**SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom – Happiness**

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**THE LAW ON PUBLIC INVESTMENT (AMENDED)**

*Pursuant to the Constitution of the Socialist Republic of Vietnam,*

*The National Assembly adopts the amended Law on Public Investment to replace the Law on Public Investment numbered 49/2014/QH13 dated 18 June 2014.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of the law**

This law governs the state administration of public investment, the management and use of public investment capital, rights and obligations of relevant agencies, organizations and individuals in the field of public investment.

**Article 2. Target groups**

This law is applicable to agencies, organizations, and individuals who take part in or are related to public investment activities, and the management and use of the public investment capital.

**Article 3. Application of the Law on public investment, international treaties and agreements**

1. The management and use of the public investment capital and public investment activities shall comply with provisions of this law and other related legislations.

2. In the case that international treaties of which the Socialist Republic of Vietnam is a member contain provisions that are in conflict with the provisions of this law, the provisions of such international treaties shall be applicable.

3. The implementation of public investment programs and projects in a foreign country shall comply with international treaties of which the Socialist Republic of Vietnam is a member, the international treaties that the Vietnamese party has signed with the foreign party, and provisions of this law and other related legislations.

**Article 4. Definition of terms**

In this law, the following terms are defined as follows:

1. Investment intention proposal report is the document containing the preliminary study on the rationale, feasibility, effectiveness and envisaged resources of the public investment program, group-B projects, group-C projects that provides input for the decision making of the investment intention by competent authorities.

2. The pre-feasibility study report is the document containing the preliminary study of the rationale, feasibility, effectiveness and envisaged resources of nationally important projects, group-A projects that provides input for the decision making of the investment intention by competent authorities.

3. The feasibility study report is the document containing the preliminary study of the rationale, feasibility, effectiveness and envisaged resources of public investment projects and programs that provides input for the decision making of the investment intention by competent authorities.

4. Ministries, central and local agencies are agencies requested by the Prime Minister to implement the public investment plan, including:

a) Central organs of political organizations, the People’s Supreme Court, the People’s Supremacy, the State Audit, the Office of the President, the Office of the National Assembly, ministries, ministerial-rank agencies, government agencies hereinafter shall be referred to as ministries and central agencies;

b) People's Committee of provinces, cities under the central administration hereinafter shall be referred to provincial People's Committee;

c) Central organs of the Vietnam National Fatherland Front and other political, social organizations;

d) Other agencies and organizations requested to implement public investment plans.

5. The program owner is the agency, organization requested to coordinate and manage the public investment program.

6. The investment owner is the agency, organization requested to manage the public investment project.

7. The public investment program consists of objectives, tasks, solutions, and a public investment portfolio aiming at achieving social – economic development goals.

8. The national target program is a public investment program aiming at achieving social – economic goals of specific period throughout the country.

9. The line agencies are ministries, central and local agencies stipulated in point 4 of this article, organs of political organizations, and organs of the National Assembly that manage public investment programs and projects.

10. Technical public investment management agencies are agencies of Ministry of Planning and Investment tasked with the management of public investment; agencies of ministries, central and provincial authorities; divisions and units of district and commune authorities tasked with the management of public investment.

11. State administration agencies of public investment include the Government, Ministry of Planning and Investment, People's Committees at all levels.

12. A public investment project consists of proposals approved by competent agencies regarding the use of public investment capital for public investment projects in a specified period of time to achieve social – economic development goals.

13. Urgent public investment projects are public investment projects that are implemented immediately to achieve the following goals: protection of the national sovereignty; protection of the national security; avoidance of direct disasters on the life, health and property of communities, property of the state; prevention of severe impact on adjacent structures; timely rescue and mitigation; prevention of impact of force majeure events, response to especially severe environmental and climatic events and other emergency cases as decided by the Prime Minister.

14. Public investment is an investment activity of the state in the social – economic infrastructure programs and projects to support the social – economic development.

15. A Public Private Partnership (PPP) investment is an investment contract between a competent state agency and investors, enterprises to construct, upgrade, operate and manage infrastructure projects or to provide public services.

16. Public investment activities include the development, appraisal and making decision on the public investment intention; the development, appraisal and making decision ò the public investment programs and projects; the development, appraisal, approval, assignment, and implementation of public investment plans; the management and use of public investment capital; the implementation, management, acceptance, hand-over of public investment programs and projects; the monitoring, evaluation, check, inspection, supervision and planning of public investment programs and projects.

17. The public investment plan consists of public investment goals, orientations, program and project portfolios; public investment resource arrangements, fund allocation plans, capital mobilization plans and implementation plans.

18. Capital construction payment defaults are the constructed amounts in the public investment plans that have been accepted by competent authorities but no corresponding funding has been arranged in the 5-year medium term public investment plan and the 3-year plan.

19. The decentralization of state administration management of public investment is the definition of authority and responsibility of agencies, organizations, and individuals in charge of public investment.

20. The public investment capital referred to in this law includes: the state budget as specified in the law on the state budget and other off-budget capital of the state envisaged for public investment and PPP projects.

21. The off-budget capital of the state are resources of state agencies and organizations at the central and local levels earmarked for investment but not included in the state budget yet.

22. The central state budget is public investment spending of the state budget at the central level by central agencies, including: the centrally managed state budget, state bonds, government bonds, official development aid (ODA) and foreign concessional resources.

23. The local state budget is public investment spending of the state budget by local authorities, including: locally managed state budget, budget transfer from the central level, local government bonds, other borrowings in the local state budget.

24. Central state budget targeted transfer is the budget transfer from the central level in support of local authorities implementing public investment programs and projects as assigned by competent agencies.

25. Other resources not yet included in the state budget are resources of ministries, central agencies and provinces that are used for public investments but not yet included in the state budget as per regulations of the Government. The Government shall provide more detailed regulations in this regard.

26. The investment intention is the decision of competent authorities on the key content of public investment programs, and projects that reflect the intention and visions of the authorities on the investment programs and projects that will provide basis for the making of the investment decision.

27. A planning project is a project to develop, appraise, decide, approve or announce and adjust the plan as specified in the Law on planning.

27. An investment preparation project is a public investment project to carry out preparation activities and required procedures in order to develop, appraise, decide an investment intention, and to develop, appraise, and decide an investment project.

**Article 5. Public investment spending types**

1. Social – economic infrastructure investments.

2. Supporting the operation of state agencies, public service providers, political and political-social organizations.

3. Investing in and delivering public goods and services, social benefits.

4. State investments in PPP projects.

5. Supporting the development, appraisal, decision making or approval, announcement and adjustment of plans as regulated in the Law on planning.

6. Compensation of concessional interest, management fee; provision of charter capital of policy banks, other social funds as required by the Government. The Government shall provide implementation guides in this regard.

**Article 6. Types of public investment projects**

1. Public investment projects are classified by their characteristics as follows:

a) Projects with construction component include: new construction, or improvement, upgrade, expansion of existing projects including asset and equipment purchase;

b) Projects without construction component include: asset purchase; acceptance of land use right; equipment purchase and upgrade; and other projects not already specified in a) of this article.

c) Site clearance, compensation and resettlement projects to facilitate the implementation of public investment projects.

2. Depending on the importance and size, public investment projects are classified as project of national importance, group-A project, group-B project and group-C project as more specifically regulated in articles 7, 8, 9 and 10 of this Law.

3. If needed, public investment projects can benefit separated into compensation, support, resettlement and site clearance projects as decided by competent authorities.

**Article 7. Criteria of project of national importance**

Projects of national importance are independent or closely connected projects showing the following characteristics:

1. Containing a public investment capital of VND 35,000 billion or more;

2. Having major impact or potential major impact on the environment, including:

a) Nuclear power plant;

b) Using land converted from national parks, natural conservation areas, landscape protection areas, research forests, and scientific test areas of 50 ha or more; upstream protective forests of 50 ha or more; wind protective forests, sand protective forests, coastal protective forests, land reclamation forests and environment protective forests of 500 ha or more; productive forests of 1,000 ha or more;

3. Using land converted from double season rice land of 500 ha or more;

4. Necessitating the relocation of 20,000 people or more in mountainous areas, or 50,000 people or more in other areas;

5. Projects necessitating special mechanism and policies to be approved by the National Assembly.

**Article 8. Criteria of group-A projects**

Other projects, excluding those specified in Article 7 of this Law, will be classified as group-A projects if they show the following criteria:

1. Projects of all sizes showing one of the following criteria:

a) Top secrete defense and security projects. The grade of confidentiality is assessed as per relevant regulations;

b) Projects producing toxic agents and explosives;

c) Industrial zone, export processing zone, high-tech zone, and high-tech agricultural zone infrastructure projects;

2. Projects valued VND 2,300 billion or more in the following sectors:

a) Transport including bridge, sea port, river port, air port, rail way, national way;

b) Power sector;

c) Oil and gas exploration;

d) Chemical, fertilizer, cement factories;

đ) Mechanical engineering, metallurgy;

e) Mineral mining and processing;

g) Residential construction;

3. Projects valued VND 1,500 billion or more in the following sectors:

a) Transport, except those specified in point 2.a of this article;

b) Irrigation;

c) Water supply, waste water treatment, waste treatment, and other technical infrastructure;

d) Electrical engineering;

đ) Communication and electronic equipment;

e) Pharmaceutical industry;

g) Material production, except those specified in point 2.d of this article;

h) Mechanical engineering, except those specified in point 2.đ of this article;

i) Postal service and tele-communication;

4. Projects valued VND 1,000 billion or more in the following sectors:

a) Agriculture, forestry, aquaculture farming;

b) National park, natural conservation areas;

c) New urban area infrastructure;

d) Industry, except those specified in points 1, 2 and 3 of this article.

