

LAW

ON CONSTRUCTION

- ❖ Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended and added to by Resolution 51-2001-QH10 dated 25 December 2001 of Legislature X of the National Assembly at its 10th Session;
- ❖ This Law governs construction activities.

CHAPTER I

General Provisions

Article 1: Governing scope

This Law governs construction activities and the rights and obligations of organizations and individuals investing in construction of works and engaging in construction activities.

Article 2: Applicable entities

This Law shall apply to domestic organizations and individuals and to foreign organizations and individuals investing in construction of works and engaging in construction activities in the territory of the Socialist Republic of Vietnam. Where an international treaty which the Socialist Republic of Vietnam has signed or acceded to 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 shall be construed as follows:

1. Construction activities shall comprise formulation of construction master plans, formulation of investment projects for construction of works, construction survey, design of construction works, execution of building works, supervision of execution of building works, management of investment projects for construction of works, selection of contractors in construction activities and other activities related to construction work
2. Construction works means a product of human labour and of building materials and equipment installed in the works, attached to a fixed area of land which may include sections above and under ground or water surfaces, and which is built in accordance with a design. Construction works shall include public construction works, residential housing, industrial works, traffic works, irrigation systems, energy works and other works.
3. Equipment installed in works shall comprise 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.
4. Execution of building works shall comprise construction of the following works and installation of equipment at such works: new works; works being repaired, renovated, relocated, up-graded or restored; dismantling of works; and servicing and maintenance of works.
5. System of technical infrastructure works shall comprise traffic systems, information and communications systems, energy supply systems, public lighting systems, water supply and water discharge systems, waste treatment systems and other works.
6. System of social infrastructure works shall comprise buildings for health care, culture, education, sports, commercial services, public services, trees, parks, water surfaces and other works.
7. Red-lined boundary means boundaries which are fixed on the basis of drawings of master plans and actual sites in order to classify the boundary line between land on which

construction works are permitted to be constructed and land reserved for roads, technical infrastructure works and other public spaces.

8. Construction boundary means the boundary marking the limits of permission to build on any one block of land. © Ministry of Planning and Investment and Phillips Fox X-2968

9. Construction master planning means organization of urban space, rural residential areas and 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 interest and community interests and satisfying the objectives of socio-economic development, national defence and security, and protection of the environment. Construction master planning shall be expressed in construction zoning plans, comprising charts, drawings, mock-ups and commentaries

10. Regional construction master planning means organization of systems of rural residential areas and technical and social infrastructure works within the administrative boundaries of any one province or inter-provincial area consistent with the requirements for socio-economic development from time to time.

11. General master planning for urban construction means organization of urban space and technical and social infrastructure works in compliance with overall master planning for socio-economic development and master planning for development of branches, ensuring national defence and security of each region and of the country from time to time.

12. Detailed master planning for urban construction means detailing the contents of general master plans for urban construction which shall provide the legal basis for management of construction works, for the provision of information, for the issuance of construction permits, and for allocation and lease of land in order to commence investment projects for construction of works.

13. Master planning of construction in rural residential areas means organization of space and systems of technical and social infrastructure works for rural residential areas.

14. 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 and shall include the centres of communes, hamlets, villages, communal hamlets, small hamlets, mountain villages, mountain hamlets and ethnic minority villages (hereinafter collectively referred to as hamlets) formed by natural conditions, by socio-economic conditions, by culture, habits and customs and by other factors.

15. Urban design means the formulation of specific plans from the contents of general and detailed master plans for urban construction on the architecture of works within urban areas, on the landscape of each functional area, and on street routes and other public spaces within urban areas.

16. Investment report for construction of works means an application file for guidelines for investment in construction of works for the competent authority to permit investment. © Ministry of Planning and Investment and Phillips Fox X-2969

17. Investment project for construction of works means a collection of proposals relating to expenditure of capital to construct new works or to extend or renovate existing 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. Investment project for construction of works shall include an explanatory section and a preliminary designs section.

18. Eco-technical report on construction of works means an abridged investment project for the construction of works which only sets out the basic requirements stipulated in the regulations.

19. Construction regulations means mandatory regulations applicable to construction activities issued by the State administrative body for construction.

20. Construction standards means regulations on technical standards, eco-technical norms, the order for implementation of technical works, technical criteria and indicators and natural indicators issued by the competent body or organization or recognized as applicable to

construction activities. Construction standards shall include mandatory regulations and regulations the application of which is encouraged.

21. Investor in construction of works means a capital owner or a person assigned to manage and utilize capital for investment in construction of works.

22. Contractor in construction activities means an organization with full capability for construction activities or individual with full capability for construction practice, entering a contractual relationship with respect to construction activities.

23. General construction contractor means a contractor entering a contract directly with an investor in construction of works in order to receive an entire contract for one type of work or the whole work of the investment project for construction of works. General construction contractor shall include the following principal forms: general design contractor; general contractor for execution of building works; general contractor for design and execution of building works; general contractor for design, procurement of technological equipment and execution of building works; and general contractor for formulation of an investment project for construction works, design, procurement of industrial equipment and execution of building works.

24. Head contractor in construction activities means a contractor entering a contract directly with the investor in construction of works in order to receive a contract to implement the main part of one type of work of the investment project for construction of works. © Ministry of Planning and Investment and Phillips Fox X-2970

25. Sub-contractor in construction activities means a contractor entering a contract with a head contractor or with a general construction contractor in order to implement a part of the work of the head contractor or general construction contrac

26. 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.

27. Preliminary design¹ means a collection of data comprising a commentary and drawings which express a design solution which provides basic sufficient conditions for preparing the

level of total invested capital and shall be the basis for commencing the subsequent design steps.

28. Supervision of the author means supervision by the designer during the process of execution of building works aimed at ensuring that execution is correct in terms of the design.

29. Building works incident means a breakdown beyond permissible safety limits which creates a danger of collapse of the construction works, or an actual breakdown of part or all of the construction works, or it means that the construction works are unable to be used as designed.

Article 4: Fundamental principles in construction activities Organizations and individuals engaged in construction must comply with the following fundamental principles:

1. Ensure that works are built in accordance with master plans and in accordance with the design of the works; ensure the beauty of construction works, protection of the environment and general landscape; ensure that works are built in conformity with natural conditions and the particular cultural and social conditions of each locality; and ensure that construction works combine socio-economic development with national defence and security;
2. Ensure compliance with construction regulations and construction standards;
3. Ensure quality, schedule and safety of construction works; ensure the lives and property of people; ensure fire fighting and prevention, explosion prevention; and ensure environmental hygiene;
4. Ensure synchronous construction of each building works, and synchronous construction of technical infrastructure works;
5. Ensure economy and efficiency, ensure that there is no waste of expenditure or loss and that there are no other negative elements in construction.

Article 5: Types and levels of construction works

1. Construction works shall be classified into types and levels of works.
2. The types of construction works shall be fixed in accordance with their use function. Each type of construction works shall be divided into five levels, comprising special level, level I, level II, level III and level IV.
3. The level of construction works shall be fixed in accordance with the type of construction works based on scale, technical requirements, materials used to build the works and life span of the works.
4. The Government shall provide regulations on classification and levels of construction works.

Article 6: Construction regulations and construction standards

1. The system of construction regulations and construction standards must be promulgated or recognized by the State administrative body for construction for uniform application in construction activities.
2. Construction activities must comply with construction regulations and construction standards. If foreign construction standards are applied, the approval of the State administrative body for construction shall be required.
3. Organizations and individuals may research and propose construction regulations and construction standards to the State administrative body for construction for promulgation or recognition.

Article 7: Capability for construction practice, capability for construction activities

1. Capability for construction practice shall be regulated with respect to individuals participating in construction activities. Capability for construction activities shall be regulated with respect to organizations participating in construction activities.
2. Capability for construction practice of individuals shall be determined in accordance with grades on the basis of professional levels which a lawful professional training organization certifies and on the basis of experience and professional ethics. Any individual operating

independently and participating in the design of construction master planning, construction survey, design of works or supervision of execution of works must have the appropriate practising certificate and shall be personally liable for his or her work.

3. Capability for construction activities of organizations shall be determined in accordance with grades on the basis of the capability for construction practice of individuals within such organization and on the basis of experience in construction activities, financial capacity, equipment, and management capability of the organization.

4. Foreign organizations and individuals engaged in construction activities in the territory of the Socialist Republic of Vietnam must satisfy the conditions stipulated in clauses 1, 2 and 3 of this article and must be granted an operating permit by the State administrative body for construction.

5. The Government shall provide detailed regulations on capability of organizations for construction activities, on capability of individuals for construction practice, and on issuance to individuals of practising certificates appropriate for types and levels of works.

Article 8: Supervision of implementation of laws on construction

1. The National Assembly, the Standing Committee of the National Assembly, the Ethnic Council, other committees of the National Assembly, the body of National Assembly delegates and individual National Assembly delegates, people's councils, standing committees of people's councils, committees of people's councils and delegates of people's councils at all levels shall, within the scope of their respective duties and powers, be responsible for supervision of implementation of the laws on construction.

2. The Vietnam Fatherland Front and its member organizations shall, within the scope of their respective duties and powers, be responsible for disseminating the laws on construction amongst the citizens and for encouraging the citizens to implement and to supervise implementation of the laws on construction.

Article 9: Policy of encouragement in construction activities

The State shall have a policy of encouraging and facilitating organizations and individuals to research and apply progressive scientific and technological advances in construction, to use new building materials, to economize in the use of natural resources and to protect the environment; and of facilitating organizations and individuals to participate in construction activities in accordance with master plans in remote and distant regions, in regions with specially difficult conditions, and in flood prone regions.

Article 10: Conduct which is strictly prohibited in construction activities

The following conduct is strictly prohibited in construction activities:

1. Constructing works in areas in which construction is prohibited; constructing works which encroach on or illegally occupy safety corridors for 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 danger of landslide and flood, except for works the purpose of which is to overcome these dangers;
2. Construction works contrary to master plans or in violation of construction boundaries and standard ground floor level² of construction works; construction works without a construction permit where the law requires such permit, or works constructed incorrectly in terms of the provisions of an issued construction permit;
3. A contractor engaging in construction activities which exceed its capability for construction practice or capability for construction activities; selection of a contractor to implement work when that contractor fails to satisfy the conditions on capability for construction practice or on capability for construction activities;
4. Construction works which fail to comply with construction regulations and construction standards;
5. Breaching regulations on safety of lives and property of persons and on environmental hygiene in construction;

6. Building an extension encroaching on or illegally occupying public space, public areas, pathways or other expanses which are already the subject of approved and proclaimed construction master plans;
7. Giving or receiving bribes in construction activities; making arrangements in tendering with an ulterior motive aimed at buying or selling a tender, aimed at collusion in a tender, or aimed at reducing a tender price below the cost of building the works the subject of the tender;
8. Abuse of position or power to breach the laws on construction; condoning or concealment of conduct in breach of the laws on construction;
9. Obstruction of lawful construction activities;
10. Other conduct in breach of the laws on construction.

CHAPTER II

Construction Master Planning

SECTION 1

General Provisions

Article 11: Construction master plans

1. Construction master plans must be formulated and approved to provide the basis for construction activities subsequent to such planning. Construction master plans shall be formulated for five year and ten (10) year periods and in order to provide long-term developmental direction. Construction master plans shall be periodically considered for amendment for conformity with the status of socio-economic development from time to

time. Amendment of construction master plans must ensure the tradition of inheriting previously formulated and approved construction master plans.

2. The State shall guarantee State budget funding for the work of formulation of construction master plans and shall have a policy of raising funds from other sources for such work. State budget funds shall be balanced within annual plans in order to formulate regional construction master plans, general urban construction master plans, construction master plans for rural residential areas and detailed master plans for functional areas which are outside investment projects for construction of concentrated works for business purposes.

3. People's committees at all levels shall be responsible to organize the formulation of construction master plans within the administrative boundaries for which such people's committee has been delegated administrative authority, to act as the basis for administration of construction activities, of the conduct of investment projects for construction of works, and of the actual construction of works.

