

# Using And Managing Land In Industrial Parks And Industrial Clusters

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## Abstract

The purpose of this study aims to determine and identify Shortcomings in using and managing land.

By using description, qualitative analysis including synthesis and inductive methods, This study finds out that Effective and efficient exploitation and use of land resource as well as harmonization of interests of the State, land users, and investors in using land for economic development have been consistent objectives since the current Land Law was approved in 2013.

However, practical enforcement of the Land Law over the last 10 years has showed certain shortcomings of legal provisions, which affects management and use of this important natural resource.

**Keywords:** land management, planning, industrial parks, Land Law, shortcomings

JEL: M21, M1

## 1. Introduction

The objectives of the study:

- Presenting Regulations in planning industrial parks and industrial clusters
- Identifying **Shortcomings in using and managing land.**

Next, Authors used Desk study: compilation and analysis of the current situation of implementation of the Land Law 2013 and recommendations for revisions and amendments are based on results of a comprehensive desk study of reports on the implementation of the Land Law and recommendations for revisions and amendments submitted by provinces to the Steering Committee on review of the implementation of the Resolution No. 19-NQ/TW. In addition, relevant legal normative documents, research

papers, articles published on journals and newspapers, and reports on land resource management and use in Vietnam over the past few years are also studied.

## **2. Methodology**

Authors use description, qualitative analysis including synthesis and inductive methods in this paper. Authors analyzed previous related studies as well.

Then this study also uses observations and dialectical methods.

## **3. Main findings**

### **3.1. Regulations in planning industrial parks and industrial clusters**

According to annual reports on Vietnam provincial competitiveness index, access to land is a big obstacle to business operation. Some provisions of the Land Law 2013 are not consistent with the Constitution 2013 and relevant laws. Specifically, provisions of the Land Law do not institutionalize provisions of the Constitution 2013. Meanwhile, provisions of relevant laws are not consistent, resulting in conflict and overlapping with the Land Law 2013, the Civil Code 2015, the Investment Law 2020, the Law on Housing 2014, and the Law on Real Estate Trading 2014. Some provisions within the Land Law 2013 on rights and obligations of households and individuals relating to land use are not consistent.

According to article 149 of the 2013 Land Law, the management and use of industrial park land is regulated as follows:

#### **A. Principles of land use in industrial zones**

- The use of land for construction of industrial parks must conform to master plans, plans on land use and detailed construction planning already approved by competent state agencies.
- When planning and establishing an industrial park, it is necessary to concurrently make planning and build residential areas and public works located outside the industrial park to serve the lives of workers working in the industrial park.

Land users in an industrial park must use land for the right purposes, be granted a certificate of land use rights, ownership of houses and other land-attached assets, and have rights and obligations. services according to the provisions of the Land Law 2013.

#### **B. Regulations on economic organizations, overseas Vietnamese and foreign-invested enterprises to invest in the construction and business of industrial park infrastructure when leased land by the State**

- For the land leased area with annual land rental payment, the person to whom the land is leased by the State has the right to sublease the land in the form of annual land rental payment.

For the land leased area with one-time payment of land rent for the entire lease period, the person to whom the land is leased by the State has the right to sublease the land in the form of one-time payment of land rent for the entire lease period or to pay rent. annual land lease.

- Investors are exempted from land rent for the land area for construction of infrastructure for common use in industrial parks

C.Regulations on economic organizations, households, individuals, overseas Vietnamese, foreign-invested enterprises investing in production and business in industrial parks

To sublease land associated with infrastructures of other economic organizations, overseas Vietnamese, foreign-invested enterprises investing in the construction and business of infrastructure, and have other rights and obligations. the following obligations:

+ In case of sub-lease of land with one-off payment of land rental for the entire lease period, they have the rights and obligations specified in Article 174 of the 2013 Land Law.

+ In case of sub-leasing land with annual rental payment, the rights and obligations prescribed in Article 175 of the Land Law 2013.