5. Projects valued VND 800 billion or more in the following sectors:

a) Healthcare, culture, education;

b) Scientific research, information technology, broadcasting, television;

c) Warehousing;

d) Tourism, sports and games;

đ) Civil engineering, except residential construction as specified in point 2.g of this article;

e) Compensation, resettlement, site clearance projects to facilitate the implementation of public investment programs and projects.

**Article 9. Criteria of group-B projects**

1. Projects specified in article 8.2 of this Law valued VND 120 billion to VND 2,300 billion.

2. Projects specified in article 8.3 of this Law valued VND 80 billion to VND 1,500 billion.

3. Projects specified in article 8.4 of this Law valued VND 60 billion to VND 1,000 billion.

4. Projects specified in article 8.5 of this Law valued VND 45 billion to VND 800 billion.

**Article 10. Criteria of group-C projects**

1. Projects specified in article 8.2 of this Law valued less than VND 120 billion.

2. Projects specified in article 8.3 of this Law valued less than VND 80 billion.

3. Projects specified in article 8.4 of this Law valued less than VND 60 billion.

4. Projects specified in article 8.5 of this Law valued less than VND 45 billion.

**Article 11. Revising public investment project classification criteria**

1. The National Assembly makes decision on the revision of projects of national importance specified in article 7 of this Law.

2. The Government makes proposal to the Standing Committee of the National Assembly to make decision on the revision of public investment projects regulated in articles 8, 9, and 10 of this Law and reports to the next session of the National Assembly.

3. The revision of public investment project classification criteria specified in point 1 and point 2 of this article shall be made in case of major price index change or major adjustment of public investment management authority that is related to project classification criteria, or when other major factors emerge and have a negative effect on the public investment project classification.

**Article 12. Principles of public investment project management**

1. Compliance of public investment capital use and management legislation.

2. Relevance to the social – economic development strategy and the 5-year social – economic development plan of the country, and related plans as specified in the legislations on planning.

3. Strict adherence to the authority and responsibilities of state agencies, organizations, and individuals related to the use and management of public investment capital.

4. Strict adherence to the management principles of public investment capital by types of sources; it is important to ensure focused, integrated, efficient, effective investments and to ensure quality of projects and availability of resources; waste and inefficiency shall be avoided.

5. High level of openness, and transparency of public investment activities.

6. Organizations and individuals are encouraged to invest directly or in PPP projects in the social – economic infrastructure and public service delivery.

**Article 13. Content of the state administration of public investment**

1. Issuance and implementation of public investment legislations.

2. Development and implementation of public investment strategies, programs, plans, solutions and policies.

3. Monitoring, informing on the use and management of public investment capital.

4. Evaluation of public investment; checking, inspecting the implementation of public investment legislations, the compliance with planning, public investment plans.

5. Dealing with violations, complaints, petitions of organizations and individuals related to public investment.

6. Commentating agencies, organizations, individuals who show high performance with regards to public investment.

7. International cooperation in the field of public investment.

**Article 14. Public investment openness and transparency**

1. The content of public investment openness and transparency includes:

a) Policies, legislations and implementation of policies and legislations related to public investment capital;

b) Principles, criteria, and norms of public investment capital allocation;

c) Principles, criteria, and basis for determining the local investment portfolio in the medium term public investment plans and annual plans;

d) Public investment plans, programs in the location; capital allocation for investment programs on an annual basis and as per implementation and disbursement progress;

đ) The local investment portfolio including the size, total investment value, time period, locations; comprehensive impact assessment report;

e) Medium term and annual capital allocation plan by type of sources, including the investment portfolio and the capital amount allocated for each project;

g) The mobilization of different resources for public investment projects;

h) Implementation progress of plans, programs and projects;

i) Implementation and disbursement progress of projects by types of resources;

k) Acceptance and evaluation of projects, programs.

2. The head of agencies, organizations shall disclose the content of public investments as required by relevant legislations.

**Article 15. Public investment plan, program, and project development, appraisal, monitoring, and evaluation expenses**

1. The cost of developing, and appraising investment intention of national target programs, public investment programs is funded with the recurrent expenses of agencies doing these tasks.

2. The cost of developing, and appraising of pre-feasibility studies, the investment intention proposal reports is funded with the preparation cost of the same project.

3. The cost of developing, and appraising of public investment plans is funded with the recurrent expenses of the agencies developing and appraising the plan.

4. The cost of monitoring, evaluation and checking of plans, programs, and projects is funded with the recurrent expenses of agencies doing these tasks.

5. The cost of inspection is funded with the recurrent expenses of the agencies doing the inspection task.

6. In the case of projects funded with ODA and foreign concessional funds it is advisable to seek financial support from donor to pay for such expenses specified in this article.

**Article 16. Prohibited acts in public investments**

1. Making decision on the investment intention that is not aligned with strategies, plans; making decision that is not authorized or does not follow prescribed procedures; making decision without adequate investment capital.

2. Making decision on investment programs, projects without an investment intention having been made by competent authorities in advance; making decision on investments that fall outside the scope, size, total investment value as contained in the investment intention approved by competent authorities. Making decision to adjust the total investment project value that does not comply with public investment legislations.

3. Abuse of office, and authority to acquire, take advantage, commit corrupt acts in the use and management of public investment capital.

4. Collusion of program owners, project owners with consultants resulting in investment intentions and investment decisions being made that cause waste and inefficient use of resources of the state and the country, or cause damage to and violations pf public and community interest.

5. Giving, accepting and broking corruptions.

6. request organizations and individuals to advance investment capital before the investment intention is approved resulting in capital construction cost arrears.

7. Use of public investment capital for wrong purposes, on the wrong target groups, or in excess of cost norms as specified in legislations.

8. Falsification, manipulation of information, dossiers, materials related to the investment intention, investment decision, and the implementation of programs and projects.

9. Intentionally dishonest, wrong, biased reporting resulting in adverse effect on the development, appraisal, and making decision investment plans, programs, and projects.

10. Intentionally dishonest, wrong, biased reporting resulting in adverse effect on the monitoring, evaluation, checking, inspection and dealing with violations during the course of plan, program and project implementation.

11. Intentional destroy, deceive, conceal or keeping of incomplete dossiers, invoices, materials related to the investment intention, decision, implementation of plans, programs, and projects.

12. Hinder the revelation of violations of public investment legislations.

**Chapter II**

**INVESTMENT INTENTION AND INVESTMENT DECISION OF PUBLIC INVESTMENT PLANS, PROGRAMS, AND PROJECTS**

**Part 1**

**DEVELOPMENT, APPRAISAL, DECISION OF INVESTMENT INTENTION**

**Article 17. Authority to make decision on the investment intention of programs and projects**

1. The National Assembly shall make decision on the investment intention of the following programs and projects:

a) National target programs;

b) Projects of national importance.

2. The Government shall make decision on the investment intention of public investment programs financed entirely or partly with central budget resources.

3. The Prime Minister shall make decision on the investment intention of group-A projects using central budget funding, off-budget resources managed by central ministries and agencies and projects specified in Art. 8.1 of this law.

4. Heads of ministries, central agencies shall make decision on the investment intention of the following programs, projects:

a) Group-B, group-C projects financed with own resources of agencies, except projects specified in point 3.c of this article;

b) Projects financed with ODA and foreign concessional resources managed by agencies themselves, except projects specified in point 3.đ of this article.

5. Provincial People’s Councils shall make decision on the investment intention of group-A projects financed entirely with the local budget, other off-budget resources managed by the local authorities, except projects specified in art 8.1 and article 17.3 of this Law.

6. People’s Councils at all levels:

a) People’s Councils shall make decision on the investment intention of public investment programs financed entirely by the local budget, other off-budget resources, and other resources managed by the respective local authorities;

b) If district or commune People’s Councils are not able to make decision on the investment intention as required in point 6.a of this article, the provincial People’s Council shall make decision on the investment intention of the public investment program financed entirely with the local budget, other off-budget resources of the state, and other resources managed by the respective local authorities;

c) If a program is financed with different sources belonging to different administrative levels, the highest level People’s Council having capital in the investment program shall make decision on the investment intention.

