

**DECREE NO. 12/2000/ND-CP DATED MAY 5, 2000 ON AMENDING AND  
SUPPLEMENTING A NUMBER OF ARTICLES OF THE INVESTMENT AND  
CONSTRUCTION MANAGEMENT REGULATION ISSUED TOGETHER WITH THE  
GOVERNMENT'S DECREE NO. 52/1999/ ND-CP DATED JULY 8, 1999.**

GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM

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Independence - Freedom - Happiness

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No. 12/2000/ND-CP

Hanoi, May 5, 2000

**DECREE**

**Amending and supplementing a number of articles of the investment and construction  
management regulation issued together with the government's decree no. 52/1999/ ND-CP  
of July 8, 1999**

**THE GOVERNMENT**

- Pursuant to the Law on Organization of the Government of September 30, 1992;
- At the proposal of the Minister of Construction, Minister of Planning and Investment and Minister of Finance,

**DECREES:**

Article 1.- To amend and supplement a number -of Articles of the Investment and Construction Management Regulation issued together with the Government's Decree No.52/1999ND-CP of July 8, 1999 as follows:

1. Clause 1 and Clause 2 of Article 6 are amended and supplemented as follows:

1. Depending on their characteristics and investment scale, the domestic investment projects are classified into three groups: A, B and C for division of management responsibility. The typical characteristics of each group are specified in the Appendix issued together with this Decree with amendments to the capital levels of groups A and B.

2. For group-A projects which comprise many constituent projects or mini-projects, if each constituent project or mini-project can operate independently, be exploited and executed according to investment phases inscribed in the written approval of the pre-feasibility study report, it may be carried out with the investment preparation stage, right from the process of making and submission for approval of feasibility study report and with the management of investment execution process like an independent investment project.

2. Point c, Clause 2 of Article 7 is amended and supplemented as follows:

c/ To assume the prime responsibility together with the ministries, branches and localities for evaluating technical designs and total cost estimates of group-A investment and construction projects for ratification by the competent authorities. For group A projects to be executed by ministries and branches with specialized construction, the provisions of Clause 12, Article 1 of this Decree shall be complied with.

To exercise the unified State control of construction quality, to monitor, examine and detect matters related to the quality of construction works and propose handling measures therefore particularly the quality of group-A construction projects.

3. To add Clause 6; to amend Clauses 1 and 2 of Article 9 as follows:

1. The capital for elaboration of planning projects shall include capital for investigation, survey, study, elaboration and ratification of planning projects.

2. The capital for elaboration of projects on regional and territorial socio-economic development overall planning, branch development planning, regional construction planning, urban and rural overall planning, detailed planning on urban centers and detailed planning on land use may be taken from the State budget and included in the State's annual investment plans.

6. The Ministry of Planning and Investment shall assume the prime responsibility in organizing the final evaluation of planning projects on socioeconomic development, branch development and key economic zones and submit them to the Prime Minister for ratification.

4. Points d and e of Clause 1, Point c of Clause 2, of Article 10 are amended and supplemented as follows:

d/ The Government's foreign loan capital and international aid for development investment (including official development assistance- ODA capital) shall be subject to the unified management according to Point b, Clause 2. Article 21 of the Law on the State Budget and the legal documents guiding the implementation thereof The agencies in charge of allocating the above-mentioned capital sources for development investment projects shall have to arrange enough domestic reciprocal capital to ensure the execution of projects.

- To annul Point e of Clause 1.

c/ The general directors of general departments and directors of departments under the ministries; the commanders of Military Regions, Corps, Services and Border-Guards and persons of equivalent ranks under the Ministry of Defense may be authorized by the ministers to decide investment in group-C projects.

5. Article 11 is amended as follows:

1. Investors of projects financed with the State guaranteed credit capital or the State's development investment credit capital shall be accountable for the investment efficiency and repay the borrowed capital on time; the lending organizations shall have to appraise the financial plans as well as the debt repayment plans, to supply capital, supervise the use of borrowed capital for the night purposes and recover the lent capital. For projects using the State guaranteed

foreign loan capital, the investors shall also have to fulfill their commitments made when borrowing capital according to the provisions of law.

2. The competence to decide investment in projects of State enterprises using the State guaranteed credit capital and the State's development investment credit capital shall comply with the provisions of Clause 2, Article 10 of the Investment and Construction Management Regulation issued together with the Government's Decree No. 52/1999/ND-CP of July 9, 1999 (hereafter called the Investment and Construction Management Regulation for short) and Clause 4, Article 1 of this Decree.

