prepared and archived in accordance with the law on archives.
4. The Government shall provide detailed regulations on archiving files on construction works.

CHAPTER V

Construction Permits

Article 89⁵¹ *General provisions on issuance of construction permits*

1. Construction works must have a construction permit which is issued by a competent State agency to the developer in accordance with this Law, except in the cases prescribed in clause 2 of this article.
2. A construction permit is not required in the following cases:
 - (a) State secrets works; emergency construction works;
 - (b) Works under projects using public investment capital the investment in construction of which is decided by the Prime Minister, the head of the central agency of a political organization, the Supreme People's Procuracy, the Supreme People's Court, the State Auditor, the Office of the President of Vietnam, the Office of the National Assembly, ministries, ministerial equivalent agencies, governmental agencies, the central agency of the Vietnam Fatherland's Front and of socio-political organizations, or the chairman of a people's committee at any level;
 - (c) Temporary construction works as stipulated in article 131 of this Law;
 - (d) Works being repairs or renovation inside [construction] works or works being repairs or renovation of external parts which do not adjoin any urban road with requirements for architectural management as stipulated by a competent State agency; repairs or renovation which does not change the use function nor affect the safety of the weight-bearing structures of the works, and is consistent with the construction master plan which has been approved by the competent State agency and with the requirements on safety of fire prevention and fighting and explosion prevention, and environmental protection;
 - (dd) Advertising works not falling into the category of works requiring issuance of a construction permit in accordance with the law on advertising; passive telecommunications infrastructure works in accordance with regulations of the Government;
 - (e) Construction works located in two or more provincial-level administrative units, or construction works built along a route which does not pass through an urban zone and which complies with the construction master plan or master plan of a technical or specialised nature approved by the

⁵¹ *Allens Note:* Amended by Law 62.

competent State agency;

- (g) Construction works for which the result of appraisal of the construction design formulated after the preliminary design has been notified by a professional agency for construction as satisfying the conditions for construction design approval and the conditions for issuance of a construction permit in accordance with this Law;
- (h) Separate dwelling-houses on a scale of less than seven (7) storeys in investment projects for construction of urban zones or investment projects for construction of residential housing with a detailed master plan [to the scale] of 1/500 approved by a competent State agency;
- (i) Level IV construction works or separate dwelling-houses in rural areas on a scale of less than seven (7) storeys within a region for which neither a master plan for urban development nor a construction master plan for functional zones nor a detailed construction master plan for rural residential area is approved by a competent State agency; level IV construction works or separate dwelling-houses in mountainous areas or marine islands in areas for which there is no master plan for urban development or construction master plan for functional zones; except for works and separate dwelling-houses built in a reserve or historical-cultural heritage site;
- (k) The developer for construction of works stipulated in sub-clause (b), (e), (g), (h) and (i) above, except for the developer of separate dwelling-houses prescribed in sub-clause (i) above, is responsible to notify the time of commencement of construction, enclosing the construction design file in accordance with regulations to the local State administrative agency for construction for management.

3. Construction permits comprise:

- (a) Permits for construction of new works;
- (b) Permits for repair or renovation;
- (c) Permits for removal of works; and
- (d) Definite term construction permits.

- 4. Construction permits for works shall be issued for each phase when the construction design formulated after the preliminary design of each phase has been appraised and approved in accordance with this Law.
- 5. In the case of an investment project for construction which consists of multiple works, a construction permit shall be issued for one, several or all works in the project when such works are required to be executed at the same time, satisfy the requirements on conditions and period for issuance of a construction permit, and satisfy the synchronism requirements of the project.

Article 90 *Principal items of construction permit*

- 1. Name of the works in the project.

2. Name and address of the developer.
3. Location and position of the construction works, route of the construction works in respect of works along a route.
4. Type and level of construction works.
5. Standard ground floor level of the works.
6. Red-lined boundaries and construction boundaries.
7. Construction density (if any).
8. Land use coefficient (if any).
9. With respect to civil works, industrial works and separate dwelling-houses, in addition to the items stipulated in clauses 1 to 8 inclusive of this article, the construction permit shall include the total construction area, the construction area of the first floor (ground floor), the number of storeys (including basement, top floor, mechanical floor and attic) and the maximum height of the whole work.
10. The time-limit for commencement of construction of works shall not exceed twelve (12) months from the date of issuance of a construction permit.

Article 91 *Conditions for issuance of construction permit applicable to works in urban areas*

1. [Such works] are consistent with the detailed construction master plan approved by the competent State agency. With respect to construction works within regions or on street routes in urban areas which are stable but for which there is no detailed construction master plan, [such works] must conform with the regulations on management of master plans, urban architecture or urban design issued by the competent State agency.
- 2⁵². [Such works] are consistent with the land use purpose in accordance with the law on land.
3. [Such works] ensure their safety or the safety of adjoining works and [satisfy] requirements for environmental protection, fire fighting and prevention and explosion prevention; ensure the safety of technical infrastructure and protection corridors for irrigation works, dyke embankments, energy works, traffic works, cultural or historical heritage sites and ensure a safe distance from inflammable, explosive or toxic works and important works relating to national defence and security;
4. The designs for construction of such works have been appraised and approved in accordance with article 82 of this Law.
5. Application files for issuance of a construction permit are appropriate for each type of permit prescribed in articles 95, 96 and 97 of this Law.

Article 92 *Conditions for issuance of construction permit applicable to works not along routes outside urban areas*

1. [Such works] are consistent with the position and total surface area of the project as approved in writing

⁵² *Allens Note:* Amended by Law 62.

by the competent State agency.

2. [Such works] satisfy the conditions prescribed in clauses 3, 4 and 5 of article 91 of this Law.

Article 93 *Conditions for issuance of construction permit applicable to separate dwelling-houses*

1. General conditions for issuance of construction permits applicable to separate dwelling-houses in urban areas comprise [the following conditions]:
 - (a⁵³) [Such houses] are consistent with the land use purpose in accordance with the law on land and regulations on architecture management issued by the competent State agency;
 - (b) [Such works] ensure their safety or the safety of adjoining works and [satisfy] requirements for environmental protection, fire fighting and prevention and explosion prevention; ensure the safety of the technical infrastructure and protection corridors for irrigation works, dyke embankments, energy works, traffic works, cultural or historical heritage sites and ensure a safe distance from inflammable, explosive or toxic works and important works relating to national defence and security;
 - (c) Designs for construction of separate dwelling-houses are subject to article 79.7 of this Law.
 - (d) Application files for issuance of a construction permit are subject to articles 95.1, 96 and 97 of this Law.
2. Separate dwelling-houses in urban areas must satisfy the conditions prescribed in clause 1 of this article and conform with the detailed construction master plan. Separate dwelling-houses in regions or street routes in urban areas which are stable but for which there is no detailed construction master plan must conform with the regulations on management of master plans, urban architecture or urban design issued by the competent State agency.
3. Separate dwelling-houses in rural areas upon construction must conform with detailed construction master plans for rural residential areas.

Article 94⁵⁴ *Conditions for issuance of definite term construction permits*

1. General conditions for issuance of a definite term construction permit comprise:
 - (a) [Works] are located in areas for which a zoned construction master plan, a zoned construction master plan for functional zones or detailed master plan, or detailed construction master plan for functional zones has been approved by and proclaimed by the competent State agency but is not yet implemented and for which the competent State agency has not yet made a decision on land resumption;
 - (b) [Works] conform with the scale of works stipulated by the provincial people's committees for each area and the planned duration of existence of the works is subject to the approved zoned construction master plan, construction master plan for functional zones or detailed master plan, or detailed construction master plan for functional zones which has been approved by the competent State agency;

⁵³ *Allens Note:* Amended by Law 62.

⁵⁴ *Allens Note:* Amended by Law 62.

- (c) [Works] conform with the land use purpose determined in the legal documents on land of the applicant for the definite term construction permit;
 - (d) The developer undertakes to itself dismantle the works upon expiry of the duration of existence stated in the definite term construction permit and the competent State agency makes a decision on land resumption, failing which the works shall be compulsorily dismantled and the developer shall bear all costs for such compulsory dismantling. Where the term has expired but the construction master plan has not yet been implemented, the developer is permitted to continue using the works until the competent State agency makes a decision on land resumption. Assistance during dismantling is carried out in accordance with the law on land.
2. Works for which a definite term construction permit is to be issued must satisfy the conditions prescribed in clause 1 of this article and clauses 3, 4 and 5 of article 91 of this Law.
 3. Separate dwelling-houses issued with a definite term construction permit must satisfy the conditions prescribed in clause 1 of this article and sub-clauses (b), (c) and (d) of article 93.1 of this Law.
 4. With regards to construction works or separate dwelling-houses issued with a definite term construction permit, if upon expiry of the duration of existence of the works stated in the definite term construction permit, the construction master plan is adjusted by extending the implementation plan, then the agency which issued the definite term construction permit is responsible to notify the extension of the duration of existence of the works. Where the developer continues to require construction of new works or repair or renovation, a definite term construction permit shall be issued for the term of the adjusted construction master plan.
 5. With regards to construction works or separate dwelling-houses in the case prescribed in sub-clause (a) of clause 1 above where a district annual land use plan is available, a definite term construction permit shall be issued for repair or renovation, but not for construction of new works.

Where, after three years from the announcement of the district annual land use plan, the competent State agency has not yet made a decision on land resumption or has not permitted conversion of the land use purpose according to the announced district annual land use plan without adjustment or cancellation, or with adjustment or cancellation but the adjustment or cancellation of the district annual land use plan is not announced, the land user has the right to apply for a definite term construction permit in accordance with clauses 2 and 3 above.

Article 95 *Application file for issuance of construction permit for new works*

1. An application file for issuance of a construction permit for new works in respect of separate dwelling-houses shall comprise:
 - (a) Application for issuance of a construction permit;
 - (b) Copy of one of the papers evidencing the land use right in accordance with the law on land;
 - (c) Design drawings for construction;
 - (d) In the case of construction works which have adjacent works, a written undertaking to ensure the safety of such adjacent works.
2. An application file for issuance of a construction permit in respect of construction works which are not

along a route shall comprise:

- (a) Application for issuance of a construction permit;
 - (b) Copy of one of the papers evidencing the land use right in accordance with the law on land;
 - (c) Copy of the decision approving the project or of the investment decision;
 - (d) Design drawings for construction;
 - (dd⁵⁵) Copy or code number of the practising certificate of the designing organization and/or the organization verifying the construction design, and the practising certificate of the person in charge or head designer or head of the verification [organization] of the construction works issued in accordance with regulations.
3. An application file for issuance of a construction permit in respect of construction of works along a route shall comprise:
- (a) The documents prescribed in paragraphs (a), (c), (d) and (dd) of clause 2 of this article;
 - (b) Written approval of the competent State agency in terms of the consistency with the position and plan for the route;
 - (c) Decision on land resumption of the competent State agency in accordance with the law on land.
4. An application file for issuance of a construction permit in respect of construction of religious works shall comprise:
- (a) The documents prescribed in clause 2 of this article;
 - (b⁵⁶) Written opinion of the professional agency for religion and beliefs of the provincial people's committee in terms of the necessity for construction and the scale of the works.
5. The application file for issuance of a construction permit in respect of works being a statue or large-scale mural painting shall comprise:
- (a) The documents prescribed in clause 2 of this article;
 - (b) Copy of the permit or written approval of the State administrative agency for culture in terms of the necessity for construction and the scale of the work.
- 6⁵⁷. Application files for issuance of construction permits in respect of advertising works shall accord with the law on advertising.
7. An application file for issuance of a construction permit in respect of works of diplomatic agencies or international organizations shall be subject to Government regulations.

⁵⁵ *Allens Note:* Amended by Law 62.