4. In a case where a people's committee at any level lacks capacity to fulfil its tasks of formulating, amending and approving construction master plans and approving amended construction master plans, it may invite experts and hire consultants to do so.

5. All organizations and individuals must comply with construction master plans which have been approved by the competent State authority.

Article 12: Classification of construction master plans

1. Construction master plans shall be classified into the following three categories:

(a) Regional construction master plans;

(b) Urban construction master plans, including general as well as detailed master plans for urban construction;

(c) Master plans for construction of rural residential areas.

2. The Government shall provide regulations on the order for formulation of construction master plans, on files and ratios of all types of maps, and on unit costs of formulation applicable to each category of construction master planning.

Article 13: General requirements applicable to construction master plans

Construction master plans must ensure the following general requirements:

1. They must conform with master plans for overall socio-economic development, with master plans for development of other branches and with land use zoning; detailed construction master plans must conform with master plans for general construction; and construction master plans must ensure national defence and security and create the impetus for socio-economic development.

2. They must organize and arrange territorial space on the basis of an appropriate exploitation and use of natural resources, land and other resources in conformity with natural conditions, historical hallmarks, socio-economic conditions and the scientific and technological progress of the country at each stage of development.

3. They must create a comfortable, safe and stable living environment; they must satisfy the ever-increasing material and spiritual needs of the citizens; they must protect the environment and cultural heritage, conserve places of historical and cultural interest and the natural landscape, and retain and develop the national cultural identity.

4. They must fix the basis for the work of preparing master plans, for managing investment and for attracting investment in construction; and for the work of administering, operating and using construction works in urban areas and in rural residential areas.

Article 14: Conditions applicable to organizations and individuals designing construction master plans

1. Organizations which design construction master plans must satisfy the following conditions:

(a) Be registered for the activity of design of construction master plans;

- (b) Have full capability for the activity of design of construction master plans;
- (c) Any individual undertaking the job of person in charge of drawings of a construction master plan or person in charge of design of a specialized part of such drawings must have full capability for construction practice and must have a practising certificate appropriate for each type of construction master planning.

2. Any individual who independently practises design of construction master plans must satisfy the following conditions:

- (a) Have full capability for practice of and a practising certificate for design of construction master plans;
- (b) Be registered for the activity of design of construction master plans.

The Government shall provide regulations on the scope of activity of design of construction master plans by individuals who independently practise design of construction master plans.

SECTION 2

Regional Construction Master Planning

Article 15: Tasks of regional construction master planning

1. The responsibility for formulating tasks of regional construction master planning shall be provided for as follows:

(a) The Ministry of Construction shall formulate tasks of regional construction master planning of key areas and inter-provincial areas and shall submit them to the Prime Minister of the Government for approval after obtaining the opinion of relevant ministries, branches and provincial people's committees.

(b) People's committees of provinces and cities under central authority (hereinafter referred to as provincial people's committees) shall formulate tasks of construction master planning of regions within the administrative boundaries that they manage and shall submit them to the people's council of the province or city under central authority (hereinafter referred to as provincial people's council) for decision.

2. The contents of tasks of regional construction master planning shall comprise:

(a) Forecast of the scale of urban and rural population consistent with the master plan for socio-economic development of the region and the national strategy for allocation of population for five year and ten (10) year periods and longer terms;

(b) Organization of space for basic industrial establishments, organization of a system of technical and social infrastructure works within the region for each period consistent with the potential of the region and the master plan for overall socio-economic development of the region;

(c) Organization of space for urban systems and rural residential areas consistent with the geographical and natural conditions of each area, ensuring national defence and security and appropriate exploitation of natural resources over the whole of the region.

Article 16: Contents of regional construction master plans

Regional construction master plans must contain the following main items:

1. They must fix systems of urban and residential areas aimed at servicing industry, agriculture, forestry and tourism; and must fix areas of environmental protection, of natural resources and other functional areas.

2. They must set in place a system of technical infrastructure works and arrange space and measures for protection of the environment.

3. They must set the developmental direction for specialized branch works.

4. They must fix reserves of land to service developmental needs; and they must use land efficiently.

Article 17: Authority to formulate, evaluate and approve regional construction master plans

1. The Ministry of Construction shall organize the formulation and evaluation of regional construction master plans for key areas and for inter-provincial areas and shall submit them

to the Prime Minister of the Government for approval after obtaining the opinion of relevant ministries, branches and provincial people's committees.

2. Provincial people's committees shall be responsible to approve regional construction master plans within the administrative boundaries that they manage, after the same level people's council has made a decision.

Article 18: Amendment of regional construction master plans

1. Regional construction master plans shall be amended in one of the following circumstances:

(a) There is a change in the master plan for overall socio-economic development of the region, in the master plan for development of a branch in the region, or in the strategy for national defence and security;

(b) There is a change in geographical, natural or socio-economic conditions or in population numbers.

2. The authority to approve tasks of amending regional construction master plans and to approve amended regional construction master plans shall be provided for as follows:

(a) The Prime Minister of the Government shall approve tasks of amending regional construction master plans and shall approve amended regional construction master plans for key areas and for inter-provincial areas on the proposal of the Ministry of Construction after obtaining the opinion of relevant ministries, branches and people's committees.

(b) Provincial people's committees shall formulate tasks of amending and (sic) amended regional construction master plans within the administrative boundaries that they manage and shall submit them to the same level people's council for decision.

SECTION 3

Urban Construction Master Planning

Article 19: Tasks of general master planning for urban construction

1. The responsibility for formulating tasks of general master planning for urban construction shall be provided for as follows:

(a) The Ministry of Construction shall formulate tasks of general master planning for construction of new inter-provincial urban areas, high-tech zones and special economic zones and shall submit them to the Prime Minister of the Government for approval after obtaining the opinion of relevant ministries, branches and people's committees.

(b) Provincial people's committees shall formulate tasks of general master planning for construction of urban areas of special category and of categories 1 and 2 and shall submit them to the same level people's council to pass. The Ministry of Construction shall organize evaluation and make a submission to the Prime Minister of the Government for approval. With respect to urban areas of category 3, provincial people's committees shall formulate tasks of general construction master planning and shall submit them to the same level people's council to make a decision.

(c) People's committees of districts, towns and provincial cities (hereinafter all referred to as district people's committees) shall formulate tasks of general construction master planning for urban areas of categories 4 and 5 within the administrative boundaries managed by such people's committee and shall submit the master plans to the people's council of the district, town or provincial city (hereinafter referred to as district people's council) to pass and to submit in turn to the provincial people's committee to approve.

2. The contents of tasks of general master planning for urban construction shall comprise:

(a) Fixing the nature of the urban area and the scale of urban population, the developmental direction for urban space and for technical and social infrastructure works for each five year and ten year period and forecasting the developmental direction of the urban area for a twenty (20) year period;

(b) With respect to general construction master planning for urban improvement, in addition to the items stipulated in paragraph (a) of clause 2 of this article, fixing sites which must be cleared, fixing areas which must be retained for renewal, fixing areas which must be

protected and fixing other specific requirements depending on the particular features of each urban area.

Article 20: Contents of general master plans for urban construction

1. General master plans for urban construction must fix the total surface area of land for use in the urban area in accordance with the population scale during each planning period; allocate functional areas in the urban area; population density, the land use co-efficient and other eco-technical norms for each functional area and for the urban area; arrange overall urban technical infrastructure works, fix construction boundaries and red-lined boundaries for the main urban traffic routes, and fix the controlling standard ground floor levels for each area as well as for the whole of the urban area.

2. General master plans for urban construction must be designed in accordance with construction regulations and construction standards and must take full advantage of the topography, trees, water surfaces and other natural features of the place being planned, retaining the national cultural identity.

3. General master plans for urban improvement must propose solutions which retain the existing buildings and landscape consistent with the tasks which were set.

Article 21: Authority to formulate and approve general master planning for urban construction

1. The Ministry of Construction shall organize formulation of general master planning for urban construction of new inter-provincial urban areas, high-tech zones and special economic zones and shall submit the plans to the Prime Minister of the Government for approval after obtaining the opinion of relevant ministries, branches and people's committees.

2. Provincial people's committees shall organize formulation of general master planning for construction of urban areas of special category and of categories 1 and 2 within their respective provinces and shall submit the plans to the same level people's council to pass. The Ministry of Construction shall organize evaluation and make a submission to the Prime

Minister of the Government for approval. With respect to category 3, provincial people's committees shall organize formulation of general master planning for urban construction and shall submit the plans to the same level people's council to make a decision.

3. District people's committees shall organize formulation of general master planning for construction of urban areas of categories 4 and 5 and shall submit the plans to the same level people's council to pass and to the same level provincial people's committee to approve.

Article 22: Amendment of general master plans for urban construction

1. General master plans for urban construction shall be amended in one of the following circumstances:

- (a) There is a change in direction of socio-economic development of the region;
- (b) In order to attract investment from capital sources for urban construction and for other objectives which do not make a great change to the direction of urban development;
- (c) There are fluctuations in geographical and natural conditions.

2. The person authorized to approve tasks of master planning and general master planning for urban construction shall approve tasks of amending master planning and general master planning for urban construction after they have been amended.

Article 23: Tasks of preparing detailed master plans for urban construction

1. District people's committees shall be responsible for formulating tasks of detailing master plans for urban construction based on the requirements for socio-economic development, the requirements for administering construction, the requirements of investors in construction of works and the opinions of citizens within the planning zone, but detailed master plans must be consistent with the approved general master plan for urban construction.

2. Tasks of preparing detailed master plans for urban construction shall comprise the following matters:

- (a) The required area of land to be used, the scale and scope of the detailed master plan, urban design, and synchronous design of technical and social infrastructure works within the area being designed;
- (b) Preparation of a list of proposed measures for up-grading works which are required to be retained within the area the subject of master planning for improvement;
- (c) Other requirements applicable to each area being designed.

Article 24: Contents of detailed master plans for urban construction

1. Detailed master plans for urban construction must contain the following main items:

- (a) The plans must fix the site and area of land for construction of types of works in the area for which detailed master planning for urban construction is being prepared.
- (b) The plans must fix red-lined boundaries, construction boundaries, and standard ground floor level for technical infrastructure works in the area for which detailed master planning for urban construction is being prepared.
- (c) The plans must contain design solutions for a system of technical infrastructure works in the urban area, measures to ensure the landscape and ecological environment, and the relevant eco-technical norms.
- (d) With respect to detailed master plans for urban improvement, plans must be proposed for up-grading existing works which are consistent with the tasks which have been set and consistent with the general master plan for construction in the area.

2. Detailed master plans for urban construction shall be prepared on the basis of topographic maps and cadastral maps to a scale of 1/500 - 1/2000 depending on the master planning tasks which have been set.

Article 25: Authority to approve detailed master plans for urban construction

1. Provincial people's committees shall approve detailed master plans for construction of urban areas of special category and of categories 1, 2 and 3.

2. District people's committees shall approve detailed master plans for construction of urban areas of categories 4 and 5.

Article 26: Amendment of detailed master plans for urban construction

1. Detailed master plans for urban construction shall be amended in one of the following circumstances:

(a) When the general master plan for urban construction is amended;

(b) When there is a requirement to encourage and attract investment.

2. The person authorized to approve detailed master plans for urban construction shall approve amended detailed master plans for urban construction.

3. When amending detailed master plans for urban construction as prescribed in clause 1(b) of this article, opinions must be obtained from citizens within the planning zone, and large changes may not be made to the structure of the general master plan for construction.

Article 27: Urban design

1. The contents of urban design shall comprise:

(a) Urban design in the context of the general master plan for urban construction must stipulate and express the architectural space for construction works and for landscape in each street as well as in the entire urban area, and must fix height restrictions for construction works in each area as well as for the entire urban area.