The Managing Boards of the State corporations may decide investment in group-C projects. Particularly for the State corporations set up by the Prime Minister's decisions (corporations 91), their Managing Boards may decide investment in group B and- C projects.

3. Persons competent to decide investment in projects according to their assigned responsibilities may decide matters arising in the course of execution of the projects as prescribed by law.

The capital-lending organizations shall monitor and inspect the investment execution under the investment decisions and make the final settlement of investment capital.

6. Article 12 is amended as follows:

The competence to decide and effect the investment projects financed with the development investment capital of State enterprises is stipulated as follows:

1. For group-A projects, the competence and effect the to decide investment shall comply with the regulations set for projects financed with the State budget capital;

2. For group B and C projects, State enterprises shall base themselves on the branch development planning or plans already ratified by the competent authorities to decide the investment: if projects require the use of land, the projects' locations and land areas must be approved by the People's Committees of the localities where the land is applied, for and the procedures for land allotment or lease must be filled in according to the provisions of the land legislation. The process of investment execution shall be undertaken by enterprises themselves, based on the strict observance of the State's current regimes and policies on investment and construction management as well as the Regulation on Bidding.

Organizations managing the enterprises' capital and organizations providing capital support for projects shall have to inspect the execution of investment decisions and make the final settlement of investment capital.

3. Projects financed with the development investment capital of State enterprises are projects which use part of capital supported by the State budget or capital of State budget origin; capital accumulated by the enterprises themselves commercial credit capital for development investment; development investment fund, financial reserve fund (to offset asset losses), and welfare fund (investment in welfare projects), fixed asset depreciation capital and the State's revenues left for enterprises for investment.

The Finance Ministry shall assume the prime responsibility and coordinate with the relevant ministries in providing detailed guidance on the management and use of development investment

capital of State enterprises, such as the fixed asset depreciation capital in the State capital source, part of the development investment fund, remittances payable by enterprises to the State budget but allowed to be retained at enterprises.

7. Article 13 is amended as follows:

1. For production and/or business projects of individuals and economic organizations other than State enterprises, the investors themselves shall decide the investment and take responsibility for the production and business efficiency; the procedures of application for land allotment or land lease as well as for construction permits are stipulated as follows:

a/ For investment project requiring the land allotment or land lease, the investors shall submit their applications therefore together with the production and/or business investment project already approved in the business registration certificates to the competent People's Committees of the localities where the land allotment or land lease is applied for in order to get approval of the projects' locations and land areas and fill in the land allotment or land assignment procedures according to the provisions of the land legislation.

For investment and construction projects with legitimate land use right, which do not require land allotment or lease, the investors shall not have to fill in the procedures therefore but only apply for the construction permits.

The General Land Administration shall guide in detail the procedures of application for land allotment or land lease.

b/ The compilation of dossiers for submission to the competent agencies to apply for construction permits shall comply with the provisions of the Regulation on Investment and Construction Management.

2. Projects of diplomatic missions, international organizations and other foreign agencies involved in investment and construction on the Vietnamese soil shall be managed according to treaties or agreements already concluded with the Vietnamese Government and the investors shall have to compile dossiers applying for construction permits in accordance with the provisions of the Regulation on Investment and Construction Management.

3. For projects using capital contributed by different members, basing themselves on the capital contribution proportions and projects' characteristics, the members shall reach agreement on the determination of investors, modes of management and organization of project administration.

8. Point b, Clause 1 of Article 14 is amended and supplemented as follows:

b/ For administrative and non-business agencies, the persons competent to decide the investment shall not concurrently act as investors.

The administrative and non-business agencies shall only act as investors of projects for construction of their own material and technical bases.

For State enterprises established by decisions of the Prime Minister (corporations 91), the Managing Boards of the corporations may authorize the directors of member units to decide

investment in group-C projects financed with the capital sources stipulated in Clauses 5 and 6, Article 1 of this Decree.

9. Point a, Clause 2 of Article 22 is amended and supplemented as follows:

a/ For group-A projects which have been approved by the Prime Minister in terms of their pre-feasibility study reports and allowed to be divided into constituent projects or mini-projects, such constituent projects or mini-projects shall have their own feasibility study reports elaborated and submitted for approval and shall be managed like independent investment projects.