⁵⁶ *Allens Note:* Amended by Law 62.

⁵⁷ *Allens Note:* Amended by Law 62.

Article 96 *Application files for issuance of construction permit in the case of repair or renovation of works*

1. Application for issuance of a permit for repair or renovation of the works.
2. Copy of one of the papers evidencing the right to own, manage or use the works or residential house in accordance with law.
3. Drawings or photographs of the current condition of proposed parts or items of the works or separate dwelling-house to be renovated.
- 4⁵⁸. With respect to works categorized as historical-cultural heritage and beautiful landscape or a tourist attraction, the written approval of the State administrative agency for culture in terms of the necessity for construction and the scale of the works is required.

Article 97 *Application file for issuance of construction permit in the case of relocation of works*

1. Application for issuance of a permit for relocation of the works.
2. Copy of papers evidencing the right to use the land where the works will be relocated to and the lawful papers on ownership of the works in accordance with law.
3. As-built drawings of the works (if any) or design drawings describing the current condition of the works to be relocated, including the plan, foundation sections, drawings of main weight bearing structures; drawings of the general plan of the site where the works will be relocated to; the plan and foundation sections at the site where the works will be relocated to.
4. Report on survey results for evaluation of the current quality of the works conducted by an organization or individual who satisfies all conditions on capability.
5. Relocation plan to be implemented by an organization or individual who satisfies all conditions on capability, comprising:
 - (a) Section of explanation on the current condition of the works and the area where the works will be relocated to; relocation solution, plan for arrangement and use of means, equipment and manpower; solutions to ensure the safety of the works, people, machinery, equipment and adjacent works; and ensure environmental hygiene; the schedule of relocation; and the organization or individuals undertaking relocation of the works;
 - (b) Section of drawings of measures to carry out relocation of the works.

Article 98 *Amendments to construction permits*

1. During construction, where there is any amendment to the design causing a change to one of the following items, the developer must request amendment of the construction permit:
 - (a) Change to the form of exterior architecture of the works in the case of urban works in areas with requirements for architectural management;
 - (b) Change to one of the elements in terms of the position or construction area; scale, height,

⁵⁸ *Allens Note:* Amended by Law 62.

number of stories and other elements affecting the main weight bearing structures;

- (c) Upon amendment to the design for the interior of the works causing a change of the use function which affects the safety, fire fighting and prevention, explosion prevention or environmental protection.

2. An application file for amendment to a construction permit shall comprise:

- (a) Application for amendment to a construction permit;
- (b) Original copy of the issued construction permit;
- (c) Design drawings relating to the amended section in comparison with the design for which the construction permit has been issued;
- (d) Report on appraisal results and written approval of the amended design (except for separate dwelling-houses) of the developer, including items relating to assurance of safety in terms of weight bearing, fire fighting and prevention, explosion prevention or environmental protection.

Article 99 *Extension of construction permit*

- 1. Before the date on which the construction permit is no longer valid for commencement of construction, if construction of the works has not yet commenced, the developer must request an extension of the construction permit. Each construction permit shall only be extended twice or less. Each extension shall be twelve (12) months. Where construction has not yet commenced upon expiry of the extension of the construction permit, the developer must submit an application file for issuance of a new construction permit.
- 2. An application file for extension of a construction permit shall comprise:
 - (a) Application for extension of a construction permit;
 - (b) Original copy of the issued construction permit.
- 3. With respect to works and separate dwelling-houses for which a definite term construction permit is issued and the period of existence stated in the permit expires, but the master plan has not yet been implemented, the owner of the works or the person who is delegated to use the works shall request the construction permit-issuing agency to consider and extend the period of existence until the time of commencement of implementation of the master plan. The period of existence of the works shall be stated in the issued definite term construction permit.

Article 100 *Re-issuance of construction permit*

- 1. A construction permit shall be re-issued in the case where it tears or is damaged or lost.
- 2. An application file for re-issuance of a construction permit shall comprise:
 - (a) Application for re-issuance of a construction permit;
 - (b) Original copy of the issued construction permit in the case where the construction permit tears

or is damaged.

Article 101 *Withdrawal and cancellation of construction permit*

1. A construction permit shall be withdrawn in the following cases:
 - (a) The construction permit is not issued in accordance with law;
 - (b) The developer fails to remedy construction which is undertaken contrary to the terms of the construction permit within the time-limit stated in the document dealing with the breach as required by the competent State agency.
2. After ten (10) days from the date of decision withdrawing the construction permit of the competent State agency in respect of the cases prescribed in clause 1 of this article, if the developer fails to surrender the construction permit to the permit-issuing agency, the permit-issuing agency or the competent agency shall make the decision cancelling the construction permit and notify the developer and the commune people's committee of the locality in which the construction works are located. The decision cancelling the construction permit shall be uploaded on the website of the department of construction.

Article 102 *Process of issuance, re-issuance, amendment and extension of construction permits*

1. Construction permits shall be issued or amended in accordance with the following process:
 - (a) Developers shall submit two sets of the application file for issuance or amendment of a construction permit to the agency delegated with authority to issue construction permits;
 - (b) The agency delegated with authority to issue construction permits shall be responsible to receive files from applicants for issuance or amendment of a construction permit; to check the file; and issue a receipt in the case where the file satisfies regulations or guide the developer to finalize the file in the case where the file fails to satisfy regulations;
 - (c) The agency delegated with authority to issue construction permits shall, within a period of seven (7) working days from the date of receipt of the file, organize appraisal of the file and check the site. Upon appraisal of the file, the competent agency must identify which documents are missing, which are contrary to the regulations or to the actuality in order to notify once in writing the developer for the latter to add documents to or finalize the file. Where the additional documents do not satisfy the requirements in the written notice, then the competent agency shall, within a time-limit of five (5) working days, be responsible to notify in writing and guide the developer to continue to finalize the file. The developer shall be responsible to add documents to and finalize the file in accordance with the written notice. Where the additional documents still do not satisfy the content of the notice, the competent agency shall, within a time-limit of three (3) working days, be responsible to notify the developer of the reason why a construction permit is not being issued;
 - (d⁵⁹) The agency with authority to issue construction permits is responsible to check the conditions prescribed in this Law in order to send a document to ask for opinions from State administrative agencies for the sectors relating to the construction works in accordance with law;

⁵⁹ *Allens Note:* Amended by Law 62.

- (dd) The State administrative agencies which are asked for their opinions shall, within a period of twelve (12) days from the date of receipt of the file in the case of works and separate dwelling-houses, be responsible to make a written response on items under their management. If such agencies fail to provide an opinion within the above period, they are deemed to consent and must be responsible for the items under their management; and the construction permit-issuing agency shall make the decision issuing a construction permit on the basis of the applicable regulations;

- (e⁶⁰) The agency with authority to issue construction permits must consider the file for issuance of a permit within twenty (20) days from the date of receipt of the complete and valid file in the case of issuance of construction permits for works, including definite term construction permits, amended construction permits, and permits for relocation [of works], and within fifteen (15) days [from the date of receipt of the complete and valid file] in the case of separate dwelling-houses. Where further consideration is required upon expiry of the period for issuance of a permit, the construction permit-issuing agency must notify the developer in writing of the reason therefor, and at the same time report [the matter] to its directly superior managing agency for consideration and guidance for implementation, but no later than ten (10) days from the deadline prescribed in this clause. The period for issuance of a permit for advertising works shall accord with the law on advertising.

2. Construction permits shall be extended or re-issued in accordance with the following process:

- (a) An developer shall submit two sets of the application file for extension or re-issuance of a construction permit to the agency delegated with authority to issue construction permits;
- (b) The agency delegated with authority to issue construction permits shall, within a period of five (5) working days from the date of receipt of the competent and valid file, be responsible to consider extension of the construction permit or re-issuance of a construction permit.

3. Receipt of results and payment of fees for issuance of construction permits is regulated as follows:

- (a) The developer shall receive at the place of receipt of the file on the date stated in the receipt a construction permit accompanied by the design file which has been submitted for application for issuance of a construction permit and on which the seal of the agency delegated with authority to issue construction permits is affixed;
- (b) The developer shall be responsible to pay a stipulated fee upon submission of the application file for issuance of a construction permit.

⁶⁰ *Allens Note:* Amended by Law 62.

4. Where a file is ineligible for issuance of a construction permit within the time-limit prescribed in clause 2 of this article, the agency delegated with authority to issue construction permits must notify in writing the developer and specify the reason therefor. Where the competent agency fails to make a response by the deadline stated in the receipt, the developer shall be permitted to build the works in accordance with the design file which has been appraised and approved in accordance with regulations and included in the application file for issuance of a construction permit.
- 5⁶¹. The Government shall provide detailed regulations on issuance of construction permits.
6. The Minister of Construction shall provide detailed regulations on standard forms of application and design drawings in application files for issuance of construction permits.

Article 103 *Authority to issue, amend, extend, re-issue and withdraw construction permits*

- 1⁶². The Ministry of Construction shall issue construction permits for works of the special level.
- 2⁶³. Provincial people's committees shall issue construction permits for works for which a permit is required to be issued in the province, except for the works stipulated in clause 3 of this article. Provincial people's committees may delegate authority to or authorize the department of construction, or an economic zone, industrial zone, export processing zone or high-tech zone management board, or a district people's committee to issue construction permits under the function or scope of management of such agencies.
- 3⁶⁴. District people's committees shall issue construction permits for level III and level IV works and separate dwelling-houses in localities under their management.
4. Agencies delegated with authority to issue construction permits also are the agencies delegated with authority to amend, extend, re-issue and withdraw the construction permits that they have issued.
5. Where the agency delegated with authority to issue construction permits fails to withdraw a construction permit which has been issued contrary to regulations, the provincial people's committee shall directly make the decision withdrawing the construction permit.

Article 104 *Responsibilities of agencies delegated with authority to issue construction permits*

1. To display publicly the law on issuance of construction permits and to explain and provide guidance on them.
2. To monitor and deliver the result or notify developers that their files are ineligible for issuance of a construction permit.
3. To issue construction permits in accordance with the process and within the time-limit prescribed in article 102 of this Law.
4. To preside over and co-ordinate with relevant functional agencies to inspect whether construction is

⁶¹ *Allens Note:* Amended by Law 62.

⁶² *Allens Note:* Removed by Law 62 but retained for reference.

⁶³ *Allens Note:* Amended by Law 62.

⁶⁴ *Allens Note:* Amended by Law 62.

carried out in accordance with the construction permit, to suspend construction and withdraw the construction permit depending on their authority when the developer of the construction works commits a serious breach.

5. Persons delegated with authority to issue construction permits shall be responsible before the law for issuance of incorrect permits or for issuance of permits out of time, and must compensate for loss and damage caused in accordance with law.

Article 105 *Responsibilities of agencies and organizations involved in issuance of construction permits*

1. To perform the responsibilities prescribed in article 102.1(dd) of this Law.
2. Take necessary measures upon receipt of a notice from the agency delegated with authority to deal with breaches in respect of works which are constructed inconsistently with the master plan, constructed without a construction permit or constructed contrary to the terms of the issued construction permit.

Article 106 *Rights and obligations of applicants for issuance of construction permits*

1. Applicants for construction permits have the following rights:
 - (a) To require the construction permit-issuing agency to explain, guide and implement correctly the regulations on issuance of construction permits;
 - (b) To lodge complaints and denunciations regarding a breach of law during issuance of construction permits;
 - (c) To commence construction of works in accordance with this Law.
2. Applicants for construction permits have the following obligations:
 - (a) To submit complete files and pay in full the fee for issuance of a construction permit;
 - (b) To be liable for the accuracy and truthfulness of their application file for issuance of a construction permit;
 - (c⁶⁵) To notify the date of commencement of construction of works in accordance with article 107.1(e) of this Law;
 - (d) To implement correctly the terms of the construction permit.