- Economic organizations, households, individuals, overseas Vietnamese investing in production and business in industrial parks that have been allocated land by the State or received the transfer of land use rights associated with structures; infrastructure of other economic organizations, overseas Vietnamese investing in the construction and business of industrial park infrastructure, before the effective date of the 2013 Land Law, may continue to use land according to the remaining term of the project without having to change to land lease. At the end of the project implementation period, if there is a need, the State will consider leasing land according to the provisions of the Land Law 2013.

### 3.2. Shortcomings in using and managing land

First, businesses reflect is the difficulties in applying for approval of investment policy in industrial parks and industrial parks. In Clause 1, Article 8 of the revised draft, it states: “Conditions for consideration and approval of investment policies in investment projects on construction and business of infrastructure of industrial parks and expanded industrial parks must be in accordance with regulations of law. regional and provincial plans already approved by competent authorities”.

The Ministry of Planning and Investment has just submitted to the Government a Draft Decree amending and replacing Decree 82/2018/ND-CP on management of industrial parks and economic zones issued in 2018. However, many opinions that the revised draft still has many shortcomings, not close to real life.

Second, Although actively contributing to socio-economic growth, the leaders of the Ministry of Planning and Investment said that industrial zones and economic zones in the past time still revealed shortcomings and limitations. Specifically, the synchronization and linkage between the planning of industrial zones and economic zones with the plannings of social infrastructure, human resources, construction, land use and urban areas is not high. The development of industrial zones and economic zones in the direction of sustainability, harmony between industry, urban areas and services, creating links, cooperation, forming value chains between enterprises inside and outside the IZs and EZs has not been focused. . In particular, the technical infrastructure for environmental protection in industrial zones in some localities has not been synchronized. The operation of environmental protection works has not been serious and has not fully complied with the provisions of the law on environment. Some localities have not planned places to store and treat hazardous wastes, which pose a high risk of environmental pollution. Social infrastructure, including worker housing, cultural, sports and welfare institutions serving employees has not been linked and synchronized with the development of industrial zones and economic zones.

(source: congthuong.vn)

Third, we need amending regulations on responsibility for coordination in compensation and site clearance of the Economic Zone Management Board for the land area assigned to the Board by the State (specifically: Article 151 of the 2013 Land Law)

(source: Report of the Economic Zone Management Board of Quang Ninh Province).

Figure 1- Land in industrial parks



(source: vlaw.vn)

Beside, Tu et al (2014) found that in China the industrial land use is more influenced by industry sub-type, the year of the land lease and land size than policy intervention. In light of strong government intervention, a lack of equity with a bundle of conditions for land development without strictly implementing measures that do not conform with land leasing contracts leads to one-on-one negotiation, relatively low land leasing prices compared to the secondary market land price, and low land use efficiency. Thus, this paper suggests that government intervention should focus more on promoting a more market-oriented environment with strict supervision during land development, rather than on specific conditions on each industry sub-type and factory.

#### **4. Discussion and conclusion**

##### 4.1. Advantages

- Effective and efficient exploitation and use of land resource as well as harmonization of interests of the State, land users, and investors in using land for economic development have been consistent objectives since the current Land Law was approved in 2013.

However, practical enforcement of the Land Law over the last 10 years has showed certain shortcomings of legal provisions, which affects management and use of this important natural resource.

##### 4.2. Defect

- The cause of the above limitations is that the construction of the master plan for the development of industrial zones and economic zones is inadequate, lacking an overall and long-term vision in relation to other economic sectors and to society.

Also related to the living conditions for workers above, but in terms of area, in Clause 4, Article 34 of the draft amendment to Decree 82/2018/ND-CP requires: "Urban - service areas must be set aside 30% of the land area for which compensation, ground clearance and investment has been made in the construction of technical infrastructure to invest in the construction of houses, service works and public utilities for employees working in the industrial park. "

facilities have been describes as enabler that supports the teaching and learning process

Figure 2 – Planning and managing land for industrial parks



(source: internet)

Sahney et al. (2004) describe

physical resources in the form of facilities among the vital inputs required for the success of educational institutions. Facilities have been describes as enabler that supports the teaching and learning process (Sapri et al. 2009)

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### **Acknowledgement**

Thank you editors, friends to assist this publishing

### **Conflicts of interest**

There is no conflict of interest

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