10. To add Clause 3 to Article 27 as follows:

3. The agencies organizing the evaluation of investment projects shall take responsibility before law for the contents of their evaluation and submit the evaluation reports, necessary dossiers together with the draft investment decisions to the persons competent to decide the investment.

11. Article 35 is amended and supplemented as follows:

1. For investment and construction projects of production and/or business characters, the investors shall assume the prime responsibility and coordinate with the local People's Committees in reaching agreement on the compensation plan, ground clearance plan, fund, tempo and settlement of ground clearance expenses so that the local People's Committees may organize the compensation and clearance of construction ground as scheduled and hand over the construction ground to the contractors.

2. For investment and construction projects related to socio-economic infrastructure, defense and security and national important projects, the People's Committees of different levels shall assume the prime responsibility together with the investors for organizing the compensation for ground clearance and hand over the ground according to schedule, set up the common resettlement zones and effect the resettlement according to the State's regimes and policies as well as the policies on support from investment projects.

3. The Ministry of Defense shall assume the prime responsibility and coordinate with the localities in guiding and clearly defining land areas where mine sweeping is required; and coordinate with the relevant ministries and branches in guiding mine sweeping on the construction ground.

12. Items a and d, Point 3.1 of Article 38 are amended and supplemented as follows:

a/ The technical designs and total cost estimates of group-A projects shall be approved by the ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government, the Managing Boards of the State corporations set up by the Prime Minister's decisions (corporations 91) and the presidents of the provincial-level People's Committees of localities having projects, after they are evaluated under the arrangement by the Ministry of Construction. As for traffic development projects under the Ministry of Communications and Transport, mine development projects and industrial construction projects under the Ministry of Industry; irrigation, agricultural and forestry construction projects under the Ministry of Agriculture and Rural Development; post and telecommunications construction projects under the General Department of Post and Telecommunications, projects on relics under the Ministry of Culture and Information; projects on national defense and security under the Ministry of

Defense and the Ministry of Public Security the said ministries and agencies shall assume the prime responsibility and organize the evaluation of technical designs and total cost estimates of the projects before they are approved by the competent authorities.

For investment projects for the procurement of equipment with particular professional requirements, the ministries and branches shall themselves evaluate the designs and total cost estimates before they are submitted to the competent authorities for approval.

The agencies assuming the prime responsibility in evaluating technical designs and total cost estimates shall be answerable before law for the contents of their evaluation.

The above-mentioned ministries and agencies shall guide their subordinates in the evaluation of technical designs and total cost estimates of group B and -C projects in their respective branches.

d/ Investors are permitted to approve detailed designs and cost estimates of auxiliary project items (fence, reception rooms) as well as items not subject to bidding, provided that they do not affect the already approved technical designs and total cost estimates of the projects.

13. To annul Point 4 and change Point 5 into Point 4 of Article 41.

14. Article 43 is amended and supplemented as follows:

Projects financed with the State budget capital, State-guaranteed credit capital, the State's development investment credit capital and development investment capital of State enterprises shall have to comply with the provisions of the Regulation on Bidding.

15. Point b, Clause 4 of Article 46 is amended and supplemented as follows:

b/ The provincial/municipal Construction Services and specialized Construction Departments of the People's Committees of the provinces and centrally-run cities shall exercise the State management over the quality of construction projects in their respective provinces and cities.

16. Article 63 is amended as follows:

1. The form of self-execution of projects shall apply only in the following cases:

a/ Investors are capable of conducting production and construction activities in conformity with the requirements of the projects and the projects are financed with lawful capital of the investors such as the self-procured capital of enterprises and self mobilized capital of organizations and individuals, except for loan capital of credit institutions;

b/ Investors are capable of conducting production and construction activities in conformity with the requirements of the projects on planting and tending annual trees, aquaculture (in the sectors of agriculture, forestry, aquatic resources and industry), plant varieties and animal breeds, virgin land reclamation for field construction, and regular maintenance of construction works and production equipment.

2. When applying the form of self-execution of projects (self-production, self-construction), the investors shall have to organize the strict supervision of production and construction and take responsibility before law for the quality of products and construction works.

The Ministry of Construction shall guide in detail the forms of project management.

Article 2.- This Decree takes effect 15 days after its signing.

Article 3.- The Ministry of Construction shall assume the prime responsibility and coordinate with the relevant ministries and branches in guiding and inspecting the implementation of this Decree.