CHAPTER V

Construction of Works

SECTION 1

⁶⁵ *Allens Note:* Amended by Law 62.

Preparation for Construction of Works

Article 107 *Conditions for commencement of construction of works*

- 1⁶⁶. Construction of works may only commence upon satisfaction of the following conditions:
- (a) There is a surface area for construction ready to be handed over, either the total surface area or a partial area in accordance with the construction schedule;
 - (b) There is a construction permit for construction works if required to have one as prescribed in article 89 of this Law;
 - (c) There is an approved construction design applicable to items of works or to the construction works commenced;
 - (d) The developer has signed contracts with contractors performing construction activities relating to the works commenced in accordance with law;
 - (dd) There are measures to ensure safety and environmental protection during the construction process;
 - (e) The developer has sent a notice of commencement of construction to the State administrative agency for construction in the locality at least three (3) working days prior to the date of commencement of construction.
2. Construction of separate dwelling-houses may commence only upon satisfaction of the condition prescribed in clause 1(b) of this article.

Article 108 *Preparation for construction site*

1. Land resumption, allocation or lease, compensation and site clearance for construction shall be carried out in accordance with the law on land. People's committees at all levels shall direct and organize implementation of the work of compensation and support site clearance and resettlement for investment projects for construction in accordance with law.
2. The period for site clearance for construction must satisfy requirements of the implementation schedule of the project approved or determined by the competent person.
3. Handover of all or part of the construction site for construction shall be subject to the agreement between the developer and the contractor for execution of works.
4. A budget for compensation, support to site clearance and resettlement (if any) must be sufficient.

Article 109 *Requirements applicable to construction sites*

1. Developers shall be responsible to install a notice board on the construction site, except for the case of separate dwelling-houses with a scale of less than seven stories. A notice board shall contain the following items:

⁶⁶ *Allens Note:* Amended by Law 62.

- (a) Name and scale of works;
 - (b) Date of commencement of works and date of completion of works;
 - (c) Name, address and telephone number of developer, of contractor for execution of building works, of organization for construction design and of organization or individual supervising execution of building works;
 - (d) Perspective drawings of the works.
2. Contractors for execution of building works shall be responsible to manage the whole construction site in accordance with law, unless the developer organizes management. Items of management of a construction site shall comprise:
- (a) There must be a fence surrounding the construction site, guardrooms and visible notice boards to ensure separation of the construction site from the outside;
 - (b) The layout of the construction site within the scope of execution of building works must be consistent with the approved design drawings of the total surface area for execution of building works and specific conditions of the construction location;
 - (c) Supplies, materials and equipment waiting for installation must be tidily arranged in accordance with the design of the total surface area for execution of building works;
 - (d) There must be notice boards showing a layout of the total surface area of the works and instructions on safety, fire fighting and prevention or explosion prevention and other necessary notice boards within the construction site.
3. Contractors for execution of building works must take measures to ensure safety for the people and vehicles coming in and out the construction site, to gather and process construction waste in an appropriate manner and to ensure that there is no adverse affect on the environment surrounding the area of construction site.

Article 110⁶⁷ *Building materials*

- 1. Building material development, production and use must be safe, effective, environment-friendly and must use resources reasonably.
- 2. Materials and components used for construction works must be correct in accordance with the approved design for construction and technical instructions (if any) and ensure quality in accordance with the law on standards and technical regulations and the law on quality of products and goods.
- 3. Building materials used to produce, manufacture or process semi-finished products must conform with clauses 1 and 2 of this article.
- 4. Priority shall be given to the use of on-site building materials; domestically manufactured or produced building materials and products; and products with a high localization rate.
- 5. The Government shall provide detailed regulations on in this article.

⁶⁷ *Allens Note:* Amended by Law 62.

SECTION 2

Execution of Building Works

Article 111 *Requirements applicable to execution of building works*

1. To comply with the approved design for construction; standards and technical regulations applicable to works, the law on use of building materials; and ensure the weight bearing safety, safety in use, general landscape, environmental protection, fire fighting and prevention, explosion prevention and other conditions in terms of safety in accordance with law.
2. To ensure the safety of construction works, the safety of people, the safety of equipment for execution of building works and of underground works and adjacent works; and take necessary measures to limit loss and damage to persons and property upon occurrence of an incident causing any loss of safety during the process of execution of building works.
3. To take separate technical measures to ensure safety of items of works and of construction works which have strict safety requirements in relation to labour safety, fire fighting and prevention or explosion prevention.
4. To use correct types, specifications and quantity of supplies and materials in accordance with requirements of the design for construction and ensure economic use during the process of execution of building works.
5. To conduct examination, supervision, check and acceptance of building works or important transitional phases between steps of execution of building works or check and acceptance of items of works or construction works completed for commissioning.
6. Contractors for execution of building works must satisfy all conditions on capability appropriate for the relevant type and level of works and building works.

Article 112 *Rights and obligations of developers throughout execution of building works*

1. Developers have the following rights:
 - (a) To themselves carry out the execution of building works when they satisfy all conditions on capability appropriate for execution of building works or select a contractor for execution of building works;
 - (b⁶⁸) To negotiate and sign a contract for execution of building works; to supervise and request the contractor for execution of building works to correctly implement the signed contract; to consider and approve measures for execution of building works and measures to ensure safety and environmental hygiene submitted by the contractor;
 - (c) To suspend implementation of or terminate a contract with the contractor for execution of the works in accordance with law and the construction contract ;
 - (d) To stop execution of building works and to require the contractor for execution of the works to

⁶⁸ *Allens Note:* Amended by Law 62.

remedy consequences when such contractor for execution of the works breaches the regulations on quality of the works or on safety and environmental protection;

- (dd) To request the relevant organizations and individuals to co-ordinate to carry out work throughout the process of execution of building works;
- (e) Other rights in accordance with law.

2. Investors have the following obligations:

- (a) To select a contractor which satisfies all conditions on capability for the activity of execution of the building works appropriate for the type and level of the work and building works;
- (b) To co-ordinate and participate with the people's committees at all levels in making compensation for loss and damage and carrying out site clearance for construction in order to handover [the site] to the contractor for execution of works;
- (c) To organize supervision and control of quality during execution of building works consistent with the form of project management and the construction contract;
- (d) To inspect measures for execution of building works and measures to ensure safety and environmental hygiene;
- (dd) To organize check and acceptance, payments, and finalization of construction of the works;
- (e) To hire a consultancy organization which satisfies all conditions on capability for construction activities to inspect the quality of works, when necessary;
- (g) To consider and make a decision on design-related proposals raised by the contractor throughout execution of the building works;
- (h) To archive the file on construction of works;
- (i) To be responsible for the quality and origin of supplies, raw materials, materials, equipment and construction products supplied by them for use for works;
- (k) To compensate for loss and damage caused by any breach of contract or by other breaches committed by them;
- (l) Other obligations in accordance with law.

Article 113 *Rights and obligations of contractors for execution of building works*

1. Contractors for execution of building works have the following rights:

- (a) To refuse to implement any unlawful requests;
- (b) To make proposals on changes to design for construction for consistency with the construction realities in order to ensure the quality and effectiveness;
- (c) To request payment for the value of volumes of construction completed in accordance with the

contract;

- (d) To stop the execution of building works when there is a danger causing a loss of safety for people and the works or if the party awarding the contract fails to correctly implement contractual undertakings;
- (dd) To demand compensation for loss and damage caused by the party contracting out the building works;
- (e) Other rights in accordance with the contract and relevant laws.

2. Contractors for execution of building works have the following obligations:

- (a) To accept a contract for execution of building works or works appropriate in term of their capability for construction activities and to correctly perform signed contracts;
- (b⁶⁹) To formulate measures for execution of building works and submit same to the developer for approval, specifying measures to ensure safety and environmental hygiene;
- (c) To carry out building works correctly in accordance with the design and the applicable standards and technical regulations; and to ensure the quality, schedule, safety and environmental protection;
- (d) To have an appropriate quality control system and to formulate a quality control file for works;
- (dd) To comply with requirements applicable to the construction site;
- (e) To be responsible for the quality and origin of supplies, raw materials, materials, equipment and construction products supplied by them for use for works;
- (g) To manage labour on the construction site and to ensure security, order and environmental protection;
- (h) To formulate as-build drawings and to participate in check and acceptance of the works;
- (i) To provide a warranty for the works;
- (k) To compensate for loss and damage caused by a breach of the contract, use of incorrect materials, failure to satisfy requirements as per the approved design, carrying out building work which fails to ensure quality or which causes pollution to the environment, or for loss arising from any other breach which was the fault of the contractor;
- (l) To be liable for the quality of the building works as per the design, including the work that the subcontractor (if any) undertakes; and the subcontractor is liable to the head contractor and before the law for the quality of the work that it undertakes;
- (m) Other obligations in accordance with the contract and relevant laws.

Article 114 *Rights and obligations of design contractors during execution of building works*

⁶⁹ Allens Note: Amended by Law 62.

1. Design contractors have the following rights:
 - (a) The rights prescribed in article 86.1 of this Law;
 - (b) To require the developer and the contractor for execution of building works to correctly implement the design;
 - (c) To refuse any unreasonable requests from the developer to change the design;
 - (d) To refuse check and acceptance of any works or items of works constructed incorrectly in terms of the design;
 - (dd) Other rights in accordance with the contract and relevant laws.
2. Design contractors have the following obligations:
 - (a) The obligations prescribed in article 86.2 of this Law;
 - (b) To appoint an individual with full capability to undertake the author's supervision in accordance with the contract; and the person undertaking such task must be responsible before the law for his or her breaches and must be responsible to pay compensation for loss and damage caused by his or her fault;
 - (c) To participate in check and acceptance of the construction works in accordance with the contract for construction design with the investor;
 - (d) To consider and deal with any proposals from the investor regarding unreasonable items in the construction design;
 - (dd) When detecting any building work which is incorrect in terms of the approved design, to notify in a timely manner the developer of such matter, and to make recommendations for dealing with the same;
 - (e) Other obligations in accordance with the contract and relevant laws.

Article 115⁷⁰ *Safety during execution of building works*

1. Contractors for execution of building works are responsible to ensure the safety of people, construction works, assets, equipment and vehicles during the process of execution of building works, [and] fire prevention and fighting and explosion prevention, and environmental protection.
2. Developers must arrange supervision of implementation of the regulations on safety by the contractor for execution of building works; temporarily suspend or suspend execution of building works when discovering any sign of a breach of the regulations on safety or any incident causing a loss of safety of the works; co-ordinate with contractors to deal with and remedy any incident or work-related accident occurring; and promptly notify the competent State agency upon occurrence of an incident or work-related accident causing a death.

⁷⁰ *Allens Note:* Amended by Law 62.

3. Contractors for execution of building works are responsible to determine any dangerous area during execution of building works; arrange formulation and make a submission to the developer for approval of measures to ensure the safety of people, construction works, assets, equipment and vehicles in a dangerous area during execution of building works; and conduct a periodical and ad hoc review of the safety measures in order to make amendments in conformity with the actual situation of execution of the building works on the construction site.
4. If a dangerous area during execution of building works causes a major affect on the safety of the community, the developer is responsible to make a report to the professional agency for construction on the approved safety measures for the purpose of conducting inspection during execution of building works.
5. Machinery, equipment and materials serving the execution of building works having strict safety requirements must be tested before being put into use.
6. The Government shall provide detailed regulations on this article.

Article 116 *Environmental protection during execution of building works*

During the process of execution of building works, contractors for execution of building works are responsible:

1. To formulate and take measures to protect the environment during the process of execution of building works, including the air environment, the water environment, solid waste, noise and other requirements in accordance with the law on environmental protection.
2. To compensate for loss and damage caused by any breach of environmental protection by a contractor.

