

DECREE-LAW 44/2022
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LEGAL FRAMEWORK FOR INDUSTRIAL PARKS

The VIII Constitutional Government Program promotes the existence of industrial parks, recognizing their essentiality in the creation and evolution of an effective industrial development policy, as a strategy to attract national and foreign investment and to create employment.

It is necessary to provide the industrial sector with adequate infrastructures at competitive costs that enable its development in a sustainable and inclusive manner, enshrining a regulatory framework that promotes the pursuit of such objectives and establishes the conditions for implementation, operation and management of industrial parks, guided by respect for the rules in force in the environmental, urban planning and social sectors.

This regime determines the administrative procedure for the implementation of industrial parks, further regulating the requirements for their implementation in terms of infrastructure and operation, as well as the respective management structure.

Thus, pursuant to Article 115 (1)(e) of the Constitution of the Republic, the Government decrees the following to be valid as law:

CHAPTER I
GENERAL PROVISIONS

Article 1
Object

The present diploma regulates the installation, operation and management of industrial parks.

Article 2
Territorial Scope of Application

The present document is applicable in all of Timor-Leste's territory.
Timor-Leste.

Article 3
Definitions

For the effects of the present document, the following definitions are applied:

- a) "Industrial establishment" means an installation where any industrial activity is exercised, irrespective of its dimension, the number of workers, the equipment or other factors of production;

- b) "Industrial park managing entity" means the legally constituted corporate body responsible for the coordination and management of an industrial park, appointed by the Council of Ministers, under the terms of this statute
- c) "Industrial park" means an agglomeration of industrial establishments and supporting infrastructures with a view to the pursuit of industrial development objectives, constituted under the terms of this statute.

Article 4

General principles

The acts performed under the present diploma, as well as other applicable legislation, programs, plans and projects, are executed in accordance with the following principles:

- a) Respect for the requirements regarding environmental conservation and protection, preservation and sustainable use of natural resources;
- b) Respect for requirements regarding urban planning and land use planning;
- c) Involvement of the different social and local groups in the implementation processes of the industrial parks;
- d) Guaranteeing the health and hygiene of industrial parks and installations.

CHAPTER II

AUTHORISATION PROCEDURE FOR THE INSTALLATION OF INDUSTRIAL PARKS

Article 5

Stages of the Procedure

The authorization procedure for the installation of industrial parks shall comprise the following stages:

- a) Application stage;
- b) Phase of the instruction;
- c) Decision proposal phase;
- d) Decision phase.

Article 6

Application stage

1. Applications for the installation of industrial parks shall be submitted to the Ministry of Tourism, Trade and Industry.
2. The application must include the following elements
 - a) Property title or ownership, except as provided for in Article 13;

- b) Location and size of the industrial park, which must exceed 50 hectares;
- c) A summary plan, indicating the division of the lots and their numbering, purposes, implantation and construction areas and technical characteristics of the construction;
- d) Descriptive and justificatory memory;
- e) Types of industry to be installed;
- f) Proposal for the regulation of the industrial park, defining, namely, the types of industry to be installed, the requirements for installation, alteration and operation of industrial establishments, the conditions for operation and management of the industrial park and the modalities for providing services to industrial establishments;
- g) Identification of the legal person proposed as the managing entity of the industrial park, if different from the applicant, or presentation of the declaration of commitment to form a legal person in accordance with the requirements foreseen in this statute, within 30 days after the deliberation by the Council of Ministers;
- h) Term of responsibility for the infrastructure charges;
- i) Original of the request for previous information regarding the urbanistic operations to be executed with the installation of the industrial park, issued by the territorially competent municipality and, until their installation, by the Central Administration bodies, under the terms of Decree-Law n. 9/2022, of February 24, on the legal regime of edification and urbanization;
- j) Indication of the full name and address of the applicant for communication purposes.

Article 7

Pre-trial phase

1. The preliminary analysis of the application and processing of the industrial park installation authorisation procedure is the responsibility of the Application Evaluation Committee.
2. The Commission for the Assessment of Applications shall be composed of the Director-General for Industry, who shall be the chairman, and one representative of each of the following ministries:
 - a) the Coordinating Minister for Economic Affairs;
 - b) Ministry of Tourism, Commerce and Industry;
 - c) Ministry of Planning and Development;
 - d) Ministry of Public Works;
 - e) Ministry of State Administration.

3. The Committee for Evaluation of Applications shall be constituted by joint order of the members of the Government responsible for the respective areas of governance.
4. The Committee for the Evaluation of Requests shall proceed with any diligences deemed convenient for the instruction of the procedure, and may, namely, request, from the applicant or from third parties, all the elements deemed necessary for the good instruction and decision of the request.
5. Without prejudice to the provisions of the preceding number, prior consultation by the municipality territorially competent and, until they are installed, by the Central Administration bodies is mandatory, under the terms of Decree-Law 9/ 2022, of 24 February, on the legal regime for building and urbanisation.
6. If the entities referred to in the previous number do not respond within 45 days of that communication, their agreement shall be presumed.