(b) Urban design in the context of the detailed master plan for urban construction must stipulate and express the standard ground floor level of road surfaces, pavements, foundations and floors of construction works, the height of construction works, the architecture of vertical planes, forms for roof architecture and colours of works in each street route.

(c) Urban design must be expressed consistently with the natural conditions of the locality, in harmony with the natural and man-made landscape in the area being designed; and it must

take full advantage of water surfaces and trees, protect cultural sites and historical heritage works, and retain the national cultural identity.

2. Provincial people's committees shall promulgate regulations on management of architecture in order to administer construction in accordance with approved urban design.
3. The Government shall provide specific regulations on urban design.

SECTION 4

Master Planning for Construction in Rural Residential Areas

Article 28: Tasks of master planning for construction in rural residential areas

1. Provincial people's committees shall formulate tasks of master planning for construction in rural residential areas and shall submit them to the same level people's council to pass and to submit in turn to the district people's committee to approve.
2. The contents of tasks of master planning for construction in rural residential areas shall comprise:
 - (a) Forecast scale of population increase in rural residential areas during each period;
 - (b) Organization of space for production establishments, small-scale industries and traditional craft villages in rural residential areas;
 - (c) Developmental direction of residential areas.

Article 29: Contents of master plans for construction in rural residential areas

1. They shall fix functional areas, a system of technical and social infrastructure works, and the developmental direction for each residential area, and shall provide a design of model housing in conformity with natural conditions and the habits and customs of each area in order to guide the citizens on construction.

2. Detailed master plans for the construction of areas being commune centres must fix the position and land area for the construction of working headquarters of agencies and organizations, buildings for education, health care, cultural activities and sports, commercial and services centres, and other construction works.

3. With respect to rural residential areas which have existed stably for a long period, when construction master plans are implemented, there must be a design for improvement and embellishment of functional areas and technical and social infrastructure works.

Article 30: Authority to formulate and approve master plans for construction in rural residential areas

People's committees of communes shall organize the formulation of master plans for construction in rural residential areas within the administrative boundaries managed by the people's committee and shall submit the plans to the same level people's council to pass and to submit in turn to the district people's committee to approve.

Article 31: Amendment of master plans for construction in rural residential areas

1. Master plans for construction in rural residential areas shall be amended in one of the following circumstances:

(a) There are amendments of the strategy for local socio-economic development;

(b) There are amendments of the regional construction master plan;

(c) There are fluctuations in geographical and natural conditions.

2. District people's committees shall approve tasks of amendment of construction master plans and shall approve the construction master plans after they have been amended as applicable to rural residential areas within the administrative boundaries managed by such people's committee.

SECTION 5

Administration of Construction Master Plans

Article 32: Proclamation of construction master plans

1. During the process of formulation of detailed construction master plans, opinions must be obtained from the organizations and individuals concerned in accordance with tasks of each type of construction master planning.
2. Within a time-limit of thirty (30) working days from the date of approval by the competent State body of a construction master plan, all level people's committees must widely proclaim the detailed construction master plan within the respective administrative boundaries that they manage for the information of, and for inspection and implementation by, organizations and individuals within the planning zone. In the case of proclamation of regional and general construction master plans, the person authorized to approve the plan shall make a decision on the contents of the proclamation.
3. Based on an approved construction master plan, provincial people's committees shall be responsible to provide directions for implementation of the following:
 - (a) The positioning of construction boundary markers and standard ground floor levels on site;
 - (b) Determination on site of areas on which construction is prohibited.
4. Persons responsible to proclaim construction master plans shall be responsible before the law for failure to proclaim master plans or for late proclamation resulting in economic loss when site clearance must be conducted in order to invest in construction of works.
5. If approved detailed master plans are not implemented or not satisfactorily implemented within a time-limit of three years from the date of proclamation, the person authorized to approve such plan shall be responsible to take measures to remedy this situation and to notify organizations and individuals within the planning zone for their information. If a detailed master plan is not able to be implemented, it must be amended or revoked and re-proclaimed in accordance with the provisions in clause 2 of this article.

Article 33: Provision of information on construction master plans.

1. All level administrative bodies for construction shall be responsible to provide information on construction master plans and certificates construction master planning for investors in construction of works wishing to build in the area managed by such administrative bod.
2. Information shall be provided in the following forms:
 - (a) Public display of construction master plans, comprising charts, mock-ups and drawings of the construction master plan;
 - (b) Explanations of the construction master plan;
 - (c) Provision of certificates of construction master planning.
3. Certificates of construction master planning shall contain information about land use and provisions on the system of technical infrastructure works, on architecture, on safety regarding fire fighting and prevention and explosion prevention, and on protection of the environment and other provisions in accordance with detailed construction master plans.

Article 34: Contents of administration of master planning for construction

1. Administration of master planning for construction shall comprise the following matters:
 - (a) Promulgation in accordance with authority of regulations on master planning, on architecture, and on policies to attract investment in construction;
 - (b) Administration of construction of works in accordance with construction master plans;
 - (c) Management of boundary markers on site;
 - (d) Management of synchronous construction of urban technical infrastructure works;
 - (dd) Suspension of construction, imposition of administrative penalties, and arrangement of compulsory dismantling of works which have been illegally built or built contrary to the terms of permits or built contrary to construction master plans.
2. Persons delegated with authority to administer construction master planning shall be responsible before the law for the administrative work assigned to them and must

compensate for loss and damage caused to the State or citizens by decisions made out of time or contrary to authority.

CHAPTER III

Investment Projects for Construction of Works

Article 35: Investment projects for construction of works

1. When an investor in construction of works makes an investment, it must formulate a project in order to consider and assess the socio-economic effectiveness of the project, except in the cases stipulated in clauses 3 and 5 of this article. Formulation of a project must comply with the provisions of this Law and with other relevant laws.

2. Investment projects for construction of works shall be classified in accordance with their scale and nature and the source of invested capital. The contents of an investment project for construction of works as formulated shall conform with the requirements of each type of project.

3. The following construction works shall be required only to formulate an eco-technical report:

(a) Buildings used for religious purposes;

(b) Small-scale building works and other works as stipulated by the Government.

4. The contents of an eco-technical report on construction works as prescribed in clause 3 of this article shall comprise the necessity for the investment, the purpose of the construction works and their location, scale of works and output capacity; level of works, their funding, their effect, and the period for construction; fire fighting and prevention and explosion prevention; drawings of design of execution, and the estimated budget for the construction works.

5. When an investor in construction of works makes an investment in a separate dwelling-house, it shall not be required to formulate an investment project for the construction of those

works nor an eco-technical report, but shall be required only to prepare an application file for issuance of a construction permit, except in the cases stipulated in clause 1(d) of article 62 of this Law.

Article 36: Requirements applicable to investment projects for construction of works

1. Investment projects for construction of works must ensure the following basic requirements:

(a) They must comply with the master plan for socio-economic development, with the master plan for development of branches and with the construction master plan.

(b) They must have an appropriate design plan and technology plan.

(c) There must be safety during building, operation, exploitation and use of the works; there must be a safe system for fire fighting and prevention and explosion prevention; and the environment must be protected.

(d) They must guarantee the socio-economic effectiveness of the project.

2. When an investor in construction of works invests in large-scale construction works, prior to formulating the project, it must prepare an investment report for construction of works for submission to the competent authority to request permission for the investment.

The basic contents of an investment report for construction of works shall comprise the necessity for the investment, the proposed scale of the investment, the form of the investment; an analysis and preliminary selection of the technology, a preliminary figure for total invested capital, a plan for raising capital, including ability to return capital and pay debts; and preliminary calculations of the socio-economic investment effectiveness of the project.

3. Investment projects for construction of works which use State capital must ensure, in addition to the requirements stipulated in clause 1 of this article, that calculations on costs of construction comply with the fixed levels and eco-technical norms promulgated and guided

by the State administrative body for construction. Investment projects for construction of works which use official development aid (ODA) must ensure prompt reciprocal capital.

Article 37: Contents of investment projects for construction of works

Investment projects for construction of works shall contain the following items:

1. An explanatory statement which shall be prepared to contain the following basic particulars, depending on the project type: objective, location, scale, output capacity and technology; technical solutions, funding and total amount of invested capital; the investor and the form of project management; the form of the investment, its duration, effectiveness, fire fighting and prevention and explosion prevention, and an assessment of environmental impact.
2. Preliminary designs which shall be prepared for consistency with each investment project for construction of works, containing an explanation and drawings showing architectural solutions, the main measurements and structure; horizontal surfaces, sectional planes and vertical planes; technical solutions and construction solutions; technology, building fit-out, and the basic type of building materials to be used in construction.

Article 38: Conditions applicable to organizations and individuals formulating investment projects for construction of works

1. Organizations and individuals organizing formulation of investment projects for construction of works must satisfy the following conditions:
 - (a) Be registered for the activity of formulation of investment projects for construction of works;
 - (b) Have capability for construction activities consistent with the work of formulating investment projects for construction of works;
 - (c) Have an individual who satisfies the conditions on capability to practise project formulation and who satisfies the demand of the investment project for construction of works to undertake the job of chief formulator of the project. Any individual participating in project

formulation must have capability for practice appropriate for each type of investment project for construction of works.

2. Any individual who independently practises formulation of investment projects for construction of works must satisfy the following conditions:

(a) Be registered for the activity of formulation of investment projects for construction of works;

(b) Have the capability to practise formulation of investment projects for construction of works.

The Government shall provide regulations on the scope of activity of formulation of investment projects for construction of works by individuals who practise independently.

Article 39: Evaluation of investment projects for construction of works and investment decisions

1. Prior to the making of an investment decision, an investment project for construction of works must be evaluated in accordance with regulations of the Government.

2. The Prime Minister of the Government shall make investment decisions for important national investment projects for construction of works after the National Assembly has passed the investment policy. The Government shall provide regulations on authority to make investment decisions for the remaining investment projects for construction of works.

3. Organizations and individuals evaluating investment projects for construction of works shall be responsible before the law for the results of their evaluation. Any person who makes an investment decision for construction of works shall be responsible before the law for his or her decision.

Article 40: Changes to investment projects for construction of works

1. An approved investment project for construction of works may be changed in one of the following circumstances:

(a) In the event of natural disaster, war, or act of force majeure;

(b) Upon appearance of factors which yield higher efficiency;

(c) When the construction master plan changes.

2. The person who made the investment decision must approve any change to an investment project for construction of works, and the project shall subsequently be re-evaluated. The person making the decision to change the project for construction of works shall be responsible before the law for his or her decision.

Article 41: Rights and obligations of investors in construction of works throughout formulation of investment projects

1. Investors in construction of works shall have the following rights throughout formulation of investment projects:

(a) To formulate themselves the investment project when they satisfy the conditions on capability to formulate an investment project for construction of works;

(b) To negotiate, sign and supervise implementation of the contract;

(c) To request the relevant organizations to provide information and data servicing formulation of the investment project for construction of works;

(d) To suspend implementation of or terminate a contract when a consultant which has contracted to formulate the project breaches that contract;

(dd) Other rights in accordance with law.

2. Investors in construction of works shall have the following obligations throughout formulation of investment projects:

(a) To hire a consultant to formulate the project when the investor lacks the capability to formulate the investment project for construction of works;

(b) To fix the contents of tasks of the investment project for construction of works;

(c) To provide information and data relating to the project to the consultant formulating the investment project;

(d) To organize check and acceptance, evaluation and approval of the investment project for construction of works in accordance with authority or by submission to the authorized level for evaluation and approval;

(dd) To perform correctly the signed contract;

(e) To archive the file of the investment project for construction of works;

(g) To compensate for loss caused by using a consultant lacking capability to formulate the project, caused by provision of incorrect information, arising from an evaluation or check and acceptance which was incorrect in terms of the regulations, or arising from any other breach which was the fault of the investor;

(h) Other obligations in accordance with law.

Article 42: Rights and obligations of consultants contracted to formulate investment projects for construction of works

1. Consultants which are contracted to formulate investment projects for construction of works shall have the following rights:

(a) To request the investor to provide information and data relevant to formulation of the investment project for construction of works;

(b) To refuse to implement any unlawful requests from the investor;

(c) Other rights in accordance with law.