Article 117 *Relocation of construction works*

1. Any relocation of construction works from one location to another must comply with approved construction master plans and must ensure that the quality and safety of works is maintained, that it does not affect adjacent works, and ensures that architecture of the works with requirements for preservation is maintained.
2. When relocating construction works, the developer or the owner of the construction works must obtain a permit for relocation of the construction works.
3. Any contractor which undertakes the relocation of construction works must take measures to ensure the safety of employees, the safety of the works being relocated and adjacent works, and environmental protection.

Article 118⁷¹ *Dismantling of construction works*

1. Construction works shall be dismantled in the following circumstances:
 - (a) In order to conduct site clearance for construction of new works or for construction of temporary works;
 - (b) When construction works are in danger of collapse affecting the community and adjacent works;

⁷¹ *Allens Note:* Amended by Law 62.

or the works must be dismantled urgently for timely prevention, fighting or remedy of consequences of a natural disaster, calamity, epidemic or urgent tasks to ensure national defence, security or external relations under a decision of the competent State agency;

- (c) When the construction works are built in an area in which construction is prohibited as stipulated in article 12.3 of this Law;
 - (d) When the construction works are inconsistent with construction master plans, were built without a construction permit where the law required such permit, or were built incorrectly in terms of the provisions of the construction permit;
 - (dd) Construction works encroach public land or land for which the land use right is lawfully owned by an organization or individual; or were built incorrectly in terms of the approved design in the case where a construction permit was not required;
 - (e) Separate dwelling-houses which require to be dismantled for construction of new works.
2. The dismantling of construction works must ensure safety and environment protection, and be conducted in the following sequence:
- (a) To design a plan and/or solution for dismantling the construction works. Where the works require a decision on dismantling or enforced dismantling, there must be a decision on dismantling or a decision on enforced dismantling of construction works;
 - (b) To verify and approve the design of the plan and/or solution for dismantling the construction works which have major effects on the safety and interest of the community;
 - (c) To arrange execution of the dismantling of the construction works;
 - (d) To arrange supervision and acceptance of the work of dismantling the construction works.
3. The responsibilities of the parties involved in dismantling of construction works are stipulated as follows:
- (a) The developer, the owner, any manager or any user of works or any person assigned to preside over dismantling the construction works is responsible to arrange implementation in accordance with the sequence stipulated in clause 2 of this article; to itself conduct, if qualified, or to hire a qualified and experienced consultant organization to conduct formulation and verification of the design of the plan and/or solution for dismantling the construction works and execute the dismantling of the construction works; and is responsible before the law and to compensate for any loss and damage caused due to his/her fault;
 - (b) The contractor assigned to conduct the dismantling of the construction works is responsible to formulate measures for executing the dismantling of the construction works in accordance with the approved plan and/or solution for dismantling; to execute the dismantling of the construction works in strict accordance with the measures for execution and with the decision on dismantling of the construction works or the decision on enforced dismantling of construction works (if any); to monitor and observe the construction works; to ensure the safety of people, assets, the works and adjacent works; and is responsible before the law and to compensate for any loss and damage caused due to its fault;
 - (c) Any person with authority to make the decision dismantling construction works is responsible

before the law for the consequences of failure to issue a decision, of a decision out of time, or of a decision contrary to law;

- (d) The organization or individual owning or currently using works which must be dismantled must comply with the decision on dismantling of construction works of the competent State agency; failing which [such organization or individual] shall be subject to enforcement and bear all the costs for dismantling.
4. The Government shall provide detailed regulations on dismantling of construction works and dismantling of construction works in urgent cases.

Article 119 *Building works incidents*

1. If a danger of loss of safety or danger of occurrence of a building works incident affecting safety of lives, adjacent works or the community is discovered during the process of execution of building works or during the operation, exploitation and use of works, then the developer, the contractor for execution of building works, the owner or the person managing use of the works and the competent State agency shall be responsible:
 - (a) To require in a timely manner to stop the execution of building works, or to stop operation, exploitation or use of works, and to take prompt measures to ensure the safety of persons and property;
 - (b) To take the necessary measures to prevent and limit any potential danger in respect of the works; and to notify in a timely manner the competent organizations and individuals and also the organizations and individuals concerned;
 - (c) To protect the site, except where emergency remedial measures must be taken to prevent loss and damage.
2. Upon discovery or receipt of notification of a building works incident, the competent State agency or relevant organizations and individuals shall, within the scope of their respective duties and powers, be responsible:
 - (a) To immediately take emergency measures to remedy the incident;
 - (b) The competent State agency shall organize an examination in order to determine the reasons for the incident and to clarify the liability of the organization and individual at fault in causing the building works incident.
3. The execution of building works or the operation, exploitation or use of the works at which the incident has occurred may only be resumed upon permission of the State agency delegated with authority to resolve incidents.
4. Any organization or individual at fault in causing a building works incident shall be liable to compensate for loss and damage and for related costs, or may be subject to criminal prosecution in accordance with law.

SECTION 3

Supervision of Execution of Building Works, Check and Acceptance, and Handover of Construction Works

Article 120 *Supervision of execution of building works*

1. Construction works shall be subject to supervision in terms of the quality, volume, schedule, labour safety and environmental protection during the process of execution of building works.

The State encourages supervision of execution of building works of separate dwelling-houses.

2. Supervision of execution of building works must satisfy the following requirements:
 - (a) It is carried out throughout execution of building works from the date of commencement of construction, during the period of execution and to completion and check and acceptance of the work or construction works;
 - (b) Supervision [is to ensure that] the execution of building works is correctly done in accordance with the approved design for construction, the applicable standards and technical regulations, the regulations on management and use of building materials, technical instructions and the construction contract;
 - (c) It must be honest, objective and not conducted with an ulterior motive.
3. The selected contractor for supervision of execution of building works must propose solutions on supervision and process of control of quality, volume, schedule, labour safety and environmental protection, process of check and acceptance, and measures to manage files and documents during supervision and other necessary items.

Article 121 *Rights and obligations of developers throughout supervision of execution of building works*

1. Developers have the following rights:
 - (a) To themselves conduct supervision when they satisfy all conditions on capability for supervision of execution of building works and to be solely responsible for their supervision;
 - (b) To negotiate and sign a contract for supervision of execution of building works and to monitor, supervise and require the contractor for supervision of execution of building works to correctly implement the signed contract;
 - (c) To change the supervisor, or to request the consultant to change the supervisor, when such supervisor fails to conduct his or her work correctly in accordance with regulations;
 - (d) To suspend implementation of or to terminate in accordance with law a contract for supervision of execution of building works;
 - (dd) Other rights in accordance with the contract and relevant laws.
2. Developers have the following obligations:
 - (a) To select a consultant supervisor which satisfies all conditions on capability appropriate for the type and level of construction works in order to sign a contract for supervision of execution of building works when the developer does not itself conduct supervision of execution of building works;

- (b) To notify the relevant parties of the rights and obligations of the consultant supervisor;
- (c) To deal with proposals from the supervisor in a timely manner;
- (d) To discharge fully the obligations agreed in the contract for supervision of execution of building works;
- (dd) To archive the results of supervision of execution of building works;
- (e) To compensate for loss and damage when selecting a consultant supervisor who fails to satisfy all conditions on capability for supervision of execution of building works; or checks and accepts an incorrect volume of works or works constructed incorrectly in terms of design; or for loss and damage arising from any other breach which was the fault of the developer;
- (g) Other obligations in accordance with the contract and relevant laws.

Article 122 *Rights and obligations of contractors for supervision of execution of building works*

1. Contractors for supervision of execution of building works have the following rights:
 - (a) To participate in check and acceptance and certify works the execution of which has been completed;
 - (b) To require the contractor for execution of building works to perform correctly the approved design and the signed contract for execution of building works;
 - (c) To reserve their own opinions with respect to the supervisory work that they have undertaken;
 - (d) To temporarily suspend the execution of building works when on discovery of a danger of loss of safety of the works or that a contractor carries out construction incorrectly in terms of design and to notify in a timely manner the developer to deal with the matter;
 - (dd) To refuse any unreasonable requests from related parties;
 - (e) Other rights in accordance with the contract and relevant laws.
2. Contractors for supervision of execution of building works have the following obligations:
 - (a) To perform supervisory work correctly in accordance with the contract;
 - (b) Not to certify check and acceptance for a volume of works which is not constructed to the required quality; or which does not conform with the applicable standards and technical regulations and the requirements set by the designer of the works;
 - (c) To refuse to certify check and acceptance for works which fail to satisfy requirements on quality;
 - (d) To make proposals to the investor regarding unreasonable items in the design for construction;
 - (dd) To supervise the implementation of the regulations on safety and environmental protection;
 - (e) To compensate for loss and damage for imposing false results of supervision of a volume of works constructed incorrectly in terms of design or not in compliance with the applicable

standards and technical regulations and the supervisor fails to notify the investor or authorized person to deal with the issue; or for loss and damage arising from any other breach which was the fault of the supervisory contractor;

- (g) Other obligations in accordance with the contract and relevant laws.

Article 123 *Check and acceptance of constructed works*

1. Check and acceptance of constructed works shall comprise:
 - (a) Check and acceptance of building works during execution of building works and check and acceptance of phases for shifting to the next step of execution of building works when necessary;
 - (b) Check and acceptance of completed items of works or completed construction works for commissioning.
2. The completed items of works or completed construction works shall be only permitted to be commissioned after they have been checked and accepted to ensure that the requirements of the design for construction, the standards and technical regulations applicable to the works and the regulations on management and use of building materials are satisfied and after they are checked and accepted in accordance with this Law.
3. The developer shall be responsible to organize check and acceptance of constructed works. Any organization or individual participating in check and acceptance of works shall be responsible for the product certified by him or her upon check and acceptance of constructed works.
- 4⁷². The work of check and acceptance of construction works of projects of national importance, large-scale works, [and works] with complicated technical requirements; works with major effects on the safety and interest of the community; and works funded by public investment capital must be examined during execution of building works and upon completion of the execution of building works. The responsibility to organize examination of the work of check and acceptance is provided as follows:
 - (a) The council established by the Prime Minister shall organize examination of the work of check and acceptance in respect of works of projects of national importance, large-scale works, [and works] with complicated technical requirements;
 - (b) Professional agencies for construction shall organize examination of the work of check and acceptance of developers in respect of works other than those prescribed in sub-clause (a) of this clause.
- 5⁷³. The Government shall provide detailed regulations on quality control, check and acceptance, resolution of building work accidents and large-scale works, [and works] with complicated technical requirements.

Article 124 *Hand-over of constructed works*

1. Hand-over of constructed works shall comply with the following provisions:

⁷² *Allens Note:* Amended by Law 62.

⁷³ *Allens Note:* Amended by Law 62.

- (a) The check and acceptance of the constructed works has been conducted correctly in accordance with the law on construction.
 - (b) It must ensure safety during operation and exploitation when works are commissioned;
 - (c⁷⁴) In the case of an investment project for construction of an urban zone, handover of the entire [project] or some works in the project for use may be conducted, but prior to the handover, it is required to ensure the synchronism of the technical infrastructure and social infrastructure and consistency with the phasing of investment and the approved construction design, ensuring consistency with the contents of the project and the master plan which have been approved.
2. Developers shall be responsible to receive works in accordance with the signed contract with the contractor. Any individual participating in hand-over of works shall be liable for the product certified by him or her during the process of hand-over of constructed works. Where a developer is not the person managing use of works, the developer shall be responsible to hand over the constructed works to the person managing use of the works after organizing check and acceptance of the constructed works. The handover of constructed works must be recorded in minutes.
 3. Upon handover of constructed works, the contractor for execution of building works must deliver to the developer documents including as-built drawings, manuals on operation or maintenance of the works, lists of equipment, spare parts, replacement supplies in store and other relevant and necessary documents.
 4. Where the works have not yet been handed over to the person managing use of works, the developer shall be responsible to temporarily manage and operate the constructed works.
 - 5⁷⁵. In the case of an investment project for construction of an urban zone, in addition to the provisions in clauses 1, 2, 3 and 4 above, the developer is responsible to hand over technical infrastructure and social infrastructure works and other works in accordance with regulations of the Government.