Article 8 **Phase of the decision proposal**

1. The members of the Government responsible for the areas of planning and development and industry shall be in charge of submitting, by joint decision, to the Council of Ministers a decision proposal regarding the installation of an industrial park, after consultation with the Commission for Assessment of Applications.
2. The decision proposal provided for in the previous number shall be accompanied by the following documents:
 - a) Opinion issued by the territorially competent local authority referred to in paragraph 5 of the preceding article
 - b) Copy of the municipal land management plan and land use plan in force in the respective regional or municipal territory.
3. The proposal for the decision must take into account the relevance of the proposed installation for the development of social and cultural infrastructures in the region, in accordance with, namely, the number of population benefited by the installation, technological development, training of human resources, potential attraction of national and international investment and the creation of road connections.

Article 9 **Decision phase**

1. The installation of an industrial park and designation of the entity in charge of managing the industrial park depends on a resolution passed by the Government, following a joint proposal by the Government members responsible for the areas of planning and zoning and industry.

2. The resolution referred to in the preceding paragraph shall form an integral part of the summary plan and draft regulations for the industrial park.
3. The regulations for industrial parks shall have the nature of administrative regulations.

Article 10 **Implementation plan of the industrial park**

1. Within 90 days from the date of publication of the resolution of the Council of Ministers referred to in the previous article, the management entity of the industrial park shall submit, to the Ministry of Tourism, Trade and Industry, the implementation plan for the industrial park.
2. The implementation plan for the industrial park shall include the following:
 - a) Detailed description of the implementation phases that comprise the plan, objectives and deadlines to be implemented;
 - b) Economic viability and social impact study for the region and the country, with an estimate of the overall cost of the undertaking and expected sources of financing;
 - c) Environmental impact study, under the terms of the Basic Law on the Environment;
 - d) Topographic studies to determine the viability of the implementation of the industrial park;
 - e) Original licenses for the urbanistic operations to be executed within the scope of the installation of the industrial park, issued by the territorially competent municipality and, until their installation, by the Central Administration bodies, under the terms of Decree-Law n.o 9/2022, of 24 February, on the legal regime for edification and urbanization.
3. The conformity of the implementation plan with the summary plan and applicable legislation shall be determined by means of a joint order of the members of the Government responsible for the areas of industry, planning and zoning, and public works, which shall set the commencement date of the plan.
4. The implementation of industrial parks shall obey to the terms and conditions provided for in this statute, complementary legislation and industrial park regulations.

Article 11 **Reporting obligations**

On a quarterly basis, the managing entity of the industrial park shall submit to the services of the Ministry of Tourism, Trade and Industry a report on the approved implementation plan, which shall contain, namely, the following elements:

- a) Compliance with the objectives defined for each phase of the implementation plan for the industrial park;
- b) In case of non-compliance, indication of the reasons that prevent full and timely compliance and the deadline for conclusion of the respective phase.

CHAPTER III IMPLEMENTATION OF INDUSTRIAL PARKS

Section I Industrial Installations and Infrastructures

Article 12 Installations

1. The building of the industrial park includes the estimated area necessary for the occupation of industrial facilities as well as the infrastructures, facilities and services adequate for their development.
2. The infrastructures, facilities and services referred to in the previous paragraph are namely the following:
 - a) Road and pedestrian circulation network;
 - b) Water, electricity and fuel supply system;
 - c) Drinking water distribution system for public consumption
 - d) Drainage and wastewater treatment system;
 - e) Services for industrial promotion and development, to be coordinated with the Directorate-General for Industry of the Ministry of Tourism, Trade and Industry
 - f) Safety and civil protection services, to be coordinated with the General Directorate of Civil Protection of the Ministry of the Interior.

Article 13 Expropriation of real estate for public use

The legislation on expropriation of real estate for public utility, namely Law No 8/2017 of 26 April on expropriation of real estate for public utility, shall apply to the acquisition of the buildings that prove to be essential and necessary for the installation of the industrial parks.

Article 14
Urbanization works

The construction of urbanisation works shall be the responsibility of the management entity.

Section II
Industrial Establishments

Article 15
Establishments operating in industrial parks

Without prejudice to licenses legally required for the exercise of economic activity, the installation of industrial establishments operating in industrial parks depends on the prior authorization of the managing entity of the industrial park.

Article 16
Benefits

Industrial establishments operating in industrial parks shall benefit from tax and business incentives and benefits and those related to employment support, pursuant to the applicable legislation.