2. Consultants which are contracted to formulate investment projects for construction of works shall have the following obligations:

(a) Only to accept work to formulate an investment project for construction of works which is appropriate in terms of the capability for construction activities of the consultant;

(b) To perform correctly the signed contract;

(c) To be liable for the quality of the investment project for construction of works which the consultant formulates;

(d) Not to disclose information and data which was relevant to the formulation of the investment project for construction of works implemented by the consultant without the consent of the other contracting party or of an authorized person;

(dd) To compensate for loss caused by inappropriate use of information, data, construction regulations and standards or technical solutions, or arising from any other breach which was the fault of the consultant;

(e) Other obligations in accordance with law.

Article 43: Control of costs of investment projects for construction of works

1. The costs of investment projects for construction of works must be calculated and managed in order to ensure the effectiveness of projects.

2. Control of costs of an investment project for construction of works funded by the State must be based on eco-technical norms and other relevant regulations promulgated by the competent State body.

3. With respect to investment projects for construction of works funded by other sources, investors and contractors may refer to the regulations prescribed in clause 2 of this article in order to sign contracts.

Article 44: Rights and obligations of persons making investment decision for construction of works

1. A person making an investment decision for construction of works shall have the following rights:

(a) Not to approve an investment project for construction of works which fails to satisfy its objectives and effectiveness;

(b) To suspend implementation of an approved investment project for construction of works or of a project which is preparing for implementation when he or she considers it necessary;

(c) To change or amend the objectives and contents of an investment project for construction of works;

(d) Other rights in accordance with law.

2. A person making an investment decision for construction of works shall have the following obligations:

(a) To organize evaluation and approval of the investment project for construction of works;

(b) To inspect implementation of the investment project for construction of works;

(c) To be responsible before the law for the contents of his or her decision approving an investment project for construction of works, of his or her decision suspending implementation of a project, and of other decisions within his or her authority;

(d) Other obligations in accordance with law.

Article 45: Contents and forms of management of investment projects for construction of works

1. Management of investment projects for construction of works shall include management of quality and quantity, of schedule, of occupational safety, and of construction environment.

2. Depending on the capacity of an organization or individual, the person making the investment decision and the investor in construction of works shall select one of the following forms of management:

(a) The investor in construction of works shall hire a consultancy organization to manage the project;

(b) The investor in construction of works shall directly manage the project.

3. When an investor which applies the form of direct management of the project prescribed in clause 2(b) of this article establishes a project management board, such board shall be responsible before the law and before the investor within the scope of the duties and powers assigned to it.

4. The Government shall provide specific regulations on forms of management of investment projects for construction of works and on conditions applicable to capability of organizations and individuals to manage such projects.

CHAPTER IV

Construction Survey and Design

SECTION 1

Construction Survey

Article 46: Construction survey

1. Construction survey shall comprise survey of topography, survey of geology of works and hydro-geological survey, survey of current status of works, and other surveying work which services construction activities.
2. Construction survey may only be carried out pursuant to approved surveying tasks.

Article 47: Requirements applicable to construction survey

Construction survey must ensure the following requirements:

1. Surveying tasks must be appropriate for the requirements of each type of work and of each design step.
2. It must be truthful, objective, and correctly reflect the realities.
3. Quantities, contents and technical requirements applicable to construction survey must be appropriate for surveying tasks and comply with construction regulations and standards.
4. Surveys of the geology of works shall, in addition to the items stipulated in clauses 1, 2 and 3 of this article, fix erosion levels and levels of oscillation in ground water during different seasons in order to propose appropriate control measures. Survey of large-scale and important works shall include survey and observation of environmental impact of the works during the process of construction and use.
5. Survey results must be assessed and be subject to check and acceptance in accordance with law.

Article 48: Contents of reports on results of construction survey

1. A report on the results of a construction survey shall include the following basic items:

- (a) The bases and procedures for and the methods of the survey;
 - (b) An analysis of data and an assessment of the survey and results of the survey;
 - (c) Conclusion on the results of the survey and recommendations.
2. The Ministry of Construction shall provide specific regulations on contents of reports on survey results.

Article 49: Conditions applicable to organizations undertaking construction survey

1. Organizations undertaking construction survey must satisfy the following conditions:
- (a) Be registered for the activity of construction survey;
 - (b) Have full capability for construction survey;
 - (c) Any surveying task must have a person in charge of construction survey who has full capability to practise construction survey and who has the appropriate practising certificate. The construction survey contractor shall appoint the person in charge of construction survey. Individuals participating in each construction surveying work must have expertise appropriate for the work assigned to them;
 - (d) Machinery and equipment servicing construction survey must satisfy the requirements on quality, must ensure the safety of surveying work and must ensure protection of the environment.
2. Laboratories servicing construction survey must satisfy the stipulated standards and must be recognized by the State administrative body for construction.

Article 50: Rights and obligations of investors in construction of works during construction survey

1. Investors in construction of works shall have the following rights during construction survey:
- (a) To carry out themselves the construction survey when they satisfy the conditions on capability for construction survey;

- (b) To negotiate, sign and supervise implementation of a contract;
- (c) To change surveying tasks upon reasonable request from the designer;
- (d) To suspend implementation of or terminate a contract in accordance with law;
- (dd) Other rights in accordance with law.

2. Investors in construction of works shall have the following obligations during construction survey:

- (a) To approve the surveying tasks set by the designer or survey contractor and to assign such tasks to the construction survey contractor;
- (b) To select a construction survey contractor where the investor lacks capability to carry out itself the construction survey;
- (c) To provide information and data relating to surveying work to the construction survey contractor;
- (d) To fix the scope of the survey and to guarantee the conditions necessary for the construction survey contractor to perform the contract;
- (dd) To perform correctly the signed contract;
- (e) To organize check and acceptance and to archive the survey results;
- (g) To compensate for loss caused by provision of incorrect information or data, arising from incorrectly setting the surveying tasks, or arising from any other breach which was the fault of the investor;
- (h) Other obligations in accordance with law.

Article 51: Rights and obligations of construction survey contractors

1. Construction survey contractors shall have the following rights:

- (a) To request the investor to provide information and data relevant to surveying tasks;
- (b) To refuse to implement any requests outside the surveying tasks;

(c) Other rights in accordance with law.

2. Construction survey contractors shall have the following obligations:

(a) Only to sign a contract to perform surveying work appropriate in terms of their capability for activities and to perform correctly the signed contract;

(b) To perform correctly the surveying tasks which are assigned to them, ensuring quality and with liability for the survey results;

(c) To propose further surveying tasks when they detect factors directly affecting design solutions;

(d) To protect the environment within the area being surveyed;

(dd) To purchase professional indemnity insurance;

(e) To compensate for loss arising from failure to perform correctly the surveying tasks, from discovery of an [additional]³ volume of work due to the survey being incorrect in terms of actualities or caused by use of inappropriate information, data, construction regulations and standards, or arising from any other breach which was the fault of the contractor;

(g) Other obligations in accordance with law. .

SECTION 2

Design for Construction of Works

Article 52: Requirements applicable to design for construction of works

1. A design for construction of works must satisfy the following general requirements:

(a) It must conform with the construction master plan, the landscape, natural conditions and the regulations on architecture; and it must conform with the approved investment project for construction of works.

(b) It must conform with the technological design where an investment project has a technological design.

(c) The foundations of the works must be strong and must not sink, crack or be deformed outside the permissible limits, thereby affecting the life span of the works and of adjacent works.

(d) The contents of the design for construction of works must comply with the requirements for each design step, must satisfy the requirements on use function, must ensure a beautiful design and a reasonable prime cost.

(dd) It must be safe and economical; it must comply with the applicable construction regulations and construction standards, the standards on fire fighting and prevention and explosion prevention, and the standards on protection of the environment and other relevant standards. The design of public works must comply with standards on design to assist disabled persons.

(e) It must ensure synchronous construction of each building works and satisfy the requirements for operation and use of the works; it must integrate with related works.

2. Civil works and industrial works must, in addition to ensuring the items stipulated in clause 1 of this article, also satisfy the following requirements:

(a) Architecture must be in conformity with the habits and customs and cultural and social conditions of each area and each locality;

(b) Safety of persons if there is an incident; safe, favourable and effective conditions for fire prevention and rescue operations; distance between buildings; use of fire-proof materials and facilities in order to minimize loss to adjacent buildings and the surrounding environment in the event that a fire occurs;

(c) Favourable, hygienic and healthy conditions for users of the works;

(d) Maximum use of favourable natural conditions and minimization of unfavourable natural conditions in order to save energy.

Article 53: Contents of design for construction of works

The contents of a design for construction of works shall comprise the following basic items:

1. Technology plan;
2. Use function;
3. Architectural plan;
4. Life span of works;
5. Structural and technical plan;
6. Plan for fire fighting and prevention and for explosion prevention;
7. Plan for use of energy to achieve high productivity;
8. Solutions on protection of the environment;
9. Total estimated budget and estimated costs of construction in conformity with each step of design of construction.

Article 54: Steps in design for construction of works

1. Design for construction of works shall comprise these steps: preliminary designs; technical designs; and design drawings for execution of building works.
2. Depending on the nature and scale of the particular construction works, the design may be formulated in one, two or three steps as follows:
 - (a) One step design, namely formulation of the design drawings for execution of building works, applicable to those works for which only an eco-technical report is required to be prepared;
 - (b) Two step design, namely formulation of preliminary designs and formulation of design drawings for execution of building works, applicable to those works for which an investment project for construction of works must be prepared;
 - (c) Three step design, namely formulation of preliminary designs, formulation of technical designs, and formulation of design drawings for execution of building works, applicable to those works for which an investment project for construction of works must be prepared and the works are large-scale and complex.

3. Where two or three step design must be implemented, the earlier design step must be approved prior to the subsequent step being undertaken.

The Government shall provide detailed regulations on design steps applicable to each type of construction works and on the contents of each design step.

Article 55: Competitions to select architectural designs for construction works

1. It is encouraged to hold a competition to select an architectural design for construction works.

2. A competition must be held to select an architectural design for the following works prior to the investment project for construction of works being formulated:

(a) Headquarters of State bodies from district level upwards;

(b) Large-scale buildings for cultural activities and sports and other large-scale public works;

(c) Other works of special architecture.

3. The costs of a competition shall be included in the total invested capital of the construction works.

4. The copyright of an author the architectural design plan of which is selected shall be guaranteed, and such author shall be given priority to conduct the subsequent design steps if the author satisfies the conditions on capability for design for construction of works.

5. The Government shall provide detailed regulations on competitions to select architectural designs for construction works.

Article 56: Conditions applicable to organizations and individuals undertaking design of construction works

1. Organizations which undertake design for construction of works must satisfy the following conditions:

(a) Be registered for the activity of design for construction of works;

(b) Have full capability for the activity of design for construction of works;

(c) Any individual undertaking the job of person in charge of design or head designer must have full capability for construction design practice and must have a practising certificate appropriate for each type and level of works.

2. Any individual who independently practises design for construction of works must satisfy the following conditions:

(a) Have full capability for construction design practice and a practising certificate for design for construction of works;

(b) Be registered for the activity of design for construction of works.

The Government shall provide regulations on the scope of activity of design for construction of works by individuals who independently practise design for construction of works.

3. With respect to construction design of separate dwelling-houses:

(a) Where a separate dwelling-house has a total floor construction area of more than two hundred and fifty (250) square metres, the house has three or more storeys, or the house is situated on a cultural or historical heritage site, the design must be undertaken by a design organization which satisfies the conditions on capability for construction design activities or by an individual designer who satisfies the conditions on capability for construction design practice.

(b) Where a separate dwelling-house is on a smaller scale than that stipulated in paragraph (a) above, an individual or household may itself do the design but the design must conform with the approved construction master plan and such individual or household shall be responsible before the law for the quality of the design and the effect of the works on the environment and for the safety of adjacent works.