SECTION 4

Warranty and Maintenance of Constructed Works

Article 125 *Warranty of constructed works*

1. Contractors for execution of building works shall be responsible to provide a warranty for such works. Contractors for procurement of equipment for works and technological equipment shall be responsible to provide a warranty for such equipment.
2. The items of a warranty for works shall comprise remedying, repair and/or replacement of equipment which is damaged or defective due to the fault of the contractor.
3. The warranty period for works, equipment for works and technological equipment shall be fixed depending on the type and level of constructed works and regulations of the manufacturer or the equipment supply contract.
4. The Government shall provide detailed regulations on warranty for constructed works.

⁷⁴ *Allens Note:* Added by Law 62.

⁷⁵ *Allens Note:* Added by Law 62.

Article 126 *Maintenance of constructed works*

- 1⁷⁶. Requirements for maintenance of construction works are regulated as follows:
- (a) Construction works or items of construction works being commissioned must be maintained;
 - (b) The process of/for maintenance must be formulated and approved by the developer before commissioning items of construction works or construction works; and must be appropriate for the use purpose, type and level of the construction works or items of construction works and equipment built and installed in the works;
 - (c) Maintenance must ensure the safety of works, people and assets.
2. The owner or the person managing use of works shall be responsible to maintain the constructed works, and machinery and equipment for the works.
3. Maintenance of constructed works and equipment for the works shall be implemented in accordance with the approved maintenance plan and the approved process of maintenance.
- 4⁷⁷. Large-scale construction works, works with a complicated technique, and works with major effects on the safety and interest of the community must be assessed periodically in terms of the safety of the works during the process of operation and use.
- 5⁷⁸. The Government shall provide detailed regulations on maintenance and periodical assessment of the safety of construction works during the process of use and responsibility to announce works the useful life of which expires.

Article 127 *Cessation of exploitation or use of constructed works*

1. Developers, persons managing use of works or the competent State agency shall make the decision ceasing exploitation or use of constructed works when the useful life of such works expires or when there is a danger of a loss of safety or of a building work incident affecting the safety of users or the safety of adjacent works, the environment or of the community.
2. When making the decision ceasing exploitation or use of works for common use, the developer, the person managing use of works or the competent State agency shall notify in writing its decision to organizations, individuals and households using the works.
3. The exploitation or use of the constructed works shall only be resumed when the incident is remedied or the danger of loss of safety is removed. In the case of works the useful life of which expires, if there is a request for continuing their use, the owner or user must carry out testing of quality, and reinforcement, renovation or repair of damage (if any) to ensure the safety and use function of works.

SECTION 5

Construction of Special Works

⁷⁶ *Allens Note:* Amended by Law 62.

⁷⁷ *Allens Note:* Amended by Law 62.

⁷⁸ *Allens Note:* Added by Law 62.

Article 128 *Special building works*

1. Special building works comprise:
 - (a) State secret works;
 - (b) Works constructed pursuant to an emergency order;
 - (c) Temporary works.
2. The Government shall provide detailed regulations on this article.

Article 129 *Construction of State secret works*

1. State secret works constructed as required must ensure secrecy during all investment activities in construction and shall belong to the sectors of national defence, security, external relations, economics, science and technology and other sectors.
2. Any agency, organisation or individual assigned management and implementation of construction of State secret works shall have the right to make decisions thereon and shall be responsible for carrying out construction through the stages of project formulation, survey, design, execution and supervision of execution of building works up to the stage of check and acceptance and commissioning of the works.
3. The Government shall make a decision on construction of State secret works.

Article 130⁷⁹ *Construction of emergency works*

1. Emergency construction works comprise:
 - (a) Works to be newly constructed, or repaired or renovated for the purpose of promptly preventing, fighting and remedying consequences of a natural disaster, calamity or epidemic, or urgent tasks to ensure national defence, security or external relations under a decision of a competent authority;
 - (b) Works to be newly constructed, or repaired or renovated which require rapid execution for timely satisfaction of requirements to deal with urgent issues on ensuring energy security, water resources, response to environmental incidents or development of a system of technical infrastructure works under a decision of the Prime Minister.
2. Heads of ministries and central agencies, and chairmen of people's committees at all levels have the authority to make decisions on construction of the works prescribed in sub-clause (a) of clause 1 above under their management. Any person assigned to manage or implement construction of works has the right to make his or her own decision on the entire work during investment activities for construction in order to organize construction of works ensuring the schedule and quality of the works, and must be responsible for his or her decision. The sequence and procedures for making decisions on emergency

⁷⁹ *Allens Note:* Amended by Law 62.

construction works using public investment capital are implemented in accordance with the law on public investment.

3. The Prime Minister shall make decisions on special mechanisms for each of the works prescribed in sub-clause (b) of clause 1 above including survey and construction design of works; form of selection of contractors, and other special mechanisms according to his authority to accelerate the speed of implementation of investment in construction. Any person assigned to manage or implement construction of works is responsible to organize the implementation of the special mechanisms in accordance with the decision of the Prime Minister and commence other work relating to the process of investment in construction in accordance with relevant laws.
4. Upon completion of execution of building emergency works, the person assigned to build emergency works must carry out the following work:
 - (a) Inspection and re-assessment of the quality of the constructed works and implementation of warranty of the works;
 - (b) Completion of the documents relating to the completed construction works, and storage of files and documents in accordance with the law on construction;
 - (c) Finalization of the works in accordance with law.
5. Any person assigned to manage the use of works must formulate a plan for management of use of the works or dismantling the works to return the site if the emergency construction works are inconsistent with the construction master plan in accordance with this Law.

Article 131⁸⁰ *Construction of temporary works*

1. Temporary works mean the works constructed for a definite term to service the following purposes:
 - (a) Execution of building of main works;
 - (b) Use for the organization of events or other activities for the duration prescribed in clause 2 below.
2. Works prescribed in sub-clause (b) of clause 1 above must be approved by the provincial people's committee or district people's committee with regards to the location and scale of construction of the works, and the duration of existence of the temporary works.
3. Developers or construction contractors shall themselves organize appraisal and approval of a design and an estimated budget for construction and carry out construction of temporary works. For works which have major effects on the safety and interest of the community, the construction design of the works must be verified regarding the conditions for ensuring safety and submitted to the local professional agency for construction for monitoring and inspection in accordance with regulations.
4. Temporary works must be dismantled upon commissioning of the main works or upon expiry of the duration of existence of the works. The developer may request the provincial people's committee or district people's committee to approve continued exploitation or use of the temporary works prescribed in sub-clause (a) of clause 1 above if such works are consistent with the master plan; and ensure the

⁸⁰ *Allens Note:* Amended by Law 62.

requirements on weight-bearing safety, fire prevention and fighting and explosion prevention, environmental protection and provisions of relevant laws.

CHAPTER VII

Costs of Investment in Construction and Construction Contracts

SECTION 1

Management of Costs of Investment in Construction

Article 132 *Principles of management of costs of investment in construction*

1. Management of costs of investment in construction must ensure investment objectives and effectiveness of projects and conform with the sequence of investment in construction and funding source. Costs of investment in construction must be correctly and sufficiently calculated for each project, works or construction tender package in conformity with design requirements, construction conditions and market price ground.
- 2⁸¹. The State shall undertake management of costs of investment in construction by way of promulgating provisions of law and providing guidelines for and checking implementation thereof; and regulating application of necessary instruments in management of costs of investment in construction.
3. Developers shall be responsible to manage costs of investment in construction through the stage of preparation of a project up to completion of construction and commissioning of the project within the approved total investment capital of the project. Developers may hire a consultant which satisfies all conditions on capability for management of costs to formulate, verify and control costs of investment in construction.
4. Inspection, examination and auditing of costs of investment in construction shall be carried out on the basis of the conditions and method of fixing costs of investment in construction approved by the investment decision-making person or by the developer, in conformity with the regulations and guidelines on formulation and management of costs of investment in construction and sequence of investment in construction.
5. Costs of investment in construction of projects funded by public investment capital, non-public investment State capital shall be fixed in accordance with the regulations on formulation and

⁸¹ *Allens Note:* Amended by Law 62.

management of costs of investment in construction.

Article 133 *Items subject to management of costs of investment in construction*

1. Items subject to management of costs of investment in construction shall comprise the total investment capital, estimated budget for construction, prices of construction tender packages, prices of construction contracts, norms and construction prices, overhead costs of projects, investment consultancy costs for construction; payment and finalization of construction contracts, payment and finalization of capital invested in construction of works; rights and obligations of the investment decision-making persons, of developers or of construction contractors in relation to management of costs of investment in construction.
2. The Government shall provide detailed regulations on management of costs of investment in construction.

Article 134 *Total investment in construction*

1. Total investment in construction means all costs of investment in construction of a project which are fixed in conformity with the preliminary design and the items of the feasibility study report for investment in construction. Where a pre-feasibility study report for investment in construction is required to be formulated, an initial total investment which is fixed on the basis of the preliminary design shall provide the basis for estimate of costs of investment in construction.
2. Items of the total investment in construction shall comprise costs for construction, equipment, compensation, support and resettlement, management of the project or consultancy on investment in construction, other costs and contingency costs for additional volumes of works and for inflation. In the case of projects which only require an eco-technical report for investment in construction to be formulated, the total investment in construction shall comprise costs in the estimated budget for construction of works prescribed in article 135 of this Law, costs for compensation, support and resettlement and other costs.
3. The total investment in construction shall be fixed on the basis of the construction volumes which are calculated in accordance with the preliminary design and other necessary requirements of the project or fixed on the basis of costs per capacity unit or data on costs of similar works which have been performed.
4. The total investment in construction must be subject to appraisal and approval and shall provide the basis for management of costs of the project. With respect to projects funded by public investment capital, non-public investment State capital, the approved total investment in construction shall be the maximum level of costs which the developer is permitted to expend for implementation of a project.
5. The approved total investment in construction of a project funded by public investment capital, non-public investment State capital may only be amended when the project is amended in accordance with article 61.1 of this Law. With respect to projects funded by capital from other sources, the investment decision-making person shall make the decision amending the total investment.

Article 135 *Estimated budget for construction*

1. Estimated budget for construction means the necessary costs for construction of works, for implementation of a tender package or for building works and is fixed on the basis of volumes of works which are calculated on the basis of the technical designs or design drawings for execution of building works and requirements for works to be performed and construction norms and prices.

2. Items of an estimated budget for construction shall comprise costs for construction, equipment, project management, consultancy on investment in construction, other costs and contingency costs.
3. The estimated budget for construction funded by public investment capital, non-public investment State capital which is approved in accordance with clauses 82.1 and 82.2 of this Law shall provide the basis for fixing a tender package price, and for negotiating and signing a construction contract.
4. The approved estimated budget for construction of a project funded by public investment capital, non-public investment State capital may only be amended in the following circumstances:
 - (a) Total investment in construction is amended in accordance with article 61.1 of this Law;
 - (b) Changes or supplements to the design are being permitted and are not contrary to the preliminary design or the changes to the structure of costs in the estimated budget for construction are permitted but shall not exceed the approved total investment in construction;
 - (c) Any amendment to the estimated budget for construction of works shall be subject to appraisal and approval in accordance with the law on construction.
5. The investment decision-making person or developers shall make the decision amending the estimated budget for construction of projects funded by capital from other sources.

