

WINWIN AUDIT

Newsletter 05/2024



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1. Decree No. 32/2024/ND-CP of the Government dated March 15, 2024, on the Management and Development of Industrial Clusters



Some notable new points and significant changes compared to previous Decrees on the management and development of industrial clusters are as follows:

a. To comply with the provisions of the current Land Law (Clause 2, Article 149) regarding the mechanism for leasing land for investment in industrial cluster infrastructure business, and to enhance the operational efficiency of industrial clusters with enterprises as infrastructure investors over the past period, Decree No. 32/2024/ND-CP stipulates that the model for infrastructure investors in industrial clusters includes enterprises, cooperatives, and organizations established and operating in accordance with Vietnamese law to carry out investment activities in industrial cluster infrastructure.

For entities assigned as investors in the construction of technical infrastructure for industrial clusters as regulated in Article 15, Clause 2 of Decree No. 68/2017/NĐ-CP, they shall continue their operations until there is a decision on arrangement and handling by the competent authority. They must fulfill the rights and obligations of investors in constructing technical infrastructure for industrial clusters as stipulated in Decree No. 32/2024/ND-CP and related laws.

b. To comply with the provisions of the Investment Law; to inherit and maintain the principles and management content specified in Decree No. 68/2017/ND-CP and Decree No. 66/2020/ND-CP, which have been effective; to continue institutionalizing the spirit of the Party and State's directives on improving the investment and business environment, administrative reform, and enhancing the responsibilities of local industry and trade management agencies in managing industrial clusters, Decree No. 32/2024/ND-CP continues to stipulate the procedures for establishing and expanding industrial clusters (including the selection of infrastructure investors for industrial clusters). At the same time, it assigns the Ministry of Planning and Investment the responsibility to research and propose to the competent authority to stipulate that infrastructure investment projects in industrial clusters that are in accordance with the approved Investment Report for the establishment or expansion of industrial clusters do not have to undergo the investment policy approval procedures as per the investment law.

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c. Authority is delegated to the provincial People's Committees to decide (in the decision to establish or expand an industrial cluster) on adjustments regarding the name, location changes within the district administrative boundaries, and an increase in area not exceeding 5 hectares compared to the approved plan, in line with the district land use plan and other relevant plans in the area. Additionally, they must update the changes to report to the Prime Minister during the next provincial planning approval period.

d. The provincial People's Committee is assigned, based on its authority and legal regulations, to decide on adjusting or revoking decisions on the establishment or expansion of industrial clusters to align with the actual conditions of the locality.

Regarding the adjustment of the infrastructure investor for industrial cluster technical infrastructure, if the industrial cluster's technical infrastructure is formed using state budget funds, the provincial People's Committee assigns the selected infrastructure investor to manage, repair, and operate the technical infrastructure to serve the collective activities of the industrial cluster. The construction costs of industrial cluster technical infrastructure from the state budget are not included in the land leasing price or the price for using the shared technical infrastructure of the industrial cluster; the management, repair, and operation costs of the technical infrastructure are included in the price for using the shared technical infrastructure of the industrial cluster. In cases where specialized laws stipulate this content, it shall be implemented according to the specialized laws.

e. Regarding investment incentives for projects investing in the construction of technical infrastructure for industrial clusters and projects investing in production and business activities within industrial clusters: Decree No. 32/2024/ND-CP specifies that industrial clusters are areas with difficult socio-economic conditions; investment in the construction of technical infrastructure for industrial clusters is a sector and profession that receives special investment incentives. The application of incentives for projects investing in the construction of technical infrastructure for industrial clusters and projects investing in production and business activities within industrial clusters is carried out according to the regulations of specialized laws (land laws, tax laws, credit laws, and other relevant regulations) to ensure the coherence and uniformity of the legal system. In cases where the law stipulates different levels of incentives, the highest level of incentives shall be applied.

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f. Decree No. 32/2024/ND-CP continues to regulate the transition process for handling the establishment of industrial clusters formed before Decision No. 105/2009/QD-TTg dated August 19, 2009, issued by the Prime Minister on the regulations for managing industrial clusters towards simplicity and flexibility in handling for localities, while still ensuring general principles in industrial cluster management (consolidating the contents of the decision to establish industrial clusters, handling cases for industrial clusters with an area larger than 75 hectares, selecting infrastructure investors for industrial clusters, and handling technical infrastructure projects funded by the state budget - if any). Accordingly, the Decree assigns the provincial People's Committees to, based on the actual situation and effectiveness of industrial cluster operations, review the current status of investment in technical infrastructure, and related legal documents of industrial clusters to clarify the necessity, compliance with legal regulations, feasibility, and decision on the establishment of industrial clusters.

The decree shall come into effect on May 1, 2024.