Article 57: Rights and obligations of investors in construction of works during design for construction of works

1. Investors in construction of works shall have the following rights during design for construction of works:

- (a) To carry out themselves the design for construction of works when they satisfy the conditions on capability for construction design activities and on practising capability appropriate for each type and level of works;
- (b) To negotiate, sign and supervise implementation of a contract for design;
- (c) To require the design contractor to perform correctly the signed contract;
- (d) To request changes and additions to design;
- (dd) To suspend implementation of or terminate a contract for design for construction of works in accordance with law;
- (e) Other rights in accordance with law.

2. Investors in construction of works shall have the following obligations during design for construction of works:

- (a) To select a design contractor where the investor does not satisfy the conditions on capability for construction design activities or on practising capability to carry out itself the design of the works;
- (b) To fix the tasks of design of the construction works;
- (c) To provide complete information and data to the design contractor;
- (d) To perform correctly the signed contract;
- (dd) To evaluate and approve the designs or submit them to the authorized body for evaluation and approval in accordance with the provisions of this Law;
- (e) To organize check and acceptance of the design file;
- (g) To archive the design file;
- (h) To compensate for loss caused by setting design tasks, or providing information or data, or accepting a design file contrary to the regulations; or for loss arising from any other breach which was the fault of the investor;
- (i) Other obligations in accordance with law.

Article 58: Rights and obligations of contractors for design for construction of works

1. Contractors for the design for construction of works shall have the following rights:

- (a) To refuse to implement any requests outside design tasks;
- (b) To request provision of information and data relevant to design work;
- (c) To have copyright in their design of works;
- (d) Other rights in accordance with law.

2. Contractors for the design for construction of works shall have the following obligations:

- (a) Only to accept a contract to perform the design for construction of works appropriate in terms of their capability for construction design activities or their practising capability for design for construction of works;
- (b) To perform correctly design tasks, to meet the schedule and to ensure quality of the design;
- (c) To be liable for the quality of the design work that they undertake to do;
- (d) To supervise the author during the process of execution of building works;
- (dd) To formulate surveying tasks to service the design work appropriate for the requirements of each design step;
- (e) Not to appoint a manufacturer of building materials and supplies or of construction equipment for the works;
- (g) To purchase professional indemnity insurance;
- (h) To compensate for loss when setting inappropriate surveying tasks; or when using inappropriate information, data, construction regulations and standards, technical solutions or technology which affect the quality of the works; or for loss arising from any other breach which was the fault of the contractor;
- (i) Other obligations in accordance with law.

Article 59: Evaluation and approval of designs for construction of works

1. The State administrative body for construction shall organize evaluation of the preliminary designs when it approves an investment project for construction of works.
2. An investor shall organize evaluation and approval of the subsequent design steps which must not be inconsistent with the approved preliminary designs.
3. The person evaluating or approving a design shall be responsible before the law for the results of evaluation or approval.
4. The Government shall provide regulations on evaluation, contents of evaluation, and approval of designs of construction works.

Article 60: Changes to designs for construction of works

1. An approved design for construction of works may only be changed when the investment project for construction of works is amended and such amendment requires a change in design, or in other necessary circumstances.
2. Any person authorized to make a decision on change to a design shall be responsible before the law for such decision.
3. The Government shall provide detailed regulations on changes to designs of construction works.

Article 61: Archiving files on design for construction of works

1. Files on design for construction of works must be archived for the duration of the life span of the construction works.
2. With respect to construction works which are significant in terms of history, politics, economics, culture, scientific and technical matters and national defence and security, the file on design of the works must be retained in the national archives in perpetuity.
3. The Government shall provide detailed regulations on archiving files on design for construction of works.

CHAPTER V

Construction of Works

SECTION 1

Construction Permits

Article 62: Construction permits

1. Prior to commencing construction work, an investor must have a construction permit, except in the case of the following works:

(a) Works in the category of State secrets, works to be constructed pursuant to an emergency order, and temporary works to service construction of main works;

(b) Construction works built along a route which does not pass through an urban area and which comply with the construction master plan, where the competent State body has already approved the investment project for construction of the works;

(c) Small-scale technical infrastructure works in remote and distant communes;

(d) Separate dwelling-houses in remote and distant regions which are not in urban areas or concentrated residential areas, or which are in rural residential areas for which there is no approved construction master plan;

(dd) Works, being repairs or improvements; interior installation of equipment which does not change the architecture, weight-bearing structure or safety of the works.

2. With respect to separate dwelling-houses in rural areas, regulations on construction permits must be consistent with the actual situation in the locality. District people's committees shall provide detailed regulations on concentrated residential areas within their respective localities for which construction permits must be issued.

3. With respect to the construction of works and separate dwelling-houses in areas for which construction master plans have been approved and proclaimed but as yet not implemented, only provisional construction permits shall be issued with a term equal to the duration for implementation of the master plan.

Article 63: Application file for construction permit

1. Depending on the nature and scale of works, an application file for a construction permit shall include the following basic documents:

- (a) Application for issuance of a construction permit;
- (b) Design drawings for construction of the works;
- (c) Documents on land use right in accordance with the laws on land.

2. With respect to the construction of works and separate dwelling-houses stipulated in article 62.3 of this Law, in addition to the items stipulated in clause 1 of this article, the owner of the works must include in the application file a written undertaking to dismantle the works when the State implements the master plan.

Article 64: Contents of construction permits

1. A construction permit shall include the following basic items:

- (a) Location and position of the construction works, route of the construction works;
- (b) Type and level of works;
- (c) Standard ground floor level of the works;
- (d) Red-lined boundaries and construction boundaries;
- (dd) Protection of the environment and safety of the works;
- (e) With respect to civil works and industrial works in urban areas, in addition to the items stipulated in clauses 1(a) to (dd) inclusive of this article, the construction permit shall include the area of the construction works, the height of each floor, the maximum height of the whole works, and the colour of the works;
- (g) Other items stipulated as applicable to each type of works;
- (h) Effectiveness of the construction permit.

2. The Government shall provide detailed regulations on issuance of construction permits.

Article 65: Conditions for issuance of construction permits in urban areas

The issuance of construction permits in urban areas must satisfy the following conditions:

1. Consistency with the approved detailed construction master plan;
2. Compliance with regulations on red-lined boundaries and construction boundaries; on urban design; on safety requirements for surrounding works; on protection of safety corridors for traffic works, 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;
3. Construction works and separate dwelling-houses in areas for preservation of cultural or historical heritage sites must ensure construction density and that there is land for planting trees and places for parking vehicles, and must not adversely affect the landscape and environment;
4. Works being repairs or improvements must not have an adverse effect on the structure of neighbouring works and must preserve a distance from surrounding works; they must not adversely affect water supply and water discharge systems, ventilation and lighting systems, environmental hygiene, and fire fighting and prevention and explosion prevention;
5. There must be the stipulated distance from hygiene works, from containers of toxic chemicals, and from other works which are able to cause environmental pollution; and there must be no adverse effect on users of immediately adjoining works;
6. When roads are built or up-graded, an underground tunnel system must be built for synchronous installation of technical infrastructure works; and standard ground floor levels on the road surface must comply with standard ground floor levels in the construction master plan and urban design;
7. Construction works of high-rise residential housing of special category and category 1 must have design of an underground level, except in cases where there are particular requirements on design of underground levels;

8. With respect to provisional construction works, the issuance of construction permits must comply with articles 62.3 and 63.2 of this Law.

Article 66: Authority to issue construction permits

1. Provincial people's committees shall issue construction permits for large-scale works, for works of special architecture, for religious works and for other construction works within the respective administrative boundaries that they manage in accordance with regulations of the Government.

2. District people's committees shall issue construction permits for works in urban areas and for commune centres within the respective administrative boundaries that they manage, except for the works stipulated in clause 1 of this article.

3. People's committees of communes shall issue construction permits for separate dwelling-houses in rural residential areas which have approved construction master plans and in residential areas which require the issuance of construction permits pursuant to regulations of the district people's committee, within the respective administrative boundaries that they manage.

Article 67: Responsibilities of construction permit-issuing bodies

1. To display publicly the regulations on issuance of construction permits and to provide guidance on them.

2. To issue construction permits within a time-limit not to exceed twenty (20) working days, or fifteen (15) days in the case of separate dwelling-houses, from the date of receipt of a complete and valid application file.

3. To inspect that construction is carried out in accordance with the terms of the construction permit and to suspend construction and withdraw the construction permit when the investor carries out construction in breach.

4. Persons authorized 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.

5. Construction permit-issuing bodies shall notify the competent authorities not to supply power, water, business and other services to works constructed inconsistently with the master plan, constructed without a construction permit or constructed contrary to the terms of the issued construction permit.

6. Construction permit-issuing bodies shall resolve complaints and denunciations regarding issuance of construction permits.

Article 68: Rights and obligations of applicants for issuance of construction permits

1. Applicants for construction permits shall have the following rights:

(a) To require the construction permit-issuing body 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 if, upon expiry of the time-limit stipulated in article 67.2 of this Law, the construction permit-issuing body fails to provide its written opinion when the conditions stipulated in clauses 1, 3, 4, 5, 6 and 7 of article 72 of this Law have been satisfied.

2. Applicants for construction permits shall have the following obligations:

(a) To submit complete application files and the fee for issuance of the construction permit;

(b) To be liable for the truthfulness of their application file for issuance of a construction permit;

(c) To provide written notification of the date of commencement of construction of works to the people's committee of the commune where the works are located, within a time-limit of seven working days prior to such commencement date;

(d) To implement correctly the terms of the construction permit; any amendment of or change to design must be approved by the construction permit-issuing body.

SECTION 2

Site Clearance for Construction of Works

Article 69: Requirements applicable to site clearance for construction of works

Site clearance for construction of works must satisfy the following requirements:

1. A plan for site clearance for construction of works must be prepared, such plan must be included in the investment project for construction of works, and the plan shall be approved at the same time as approval of the investment project.
2. In the case of projects which require residential resettlement, a plan or project for resettlement must be prepared and it must be implemented prior to site clearance for construction.
3. The scope of site clearance for construction of works must be consistent with the approved detailed construction master plan and the approved investment project for construction of works.
4. The time-limit for site clearance for construction of works must satisfy the requirements on the schedule for implementing the project as approved or must satisfy the provisions in a decision of the authorized person.

Article 70: Principles of compensation⁴ in order to conduct site clearance for construction of works

1. The payment of compensation in order to conduct site clearance for construction of works must ensure the interests of the State as well as the lawful rights and interests of organizations and individuals concerned. The issue of residential housing for organizations and individuals must be resolved by new stable housing, with residential conditions which are equal to or better than the former housing, and there must be assistance to create jobs and

a stable life for persons who have to resettle, unless there is some other agreement between the parties concerned.

2. The payment of compensation in order to conduct site clearance for construction of works shall be implemented by one or a combination of the forms of payment of money, land use right or residential housing ownership, and must ensure equality and be conducted publicly, transparently and correctly in accordance with law.

3. In the case of payment of compensation in order to conduct site clearance for construction of technical infrastructure works in urban areas, the plan for site clearance must ensure the construction of new works as well as renewal of street-frontage works in accordance with the approved detailed construction master plan; and must ensure that the State is able to accommodate the land price difference after site clearance and investment in construction of works.

4. Compensation shall not be paid in the following cases:

(a) Land which was encroached on or illegally occupied;

(b) Works which were built illegally; architectural objects, trees, vegetation, crops and other assets which appeared or were generated on the surface of an area being the subject of a

4 Phillips Fox Note: The literal translation is "property compensation". construction master plan after the date of proclamation of the construction master plan;

(c) In other cases as stipulated by the laws on land.

Article 71:L Organization of site clearance for construction of works

1. When organizing site clearance for construction of works, a council for compensation for clearance of a construction site must be established.