7. People's Committees at all levels:

a) People's Committees shall make decision on the investment intention at their respective levels, except projects specified in points 1, 2, 3, 4, 5 and 6 of this article;

b) If district or commune People's Committees are not able to make decision on the investment intention as required in point 7 of this article, they shall seek decision from the higher administrative level;

c) If a program is financed with different sources belonging to different administrative levels, the highest level People's Committee having capital in the investment program shall make decision on the investment intention.

8. Organizations, individuals having the authority to make decision on the investment intention of public investment programs and projects specified in point 1 to 7 of this article shall make decision on the investment preparation, site clearance, compensation or resettlement projects and consider such projects as independent projects or components of the overall public investment projects.

**Article 18. Pre-conditions of the investment intention**

1. The investment shall be aligned with the social – economic development strategy and plan, other related plans approved or decided by competent authorities as required by relevant legislations.

2. No overlapping shall be permitted with other programs, projects for which investment intention or investment decision have been granted.

3. The investment shall be within the public investment capital that is available and can be further mobilized in case of programs, projects financed from different sources.

4. The investment shall be aligned with the public debt service capacity of the Government and respective local governments.

5. The investment shall contribute to the social – economic development, defense and security capacity and the sustainable development.

6. Projects not being subject to an investment intention:

a) Investment preparation project;

b) Planning project;

c) Emergency project;

d) Projects within plans already approved by competent authorities in compliance with the Law on planning, and satisfying provisions of points 1 to 5 of this article regarding the project objectives, size, total value, financing composition, location, time duration, implementation schedule, and financing arrangements;

đ) Projects included in the national target programs, public investment programs already approved by competent authorities in whole;

e) Sub-projects of other projects the investment intention of which has already been granted by competent authorities.

**Article 19. Steps and procedures of approving the investment intention of national target programs, projects of national importance**

1. Agencies tasked with the investment program and project preparation have the following responsibilities:

a) Request sub-ordinate agencies to submit an investment intention report regarding national target programs, projects of national importance;

b) Request relevant agencies or form appraising councils to appraise the investment intention report or the pre-feasibility report;

c) Revise and submit to the Prime Minister the investment intention report and the pre-feasibility report.

2. The Prime Minister shall form a state appraising council under the leadership of the Minister of Planning and Investment to appraise the investment intention report of national target programs and the pre-feasibility report of projects of national importance.

3. The Government shall submit to the National Assembly the proposal on investment intention of national target programs, and projects of national importance.

4. Relevant bodies of the National Assembly shall appraise the proposal on investment intention of national target programs, and projects of national importance summitted by the Government.

5. The National Assembly shall consider and adopt a resolution on the investment intention of national target programs, and projects of national importance. The resolution shall clearly indicate the objectives, size, total value, key technologies, location, time duration, implementation schedule, financing arrangement plan, mechanism and solutions, and implementation policies.

**Article 20. The dossier of investment intention decision of national target programs and projects of national importance**

1. The proposal of the Government.

2. The report on investment intention of national target programs and pre-feasibility report of projects of national importance.

3. Appraisal report of the state appraisal council.

4. Related materials.

**Article 21. Procedures and content of investment intention appraisal of national target programs and projects of national importance**

1. The procedures are as follows:

a) At least 60 days prior to the opening of the National Assembly session, the Government shall submit the investment intention dossier of national target programs and projects of national importance to the appraising bodies of the National Assembly;

b) The appraising bodies have the right to request the Government and related agencies and individuals to report on issues related to the national target programs, projects of national importance; conduct field surveys regarding the content contained in the proposals of national target programs, projects of national importance;

c) Requested agencies and individuals shall provide full information and materials for the survey.

2. The content of field surveys includes:

a) The relevance to the objectives of the national target programs, projects of national importance;

b) The necessity of the national target programs, projects of national importance;

c) The compliance with related legislations;

d) The alignment with social – economic development strategies, plans and related plans as required by the legislations on planning;

đ) Key indicators of programs, projects including objectives, size, investment type, location, acquired land, time duration, implementation schedule, key technologies, environmental protection solutions, financing sources, investment recovery and debt repayment outlook;

e) Social – economic development, defense and security, and sustainable development;

g) Alignment with the land use planning, national resource planning, relocation plans in the case of domestic investment projects of national importance;

h) Risk assessment of the investment country in the case of overseas investment projects of national importance.

**Article 22. Steps and procedures of investment intention approval of public investment programs of the Government**

1. The program owners have the following responsibilities:

a) Request sub-ordinate agencies to submit the investment intention report;

b) Request relevant agencies to appraise or form an appraisal council to appraise the investment intention report;

c) Revise and submit to the Prime Minister the investment intention report.

2. The Prime Minister shall form an inter-agency appraisal council or request Ministry of Planning and Investment to coordinate the appraisal of the investment intention report. In the case that an appraisal council is formed, Ministry of Planning and Investment shall coordinate the financing sources and arrangement plans.

3. Submit to the Government the final investment intention report taking into account appraisal comments made as per point 2 of this article.

4. The Government shall consider and make decision on the investment intention including its objectives, size, total value, time duration, implementation schedule, financing plan, mechanism and solutions, and implementation policies.

**Article 23. Steps and procedures of investment intention approval of group-A projects by the Prime Minister**

1. Heads of ministries and central agencies shall have the following responsibilities:

a) Request sub-ordinate agencies to submit the pre-feasibility study report;

b) Request relevant agencies to appraise or form an appraisal council to appraise the pre-feasibility study report, the financing sources and financing arrangement plan;

c) Request agencies specified in point a of this article to finalize the pre-feasibility study report for submission to the Prime Minister.

2. The Prime Minister shall form an inter-agency appraisal council or request an agency to coordinate the appraisal of the pre-feasibility study report, its financing sources, and the financing arrangement plans as proposed by Ministry of Planning and Investment.

3. The inter-agency council or the appointed appraising agency as specified in point 2 of this article shall submit their appraisal comments to the respective ministries, central and local agencies for finalizing and submitting the pre-feasibility study report to the Prime Minister.

4. The inter-agency council or the appointed appraising agency as specified in point 2 of this article shall invite expert agencies and individuals to take part in the appraisal of the pre-feasibility study report or request the investment owner to appoint expert agencies and individuals to take part in the appraisal of the inter-agency council or the appointed appraising agency as specified in point 2 of this article shall. Their comments will be inputs for the appraisal and decision making on the programs, projects. The survey and appraisal cost shall be included in the project preparation cost.

5. The Prime Minister shall decide on the investment intention including the project objectives, size, total value, financing composition, location, time duration, implementation schedule, and financing plan.

**Article 24. Steps and procedures of investment intention approval of group-A projects under provincial People’s Councils**

1. Chairmen of provincial People's Committees shall have the following responsibilities:

a) Request relevant agencies or People's Committees at lower levels to conduct the pre-feasibility study;

b) Form an appraisal council under the leadership of a Vice-chairman comprising of a line agency as permanent council member, and other related agencies as ordinary members to appraise the pre-feasibility study report, the financing sources and financing plan;

c) Request agencies specified in point a of this article to finalize and submit the pre-feasibility study report to the People’s Council taking into accounts appraisal comments mentioned in point b of this article;

2. The People’s Council shall make decision on the investment intention including the project objectives, size, total value, financing composition, location, time duration, implementation schedule, and financing plan.

**Article 25. Steps and procedures of investment intention approval of projects financed with ODA and donor’s concessional capital**

1. With reference to the social – economic development strategy and the 5-year social – economic development plan of the country, Ministry of Planning and Investment shall coordinate wit Ministry of Finance, other related agencies and the donors to develop investment directions well aligned with priority usages of ODA and concessional resources.

2. With reference to the directions and priorities of ODA and concessional funding usage, the funding needs, and funding conditions, the line agency shall submit to Ministry of Investment and Planning, Ministry of Finance a funding request and the accompanying project / program proposal.

3. Ministry of Investment and Planning shall coordinate with related agencies to assess the needs of implementing the project, program, to primarily assess its feasibility, socio-economic and environmental impact, and any impact, if any, on the medium term public investment plan, and to select projects for approval by the Prime Minister. MOF shall coordinate the determination of incentives, the impact of ODA and concessional loans on the public debt safety criteria, the domestic financial mechanism for approval by the Prime Minister..

4. The steps and procedures specified in articles 19, 20, 21 of this Law shall be applicable to national target programs and projects of national importance.

5. The steps and procedures specified in article 22 of this Law shall be applicable to programs the investment intention of which is subject to the approval by the Prime Minister.