2. Decree No. 34/2024/ND-CP specifies the list of dangerous goods and the transportation of dangerous goods by road motor vehicles and inland waterway vehicles.

a. The conditions for individuals participating in the transportation of dangerous goods
The provisions according to Article 9 of Decree No. 34/2024/ND-CP stipulate that individuals involved in the transportation of dangerous goods by road vehicles must ensure the following conditions:

- The vehicle operator transporting dangerous goods must ensure that they have the necessary qualifications to operate the vehicle and have undergone training, and been issued a certificate upon completion of the hazardous goods safety training program as stipulated in Decree No. 34/2024/ND-CP.
- Handlers, warehouse personnel, and loaders/unloaders of dangerous goods must undergo safety training and be issued a certificate upon completion of a safety training program specific to the type of dangerous goods they handle, load, unload, or store.

b. Road vehicles transporting dangerous goods must meet the conditions specified in Article 10 of this Decree.

- The vehicles used for transportation must meet the requirements for participating in traffic according to the regulations of the law.
- Specialized equipment of vehicles used for transporting dangerous goods must ensure compliance with national standards or technical regulations, or according to the regulations of the specialized management authority.
- Vehicles transporting dangerous goods must display hazardous goods placards. If a vehicle carries multiple types of dangerous goods, it must display the placards corresponding to each type of goods.

2. Decree No. 34/2024/ND-CP specifies the list of dangerous goods and the transportation of dangerous goods by road motor vehicles and inland waterway vehicles.

c. The placement of placards on both sides, front, and rear of the vehicle must ensure easy observation and recognition.

- After unloading all dangerous goods, if the vehicle does not continue to transport that type of goods, it must be cleaned and the hazardous markings removed or covered on the vehicle used for transporting dangerous goods.

- The transportation unit and the vehicle operator are responsible for cleaning and removing or covering the hazardous markings on the vehicle when they do not continue to transport that type of dangerous goods.

- The decree specifies that organizations and individuals involved in loading, unloading, and storing dangerous goods on transportation vehicles and in warehouses or yards must strictly adhere to the instructions for storage, loading, unloading, and transportation of each type of dangerous goods as specified in the regulations or in the transportation lessee's notice.

- After removing all dangerous goods from the warehouse or yard, the storage area must be cleaned to prevent any impact on other goods.

- Transporting gasoline or oil through tunnels longer than 100 meters is prohibited.

- The decree specifies that the transportation of explosives, gases, gasoline, oil, and other flammable or explosive substances is not allowed through tunnels longer than 100 meters.

- It is not permitted to transport passengers (road users or passengers) together with vehicles (licensed for transporting dangerous goods) carrying explosives, gases, gasoline, oil, and other flammable or explosive substances on the same ferry trip.

This decree shall come into effect on May 15, 2024, replacing Government Decree No. 42/2020/ND-CP dated April 8, 2020, which regulates the list of dangerous goods and the transportation of dangerous goods by road motor vehicles and inland waterway transportation.

3. Decision No. 02/2024/TT-BLĐTBXH dated February 23, 2024, on the amendment and supplementation of certain provisions of Circular No. 21/2021/TT-BLĐTBXH dated December 15, 2021, issued by the Minister of Labor, Invalids and Social Affairs, detailing certain articles of the Law on Vietnamese Workers Working Abroad Under Employment Contracts.

Minister of Labor, Invalids and Social Affairs issued Circular No. 02/2024/TT-BLĐTBXH on February 23, 2024, amending Circular No. 21/2021/TT-BLĐTBXH providing guidance on the Law on Vietnamese Workers Working Abroad Under Employment Contracts 2020.

In which, the detailed provisions on the content of labor supply contracts according to market, industry, profession, and job are as follows:

- For industries, professions, and jobs in the Japanese market as specified in Appendix II issued with Circular No. 02/2024/TT-BLĐTBXH.
- For industries, professions, and jobs in the Taiwan market (China) as specified in Appendix III issued with Circular No. 02/2024/TT-BLĐTBXH.
- For industries, professions, and jobs in the South Korean market as specified in Appendix IV issued with Circular No. 02/2024/TT-BLĐTBXH.
- For industries, professions, and jobs in the Western Asia, Central Asia, and Africa markets as specified in Appendix V issued with Circular No. 02/2024/TT-BLĐTBXH.
- For industries, professions, and jobs in the European and Pacific markets as specified in Appendix VI issued with Circular No. 02/2024/TT-BLĐTBXH.
- For industries, professions, and jobs in the American market as specified in Appendix VII issued with Circular No. 02/2024/TT-BLĐTBXH.
- For industries, professions, and jobs in the Chinese market, Macau (China), and Southeast Asia as specified in Appendix VIII issued with Circular No. 02/2024/TT-BLĐTBXH.
- For international maritime labor as specified in Appendix IX issued with Circular No. 02/2024/TT-BLĐTBXH.
- For labor supply contracts agreed upon by service enterprises and foreign parties, the terms must ensure minimum conditions as stipulated.

Circular No. 02/2024/TT-BLĐTBXH takes effect from May 15, 2024.



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The information in the Newsletter is for general and summary purposes. Therefore, you should contact us directly for advice on a case-by-case basis.

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