2. In the case of site clearance pursuant to an approved construction master plan but where there is as yet no investment project for construction of works, payment of compensation shall be conducted as follows:

(a) The people's committee at the authorized level shall establish a council for compensation for clearance of a construction site and preside over site clearance via such council, or shall assign the task to an enterprise which specializes in site clearance.

(b) Funding for site clearance shall be taken from the budget or shall be raised, and shall be recovered upon assignment or lease of land to the investor in construction of the works on the cleared site.

(c) The time-limit for site clearance for construction of works shall be implemented in accordance with the requirements for socio-economic development in the locality and the decision of the authorized person.

3. In the case of site clearance pursuant to an investment project for construction of works, payment of compensation shall be conducted as follows:

(a) In the case of an investment project for business purposes, a council for compensation for clearance of a construction site headed by the investor in construction of the works shall co-ordinate with the people's committee at the authorized level to organize site clearance; in the case of an investment project not for business purposes but in order to service the community, a council for compensation for clearance of a construction site headed by the people's committee at the authorized level shall co-ordinate with the investor in construction of the works to organize site clearance.

(b) Funding for site clearance shall be taken directly from the investment project for construction of works.

(c) The time-limit for clearance of a construction site for construction of works must satisfy the requirements of the schedule for implementing the project as approved.

4. The Government shall provide regulations on principles, methods and a price frame for compensation when conducting clearance of construction sites, which regulations shall provide the basis for provincial people's committees to fix compensation prices within their respective localities.

5. With respect to any organization or individual with property on a construction site for which compensation has been resolved correctly in accordance with the regulations but such organization or individual has failed to implement such resolution, coercive measures shall be taken to enforce implementation and such organization or individual shall be liable to pay all costs of enforcement.

6. Any person who deliberately breaches the regulations on compensation in order to conduct site clearance for construction of works with an ulterior motive or who causes loss and damage to assets of the State or of an organization or an individual shall, depending on the seriousness of the breach, be disciplined or subject to criminal prosecution and must pay compensation for damage in accordance with law.

SECTION 3

Execution of Building Works

Article 72: Conditions for commencement of construction

Construction of works may only commence after the following conditions have been satisfied:

1. There is a surface area for construction ready to be handed over, either the total surface area or a partial area depending on the construction schedule as agreed between the investor in construction of works and the contractor for execution of the works.
2. There is a construction permit, if the project falls within the category which must have one, except where clause 1(c) of article 68 of this Law applies.
3. There are approved design drawings for execution of building works applicable to items of works or to the construction works.
4. There is a construction contract.
5. There are sufficient capital funds to ensure the building schedule in accordance with the approved building schedule in the investment project for construction of works.

6. There are measures to ensure safety and environmental hygiene during the construction process.

7. With respect to new urban areas, depending on the nature and scale, the whole or each part of technical infrastructure works must be completed prior to commencement of construction of works.

Article 73: Conditions for execution of building works

1. Contractors engaged in the activity of execution of building works must satisfy the following conditions:

(a) Be registered for the activity of execution of building works;

(b) Have full capability for the activity of execution of the relevant type and level of building works;

(c) The head of the construction site must have full capability for construction practice in execution of the relevant building works;

(d) Have equipment for execution of building works which guarantees safety and quality of the works.

2. Any individual who undertakes self-organization of construction of a separate dwelling-house with a total floor construction area of less than two hundred and fifty (250) square metres or where the house has less than three storeys must have capability for construction practice in execution of building works, and shall be liable for quality, safety and environmental hygiene.

Article 74: Requirements applicable to construction sites

All construction sites must display a notice board on site containing the following items:

1. Name of investor in construction of works, total invested capital, date of commencement of works and date for completion of works;

2. Unit for execution of building works, name of head of construction site;

3. Unit for design, name of person in charge of design;
4. Name of organization or individual supervising execution of building works;
5. In addition to names and positions, there must also be contact addresses and telephone numbers of the investor in construction of works, the head of the construction site, the person in charge of design, and the organization or individual supervising execution of building works.

Article 75: Rights and obligations of investors in construction of works throughout execution of building works

1. Investors in construction of works shall have the following rights throughout execution of building works:

- (a) To carry out themselves the execution of building works when they satisfy the conditions on capability to execute the relevant building works;
- (b) To negotiate, sign and supervise implementation of the contract;
- (c) To suspend implementation of or terminate in accordance with law a contract with the contractor for execution of the works;
- (d) To stop building works and to require that consequences be remedied when the contractor for execution of the works breaches the regulations on quality of the works or on safety and environmental hygiene;
- (dd) To request the relevant organizations and individuals to co-ordinate to carry out work throughout the process of execution of building works;
- (e) Not to make payment of the price of a volume of works which fails to meet quality or for an unreasonable volume of works arising;
- (g) Other rights in accordance with law.

2. Investors in construction of works shall have the following obligations throughout execution of building works:

- (a) To select a contractor for execution of works with full capability for the activity of execution of the relevant building works;
- (b) To preside over co-ordination of, or to participate with the people's committee at the authorized level in, clearance of the construction site in order to hand it over to the contractor for execution of works;
- (c) To organize supervision of execution of building works;
- (d) To inspect measures for safety and environmental hygiene;
- (dd) To organize check and acceptance, payments, and finalization of construction of the works;
- (e) To hire a consultancy organization with full capability for construction activities to evaluate 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 respect the copyright of the author in the design of the works;
- (i) To purchase insurance for the works;
- (k) To archive the file on the works;
- (l) To compensate for breach of contract which causes loss to the contractor for execution of the works, for check and acceptance which fails to ensure quality, thereby resulting in incorrect results of check and acceptance, or for loss arising from any other breach which was the fault of the investor;
- (m) To be liable for their decisions; to be responsible for ensuring the works are constructed on schedule, and for the quality and effectiveness of the works;
- (n) Other obligations in accordance with law.

Article 76: Rights and obligations of contractors for execution of building works

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

- (a) To refuse to implement any unlawful requests;
- (b) To make proposals on changes to design for consistency with the realities in order to ensure the quality and effectiveness of the works;
- (c) To request payment for the value of volumes of works completed in accordance with the contract;
- (d) To stop the execution of building works if the party which awarded the contract fails to implement undertakings in the signed contract, thereby causing obstruction and loss to the contractor;
- (dd) To demand compensation for loss caused by the party contracting out the building works;
- (e) Other rights in accordance with law.

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

- (a) To perform correctly signed contracts;
- (b) To carry out building works correctly in accordance with the design and construction standards and in accordance with the building schedule; to ensure quality, safety and environmental hygiene;
- (c) To keep a diary of execution of building works;
- (d) To verify building materials and products;
- (dd) To manage builders on site, ensuring security and order and that there is no adverse effect on surrounding residential areas;
- (e) To formulate drawings of the completed works and to participate in check and acceptance of the works;
- (g) To provide a warranty for the works;
- (h) To purchase all types of insurance in accordance with the laws on insurance;

- (i) To compensate for loss caused by breach of contract, use of incorrect materials, 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;
- (k) To be liable for the quality of the building works that the contractor undertakes to do;
- (l) Other obligations in accordance with law.

Article 77: Rights and obligations of design contractors during execution of building works

1. Design contractors shall have the following rights during execution of building works:

- (a) The rights prescribed in article 58.1 of this Law;
- (b) To require the investor in construction of works and the contractor for execution of building works to implement correctly the design;
- (c) To refuse any unreasonable requests from the investor to change the design;
- (d) To refuse check and acceptance of any items of works constructed incorrectly in terms of the design.

2. Design contractors shall have the following obligations during execution of building works:

- (a) The obligations prescribed in article 58.2 of this Law;
- (b) To have an individual with full capability to supervise the author in accordance with regulations; where the person appointed by the design contractor to supervise the author must be responsible before the law for any breaches committed during such supervision and must be responsible to pay compensation for loss and damage due to his or her fault;
- (c) To participate in check and acceptance of the works upon request by the investor in construction of works;
- (d) To consider and deal with any proposals from the investor regarding unreasonable items in the design;

(dd) To detect and notify in a timely manner the investor in construction of works of any building work performed by the contractor for execution of building works which is incorrect in terms of the approved design, and to make recommendations for dealing with same.

Article 78: Safety during execution of building works

During the process of execution of building works, contractors for execution of building works shall have the following responsibilities:

1. To take measures to ensure the safety of people and the safety of machinery, equipment, property, the works being constructed, and underground and adjacent works; machinery and equipment servicing construction must be checked for its safety prior to use;
2. To take separate technical measures to ensure safety of items of works and of construction works which have strict safety requirements;
3. To take necessary measures to limit loss and damage to persons and property when there is any loss of safety during the process of execution of building works.

Article 79: Ensuring environmental hygiene during execution of building works

During the process of execution of building works, contractors for execution of building works shall have the following responsibilities:

1. To take measures to ensure environmental hygiene during the process of execution of building works, including the air environment, the water environment, solid waste, noise and other requirements of environmental hygiene;
2. To compensate for loss caused by any breach of environmental hygiene by a contractor during the process of execution of building works or transportation of materials;
3. To comply with other provisions of the laws on protection of the environment.

Article 80: Check and acceptance of and hand-over of constructed works

1. Check and acceptance of constructed works shall comply with the following provisions:

- (a) It shall comply with the regulations on quality control of construction works.
- (b) There must be check and acceptance of each job, each section, each stage and each item of works, and a check and acceptance to commission the works. In particular, there must be check and acceptance of each section of concealed works, and there must be drawings of completed works prior to subsequent jobs being carried out.
- (c) Check and acceptance shall only be conducted when the object of the check and acceptance has been completed and there is a complete file as required by regulations.
- (d) Check and acceptance for commissioning of constructed works shall only be conducted when all design and quality requirements have been satisfied and when the works achieve the standards stipulated by regulations.

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

- (a) It shall satisfy the requirements on principles, contents and order for hand-over of completed building works and their commissioning in accordance with the laws on construction.
- (b) It must ensure safety during operation and exploitation when works are commissioned.

3 Contractors for execution of building works shall be responsible to complete all building works, to clean up the site, to formulate drawings of the completed works, and to prepare all documentation servicing check and acceptance and hand-over of constructed works.

4. Investors in construction of works shall be responsible to conduct check and acceptance and to receive constructed works. Any individual participating in check and acceptance and hand-over of work shall be personally liable for the product certified by him or her during the processes of execution of building works and of hand-over of constructed works.

Article 81: Payments and finalization in construction activities

1. Contractors shall be responsible to prepare a file on payments and to conduct finalization of the volume of works completed. Investors in construction of works must make payment to contractors for the volume of works which has been checked and accepted.

2. Investors in construction of works shall conduct finalization of invested capital within a time-limit not to exceed twelve (12) months from the date of hand-over and commissioning of the building works, except in cases where the law provides otherwise.

3. Persons responsible to make payments or to conduct finalization shall be responsible before the law for their work and must compensate for loss and damage caused by the consequences of late payment or late finalization or by payment or finalization contrary to the regulations.

4. The Government shall provide detailed regulations on payment and finalization in construction activities.

Article 82: Warranty of constructed works 1. Contractors for execution of building works shall be responsible to provide a warranty for the constructed works, and contractors for procurement of equipment for works shall be responsible to provide a warranty for such equipment.

2. The contents of a warranty of constructed works shall comprise remedying, repair and/or replacement of equipment which is damaged or defective or when works become abnormal in operation or use due to the fault of the contractor.

3. The warranty period shall be fixed depending on the type and level of works.

4. The Government shall provide detailed regulations on the warranty period of constructed works.

Article 83: Maintenance of construction works

1. The owner or the person managing use of works shall be responsible to maintain the works and the fit-out of the works.

2. Maintenance of works and their fit-out shall be implemented in accordance with the directions and rules of the designer and the manufacturer.