6. The steps and procedures specified in article 23 of this Law shall be applicable to group-A projects.

7. The steps and procedures specified in points c, d, and đ of this article shall be applicable to other programs, projects the investment intention approval of which is subject to the approval by the Prime Minister:

a) The executing agency shall submit to Ministry of Planning and Investment the pre-feasibility study report or the investment intention proposal;

b) Ministry of Planning and Investment shall appraise and submit to the Prime Minister the pre-feasibility study report or the investment intention proposal, the financing sources and the financing arrangement plan;

c) The Prime Minister shall consider and decide on the investment intention.

8. Regarding projects the investment intention of which is not subject to approval of agencies, organizations, and individuals specified in points 17.1, 17.2, and 17.3 of this Law:

a) The executing agency shall obtain opinion from Ministry of Planning and Investment and Ministry of Finance, and other agencies related to the project investment intention;

b) Taking into account opinions of agencies, the executing agency shall conduct project appraisal and make decision on the investment intention.

**Article 26. Steps and procedures of investment intention approval of group-B and group-C projects financed with public investment capital managed by ministries and central agencies**

1. Heads of ministries, central agencies shall have the following responsibilities:

a) Request sub-ordinate agencies to submit the project investment intention proposal;

b) Request relevant agencies to appraise or form an appraisal council to appraise the investment intention proposal, the financing sources and financing arrangement plan;

c) Request the agency specified in point a of this article to revise the project investment intention proposal.

2. Based on the appraisal results specified in point 1 of this article, heads of ministries, central agencies shall make decision on the investment intention including the project objectives, size, total value, financing composition, location, time duration, implementation schedule, and financing plan.

**Article 27. Steps and procedures of investment intention approval of group-B and group-C projects financed with public investment capital managed by local authorities**

1. Chairmen of People's Committees at all levels shall have the following responsibilities:

a) Request a line agency of the People's Committee at the immediately lower level to submit the project investment intention proposal;

b) Form an appraisal council or request an agency to appraise the investment intention proposal, the financing sources and financing arrangement plan;

c) Request the agency specified in point a of this article to revise the project investment intention proposal.

2. Regarding projects financed with budget resources from different levels:

a) The provincial public investment management agency shall appraise the central targeted financing sources, and the provincial budget resources. The appraisal results shall be submitted to the People's Committee at the relevant level for making decision on the investment intention.

b) The district or commune public investment management agency shall appraise the corresponding local financing sources, and submit the appraisal results to the People's Committee at the relevant levels for making decision on the investment intention.

3. The People's Committee at the relevant level shall make decision on the investment intention of group-B and group-C projects including the project objectives, size, total value, financing composition, location, time duration, implementation schedule, and financing plan.

**Article 28. Principles, steps, and procedures of investment intention approval of overseas public investment projects**

1. The principles of approval of overseas project investment intention shall be applicable if there is no regulation on investment intention specified in international treaties that Vietnam is a member, or the international treaty signed between Vietnam and the foreign party.

2. The steps, procedures on overseas public investment project investment intention approval shall comply with regulations of the Government.

**Article 29.** **Principles, steps, procedures, and content of investment intention approval of PPP projects**

Principles, steps, procedures, and content of investment intention approval of PPP projects shall comply with PPP legislations.

**Article 30. Content of the investment intention proposal of public investment programs**

The key content of the investment intention proposal of public investment programs includes:

1. The necessity of the program regarding the achievement of social – economic development strategies and plans, and other plans as per regulations in the legislations on planning;

2. Objectives, scope and size of the program;

3. Estimated total project value, financing source composition, project portfolio, fund availability and mobilization;

4. The financing arrangement plan and schedule that is aligned with the capital mobilization capacity and priority rank in order to ensure effective and focused investments;

5. Estimated cost of implementation and post-completion operation;

6. Preliminary analysis and evaluation of the social and environmental impact of the program, social – economic return of the investments;

7. Break-down of sub-projects as per current regulations;

8. Implementation measures.

**Article 31.** **Content of the pre-feasibility study report of projects of national importance and group-A projects**

1. The content of the pre-feasibility study report of projects of national importance and group-A projects with a construction component shall comply with provisions of the Law on construction.

2. The key content of the pre-feasibility study report of projects of national importance and group-A projects without construction component shall include:

a) The necessity of the investment, conditions of the investment, assessment of the alignment the planning as per legislations on planning;

b) Forecast of needs, service coverage, planned investment objectives, size and type;

c) Region, location, estimated needs of land, and other national resources;

d) An analysis of the technologies to be employed as per regulation on technological and technical know-how transfer, provisions of materials, equipment, energy, services, infrastructure;

đ) Preliminary analysis and selection of investment options, size and investment items;

e) The comprehensive plan on site clearance, land acquisition, resettlement, and environmental protection measures;

g) Preliminary analysis and assessment of the environmental impact as per regulation of the law on environment and social impact of the project;

h) Preliminary assessment of the total project value, capital mobilization plan, capital source composition;

i) Preliminary estimation of operation, maintenance, major repair cost in the period after project completion;

k) Project implementation schedule with break-down into investment stages;

l) Preliminary assessment of the project social – economic returns;

m) Break-down of the project into sub-projects, if any;

n) Implementation measures.

3. Art. 25.2.a the law on environmental protection 55/2014/QH13 shall be amended as follows: “a) Making investment decision as mentioned in Art. 18 of this law. In the case of projects that are subject to investment intention the competent authorities shall refer to the preliminary environmental impact assessment to approve the investment intention of projects specified in Art. 18 of this law. The Government shall stipulate details of the preliminary environmental impact assessment.”

**Article 32. Content** **of the investment intention proposal of group-B and group-C projects**

The key content of the investment intention proposal of group-B and group-C projects includes:

1. The necessity of the investment, conditions of the investment, assessment of the alignment the planning as per legislations on planning, the investment plan;

2. The investment objectives, size, location and scope;

3. Estimated total project value, the capital source composition, the capital availability, the capital mobilization, and other potential resources;

4. Explanation of the construction plan as per legislations on construction; explanations on the technologies as per legislations on technology transfer;

5. Estimated implementation schedule, financing schedule that is aligned with funding availability and mobilization, priority order in order to ensure effective and focused investments;

6. Preliminary estimated implementation and project operation cost;

7. Preliminary analysis and assessment of the environmental impact as per legislations on the environment and social – economic impact returns;

8. Break-down of the project into sub-projects, if any;

9. Implementation measures.

**Article 33.** **Dossier, content, and time of appraisal of investment intention of programs and projects**

Dossier, content, time, and fund availability appraisal of investment intention of programs and projects shall comply with regulations of the Government.

**Article 34. Decentralization of funding source and availability appraisal of programs, projects**

1. Ministry of Planning and Investment shall coordinate the appraisal of the sources and availability of fund regarding:

a) National target programs;

b) National important projects;

c) Public investment programs the investment intention of which is approved by the Government;

d) Public investment projects the investment intention of which is approved by the Prime Minister.

2. Ministries, central agencies, investment management agencies shall lead and coordinate with related agencies to appraise the sources and availability of funds of projects financed with public investment funds managed by themselves, except projects specified in point 1 of this article.

3. People's Committees of all levels shall request respective investment management agencies to lead and coordinate with related agencies to appraise the sources and availability of funds of projects financed with public investment funds managed by themselves, except projects specified in point 1 of this article.

**Article 35. Adjustments of the investment intention**

1. Authority of adjusting investment intention:

a) Organizations, individuals who made decision on the investment intention shall have the authority to adjust the same investment intention in line with article 17 of this Law;

b) If the adjustments lead to a change of the initial investment intention decision, or increase the project size, or change the classification of projects, programs, the authorities corresponding to the new project classification shall make decision on the investment intention adjustment in line with art 17 of this Law.

2. Steps and procedures of investment intention adjustment:

a) Provisions of articles 19, 20, and 21 of this Law shall be applicable to projects of national importance;

b) Provisions of articles 23 and 24 of this Law shall be applicable to group-A projects;

c) Provisions of article 26 of this Law shall be applicable to group-B and group-C projects;

d) Provisions of article 27 of this Law shall be applicable to group-B and group-C projects managed by People's Committees;

đ) The Government shall issue guidance on the investment intention adjustment proposal dossier.

3. The Government shall provide detailed regulations on investment intention adjustments.

**Part 2**

**DEVELOPMENT, APPRAISAL, DECISION ON PUBLIC INVESTMENT PROGRAMS, PROJECTS**

**Article 36. Authority to make decision on investment programs, projects**

1. The Prime Minister shall make investment decision of:

a) National target programs, projects of national importance the investment intention of which has been approved by the National Assembly;

b) Public investment programs the investment intention of which has been approved by the Government;

c) Programs, projects financed with ODA and donor’s concessional resources in the defense, security, religious sectors and other programs as regulated by the Government.

2. Heads of ministries, central agencies:

a) Shall make decision on Group-A, group-B, group-C projects financed with public investment capital under their own management;

b) Shall make decision on Group-A, group-B, group-C projects financed with ODA and donor’s concessional resources under their management, except projects specified in point 1 of this article;

c) Shall be authorized to make the investment decision of group-B, group-C projects specified on points a and b above or delegate the authority to their sub-ordinate agencies.