Article 4.- The ministers, the heads of the ministerial-level agencies and of agencies attached to the Government, the presidents of the People's Committees of the provinces and centrally-run cities, the Managing Boards of the State corporations and concerned organizations shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI

The Appendix is amended and supplemented as follows:

#### APPENDIX

#### CLASSIFICATION OF INVESTMENT PROJECTS UNDER THE INVESTMENT AND CONSTRUCTION MANAGEMENT REGULATION

(Issued together with the Government's Decree No. 12/2000/ND-CP of May 5, 2000 amending and supplementing Decree No. 52/1999/ND-CP of July 8, 1999)

Investment projects (excluding foreign direct investment projects) are classified into 3 groups A, B and C according to the following stipulations:

Ordinal Number Types of investment projects Total investment capital

#### I. GROUP A

1 Projects on protection of national security and defense, which are of State secrets, important socio-political significance, establishing and building new industrial park infrastructure

Unlimited 2 Projects on production of noxious substances or explosives regardless of investment capital scale Unlimited 3 Projects on power industry, oil and gas exploitation, oil and gas processing, chemicals, fertilizers, machine building (including ship purchase and building,

automobile assembly), cement, metallurgy, mineral exploitation and processing, traffic projects: bridges, seaports, river ports, airports, railways, national highways Over 600 billion VND 4Projects on irrigation, traffic (other than those mentioned at Point 1-3), water supply and drainage, technical infrastructure, electric techniques, production of information, electronic, informatic, chemo-pharmaceutical and medical equipment, other mechanical engineering projects, production of materials, post and telecommunications, domestic BOT, construction of living quarters, intra-city roads in urban areas with detailed planning already approved Over 400 billion VND 5Projects on technical infrastructure of new urban areas, projects on light industry, chinaware, porcelain, glassware, printing; national gardens, nature conservation zones, agricultural and forestry production, aquaculture, agricultural and forestry products processing Over 300 billion VND 6Projects on health care, culture, education, radio and television broadcasting, civil construction, warehouses, tourism, physical training and sports, scientific research and other projects Over 200 billion VND

## II. GROUP B

1. Projects on: power industry, petroleum, chemicals, fertilizers, machine building (including ship purchase and building, automobile assembly), cement, metallurgy, mineral exploitation and processing; traffic projects: bridges, seaports, river ports, airports, railways, national highways From 30 to 600 billion VND
2. Projects on: irrigation, traffic (other than those mentioned at Point II-1), water supply and drainage, technical infrastructure, electric techniques, production of information, electronic, informatic, chemo-pharmaceutical and medical equipment, other mechanical engineering projects, production of materials, post and telecommunications, domestic BOT, construction of living quarters, intra-city roads in urban areas with detailed planning already approved From 20 to 400 billion VND
3. Projects on technical infrastructure of new urban areas, projects on light industry, chinaware, porcelain, glassware, printing, national gardens, nature conservation zones, agricultural and forestry production, aquaculture, agricultural and forestry products processing From 15 to 300 billion VND
4. Projects on health care, culture, education, radio and television broadcasting, civil construction, warehouses, tourism, physical training and sports, scientific research and other projects. From 7 to 200 billion VND III. GROUP C 1Projects on: power industry, petroleum, chemicals, fertilizers, machine building (including ship purchase and building, automobile assembly), cement, metallurgy, mineral exploitation and processing; traffic projects: bridges, seaports, river ports, airports, railways, national highways. General education schools included in the planning (regardless of the capital level) Under 30 billion VND
5. Projects on: irrigation, traffic (other than those mentioned at Point III- 1), water supply and drainage, technical infrastructure, electric techniques, production of information, electronic, informatic, chemo-pharmaceutical and medical equipment, other mechanical engineering projects, production of materials, post and telecommunications, domestic BOT, construction of living quarters, general education schools, intra-city roads in urban areas with detailed planning already approved Under 20 billion VND 3Projects on technical infrastructure of new urban areas, projects on light industry, chinaware, porcelain, glassware, printing; national gardens, nature conservation zones, agricultural and forestry production, aquaculture, agricultural and forestry products processing Under 15 billion VND 4Projects on health care, culture, education,



radio and television broadcasting, civil construction, warehouses, tourism, physical training and sports, scientific research and other projects Under 7 billion VND Notes: Group-A projects on railways and land roads must be sub-classified according to their lengths, grades and bridges, under the guidance of the Ministry of Communications and Transport after reaching agreement with the Ministry of Planning and Investment. Projects on building of headquarters, working offices of the State agencies must comply with decisions of the Prime Minister.