3. The maintenance of works shall be fixed depending on the type and level of works.

4. The Government shall provide detailed regulations on maintenance of works.

Article 84: Building works incidents

1. If a building works incident occurs during the process of execution of building works or during the operation, exploitation and use of works, the contractor for execution of building works, the owner or the person managing use of the works shall be responsible:

(a) To stop building work, 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 danger that may continue to happen, and to notify 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 receipt of notification of a building works incident, the competent organizations and individuals shall, within the scope of their respective duties and powers, be responsible:

(a) To take immediate emergency remedial measures;

(b) The State administrative body for construction shall be responsible to appoint an organization which satisfies the conditions on capability to conduct an examination in order to determine the reasons for the incident and to clarify the liability of the entities which caused it.

3. Any person 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.

Article 85: 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 architecture and the quality of the works is maintained.

2. Prior to relocating construction works, the investor in construction of works must apply for a permit to relocate which shall be issued by the provincial people's committee.

3. Any contractor which undertakes the work of relocating construction works must take measures to ensure safety of employees, safety of the works being relocated and adjoining works, and environmental hygiene.

Article 86: Dismantling 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 the temporary works prescribed in article 94.2 of this Law;

(b) When construction works which are in danger of collapse adversely affect the community and adjoining works;

(c) When the construction works are built in an area in which construction is prohibited as stipulated in article 10.1 of this Law;

(d) When the construction works are contrary to construction master plans, were built without a construction permit where the law requires such permit, or are incorrect in terms of the provisions of an issued construction permit;

(dd) Other circumstances as stipulated by law.

2. The work of dismantling construction works must satisfy the following conditions:

(a) It shall only be undertaken pursuant to a decision of a competent State body.

(b) It must be undertaken pursuant to an approved solution on dismantling, ensuring safety and environmental hygiene.

3. The responsibilities of parties participating in the dismantling of construction works shall be provided for as follows:

(a) The person assigned to organize dismantling of construction works shall be responsible to implement the provisions in clause 2 of this article; and shall be responsible before the law and must compensate for loss and damage caused by his or her fault.

(b) The current owner or user of works which must be dismantled as stipulated in clause 1 of this article shall comply with any decision of a competent State body to dismantle the works, and if the owner or user fails to comply voluntarily with such decision, the works shall be compulsorily dismantled and the owner or user shall bear all costs of such work.

(c) Any person authorized to make a decision on dismantling construction works shall be 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.

SECTION 4

Supervision of Execution of Building Works

Article 87: Supervision of execution of building works

1. During the process of execution of building works, all construction works shall be subject to the supervisory regime.
2. Supervision of execution of building works shall be carried out in order to monitor and inspect quality, volumes, schedule, labour safety and environmental hygiene during execution of building works.
3. Investors in construction of works shall hire a consultant supervisor or may themselves carry out supervisory work when they satisfy the conditions on capability for supervision of execution of building works. Any individual undertaking supervision of execution of building works must have a practising certificate for supervision of execution of building works appropriate for the type and level of works.
4. It is encouraged to implement the supervisory regime in the case of separate dwelling-houses.

Article 88: Requirements applicable to supervision of execution of building works

Supervision of execution of building works must satisfy the following requirements:

1. It must be conducted immediately as from the date of commencement of construction of works.
2. [It must be conducted] regularly and continuously during the process of execution of building works.
3. Supervision must be based on the approved design and on the applicable construction regulations and construction standards.
4. It must be honest, objective and not conducted with an ulterior motive.

Article 89: Rights and obligations of investors in construction of works throughout supervision of execution of building works

1. Investors in construction of works shall have the following rights throughout supervision of execution of building works:

- (a) To conduct supervision themselves when they satisfy the conditions on capability to supervise execution of building works;
- (b) To negotiate and sign a contract and to monitor and supervise implementation of the contract;
- (c) To change the supervisor, or to request the consultancy organization to change the supervisor, when the latter fails to conduct his or her work correctly in accordance with regulations;
- (d) To suspend implementation of or terminate in accordance with law a contract for supervision of execution of building works;
- (dd) Other rights in accordance with law.

2. Investors in construction of works shall have the following obligations throughout supervision of execution of building works:

- (a) To hire a consultant supervisor when the investor does not have full capability for the activity of 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) Not to collude or use influence to impose false results of supervision;
- (e) To archive the results of supervision of execution of building works;
- (g) To compensate for loss and damage when selecting a consultant supervisor who fails to satisfy the conditions on capability for supervision of execution of building works; checks and accepts an incorrect volume of works or works constructed incorrectly in terms of design; or for loss arising from any other breach which was the fault of the investor;
- (h) Other obligations in accordance with law.

Article 90: Rights and obligations of contractors for supervision of execution of building works

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

- (a) To certify check and acceptance when the works have been constructed correctly in terms of the design, correctly in accordance with construction regulations and construction standards, and quality;
- (b) To require the contractor for execution of building works to perform correctly its contract;
- (c) To maintain their own opinions with respect to the supervisory work that they have undertaken;
- (d) To refuse any unlawful requests from related parties;
- (dd) Other rights in accordance with law.

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

- (a) To perform supervisory work correctly in accordance with the signed contract;
- (b) Not to certify check and acceptance for a volume of works not constructed to the required quality and technical criteria 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 in order that they may be promptly amended;
- (dd) To purchase professional indemnity insurance;
- (e) Not to collude with the contractor for execution of building works or with the investor in construction of works or to conduct any other breach in order to impose false results of supervision;
- (g) 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 construction regulations and construction standards and the supervisor fails to notify the investor or authorized person to deal with the issue; or for loss arising from any other breach which was the fault of the supervisory contractor;
- (h) Other obligations in accordance with law.

SECTION 5

Construction of Special Building Works

Article 91: Special building works

Special building works shall comprise:

1. State secret works;
2. Works constructed pursuant to an emergency order;
3. Temporary works.

Article 92: Construction of State secret works

1. State secret works constructed as required must ensure secrecy during all construction activities and shall belong to the sectors of national defence, security, economics, science and technology and other sectors.
2. Any person 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 each State secret works when there is a requirement to construct same.

Article 93: Construction of works pursuant to emergency order

1. Works pursuant to an emergency order shall be constructed with the aim of promptly satisfying the urgent requirement to prevent or combat a natural disaster, war or any other emergency in accordance with regulations of the Government.
2. Any person assigned management and implementation of construction of works pursuant to an emergency order shall have the right to make his or her own decision on the order of survey, design and execution as appropriate to the requirements and emergency situation and shall be responsible for organizing construction of the works, ensuring prompt satisfaction for the purpose of minimization of loss and damage to persons and property.

Article 94: Construction of temporary works

1. Temporary works may be constructed and shall only be permitted to exist for a fixed period.
2. Temporary works shall comprise:
 - (a) Temporary works to service construction of main works;

(b) Works and separate dwelling-houses permitted to be built within a period stated in the master plan but for which site clearance has not yet been conducted.

3. Within a time-limit not to exceed thirty (30) days from the date of commissioning of main works, the investor in construction of the temporary works which serviced construction of the main works shall itself dismantle the temporary works, unless they are large-scale temporary works or a residential area consistent with the approved construction master plan.

With respect to works and separate dwelling-houses for which the construction permit provides permission for construction for a fixed duration only, the investor in construction of such temporary works shall itself organize dismantling and, if it fails to do so voluntarily, the works shall be compulsorily dismantled and the investor shall bear all costs of such work and shall not be entitled to compensation.

CHAPTER VI

Selection of Contractors and Construction Contracts

SECTION 1

Selection of Construction Contractors

Article 95: Selection of contractors in construction activities

1. The selection of contractors in construction activities shall be carried out for jobs, groups of jobs or for the entire work of formulation of detailed construction master plans, formulation of investment projects for construction of works, survey, design, execution of building works, supervision and other construction activities.

2. The objective of selection of contractors shall be to identify a head contractor, a general contractor and sub-contractors with full capability for construction activities and with full capability for construction practice appropriate for the type and level of works.

3. A main contractor or a head contractor shall be permitted to assign a part of their contractual work to sub-contractors, which must have full capability for construction activities and full capability for the relevant construction practice and which must be

approved by the investor in construction of works. Sub-contractors shall not be permitted to assign all or part of the main contractual work to other contractors.

4. The selection of contractors in construction activities shall comply with the provisions of this Law and of the laws on tendering.

Article 96: Requirements applicable to selection of contractors in construction activities

1. The selection of contractors must ensure the following requirements:

- (a) Satisfy effectiveness of the investment project for construction of works;
- (b) The selected contractor must have full capability for construction activities and full capability for the relevant construction practice, and the tender price of the contractor must be reasonable;
- (c) Selection of contractors must be conducted objectively, publicly, impartially and transparently.

2. The person making the investment decision [or] the investor in construction of works shall have the right to decide the form of selection of contractors.

Article 97: Forms of selection of contractors in construction activities

Depending on the scale, nature and funding source of the particular construction works, the person making the investment decision or the investor in construction of works may select a contractor by the following forms:

- (a) Open tendering, limited tendering;
- (b) Appointment of a contractor;
- (c) Selection of a contractor for architectural design for construction of works.

Article 98: Requirements applicable to tendering in construction activities

1. The objective of tendering in construction activities for selection of an appropriate contractor shall be to ensure competitiveness.

2. Tendering shall only take place after the funding source to perform the work has been fixed.
3. The time-limit for conducting tendering shall not be extended in order to ensure the schedule and effectiveness of an investment project for construction of works.
4. A successful tenderer must have a technical plan, optimal technology and a reasonable tender price.
5. Domestic tenderers participating in international tenders in Vietnam shall be entitled to the regime on preferential treatment in accordance with regulations of the Government.
6. An entity participating in a tender may not use the legal entity status of another organization; may not make an arrangement to or in fact buy or sell a tender; may not use its influence to falsify the results of tendering, and may not reduce a tender price below the cost of building the works being the subject of the tender.

Article 99: Open tendering in construction activities

1. Open tendering shall be conducted in order to select a contractor for execution of building works, and the number of participating tenderers shall be unlimited.
2. The party calling for tenders must widely announce on the mass media the conditions and time-limits for participation in the tendering.
3. A tenderer may only participate in a tender if it has full capability for construction activities and full capability for construction practice appropriate for the type and level of works in accordance with the conditions announced by the party calling for tenders.
4. The party calling for tenders shall be responsible to announce on the mass media the results of the tender consideration and the contract award price.

Article 100: Limited tendering in construction activities

1. Limited tendering shall be conducted in order to select a construction consultancy contractor and a contractor for execution of building works applicable to works with high technical requirements and when there is only a limited number of contractors which satisfy

the conditions on capability for construction activities and capability for construction practice so as to be invited to participate in the tendering.

2. With respect to investment projects for construction of works and works funded by State capital, the following shall not be permitted to participate in tendering for the same tender package: two or more enterprises which are subsidiaries of the same corporation; a corporation and its own member company; a parent company and its subsidiary; or a joint venture enterprise and one of the capital contributors to that joint venture.

Article 101: Appointment of contractors in construction activities

1. The person making the investment decision or the investor in construction of works shall have the right to appoint directly an organization with full capability for construction activities or individual with full capability for construction practice to undertake work or construction of works at a sonable price in the following circumstances:

(a) Works in the category of State secrets, works constructed pursuant to an emergency order, and temporary works;

(b) Works of a research or experimental nature;

(c) Work, works or items of construction works which are on a simple or small scale in accordance with regulations of the Government;

(d) Repair, embellishment or restoration of works on cultural or historical-cultural heritage sites;

(dd) Other special cases permitted by the person authorized to make the investment decision.

2. Any person authorized to appoint a contractor shall be responsible before the law for selection of a contractor with full capability for construction activities and with full capability for construction practice.

3. Any organization or individual appointed as a contractor must have full capability for construction activities and full capability for construction practice appropriate for the work

and the type and level of works, and the financial status of the appointee must be healthy and transparent.

Article 102: Selection of architectural design contractors for construction works

1. The selection of architectural design contractors for construction works shall be carried out for the construction works prescribed in article 55 of this Law.
2. The author of a selected architectural design plan shall be given priority in selection to conduct the subsequent design steps if the author satisfies the conditions on capability for construction design activities and on capability to practise design for construction of works.