Article 136 *Construction norms, construction prices for works and construction price index*

1. The system of construction norms shall comprise eco-technical norms and standard costs. Construction prices of works shall comprise detailed construction unit prices and general construction prices for groups or types of building works, structural units, parts of works or for works.
2. Construction unit prices for works shall be fixed on the basis of market prices or construction norms and prices of materials, labour costs, costs of construction machinery and other necessary cost elements consistent with the market floor price in the area where construction is carried out.
- 3⁸². Application of or reference to the system of construction norms prescribed in clause 1 of this article issued by the minister of the ministry for management of specialized construction works or the chairman of the provincial people's committee is regulated as follows:
 - (a) With respect to projects using public investment capital, the developer shall rely on the regulations on management of costs and apply the system of promulgated norms to determine and manage costs of investment in construction;
 - (b) With respect to projects using non-public investment State capital and PPP projects, the developer shall rely on the regulations on management of costs and refer to the system of promulgated norms to determine and manage costs of investment in construction;
 - (c) With regards to projects using other capital, the developer shall refer to the system of promulgated norms to determine and manage costs of investment in construction.

⁸² *Allens Note:* Amended by Law 62.

- 4⁸³. The construction price index means the norm reflecting levels of fluctuation of construction prices for works from time to time and provides the basis for fixing and amending the total investment amount, estimated budget for construction and prices of construction contracts and for management of costs of investment in construction.

The Ministry of Construction shall promulgate a national construction price index and provincial people's committees shall promulgate a construction price index in their locality.

- 5⁸⁴. The Government shall provide regulations on the period for [periodical] review of, and update and amendment of the system of promulgated construction norms.
- 6⁸⁵. The Minister of Construction shall regulate determination of new construction norms and for amendment of construction norms which are inconsistent with special requirements of works; and regulate determination of the construction price index for works which are located in two or more provincial level administrative units.

Article 137 *Payments and finalization of investment projects for construction*

- 1⁸⁶. Payments and finalization of investment projects for construction shall be subject to the law on management of investment capital. Payments and finalization of projects using public investment capital shall be subject to this Law and the law on public investment. Developers are responsible before the law for the accuracy and legality of unit prices, volumes and proposed values for payment or finalization in payment or finalization files.
2. Finalization of an investment project for construction must be conducted after the completed works have been checked and accepted for commissioning. With respect to projects funded by public investment capital, non-public investment State capital, the investment decision-making person shall approve the finalization of the investment project within the approved total investment. The time-limit for finalization of investment projects for construction shall be subject to Government regulations.
3. Payments and finalization of construction contracts shall be subject to articles 144 and 147 of this Law.

SECTION 2

Construction Contracts

Article 138 *General provisions on construction contracts*

1. The construction contract means a civil contract which is agreed in writing between the party awarding the contract and a contractor in order to undertake all or part of the work in investment activities for construction.
2. A construction contract is signed on the following principles:
- (a) It is voluntary, equal [fair] and co-operative, and is not contrary to law and social morals;

⁸³ *Allens Note:* Amended by Law 62.

⁸⁴ *Allens Note:* Added by Law 62.

⁸⁵ *Allens Note:* Added by Law 62.

⁸⁶ *Allens Note:* Amended by Law 62.

- (b) There are sufficient funds for payment as agreed in the contract;
 - (c) The selection of a contractor has completed and the process of negotiation for the contract has finished;
 - (d) Where the contractor is a partnership of contractors, there must be a partnership agreement. The partnership members must sign and affix their seals (if any) on the construction contract, unless otherwise agreed by the parties.
3. Construction contracts are performed on the following principles:
- (a) Contracting parties must correctly perform the contractual undertakings in terms of the scope of works, requirements for quality, quantity, types, period or method and other agreements;
 - (b) They are truthful, co-operative and correct in accordance with law;
 - (c) They do not infringe the interests of the State or of the community and the lawful interests of other organizations and individuals.
4. The language used in construction contracts is Vietnamese. Where a construction contract involves participation of a foreign party, the used language is Vietnamese and other language agreed by the contracting parties.
5. Construction contracts must be signed and performed in conformity with this Law and relevant laws.

Article 139 *Effectiveness of construction contracts*

1. A construction contract shall become effective upon satisfaction of all of the following conditions:
- (a) The person signing the contract must have full capability for civil acts and proper authority in accordance with law;
 - (b) The principles for signing of construction contracts prescribed in article 138.2(a) of this Law are satisfied;
 - (c) The contractor must satisfy all conditions on capability for operation and construction practising capability in accordance with this Law.
2. The effective date of a construction contract shall be the date of signing of the contract or other specific date agreed by the contracting parties.

Article 140 *Types of construction contracts*

1. Construction contracts shall be classified depending on the nature, contents of the work to be performed and applicable price of the contract.
2. Depending on the nature and contents of the work to be performed, construction contracts comprise:
- (a) Construction consultancy contracts;

- (b) Contracts for execution of building works;
- (c) Contracts for supply of equipment to be installed in construction works;
- (d) Engineering, procurement and construction contracts, and turnkey contracts;
- (dd) Other construction contracts.

3. Depending on applicable prices of contracts, construction contracts comprise:

- (a) Lump sum contracts;
- (b) Fixed unit rate-based contracts;
- (c) Changeable unit rate-based contracts;
- (d) Time-based contracts;
- (dd) Costs plus charge-based contracts;
- (e) Mixed price-based contracts;
- (g) Other construction contracts;
- (h⁸⁷) Construction contracts for which State capital is expended shall only be in the forms of contract prescribed in paragraphs (a), (b), (c) and (d) of this clause or in a combination of such types of contract.

Article 141 *Contents of construction contracts*

1. A construction contract shall contain the following items:

- (a) Applicable legal bases;
- (b) Language to be used.
- (c) Contents and volume of the work;
- (d) Quality and technical requirements of the work, check and acceptance and hand-over;
- (dd) Duration and schedule for implementation of the contract;
- (e) Price of the contract, advances, currency used for payment and payment for the construction contract;
- (g) Performance bond and guarantee for advance for the contract;
- (h) Amendments to the construction contract;

⁸⁷ *Allens Note:* Removed by Law 62 but retained for reference.

- (i) Rights and obligations of parties to the construction contract;
 - (k) Liability for contractual breach, bonuses and penalty for contractual breach;
 - (l) Temporary suspension and termination of the construction contract;
 - (m) Resolution of disputes in relation to the construction contract;
 - (n) Risks and force majeure;
 - (o) Finalization and liquidation of the construction contract;
 - (p) Other items.
2. With respect to general construction contractors' contracts, in addition to the items prescribed in clause 1 of this article, items on and responsibilities for management of the general construction contractor shall be supplemented to the contract.
3. The Government shall provide detailed regulations on construction contracts.

Article 142 *File on construction contracts*

1. A file on a construction contract shall comprise a contract with the items prescribed in article 141 of this Law and documents attached to the contract.
2. Documents attached to the construction contract shall include several or all of the following documents:
- (a) Written notice of successful bidder or appointment of a bidder;
 - (b) Specific conditions of the contract or terms of reference in respect of construction consultancy contracts;
 - (c) General conditions of the contract;
 - (d) Bidding documents or documents on requirements of the party awarding the contract;
 - (dd) Design drawings and technical instructions;
 - (e) Bid or proposals of the contractor;
 - (g) Minutes of negotiation for a contract and written amendments and additions to the contract;
 - (h) Appendices to the contract;
 - (i) Other relevant documents.
3. The parties to the contract shall agree on an order of application of documents attached to the construction contract. Where the parties to the contract are unable to so agree, the order prescribed in clause 2 of this article shall apply.

Article 143 *Changes to construction contracts*

1. Changes to a construction contract shall comprise changes in relation to volumes [of the work], schedule, unit prices of the contract and other items as agreed by the parties in the contract. Any change to the construction contract shall only apply during implementation of the contract.
2. A construction contract may be changed in the following circumstances:
 - (a) As agreed by the parties in the contract in conformity with this Law and other relevant laws;
 - (b) When the State changes the policies directly affecting performance of the contract unless otherwise agreed by the contracting parties;
 - (c) When a change is made to the project and affects the contract, unless otherwise agreed by the contracting parties;
 - (d) In a case of force majeure in accordance with law.
3. In addition to the provisions stated in clauses 1 and 2 of this article, any change to the price of a construction contract in the category of projects funded by public investment capital, non-public investment State capital must comply with the following provisions:
 - (a) The unit price for performance of the contract may only be changed in the case of changeable unit rate-based contracts and time-based contracts;
 - (b) The unit price in the contract shall be changed in accordance with the items, scope, method and bases for changes to the contract which are agreed by the parties in the contract in conformity with law;
 - (c) Any change to the contract which results in a change in the investment objectives or the duration of performance of the contract or which exceeds the approved estimated budget for the construction tender package shall require the permission of the investment decision-making person.

Article 144 *Payments for construction contracts*

1. Payment for a construction contract must be appropriate for the type of contract, the contract price and conditions in the contract signed by the parties.
2. The contracting parties shall agree on a method of payment, period of payment and file on payments and conditions for payment.
3. The party awarding the contract must pay in full the value of each payment to the contractor after deduction of any advance or money for warranty for the works in accordance with the contractual agreement, unless otherwise agreed by the parties.
4. With respect to lump-sum contracts, payment is made at the percentages of the contract price or the price of the works or an item of the works or volume of the work corresponding to the period for which the payment is made as agreed by the contracting parties.
5. With respect to fixed unit rate-based contracts and changeable unit rate-based contracts, payment is made on the basis of the actual volumes of the completed work which have been checked and accepted and the unit prices of the contract or changeable unit prices as agreed in the contract.

6. With respect to time-based contracts, payment for expenses of consultancy experts shall be fixed on the basis of wages of experts and expenses relating to activities of the consultancy experts multiplied by the actual working time which has been checked and accepted (on a monthly, weekly, daily or hourly basis).
7. With respect to costs plus charge-based contracts, payment shall be made on the basis of actual costs for implementation of the contractual work and the agreed overhead costs and profit of the contractor.
8. Payment for additional volumes of the work for which there is no unit price in the construction contract shall be made as agreed in the contract.
9. The currency used for payment for construction contracts shall be Vietnamese Dong; foreign currency may be used for payment where the contracting parties so agree and such agreement is not contrary to the law on control of foreign exchange.

Article 145 *Temporary suspension and termination of construction contracts*

1. The contracting parties are entitled to temporarily suspend performance of the construction contract in the following circumstances:
 - (a) The party awarding the contract shall be entitled to temporarily suspend performance of the construction contract when the contractor fails to satisfy the requirements on quality, labour safety and schedule in accordance with the signed contract;
 - (b) The contractor shall be entitled to temporarily suspend performance of the construction contract when the party awarding the contract commits a breach of the agreement on payment.
2. The party awarding the contract is entitled to terminate performance of the contract in the following circumstances:
 - (a) The contractor is bankrupt or dissolved;
 - (b) The contractor refuses or continuously fails to perform the contractual work resulting in a breach of the implementation schedule as agreed in the contract.
3. The contractor is entitled to terminate the contract in the following circumstances:
 - (a) The party awarding the contract is bankrupt or dissolved;
 - (b) The work is continuously suspended in excess of the period agreed by the parties due to the fault of the party awarding the contract, unless otherwise agreed by the parties;
 - (c) The party awarding the contract fails to make a payment to the contractor within the time-limit agreed by the parties from the date on which the party awarding the contract receives the complete and valid file on payment, unless otherwise agreed by the parties.
4. Before either party temporarily suspends or terminates performance of the construction contract in accordance with clauses 1, 2 and 3 of this article, such party must give notification in writing to the other party, specifying the reason for temporary suspension or for termination of the contract; and must compensate for loss and damage caused to the other party by the failure to give such notification.