3. Chairmen of provincial People's Committees:

a) Shall make decision on programs financed entirely with provincial budget, and other provincial off-budget resources of the state envisaged for investment;

b) Shall make decision on group-A, group-B, group-C managed at the provincial level, except projects specified in point 1.c of this article.

4. Chairmen of district and commune People's Committees:

a) Shall make decision on investment programs financed entirely with district or commune budget and other off-budget resources of the state envisaged for investment.

b) Shall make decision on group-B, group-C projects financed entirely with district or commune budget and other off-budget resources of the state envisaged for investment.

**Article 37. Basis for the development, appraisal and decision on investment programs, projects**

1. The social – economic development strategy and plan.

2. The related planning as per legislation on planning.

3. The necessity of the programs, projects.

4. Objectives of the programs, projects.

5. Investment intention approved by competent authorities.

6. The public capital mobilization and availability outlook, other resources.

**Article 38. Steps, procedures and decision on national target programs**

1. Based on the investment intention approved by the National Assembly the program owner shall submit to the Prime Minister the feasibility study report.

2. The Prime Minister shall form a state appraisal council headed by the Minister of Planning and Investment to appraise the program.

3. The state appraisal council shall appraise content specified in article 44.1 and 45.2 of this Law.

4. With reference to the opinions received from the state appraisal council, the program owner shall revise the feasibility study report and send it together with a draft investment program decision to the state appraisal council who would consider and submit it to the Prime Minister for approval.

5. The Prime Minister shall consider and make decision.

**Article 39. Steps, procedures, decision on public investment programs the investment intention of which has been approved by the Government**

1. Based on the investment intention as approved by the Government, the program owner shall make a plan and carry out the appraisal as required by legislations; the results shall be submitted to the Prime Minister.

2. Ministry of Planning and Investment shall carry out the appraisal specified in article 44.1 and 45.2 of this Law.

3. The program owner shall revise the investment program, draft an investment decision and send it to Ministry of Planning and Investment for further consideration and submission to the Prime Minister.

4. The Prime Minister shall consider and make decision.

**Article 40. Steps of development, appraisal and making decision of public investment programs the investment intention of which has been approved by People's Councils**

1. Based on the investment intention as approved the People's Council the program owner shall develop the investment program and arrange for its appraisal and submit to the People's Committee at the same level.

2. The People's Committee shall carry out the appraisal as specified in article 44.1 and article 45.2 of this Law.

3. The program owner shall revise the investment program, draft an investment decision and send it to the chairman of the People's Committee for consideration and decision.

**Article 41. Steps of project development, appraisal and making decision**

1. Projects of national importance:

a) Based on the investment intention as approved by the National Assembly, the investment owner shall submit a feasibility study report to the line agency for consideration and further submission to the Prime Minister;

b) Ministry of Planning and Investment shall form a state appraisal council to appraise the project;

c) The state appraisal council shall appraise as specified in article 44.2, 44.3 and article 45.2 of this Law;

d) With reference to appraisal opinions the project owner and the line agency shall revise the report, adopt it and submit to the state appraisal council;

đ) The state appraise council shall submit the report to the Prime Minister for consideration and making the decision on the investment project.

2. Projects with no construction component:

a) Based on the investment intention as approved by competent authorities, the investment owner shall submit a feasibility study report to the agencies authorized to make the investment decision;

b) Heads of ministries, agencies, chairmen of People's Committees at all levels shall form appraisal councils or request a relevant agency to carry out the appraisal of the project;

c) The People's Council or a public investment management agency shall appraise the report as specified in article 44.2 and article 45.2 of this Law;

d) Upon receiving the final feasibility study report as appraised in point c of this article, the competent authorities shall make the decision on the investment project.

3. The steps of project development, appraisal and making the investment decision with a construction component shall comply with legislation on construction and other related legislations, except in the case of projects of national importance.

4. Steps, content, appraisal and decision making on PPP projects shall comply with legislations on PPP investments, except in the case of projects of national importance.

5. Investment preparation projects and planning projects:

a) Based on the responsibility of investment preparation, survey and planning as approved by the competent authorities, the project owner shall make and submit to competent authorities an investment preparation and planning budget;

b) Heads of ministries, central agencies, chairmen of People's Committees shall form appraisal councils or request a public investment management agency to appraise the project preparation and planning budget estimation;

c) The appraisal council or the public investment management agency shall appraise the budget estimation with reference to current legislations, criteria and cost norms applicable to project preparation and planning.

d) Competent authorities shall make the investment decision upon the completion of the total project preparation and planning budget as appraised under point c above.

**Article 42. Steps of development, appraisal, making decision on programs, projects financed with ODA and donor’s concessional funding**

1. Upon obtaining the investment decision, the line agency shall make the decision on the investment owner, request the investment owner to together with the donor carry out the feasibility study of the programs, projects and seek the investment decision from the competent authorities.

2. In the case of programs, projects falling under the decision authority of the Prime Minister, provisions in article 36.1.c of this Law shall apply:

a) The steps of development, appraisal, decision making on the national target programs, projects of national importance shall comply with provisions of article 38 and article 41.1 of this Law;

b) Ministry of Planning and Investment shall appraise feasibility study reports of other projects and seek approval from the Prime Minister.

3. Heads of line agencies shall be responsible for carrying out the appraisal and making decision on programs and projects in their respective authority.

4. In the case of programs, projects financed with ODA and donor’s concessional funding and subject to domestic onlending financial mechanism, the development, appraisal and investment decision making shall comply with provisions of this Law; and the financial plan as well as the financial capacity of the project owner shall be appraised as required by legislations on public debt management and other related legislations.

5. The appraising agency shall seek opinions from stakeholders, and take into account the donor’s steps, procedures, schedule, and opinions.

**Article 43. Adjustments to programs and projects**

1. Competent authorities as specified in article 36 of this Law shall make adjustments to programs in the following cases:

a) There is a change to the objectives and implementation environment of the social – economic development strategy, plan, and related plan as per current legislation;

b) When the competent authorities make adjustment to and cancel the investment intention;

c) Force-majeure events lead to changes in investment objectives, size, cost, and implementation duration.

2. The competent authorities making investment decision as per article 36 of this Law shall make adjustments to the project proposal in the following cases:

a) Force majeure events leading to changes in the project objectives, size, cost and implementation duration;

b) National catastrophes, fires and other force majeure events happening after the insurance period of the project has expired;

c) Emergence of elements that improve the financial, social – economic returns of the project due to the project adjustments, and the competent authorities have granted permission in this regards;

d) When the planning adjustments have direct impacts on the project;

đ) When the actual price index of the implementation period exceeds the price index used for the calculation of price variation contingency contained in the total project value as approved by competent authorities.

3. The competent authorities can only make adjustments to the project after conducting inspection and assessment as required by this Law.

4. The steps, content, and appraisal of the project, program adjustment shall comply with regulations of the Government.

5. In the case that adjustments lead to increased project value and as such re-classification of the project, the corresponding competent authorities shall make adjustments as specified in article 36 of this Law. The Government shall provide more detailed regulations on the implementation of this rule.

6. In the case that adjustments lead to increased project value above the authority of the current competent authorities, the program, project owner shall proceed with adjustment procedures prior to the adjustments can be made as per article 36 of this Law by the new competent authorities.

**Article 44. Content of the program, project feasibility study report**

1. The feasibility study report of an public investment program shall contain the following:

a) The necessity of the investment;

b) Review of the sector, sub-sector related to the program objectives and scope, urgent issues to be addressed in the program;

c) The overall objective, specific objectives, targets in each period;

d) Scope and size of the investment program;

đ) Sub-projects to be implemented to support the achievement of the overall objective, sequence and time period of implementation of sub-projects;

e) Estimated total funding, cost allocation by objectives and implementation period, funding sources and mobilization plan;

g) Time schedule and estimated implementation period;

h) Implementation solutions, mechanism and policies to be applied, possibilities of integrating and coordinating with other programs;

i) International cooperation needed, if any;

k) Program implementation;

l) Social – economic return assessment.

2. A feasibility study report of projects without construction component shall contain the following:

a) The necessity of investment;

b) Alignment with related planning as per legislations on planning;

c) Analysis, identification of objectives, tasks, outcome; analysis, selection of an adequate program size; break-down of the program into adequate phases; selection of adequate investment type;

d) Analysis of national, technical – economic environment, site selection;

đ) Analysis of the technology as required by legislations on technology transfer;

e) The method of project management, and operation;

g) Environmental impact assessment and environmental protection solutions;

h) A comprehensive site clearance, land acquisition, and resettlement plan;

i) Estimated project implementation time plan, key milestones of implementation;

k) The total investment value, capital source composition, capital mobilization plan;

l) Estimation of maintenance, repair cost during the operation period;

m) The project management issues, including identification of the project owner, selection of project implementation supervisor, definition of the relationship of related players in the project implementation and operation;

n) Project return analysis, including its impact on the social – economic environment, defense, security, and the investment recovery outlook, if any.