Article 103: Selection of general contractors in construction activities

1. Depending on the scale, nature, type and level of works and the specific conditions of the particular investment project for construction of works, the person making the investment decision or the investor in construction of works shall make a decision on the following forms of selection of a general contractor in construction activities:
 - (a) General design contractor to carry out the whole of the work of design of the building works;
 - (b) General contractor for execution of building works to carry out the whole of the building works;
 - (c) General contractor to carry out the whole of the work of design and execution of building works;
 - (d) General contractor to carry out the whole of the work of design, procurement of materials and equipment, and execution of building works;
 - (dd) General turn-key contractor to carry out all of the work of a package from formulation of the project up to design, procurement of materials and equipment, and execution of building works.

2. An independent contractor or a partnership of contractors participating in tendering for construction activities must satisfy the conditions on capability for construction activities appropriate for types and levels of works as prescribed in this Law.

3. Where a form of general contractor prescribed in clause 1 of this article is applied, the general contractor must appoint a person satisfying the conditions on capability for construction practice to co-ordinate all of the work of such general contractor.

Article 104: Rights and obligations of parties calling for tenders

1. A party calling for tenders shall have the following rights:

- (a) To require tenderers to provide necessary information servicing selection of a contractor;
- (b) To select a successful tenderer or to rescind the results of selection of a tenderer in accordance with the laws on tendering;
- (c) Other rights in accordance with law.

2. A party calling for tenders shall have the following obligations:

- (a) To prepare tender invitation documents and a tender plan consistent with the contents of the approved investment project for construction of works;
- (b) To check the declaration of the selected tenderer regarding the capability for construction activities, capability for construction practice, and financial status of such tenderer;
- (c) To provide in a timely manner and fully the capital funds in order that the work is able to be done on schedule;
- (d) To notify tenderers of any necessary requests and to implement correctly notified items;
- (dd) With respect to construction works funded by the State, to announce publicly the successful entity and the contract award price after the results of selection of a tenderer are available;
- (e) To purchase insurance for the works;

- (g) To compensate for loss caused to tenderers when such loss was the fault of the party calling for tenders;
- (h) To be responsible before the law for any act of making illegal arrangements in tendering, of buying or selling a tender, of disclosing information during tender consideration, or of collusion with contractors or any other breach of the laws on tendering;
- (i) Other obligations in accordance with law.

Article 105: Rights and obligations of tenderers

1. Tenderers shall have the following rights:

- (a) To participate in tendering as an independent contractor or in partnership with other contractors;
- (b) To request that information be provided and to conduct a site survey in order to prepare a tender;
- (c) To lodge a complaint or denunciation upon discovery of a breach of the regulations on selection of contractors;
- (d) Other rights in accordance with law.

2. Tenderers shall have the following obligations:

- (a) To prepare tenders which are truthful and accurate and which satisfy the requirements set out in the tender invitation documents;
- (b) To be responsible before the law for any conduct in breach as prescribed in article 98.6 of this Law;
- (c) To compensate for loss caused by any conduct in breach which results in extension of the tendering or in re-tendering;
- (d) To perform tender guarantees;
- (dd) Other obligations in accordance with law.

Article 106: Responsibilities of person making investment decision on construction of works during selection of contractors

1. To inspect and deal with any breaches and to resolve any complaints or denunciations during selection of contractors;
2. To suspend selection of contractors [or] to rescind the results of selection of a tenderer upon discovery of any breaches during selection of contractors;
3. To be responsible before the law and to pay compensation for loss and damage due to his or her decisions.

SECTION 2

Contracts in Construction Activities

Article 107: Contracts in construction activities

1. Contracts in construction activities shall be prepared for the work of formulation of construction master plans, formulation of investment projects for construction of works, construction survey, design of construction of works, supervision, execution of building works, management of investment projects for the construction of works and other work in construction activities.
2. Contracts in construction activities shall be prepared in writing and shall comply with the provisions of this Law and of other relevant laws.
3. Depending on the scale and nature of works, the type of work and the relationship between the parties, contracts in construction activities may be of various types and have different contents.

Article 108: Basic contents of contracts in construction activities

A contract in construction activities shall contain the following basic items:

1. Contents of the work to be performed;
2. Quality and other technical requirements of the work;
3. Duration and schedule for implementation;
4. Conditions on check and acceptance and hand-over;
5. Price and method of payment;
6. Warranty period;
7. Liability for contractual breach;
8. Other agreements depending on each particular type of contract;
9. Language to be used in the contract.

Article 109: Changes to contracts in construction activities

1. A contract in construction activities may only be changed with permission from the person having made the investment decision in the following circumstances:
 - (a) When there is a change to the investment project for construction of works;
 - (b) When the State changes the relevant policies;
 - (c) In a case of force majeure.
2. The person permitting a change to a contract shall be responsible before the law for his or her decision and shall compensate for loss and damage caused by the consequences of his or her decision.

Article 110: Contractual bonuses, penalties for contractual breaches, and resolution of contractual disputes in construction activities

1. If contractual bonuses and penalties for contractual breaches are to apply, the contract must so record expressly.
2. With respect to construction works funded by State capital, the cap on bonuses shall not exceed twelve (12) per cent of the value of the profitable part of the contract, and the cap on

penalties shall not exceed twelve (12) per cent of the value of the contract which is breached. Funds to pay bonuses shall be taken from that part of the contract which is profitable as a result of early commissioning or operation of the works which meets quality requirements, or from reasonable savings made on costs of contract performance.

3. If a contractual dispute arises in construction activities, the parties shall be responsible to resolve it by negotiation. If the parties are not able to negotiate a settlement, the dispute shall be resolved by conciliation or arbitration, or a court shall resolve the dispute in accordance with law.

CHAPTER VII

State Administration of Construction

Article 111: Contents of State administration of construction

1. Formulation of strategies and plans for development of construction activities, and directing implementation of such strategies and plans;
2. Promulgation of legal instruments on construction and organizing their implementation;
3. Promulgation of construction regulations and construction standards;
4. Quality control of and archiving files on construction works;
5. Issuance and withdrawal of all types of permits in construction activities;
6. Guiding, checking, inspecting, resolving complaints and denunciations and dealing with breaches in construction activities;
7. Organization of scientific and technological research in construction activities;
8. Training the workforce for construction activities;
9. International co-operation in the area of construction activities.

Article 112: State administrative bodies for construction

1. The Government shall exercise uniform State administration of construction throughout the whole country.
2. The Ministry of Construction shall be responsible before the Government to carry out uniform State administration of construction.
3. Ministries and ministerial equivalent bodies shall, within the scope of their respective duties and powers, co-ordinate with the Ministry of Construction to carry out State administration of construction.
4. People's committees at all levels shall be responsible to carry out State administration of construction within their respective localities in accordance with authority delegated to them by the Government.

Article 113: Construction Inspectorate

1. The Construction Inspectorate shall be the specialized inspectorate for construction.
2. The Government shall provide regulations on organization and operation of the Construction Inspectorate.

Article 114: Duties of Construction Inspectorate

The Construction Inspectorate shall have the following duties:

1. To inspect implementation of the laws on construction;
2. To detect, prevent and deal with breaches of the laws on construction in accordance with its own authority or to recommend that the competent State body deal with such breaches;
3. To verify and recommend that the competent State body deal with complaints and denunciations regarding construction.

Article 115: Rights and obligations of Construction Inspectorate

1. The Construction Inspectorate shall have the following rights:
 - (a) To require the relevant organizations and individuals to provide data and to explain essential issues;

- (b) To request evaluation of items relevant to the quality of works in necessary cases;
- (c) To apply preventive measures in accordance with law;
- (d) To prepare minutes of inspections and to deal with [breaches] in accordance with its own authority or to recommend that the competent State body take measures to deal with;
- (dd) Other rights in accordance with law.

2. The Construction Inspectorate shall have the following obligations:

- (a) To exercise the functions and duties of, and to implement the order and procedures for, an inspectorate in accordance with regulations;
- (b) To present the decision on inspection and inspector cards to any entity being subject to inspection. An inspection must be minuted;
- (c) To be responsible before the law for the conclusion of an inspection and to compensate for loss arising from an incorrect conclusion;
- (d) To discharge other obligations in accordance with law.

Article 116: Rights and obligations of organizations and individuals being subject to inspection

1. Organizations and individuals being subject to inspection shall have the following rights:

- (a) To request an inspector or an inspection group to explain the requirements of the inspection;
- (b) To lodge complaints and denunciations regarding a breach of law during operations of inspectors.

2. Organizations and individuals being subject to inspection shall have the following obligations:

- (a) To facilitate an inspector or an inspection group to perform its duties;
- (b) To provide data, to explain essential issues, and to comply with a conclusion of the Construction Inspectorate.

Article 117: Right to lodge complaints and denunciations, responsibility to resolve complaints and denunciations

1. Individuals shall have the right to lodge complaints and denunciations, and organizations shall have the right to lodge complaints, about conduct in breach of the provisions of this Law with the State administrative body for construction, or to institute court proceedings in accordance with the laws on complaints and denunciations.

2. State administrative bodies for construction at all levels shall be responsible to resolve complaints and denunciations from organizations and individuals within their authority and, if they receive a complaint or denunciation outside their jurisdiction, they shall forward it to the competent authority for resolution and provide written notification thereof to the entity which made the complaint or denunciation.

Article 118: Complaints and denunciations, resolution of complaints and denunciations

1. Complaints and denunciations shall be made, and their resolution shall be conducted, in accordance with the laws on complaints and denunciations.

2. Pending resolution of a complaint, denunciation or court proceedings, any organization or individual subject to an administrative decision imposed by a State administrative body for construction must implement such decision. Upon a decision resolving the complaint or denunciation by a State administrative body for construction or upon a court judgment or decision which is legally effective, the matter shall be resolved in accordance with such decision or court judgment or decision.

CHAPTER VIII

Commendations and Rewards and Dealing with Breaches

Article 119: Commendations and rewards

Organizations and individuals having achievements in construction activities and administration of construction activities shall be commended and rewarded in accordance with law.

Article 120: Dealing with breaches

1. Any person in breach of the laws on construction and other relevant laws shall, depending on the nature and seriousness of the breach, be disciplined, be subject to administrative penalty or be subject to criminal prosecution; and if such person causes loss and damage to the interests of the State or to the lawful rights and interests of organizations and individuals, compensation shall be payable.
2. Any construction works which are contrary to construction master plans, were built without a construction permit where the law requires such permit, or are incorrect in terms of the provisions of an issued construction permit must be completely dismantled or the section in breach must be dismantled in accordance with regulations.

CHAPTER IX

Implementing Provisions

Article 121: Dealing with works constructed prior to date of effectiveness of this Law which are inconsistent with provisions of this Law

Works constructed prior to the date of effectiveness of the Law on Construction which are inconsistent with the provisions of this Law shall be dealt with as follows:

1. Existing construction works which comply with the master plan but have non-compliant architecture 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.
2. Existing construction works which do not comply with the master plan shall be dealt with as follows:
 - (a) The competent State body shall consider and issue the owner of the works with a temporary construction permit with the same duration as the duration for implementation of the master plan when there is a requirement to improve, up-grade or repair the works.
 - (b) When works are transferred to a planned zone, the owner of the works shall be compensated or assisted in accordance with law.

3. With respect to works the subject of permission for temporary construction, if there is a request for compulsory relocation of such works prior to expiry of the duration for implementation of the master plan or prior to expiry of the duration stated in the temporary construction permit, compensation shall be paid in accordance with law.

Article 122: Effectiveness

This Law shall be of full force and effect as of 1 July 2004.

Article 123: Implementing guidelines

The Government shall provide detailed regulations and guidelines for implementation of this Law.

This Law was passed by Legislature XI of the National Assembly of the Socialist Republic of Vietnam at its 4th Session on 26 November 2003.

The Chairman of the National Assembly

NGUY N VAN AN