Article 146 *Bonuses and penalties in construction contract, compensation for loss and damage due to breaches, and resolution of disputes in construction contracts*

1. Bonuses and penalties in relation to a construction contract shall be agreed and recorded by the parties in the contract.
2. With respect to construction works funded by public investment capital, non-public investment State capital, the cap on contractual penalties is twelve (12) per cent of the value of the contract which is breached. In addition to the agreed penalties, the party in breach of the contract must compensate for loss and damage caused to other party or the third party (if any) in accordance with this Law and relevant laws.
3. A contractor must compensate for loss and damage caused to the party awarding the contract in the following circumstances:
 - (a) [The contractor] fails to ensure the quality of the work as agreed in the contract or the duration of completion of the work has been prolonged due to the fault of the contractor;
 - (b) Loss and damage to people and assets is caused by the fault of the contractor during the warranty period.
4. A party awarding the contract must compensate for loss and damage caused to the contractor in the following circumstance:
 - (a) Due to the fault of the party awarding the contract, the contractual work is suspended or behind the schedule or the contractor suffers risks in relation to co-ordination of machinery, equipment, materials and components in stock;
 - (b) The contractor has to execute again, suspend or change the work because the party awarding the contract provided documents and conditions necessary for the work contrary to the contractual agreements;
 - (c) Raw materials, equipment and other requirements which should be supplied by the party awarding the contract as stipulated in the construction contract are incorrectly supplied in terms of the time and stipulated requirements;
 - (d) The party awarding the contract is late in making payment as agreed in the contract.
5. Where either party fails to discharge or incorrectly discharges a contractual obligation, then after discharging such obligation or taking remedy, [such party] shall also be liable to compensate for loss and damage caused to the other party and the compensation for loss and damage must be equivalent to the loss and damage caused to the other party.
6. Where a party commits a breach of the contract due to the fault of a third party, the party in breach shall be responsible for the breach of the contract to the other party. The dispute between the party in breach and the third party shall be resolved in accordance with law.
7. Where a breach of the contract by one party causes physical injury to or infringes the interests or property of the other party, the aggrieved party shall have the right to require the other party to bear the responsibility for the breach of the contract in accordance with the contractual agreement and relevant laws.

8. Principles and sequence of resolution of disputes regarding construction contracts are regulated as follows:
 - (a) [The contracting parties] respect contractual agreements and undertakings during implementation of the contract and ensure equality and co-operation.
 - (b) The contracting parties shall be responsible to themselves enter into negotiation for resolution of disputes, and where they fail to do so, the dispute shall be resolved through settlement, by commercial arbitration or by a court in accordance with law.

Article 147 *Finalization and liquidation of construction contracts*

1. A contractor shall be responsible to finalize the construction contract with the party awarding the contract consistent with the type of contract and applicable form of the contract price. The content of finalization of the construction contract must conform with the items agreed in the construction contract.
2. The period for finalization of the construction contract shall be agreed by the parties. With respect to construction contracts funded by public investment capital, non-public investment State capital, the period for finalization of a contract shall not exceed sixty (60) days from the date of check and acceptance of the whole work under the contract, including the additional work (if any). In the case of construction contracts for large-scale works, the period for finalization of a contract may be extended but shall not exceed one hundred twenty (120) days.
3. Construction contracts shall be liquidated in the following circumstances:
 - (a) The parties have completed the contractual obligations;
 - (b) A construction contract is terminated or cancelled in accordance with law.
4. The period for liquidation of a construction contract shall be agreed by the contracting parties. In the case of construction contracts funded by public investment capital, non-public investment State capital, the period for liquidation of a contract shall be forty five (45) days from the date on which the contracting parties discharge the contractual obligations or on which the contract is terminated in accordance with article 145.2 of this Law. In the case of construction contracts for large-scale works, the period for liquidation of a contract may be extended but shall not exceed ninety (90) days.

CHAPTER VIII

Conditions on Capability for Construction Activities

Article 148 *General provisions on conditions on capability of organizations and individuals for construction activities*

1. Individuals participating in construction activities must have a diploma or training certificate appropriate for the works to be undertaken, issued by a lawful training establishment.
2. Contractors being foreign organizations or individuals and conducting construction activities in Vietnam must comply with the law on tendering and must be issued with an operating permit by the State administrative agency for construction.

- 3⁸⁸. Titles or individuals practising construction activities who must have practising certificates in accordance with this Law include directors managing investment projects for construction, persons in charge of design or head designers of construction master plans; persons in charge of construction survey; persons in charge of design or verification of design for construction, head designers or head of the verification [organization]; consultants supervising execution of construction; and persons in charge of formulation, verification and management of costs of investment in construction. Practising certificates are classified into class I, class II and class III.
- 4⁸⁹. Organizations participating in construction activities must have capability certificates in accordance with this Law, including: consultancy on management of investment projects for construction; construction survey; formulation of construction master plan designs; design and verification of construction designs; execution of building works; and consultancy on supervision of execution of building works. Capability certificates for construction activities are classified into class I, class II and class III. The professional agency for construction under the Ministry of Construction issues capability certificates of class I; and departments of construction and qualified socio-occupational organizations in accordance with regulations of the Government issue capability certificates of the remaining classes.
- 5⁹⁰. The Government shall provide detailed regulations on conditions on capability of organizations and individuals participating in construction activities; on programs, contents and forms of organization of tests [exams] to issue practising certificates; on issuance, re-issuance, conversion and revocation of practising certificates; on conditions, authority, sequence and procedures for issuance and revocation of construction activities licences of contractors being foreign organizations and individuals.

Article 149 *Practising certificates for construction activities*

1. Practising certificate for construction activities means a document certifying the practising capability which is issued by the competent agency to an individual prescribed in article 148.3 of this Law who has full professional qualification and occupational experience in the practising sector.
2. Any individual to be issued with a practising certificate for construction activities must satisfy the following conditions:
 - (a) [He or she] has the professional qualification appropriate for the content of the request for issuance of a practising certificate;
 - (b) [He or she] has experience in and has participated in the work for a period appropriate for the content of the request for issuance of a practising certificate;
 - (c) [He or she] has passed a test on occupational experience and knowledge of the laws relating to the practising sector.
3. The authority to test and issue practising certificate for construction activities is regulated as follows:
 - (a) The professional agency under the Ministry of Construction has authority to test and issue practising certificates of class I for construction activities;
 - (b) Departments of construction and eligible socio-occupational organizations as stipulated by the

⁸⁸ *Allens Note:* Amended by Law 62.

⁸⁹ *Allens Note:* Amended by Law 62.

⁹⁰ *Allens Note:* Amended by Law 62.

Government have authority to test and issue practising certificates of other classes for construction activities.

Article 150 *Conditions applicable to organizations formulating design of construction master plan*

1. They satisfy all conditions on capability appropriate for formulation of designs of construction master plans.
2. Any individual undertaking the job of person in charge of design or head designer of design drawings of a construction master plan must have a practising certificate and capability appropriate for each type of construction master plans.

Article 151 *Conditions applicable to organizations formulating and verifying investment projects for construction*

1. They satisfy all conditions on capability for construction activities appropriate for the work of formulation and verification of investment projects for construction.
2. Any individual undertaking the job of person in charge of formulation or verification of projects; or any individual participating in formulation or verification of projects must have practising capability appropriate for each type of investment project for construction. Participating members must have full practising capability for formulation of projects appropriate to requirements of investment projects for construction.

Article 152 *Conditions applicable to project management consultants and management units of investment projects for construction*

1. Management consultants of investment projects for construction must satisfy the following conditions:
 - (a) They satisfy all conditions on capability for construction activities appropriate for the work of project management depending on the scale and type of project;
 - (b⁹¹) Any individual holding the position of director in charge of management of an investment project for construction or any individual in charge of professional fields of project management must have appropriate expertise, have been trained, have experience in the work and a practising certificate appropriate for the scale and type of project.
2. Management units of investment projects for construction must satisfy the following conditions:
 - (a) There is an establishment decision of the competent agency or organization in the case of specialized management units of investment projects for construction or regional management units of investment projects for construction or of the developer in the case of management unit of a project established by it;
 - (b) They satisfy all conditions on capability for construction activities appropriate for the work of project management depending on the scale and type of the project;

⁹¹ *Allens Note:* Amended by Law 62.

- (c) They have an organizational structure appropriate to the requirements for the task of project management; and a stable headquarters or office;
- (d⁹²) Any individual holding the position of director in charge of management of an investment project for construction or any individual in charge of professional fields of project management must have appropriate expertise, have been trained, have experience in the work and a practising certificate appropriate for the scale and type of project.

Article 153 *Conditions applicable to organizations undertaking construction survey*

1. They have full capability for construction survey.
2. Each surveying task must have a person in charge of construction survey who is appointed by the construction survey contractor. The person in charge of construction survey must have full practising capability for construction survey and an appropriate practising certificate. Individuals participating in each construction surveying work must have expertise appropriate for the work assigned to them.
3. Machinery and equipment used for construction survey must satisfy the requirements on quality, and ensure the safety of the surveying work and environmental protection.
4. Laboratories servicing construction survey must satisfy all statutory standards and must be recognized by the competent State administrative agency for construction.

Article 154 *Conditions applicable to organizations undertaking design or verifying design for construction of works*

1. They satisfy all conditions on capability for the activity of design or verification of design for construction of works.
- 2⁹³. Any individual undertaking the job of person in charge of design or verification or head designer or head of the verification [organization] must have practising capability for construction design and a practising certificate appropriate to the requirements of the type and level of works.

Article 155 *Conditions applicable to consultants undertaking supervision of execution of building works or construction inspection*

1. They satisfy all conditions on capability appropriate for the work of supervision of execution of building works or construction inspection.
2. Any individual undertaking supervision of execution of building works or construction inspection must have a practising certificate appropriate for the work to be undertaken.

Article 156 *Conditions applicable to control of costs of investment in construction*

1. They satisfy all conditions on capability for the activity of control of costs of investment in construction.

⁹² *Allens Note:* Amended by Law 62.

⁹³ *Allens Note:* Amended by Law 62.

2. Any individual in charge of formulation, verification and control of costs of investment in construction must have a practising certificate for construction valuation.

Article 157 *Conditions applicable to organizations undertaking execution of building works*

1. They have full capability for execution of building works corresponding to the relevant type and level of construction works.
- 2⁹⁴. The head of the construction site must have appropriate expertise and practising capability for execution of building works.
3. They have equipment for execution of building works which satisfies requirements on safety and construction quality of the works.

Article 158 *Conditions applicable to individuals who independently practise*

⁹⁵Individuals who independently practise formulation of construction master plan designs; construction survey, design for construction of works, consultancy on management of investment projects for construction, consultancy on supervision of construction survey, consultancy on supervision of execution of building works, formulation, verification and management of costs of investment in construction must satisfy the following conditions:

1. They have registered for activities in sectors consistent with the practising content;
2. They have a practising certificate and capability appropriate for the work to be undertaken.

Article 159⁹⁶ *Management of capability for construction activities*

1. Information about capability for construction activities of organizations and individuals [entities] having been issued with a certificate must be publicly published on the website managed by the competent agency for issuance of certificates and must be integrated on the electronic information portal of the Ministry of Construction.
2. The competent agency for issuance of certificates is responsible to publish information about entities' capability for construction activities on the website managed by it, and at the same time send such information to the professional agency for construction under the Ministry of Construction for the purpose of integration on the electronic information portal of the Ministry of Construction. The period for publishing information about capability for construction activities shall be no more than five (5) working days from the date of issuance of a certificate. The period for integration of information on the website of the Ministry of Construction shall be no more than three (3) working days from the date of receipt of information from the competent agency for issuance of certificates.
3. The Ministry of Construction and departments of construction are responsible to inspect and deal with breaches being failure by developers and entities engaged in construction activities to comply with the regulations on conditions on capability.