3. The content of the feasibility study report of a project with construction component shall comply with legislations on construction, legislation on technology transfer and other related legislations.

**Article 45. Dossier, content, period of program, project appraisal**

1. The program, project appraisal dossier includes:

a) The request for program, project appraisal;

b) The feasibility study report of the program, project;

c) Other related materials.

2. The appraisal content and time of programs, projects shall comply with regulations of the Government.

**Chapter II**

**DEVELOPMENT, APPRAISAL, APPROVAL AND PLAN ASSIGNMENT OF PUBLIC INVESTMENT**

**Part 1**

**GENERAL PROVISIONS**

**Article 46. Public investment classification**

1. Public investment plans are classified by duration, including:

a) 5-year medium term public investment plan that is made for a period of 5 years and aligned with the 5-year social – economic development plan;

b) The 3-year public investment plan is made on a rolling basis and in alignment with the annual public investment plans, the 5-year medium term public investment plan, the 3-year financial – budget plan of the Government as a source of reference and implementation projection of the 5-year medium term public investment plan;

c) Annual public investment plan to support the implementation of the medium term public investment plan aligned with the annual social – economic development plan and the annual public investment capital planning and the medium term public investment plan.

2. Public investment plans are classified by administrative level of management as follows:

a) National public investment plan;

b) Public investment plan of ministries, central agencies;

c) Public investment plans of local governments.

3. Public investment plans are classified by source of funding as follows:

a) Central budget public investment plans including sector investment plan, public investment programs, contributions from the central budget in PPP projects of ministries, central agencies;

b) Local budget public investment plans including contributions from the local budget to PPP projects;

c) Investment plans financed with other off-budget resources of the state including contributions to PPP projects from other off-budget resources.

**Article 47. Basis of the 5-year, 3-year and annual public investment plans**

1. The basis of the 5-year medium term public investment plans includes:

a) The current status and the implementation of the preceding 5-year social – economic development plan and the preceding medium term public investment plan;

b) The social – economic development strategy, the 5-year social – economic development of the country, sector, sub-sector, province; the national debt strategy; priority investments contained in the 5-year development plans of the country, sector, sub-sector and province;

c) Related planning as per the legislations on planning;

d) Capital needs and forecast of capital mobilization from different sources for the development of the social – economic infrastructure, the state budget availability, other off-budget resources of the state;

đ) Forecast of changes in the international and domestic environment that may have an impact on the capital mobilization of the project;

e) Mechanism and policies for the capital mobilization from different sources for social – economic infrastructure development.

2. Basis of the 3-year public investment plan:

a) The implementation progress of the 5-year medium term public investment plan as of the current year; urgent and newly emerging tasks in the medium term public investment plan;

b) Forecast of public investment funding needs, spending areas, and availability in the current plan year and the next 2 years in alignment with the 3-year national financial – budget plan.

2. Basis of the annual public investment plan:

a) The implementation status of the social – economic development plan of the country, sector, sub-sector, province; implementation result of the public investment plan in the preceding year;

b) Annual social – economic development plan;

c) The 5-year medium term public investment plan, and the 3-year public investment plan;

d) Funding needs and availability for social – economic infrastructure development in the current plan year considering all possible sources.

**Article 48. Planning principles of the 5-year medium term public investment plan, the annual public investment plan**

1. Relevance to the social – economic development strategy, the 5-year social – economic development plan, the annual social – economic development plan of the country, the sector, sub-sector, and provinces and other approved plans.

2. Relevance to the budget availability, funding mobilization from other sources; alignment with macro-economic balances and ensuring the public investment safety margin.

3. The public investment capital allocation shall comply with principles, criteria, norms as approved by competent authorities in each specific periods.

4. Budget allocation priorities shall comply with development objectives and directions of sectors, sub-sectors, territorial areas in each specific periods.

5. Openness, transparency, and equity.

6.Centralized and consistent alignment of objectives, mechanism, and policies; decentralized investment management to provide more autonomy to ministries and central agencies as allowed by related legislations aiming at increased efficiency.

7. the annual public investment plan shall be aligned with the approved 5-year medium term public investment plan and the 3-year public investment plan.

**Article 49. Content of the 5-year medium term public investment plan to be approved by competent authorities**

1. The implementation status and results of the preceding public investment plan.

2. Social – economic development objectives; directions of the medium term public investment plan.

3. Budget availability and mobilization outlook; estimated total funding needs required to achieve social – economic development goals of the sectors, sub-sectors in the medium term, including planning cost, investment preparation cost, project implementation cost, payment for advances, payment of other loans from the local budget.

4. Principles, criteria of medium term investment funding allocation.

5. Order of priorities, grouping by sector, sub-sector, territorial area in alignment with budget availability and mobilization for achieving the 5-year social – economic development objectives, tasks and directions.

6. Implementation measures and projected results.

**Article 51. Content of the annual public investment plan**

1. Implementation status of the previous public investment plan.

2. Public investment directions in the current plan year.

3. Budget availability and mobilization in the current plan year.

4. List of projects and allocated funding for each projects in the 5-year medium term public investment plan, the 3-year public investment plan, and the annual plan.

5. Implementation measures and projected results.

**Article 52. Budget allocation principles of the 5-year medium term public investment plan, the 3-year public investment plan, and the annual public investment plan**

1. The aim is to achieve the objectives approved in the social – economic development strategy and plan; no fund shall be allocated to projects outside the public investment sector.

2. Compliance with allocation principles, criteria and directions as approved by competent authorities.

3. Funds shall be allocated in a focus manner to speed up the implementation of key projects having major impact on the social – economic development of the country, sectors, and provinces.

4. Within a sector, sub-sector, the funding allocation shall follow the following order of priority:

a) Projects that have been completed, handed over, but no sufficient funding has been allocated; projects to be completed in the plan period; counterpart funding for ODA and concessional funding projects; state contributions to PPP projects;

b) Bridging projects implemented as per approved schedule;

c) New projects meeting requirements specified in point 5 of this article.

5. The funding allocation for new projects shall meet the following requirements:

a) The programs, projects meet fund allocation criteria listed in article 53, article 54 and article 56 of this Law;

b) There is sufficient funding for completing the approved programs, projects.

6. The National Assembly shall decide on the timing and use of the contingency budget in the 5-year medium term public investment plan to address emerging issues during the medium term public investment plan implementation.

The Government shall provide guidance on the timing and use of the contingency fund of central ministries and agencies in the medium term public investment plan in order to address emerging problems during the medium term public investment plan implementation.

**Article 53. Programs, projects on the 5-year medium term public investment plan shall meet one of the following requirement:**

1. The transion program, project is on the list of the previous 5-year medium term public investment plan.

2. The project whose investment intention has been approved.

3. The investment preparation and planning have been approved by competent authorities.

**Article 54. Conditions for the fund allocation of projects in the annual public investment plan**

1. The program, project is on the 5-year medium term public investment plan, except emergency projects.

2. The program, project has been approved by competent authorities.

3. Funding for new projects shall only be allocated after the investment procedures have been completed, and the minimum disbursement ratio in the first year is ensured as it is in line with Government regulations and project classification specified in articles 7, 8, 9, and 10 of this Law.

**Article 55. Investment preparation, planning, and project implementation cost in the medium term public investment plan and annual public investment plans**

1. The investment preparation cost is used for:

a) Developing, appraising, and deciding on the project investment intention;

b) Developing, appraising, and deciding on the investment project;

2. The planning cost is used for the development, appraisal and making decision or approval and making public the planning or its amendment as required by legislations on planning.

3. The implementation cost is used for site clearance, and implementation of projects that have been completed but no sufficient funding has been arranged, projects to be completed, ongoing projects, and new projects.

4. The arrangement of fund for project preparation, development of planning, and project implementation shall comply with regulations of the Government.

**Article 56. Steps of the development, and appraisal of the 5-year medium term public investment plan**

1. Prior to March 31 of the 4th year of the preceding medium term public investment plan, the Prime Minister shall issue guidance on the development of the following medium term public investment plan, including objectives, directions, and assign the plan development job to relevant agencies with reference to the strategic objectives and directions of the 5-year social – economic development plan.

2. Prior to May 15 of the 4th year of the preceding medium term public investment plan, Ministry of Planning and Investment shall provide guidance to ministries, central agencies and provincial authorities on the objectives, requirements, content, and time schedule for the development of the following medium term public investment plan.