CHAPTER IV
MANAGEMENT OF INDUSTRIAL PARKS

Article 17
Management entity of industrial parks

1. The installation of industrial parks may only be granted to legally constituted commercial companies that comply with the following requirements:
 - a) The company is of the public limited company type and its share capital, fully paid up, is greater than US\$ 500,000;
 - b) The business purpose of the companies is exclusively the management of industrial parks;
 - c) the company proves to be suitable in light of the criteria of reputation and economic and financial standing.
2. Companies shall prove that the share capital referred to in the previous number is fully paid up in cash, and shall prove that it is deposited with a credit institution authorised to operate in Timor-Leste.
3. The transfer or encumbrance, by any means, of ownership or any other real right over the company's shares, namely transfer, sale or pledge, of a value equal to or higher

than 10% of the share capital shall be communicated in advance to the Ministry of Tourism, Trade and Industry.

Article 18
Management of industrial parks

1. Each industrial park shall be under the direction of an industrial park management entity.
2. The managing entity of the industrial park shall be freely appointed by the Council of Ministers, under joint proposal of the members of Government responsible for the areas of planning and zoning and industry.

Article 19
Powers of the Industrial Park Management Entity

The managing entity of the industrial park is responsible for its maintenance and for guaranteeing the regular operation of its services and facilities, namely:

- a) Perform the acts and carry out all the operations necessary for the installation of the industrial park
- b) Develop promotion and publicity actions for the industrial park
- c) Ensure the necessary works for the installation of the industrial park;
- d) Ensure the proper functioning of the industrial park;
- e) Propose to the Ministry of Tourism, Commerce and Industry, under the terms established in this diploma and in the respective regulation of the industrial park, if applicable, the cession of installations to the industrial establishments that are established in the industrial park;
- f) Ensure, under the terms of the Industrial Park Regulations, the provision of services to industrial establishments setting up therein.

CHAPTER V
INSECTION

Article 20
Competent administrative authority

The implementation and management of industrial parks shall be subject to inspection and supervision by the Ministry of Tourism, Trade and Industry, without prejudice to the action of other entities to which the law attributes competencies in this field.

Article 21
Inspection functions

The inspection functions performed by the services of the Ministry of Tourism, Trade and Industry include the surveillance of compliance with the implementation plan of the industrial park, as well as with the operating rules of the industrial parks provided for in the respective regulations and with all other legal and administrative obligations incumbent upon the management entity and the industrial establishments.

Article 22
Duty of Cooperation

The managing entities of industrial parks, companies owning industrial establishments located in the parks and third parties involved are obliged to cooperate with the Ministry of Tourism, Commerce and Industry, namely in terms of providing information, making available elements for analysis, performing inspection activities and whatever else may be requested.

Article 23
Non-compliance with the implementation plan

1. In the event of failure by the management entity of the industrial estate to comply with the implementation plan for a period of not less than 15 days, the surveillance authority shall notify the management entity of the industrial estate in writing, requesting it to comply with the obligations in default and warning of the consequences of non-compliance, granting a period of not less than 90 days for regularisation of the situation.
2. Failure to regularise unfulfilled operations within the time period set out in the preceding paragraph for reasons attributable to the manager of the industrial estate shall result in definitive non-compliance with the implementation plan and the exoneration of the manager of the estate, without prejudice to the provisions of the following article.

Article 24
Reasons for revocation of the authorisation

1. Non-compliance with the implementation plan for reasons imputable to the managing entity, except for a justified reason recognised and accepted by the Council of Ministers, as well as failure to comply with the legal and administrative obligations for the operation and management of the industrial park may result in revocation of the authorisation.
2. Authorisation shall be revoked for the following reasons.
 - a) False statements made within the administrative procedure for granting authorisation;

- b) Failure to comply with the initial, interlocutory or completion deadlines of the implementation plan for reasons imputable to him;
 - c) repeated failure to comply with legal or administrative obligations.
3. The decision to revoke an authorisation shall be taken by the Council of Ministers, under the joint proposal of the members of the Government responsible for the areas of planning, development and industry.

Article 25
Entry into force

The present diploma enters into force on the day following its publication.

Article 26
Supplementary provisions

Without prejudice to legislation applicable to sectorial licensing, the requirements, conditions for installation, operation, maintenance and vacating of industrial establishments shall be defined by ministerial statute to be approved by the member of the Government responsible for the area of industry.

CHAPTER VI
FINAL PROVISION

Article 27
Special Administrative Region of Oe-Cusse Ambeno

In the Special Administrative Region of Oe-Cusse Ambeno, the competencies assigned to the organs and services of the Central Administration in this statute shall be exercised by the organs of the Special Administrative Region of Oe-Cusse Ambeno.

Approved by the Council of Ministers on 13 May 2022.

The Prime Minister, _____
Taur Matan Ruak

The Minister of Tourism, Commerce and Industry, _____
José Lucas do Carmo da Silva

Promulgated on 12.6.2022. To be published.

The President of the Republic, _____
José Ramos-Horta

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