⁹⁴ *Allens Note:* Amended by Law 62.

⁹⁵ *Allens Note:* Amended by Law 62.

⁹⁶ *Allens Note:* Amended by Law 62.

CHAPTER VII

Responsibilities of State Agencies for State Administration of Investment Activities for Construction

Article 160 *Content of State administration of investment activities for construction*

1. Formulation of strategies, projects, master plans and plans for development of the construction market and capacity of the construction industry, and directing their implementation.
2. Promulgation of legal instruments on construction and organizing their implementation.
3. Formulation and promulgation of standards and technical regulations on construction.
4. Organizing and uniform management of construction master plans, activity of project management, project appraisal and design for construction; promulgation and publication of norms and construction prices.
5. Guidance, examination and evaluation of implementation of the work of quality control of construction works; control of costs of investment in construction and construction contracts; management of capability for construction activities, management of the work of tendering in construction activities; control of safety and labour hygiene and environmental protection during execution of building works.
- 6⁹⁷. Management of the issuance, re-issuance, amendment, conversion and revocation of permits, certificates, certifications and results of dealing with other administrative procedures in investment activities for construction.
7. Checking, inspecting, resolving complaints and denunciations and dealing with breaches in investment activities for construction.
8. Organizing scientific and technological research and introduction, dissemination of knowledge and laws on construction.
9. Training the workforce participating in investment activities for construction.
10. Management and provision of information serving investment activities for construction.
11. Managing and archiving files on construction works.
12. International co-operation in the area of investment activities for construction.

Article 161⁹⁸ *Responsibilities of the Government*

1. To exercise uniform State administration of investment activities for construction throughout the country; to assign and delegate powers to ministries, branches and local authorities to undertake State

⁹⁷ *Allens Note:* Amended by Law 62.

⁹⁸ *Allens Note:* Amended by Law 62.

administration; to direct ministries, branches and local authorities to implement the law on construction; and to direct resolution of important or complicated issues and problems during administration of investment activities for construction.

2. To issue or to submit to the competent authority for issuance legal instruments on construction; to issue, to direct formulation of policies, strategies and plans and their implementation to ensure effective investment in construction, improvement of labour productivity, energy and resource saving and sustainable development; and to regulate the implementation of offshore investment projects for construction by domestic agencies, organizations and individuals and the formulation and management of the national database and information system on construction activities.

Article 162 *Responsibilities of the Ministry of Construction*

The Ministry of Construction is responsible to the Government for undertaking uniform State administration of investment activities for construction and has the following responsibilities:

1. To preside over drafting of legal instruments, strategies, projects, master plans and plans for development of the construction market and capacity of the construction industry and to submit the same to the Government or the Prime Minister of the Government.
- 2⁹⁹. To promulgate legal instruments and organize implementation thereof within its authority in relation to construction; and to issue national technical regulations on construction, documents providing technical guidelines on construction within its authority and criteria for construction works using energy and resources economically and effectively, ecological cities and smart cities.
- 3¹⁰⁰. To organise and manage construction master plans, the activity of management of investment projects for construction, appraisal of projects and designs for construction; and to regulate the determination and management of costs of investment in construction, construction contracts, norms and construction prices.
4. To direct, guide, check and evaluate implementation of the work of quality control of construction works; to monitor, check and make proposals for dealing with the quality and safety of important national works and large-scale or technically complicated works during the process of investment in construction; control of costs of investment in construction and construction contracts; to manage capability for construction activities, to undertake management of the work of tendering in construction activities; and to organize, consider and approve awards for quality of construction works.
- 5¹⁰¹. To manage issuance, re-issuance, amendment, conversion and revocation of permits, certificates, certifications and results of dealing with other administrative procedures in investment activities for construction within its authority.
6. To check, inspect, and resolve complaints and denunciations and to deal with breaches in relation to investment activities for construction.
7. To organize scientific and technological research and introduction, dissemination of knowledge and laws on construction.

⁹⁹ *Allens Note:* Amended by Law 62.

¹⁰⁰ *Allens Note:* Amended by Law 62.

¹⁰¹ *Allens Note:* Amended by Law 62.

8. To organize training and development of expertise on construction activities for State employees and officials of the State administrative agencies for construction.
- 9¹⁰². To guide and check the implementation of the control of safety and labour and environmental hygiene during execution of building works; and to implement the control of safety and labour and environmental hygiene during execution of building works within its specialised administration.
10. To co-ordinate with relevant ministries, branches and local authorities to check and evaluate the implementation of projects.
- 11¹⁰³. To develop and manage the national database and information system on construction activities; and to manage and provide information serving investment activities for construction.
12. To manage and archive files on construction works.
13. To conduct international co-operation in the area of investment activities for construction.
14. To implement other tasks assigned by the Government in relation to investment activities for construction.

Article 163 *Responsibilities of ministries and ministerial equivalent agencies*

- 1¹⁰⁴. Ministries for management of specialized construction works have, within their respective powers, the following responsibilities:
 - (a) To co-ordinate with the Ministry of Construction to carry out State administration of investment activities for construction and to be responsible to control the quality of construction works and control safety and labour and environmental hygiene during execution of building works under their specialized management in accordance with this Law;
 - (b) To research and promulgate, and guide and inspect implementation of technical regulations, standards and eco-technical norms applicable to the special construction work within the speciality in accordance with guidelines of the Ministry of Construction and regulations of the Minister of Construction; and to organize training and development of expertise on investment in construction for State employees and officials of the agencies and entities under their respective authority;
 - (c) To monitor, check and compile the status of implementation of supervision and evaluation of investment in construction of specialized works under their respective management in accordance with law;
 - (d) To co-ordinate and support other relevant ministries, agencies and organizations and people's committees at all levels during implementation of investment projects for specialized construction in relation to issues under their respective management.
2. Ministries and ministerial equivalent agencies have the following responsibilities:

¹⁰² *Allens Note:* Amended by Law 62.

¹⁰³ *Allens Note:* Amended by Law 62.

¹⁰⁴ *Allens Note:* Amended by Law 62.

- (a¹⁰⁵) To undertake the function of State administration in accordance with their assigned tasks and powers; to promulgate documents within their respective authority; to direct and organize implementation and inspect implementation of construction master plans and investment plans for construction under their assigned management;
- (b) To co-ordinate with the Ministry of Construction and other relevant agencies and organizations and people's committees at all levels during implementation of investment activities for construction in relation to issues under their management assigned to them;
- (c¹⁰⁶) To compile the status, implement, check and evaluate investment activities for construction and to be responsible to control the quality of construction works and to control safety and labour and environmental hygiene during execution of building works within the scope of their assigned management;
- (d) To prepare periodical and annual reports on status of management of investment activities for construction and send the same to the Ministry of Construction for compilation and monitoring;
- (dd) To discharge other tasks in accordance with law.

Article 164 *Responsibilities of people's committees at levels*

1. Provincial people's committees have the following responsibilities:

- (a¹⁰⁷) To undertake State administration of investment activities for construction in accordance with the powers delegated by the Government; to manage order of construction in their localities in accordance with construction designs and the master plan and construction permits as regulated by the Government; to promulgate documents within their respective authority; to direct and organize implementation of construction master plans and investment plans for construction; to delegate and authorize district people's committees and industrial zone, export-processing zone, hi-tech zone and economic zone management boards to organize formulation, appraisal and approval of tasks and drawings of zoned construction master plans and detailed construction master plans for functional zones; to organize guidance, to check, to resolve complaints and denunciations, and to deal with breaches of law in relation to investment activities for construction;
- (b) To co-ordinate and support ministries and other ministerial equivalent agencies to organize implementation, to monitor, to check and to supervise investment projects for construction in the locality under their management. To be responsible to control the quality of construction works under their assigned management;
- (c¹⁰⁸) To research and promulgate, and guide and inspect implementation of technical regulations, standards and eco-technical norms applicable to special construction works in the locality in accordance with guidelines of the Ministry of Construction and regulations of the Minister of Construction; to prepare periodical and annual reports on status of management of investment activities for construction and send same to the Ministry of Construction for compilation and monitoring;

¹⁰⁵ *Allens Note:* Amended by Law 62.

¹⁰⁶ *Allens Note:* Amended by Law 62.

¹⁰⁷ *Allens Note:* Amended by Law 62.

¹⁰⁸ *Allens Note:* Amended by Law 62.

- (d) To organize training and development of expertise on investment in construction for State employees and officials of the agencies and entities under their respective authority;
- (dd¹⁰⁹) To instruct the professional agency to notify information on norms, construction prices and construction price indices on a monthly, quarterly or annual basis for the purpose of keeping pace with price fluctuations in the construction market.

2. People's committees of districts and communes have the following responsibilities:

- (a) To undertake State administration of investment activities for construction in their respective localities in accordance with their delegated powers; and to organize training and development of expertise on investment in construction for State employees and officials of the agencies and entities under their respective authority;
- (b) To co-ordinate and support people's committees at a higher level to organize implementation, to monitor, to check and supervise investment projects for construction in the locality under their management; to be responsible to control the quality of construction works within their assigned management;
- (c) To prepare periodical and annual reports on status of management of investment activities for construction in their locality and send the same to the people's committee at a higher level for compilation and monitoring;
- (d) To discharge other tasks in accordance with law.

Article 165 *Construction inspectorate*

- 1. The construction inspectorate under the Ministry of Construction and departments of construction shall undertake the functions of the administrative inspectorate and specialized inspectorate for construction in respect of organizations and individuals participating in investment activities for construction.
- 2. The Ministry of Construction shall be responsible to direct and organize specialized inspection of investment activities for construction throughout the country. Departments of construction shall be responsible to organize specialized inspection of investment activities for construction in their respective localities.
- 3. Specialized inspectorates for investment activities for construction shall:
 - (a) Inspect compliance with the law by agencies, organizations and individuals in investment activities for construction;
 - (b) Discover, prevent and deal with breaches of the law on construction within their authority or propose the competent State agency to deal with such breaches.
- 4. The Government shall provide detailed regulations on construction inspectorate.

¹⁰⁹ *Allens Note:* Amended by Law 62.

CHAPTER X

Implementing Provisions

Article 166 *Transitional clause*

1. Investment projects for construction which have been approved before the effective date of this Law shall not be required to be re-approved and subsequent activities which have not yet been conducted shall be conducted in accordance with this Law.
2. Any management unit of a single investment project for construction funded by public investment capital, non-public investment State capital which has been established before the effective date of this Law shall not be required to convert into the form of project management unit prescribed in articles 62.1 and 62.2 of this Law.
3. Existing works which were constructed before the effective date of this Law and are consistent with the construction master plan but have non-compliant architecture after site clearance shall be permitted to retain their status quo; if the works are improved, up-graded or repaired, they must comply with the provisions of this Law.
4. The Government shall provide detailed regulations on clause 1 of this article.

Article 167 *Effectiveness*

1. This Law shall be of full force and effect as of 1 January 2015.
2. Law on Construction 16-2003-QH11 and article 1 of the Law on Amendment of and Addition to a Number of Articles of the Laws Relating to Investment in Capital Construction 38-2009-QH12 shall no longer take effect from the effective date of this Law.

Article 168 *Detailed regulations*

The Government and competent agencies shall provide detailed regulations on articles and clauses assigned to it or them in this Law.

This Law was passed by Legislature XIII of the National Assembly of the Socialist Republic of Vietnam at its 7th Session on 18 June 2014.

The Chairman of the National Assembly

NGUYEN SINH HUNG