3. With reference to the instructions of the Prime Minister and the guidance of Ministry of Planning and Investment, ministries and central agencies shall:

a) Request public investment management agencies to provide guidance on medium term public investment plan development;

b) Request sub-ordinate agencies to develop medium term public investment plans for the following period within their mandate and report to the upper level line agencies prior to September 15 of the 4th, and to the public investment management agencies prior to October 15;

c) Request the public investment management agencies to appraise the public investment plans by November 15;

d) Request public investment management agencies to put together, submit to the competent authorities, and submit the finalized medium term public investment plan to Ministry of Planning and Investment by December 31.

4. With reference to the instructions of the Prime Minister and the guidance of Ministry of Planning and Investment, provincial People's Committees shall:

a) Provide guidance to local agencies prior to June 15 of the 4th year in the preceding medium term public investment plan on the next medium term public investment plan;

b) Request users of public investment capital to develop, appraise the next period medium term public investment plan in their authority and at the relevant administrative level. The medium term public investment plan shall be submitted to the upper level line agencies prior to September 15 of the 4th year of the preceding medium term public investment plan. Such plans shall be submitted to the provincial departments of planning and investment prior to October 15 of the same year;

c) Carry out the appraisal or request the provincial department of planning and investment to appraise the medium term public investment plan submitted by provincial agencies prior to November 15 of the 4th year of the preceding medium term public investment plan;

d) Request the provincial department of planning and investment to develop the next period’s medium term public investment plan and submit it to the provincial People's Committee prior to November 15 of the same year;

đ) Obtain opinions of the provincial People's Council on the next period’s medium term public investment plan including the portfolio of projects financed with public investment capital and the fund allocation plan for each project;

e) Revise and submit to Ministry of Planning and Investment, Ministry of Finance the next period’s medium term public investment plan prior to December 31 of the 4th year of the preceding medium term public investment plan.

5. District and commune People's Committees shall develop and appraise or request public investment management agencies to develop and appraise their next period’s medium term public investment plan. Such plans shall be submitted to the district, commune People's Council for comments and the final version shall be submitted to the provincial People's Committee as specified in point 4 of this article.

6. The Government shall estimate the budget availability for the next period’s development investment prior to December 31 of the medium term public investment plan.

7. Between February 1 and April 30 of the 5th year of the preceding medium term public investment plan, Ministry of Planning and Investment shall coordinate the appraisal the medium term public investment plan and budget allocation plans of ministries and central agencies.

8. Upon receiving opinions from Ministry of Planning and Investment, provincial People's Committees shall:

a) Request district and commune People's Committees to revise their medium term public investment plan and obtain opinions from to the People's Councils at the same administrative level. The revised plans shall be submitted to the provincial People's Committees prior to May 31 of the 5th year of the preceding medium term public investment plan;

b) Request provincial departments of planning and investment to revise the provincial medium term public investment plan and submit to the provincial People's Committees who shall submit the plans to the provincial People's Councils prior to June 15 of the 5th year of the preceding medium term public investment plan;

c) Finalize and submit to Ministry of Planning and Investment and Ministry of Finance the next period’s medium term public investment plan prior to June 30 of the 5th year of the preceding medium term public investment plan.

9. Upon receiving opinions of Ministry of Planning and Investment, ministries, central agencies shall revise their next period’s medium term public investment plan and return such plans to Ministry of Planning and Investment, Ministry of Finance prior to June 30 of the preceding medium term public investment plan.

10. Ministry of Planning and Investment shall consolidate and report to the Government the medium term public investment plan prior to July 31 of the 5th year of the preceding medium term public investment plan.

***11. The Government shall submit the plan to the National Assembly Standing Committee prior to September 20th of the preceding medium term public investment plan.***

**Article 57. Steps of the development, appraisal of the annual public investment plan**

1. Prior to May 5, the Prime Minister shall issue guidance on the social – economic development plan and budget plan of the next year, including objectives, directions, as well as the task of plan development for the next year.

2. Prior to June 15, Ministry of Planning and Investment shall issue guidance to ministries, central agencies and provinces on the social – economic development plan and budget plan of the next year, including objectives, directions, as well as the task of plan development for the next year.

3. Prior to June 30, ministries, central agencies and provinces shall provide guidance to their sub-ordinate agencies on the public investment plan of the next year.

4. Prior to July 20, public investment management agencies and provincial departments of planning and investment shall develop, appraise and consolidate a comprehensive public investment plan for the next year and projections of the following 2 years within their authority and mandates and report to the People's Committees at the same administrative level.

5. Prior to July 27, People's Committees shall obtain from the People's Councils of the same administrative level the approval of the next year’s public investment plan, including the detailed project portfolio listed by source of funding; the approved report shall be submitted to the next higher level line agencies.

6. Prior to July 31, ministries, central agencies and provinces finalize and submit to Ministry of Planning and Investment, Ministry of Finance their next year’s public investment plans.

7. Prior to August 15, Ministry of Finance shall coordinate with Ministry of Planning and Investment to estimate the state budget revenues and spending, investment spending plan of the state budget, national bond issuance, government bond issuance in the next year and the 2 following years.

8. Prior to August 31, Ministry of Planning and Investment shall coordinate the appraisal of the public investment allocation plan for the next year and the 2 following years out of the central state budget of ministries and central agencies.

9. Prior to September 10 and upon receiving opinions from Ministry of Planning and Investment, ministries, central agencies, and provinces shall revise and submit to Ministry of Planning and Investment, Ministry of Finance their public investment plans, the state budget capital and off-budget capital plans for the next year.

10. Prior to September 20, Ministry of Planning and Investment shall consolidate and submit to the Government the national public investment plan for the next year and the 2 following years.

***11. The Government shall submit the plan to the National Assembly Standing Committee prior to September 20 of the 5th of the preceding medium term public investment plan.***

12. The steps of developing, appraising the annual public investment plan by district and commune authorities shall comply with regulations of the Government.

**Part 2**

**DEVELOPMENT, APPRAISAL, APPROVAL AND ASSIGNMENT OF INVESTMENT PLANS USING STATE BUDGET AND OTHER OFF-BUDGET INVESTMENT CAPITAL**

**Article 58. Principles for selecting projects and estimating budget of each project in the 5-year medium term public investment plan, 3-year public investment plan, and annual public investment plan being financed with the central state budget**

1. The provisions of articles 52, 53, 54, 55 and 56 of this Law shall be applicable.

2. The investment spending shall be aligned with the local budget availability, the 5-year, 3-year and annual public investment plans, and the estimated mobilized amounts from other sources.

3. The investments are on the list of approved development investments.

4. The investments comply with the principles, criteria, and allocation norms of the state budget in the current plan period as regulated by the Government.

6. The fund allocated to each program, project shall not exceed the total approved budget and shall not be smaller than the annual estimated spending as envisaged in the program, project funding plan, except in the last year of the program, project.

**Article 59. Principles for selecting projects and estimating budget of each project in the 5-year medium term public investment plan, 3-year public investment plan, and annual public investment plan being financed with the local state budget**

1. The provisions of articles 52, 53, 54, 55, 56, and 59.5 and 59.6 of this Law shall be applicable.

2. The investment spending shall be aligned with the local budget availability, the 5-year, 3-year and annual public investment plans, and the estimated mobilized amounts from other sources.

3. The investments are on the list of approved development investments.

**Article 60. Principles for selecting projects and estimating budget of each project in the 5-year medium term public investment plan and annual public investment plan being financed with the off-budget resources of ministries, central agencies and provinces**

1. The provisions of article 59 of this Law shall be applicable.

2. The fund allocation and use of other off-budget resources of ministries, central agencies and provinces shall comply with the objectives stated in resolutions of the National Assembly and regulations of the Government.

**Article 61. Submission, approval, and assignment of 5-year public investment plans financed with central state budget resources**

1. Prior to October 20 of the 5th year of the preceding medium term public investment plan the Government shall submit to the National Assembly the next period’s 5-year medium term public investment plan.

2. Prior to November 15 of the 5th year of the preceding medium term public investment plan, the National Assembly shall make decision on the next period’s 5-year medium term public investment plan, including the following aspects:

a) Objectives, directions of the medium term investment of the country;

b) The total investment value to be financed from the state budget and off-budget resources;

c) Composition by sectors;

d) Total planned values of 5-year investments of each central and local agencies

đ) The list of national target programs, projects of national importance;

e) Key implementation solutions, policies of the medium term public investment plan.

3. Prior to December 10 of the 5th year of the preceding 5-year medium term public investment plan, the Prime Minister shall assign to ministries, central agencies and provinces the 5-year medium term public investment plan including the total investment funding and composition of funding.

4. Prior to December 31 of the 5 year of the preceding 5-year medium term public investment plan, Ministry of Planning and Investment shall communicate to ministries, central agencies and provinces the list of projects meeting funding requirements in the 5-year medium term public investment plan.

5. The Government shall provide guidance on the 5-year plan consolidation and assignment via the IT system.

**Article 62. Submission, approval, and assignment of annual public investment plans financed with central state budget resources**

1. Prior to October 20, the Government shall submit to the National Assembly the next year’s public investment plan financed with central state budget resources.

2. Prior to November 20, the National Assembly shall make decision on the next year’s public investment plan.

3. Prior to November 30, the Prime Minister shall assign the next year’s public investment plans according to the total value as approved by the National Assembly to ministries, central agencies and provinces.

**Article 63. Submission, approval, and assignment of 5-year medium term public investment plans financed with local budget resources and other off-budget resources of ministries, central agencies and provinces**

1. Ministries, and central agencies:

a) Prior to November 10 of the 5th year of the preceding medium term public investment plan, public investment management agencies shall submit to heads of planning and investment agencies a medium term public investment plan detailing the list of programs and projects, estimated funding required, funding arrangement plan for each project by funding sources.

b) Prior to December 20 of the 5th year of the preceding medium term public investment plan, heads agencies shall decide on the a medium term public investment plan detailing the list of programs and projects, estimated funding required, funding arrangement plan for each project by funding sources and submit to Ministry of Planning and Investment, Ministry of Finance for consolidation and further submission to the Government.

c) Prior to December 31 of the 5th year of the preceding medium term public investment plan, heads of agencies shall assign the medium term public investment plan to sub-ordinate agencies.

2. Provinces:

a) Prior to December 10 of the 5th year of the preceding medium term public investment plan, People's Committees shall submit to People's Councils at the same administrative level a medium term public investment plan detailing the list of programs and projects, estimated funding required, funding arrangement plan for each project by funding sources.

b) Prior to December 20 of the 5th year of the preceding medium term public investment plan, the provincial People's Council shall decide on and submit to Ministry of Planning and Investment, Ministry of Finance for further submission to the Government the medium term public investment plan detailing the list of programs and projects, estimated funding required, funding arrangement plan for each project by funding sources.

c) Prior to 25 of the 5th year of the preceding medium term public investment plan, district and commune People's Councils shall decide on the medium term public investment plan detailing the list of programs and projects, estimated local budget and other off-budget funding required, funding arrangement plan for each project by funding sources.

d) Prior to December 31 of the 5th year of the preceding medium term public investment plan, People's Committees at all levels shall assign the medium term public investment plan to agencies.

**Article 65. Submission, approval, and assignment annual public investment plans financed with local budget resources and other off-budget resources of ministries, central agencies and provinces**

1. Ministries and central agencies:

a) Prior to November 10, public investment management agencies shall submit to heads of planning and investment agencies the next year’s public investment plan and the projections for the 2 following years detailing the list of programs and projects, funding arrangement plan for each project by funding sources.

b) Prior to December 20 of the 5th year of the preceding medium term public investment plan, heads agencies shall decide on and submit to Ministry of Planning and Investment, Ministry of Finance for further submission to the Government the next year’s public investment plan and projections for the 2 following years detailing the list of programs and projects, estimated funding required, funding arrangement plan for each project by funding sources.

c) Prior to December 31, heads of agencies shall assign to agencies the next year’s public investment plan and projections of the 2 following years in the 3-year public investment plan in the 3-year public investment plan.

2. Provinces:

a) Prior to November 20, People's Committees shall submit to People's Councils at the same administrative level the next year’s public investment plan and projections of the 2 following years detailing the list of programs and projects, and funding arrangement plan for each project by funding sources

b) Prior to December 20, the provincial People's Council shall decide on the next year’s public investment plan and projections of the 2 following years detailing the list of programs and projects and funding arrangement plan for each project by funding sources.

c) Prior to December 20, district and commune People's Councils shall decide on their next year’s public investment plan and projections of the 2 following years detailing list of projects, local state budget funding, and other local off-budget resources for each project.

4. Prior to December 31, People's Committees shall assign the next year’s public investment plan and projections of the following years in the 3-year public investment plan to agencies.

**Chapter IV**

**IMPLEMENTATION, MONITORING, EVALUATION, AND INSPECTION OF PUBLIC INVESTMENT PLANS**

**Part 1**

**IMPLEMENTATION OF PUBLIC INVESTMENT PLANS**

**Article 68. Implementing public investment plans**

1. Based on the 5-year medium term public investment plan approved by the National Assembly, the Government shall set forth implementation measures.

2. Based on the resolutions of the National Assembly, the plan assignment decisions of competent authorities, the resolutions of People's Councils at different levels on the 5-year medium term public investment plan, ministries, central agencies and provincial, district and commune People's Committees and users of public investment capital shall make decisions on the plan implementation under their respective authority.

3. The Prime Minister shall coordinate the funding sources of public investment programs using the state budget resources of ministries, central agencies and provinces, and other users of public investment capital but this shall not cause any changes to the program, project objectives.

4. Chairmen of provincial People's Committees shall coordinate the funding sources of programs, projects using local state budget, off-budget resources of the state, other local loans but this shall not cause any change to the objectives of the programs, projects.

**Article 69. Execution of public investment plans**

1. Ministries, central agencies and provincial, district and commune People's Committees shall:

a) Notify to the users of public investment capital the decision on the public investment plan assignment;

b) Report to the competent authorities the assignment of public investment plans.

2. Users of public investment capital shall report to competent authorities the implementation progress of public investment plans as required by Government regulations.

3. Ministry of Planning and Investment, and public investment management agencies shall monitor, supervise to make sure that the assignment and execution of public investment plans complies with the decision of competent authorities.

**Article 70. Public investment plan implementation**

1. Ministries, central agencies and provincial, district and commune People's Committees, and users of public investment capital shall:

a) Implement the public investment plans to achieve the set objectives as approved by competent authorities;

b) Implement the public investment plans as per schedule and financing plan approved by competent authorities;

c) Make contractor selection plans and select contractors for packages for which funding has been arranged in the annual public investment plans as approved by competent authorities;

d) Accept the projects, and pay contractors of packages that have been completed, handed over and put in operation;

đ) Arrange funding from different sources to pay capital construction arrears as specified in article 103.2 of this Law;

e) Make sure that the plans are implemented according to the approved scope, size, objectives, sub-sector, program and according to the arranged funding plan;

g) Monitor, supervise and evaluate the implementation of public investment plans.

2. Ministry of Planning and Investment shall provide guidance, monitor, supervise, inspect the implementation of 5-year medium term public investment plans, 3-year and annual public investment plans of ministries, central agencies and provinces.

3. Ministry of Finance shall make sure that payments shall be made in full according to the public investment plans as approved by competent authorities.

4. The Government shall provide detailed regulations on the public investment plan implementation.

**Article 71. Adjustments to public investment plans**

1. The National Assembly shall decide on the adjustments to the composition by sector and the total investment value of the overal 5-year medium term public investment plan and the annual state budget using state budget and off-budget resources in the following cases:

a) It is necessary due to changes of the strategic social – economic development goals of the country;

b) It is necessary due to unexpected changes of the state budget or the mobilization of different resources.

2. The Standing Committee of the National Assembly shall make adjustments to the 5-year medium term public investment plan using the central budget and off-budget resources among ministries, central agencies and provinces in the case that there is no change in the total funding amount of 5-year medium term public investment plan and annual plan that have been approved by the National Assembly.

3. The Prime Minister, with reference to the actual situation in the plan period, shall make adjustments to the 5-year medium term public investment plans using the central budget and off-budget resources of ministries, central agencies and provinces that have been assigned as specified in article 63.3 of this Law provided that the total funding to ministries, central agencies and provinces as approved by the National Assembly shall not change;

b) The 5-year medium term public investment plan using ODA and concessional capital provided that such adjustments are only made within line agencies.

4. Ministry of Planning and Investment shall:

a) Coordinate the appraisal of the adjusted 5-year medium term public investment plans using central budget and off-budget resources among sectors, sub-sectors, ministries, central agencies and provinces and obtain approval of the Prime Minister thereon;

b) Coordinate the appraisal of the adjusted 5-year medium term public investment plans using central budget and off-budget resources among sectors, sub-sectors, ministries, central agencies and provinces and obtain approval of the Prime Minister thereon;

Prior to March 31, Ministry of Planning and Investment shall submit to the Prime Minister a comprehensive report of plan adjustments made in the preceding year as mentioned in this point.

5. Heads of ministries, central agencies shall:

a) Make adjustments to the 3-year and annual public investment plans using the central state budget resources, other off-budget resources envisaged for public investment under their respective authority provided that the total approved investment funding shall not be exceeded;

b) Submit reports to Ministry of Planning and Investment, Ministry of Finance for the consolidation, monitoring, and supervision of the central budget and off-budget funding;

c) Assign or notify the adjusted plans to relevant agencies for implementation.

6. Provincial People's Committees shall:

a) Make adjustments to the annual public investment plans using targeted central state budget, off-budget transfers that take place within their respective authority provided that the total approved investment funding per sector, sub-sector, or program shall not be exceeded;

b) Report to Ministry of Planning and Investment and Ministry of Finance for the consolidation, monitoring, and supervision of the targeted central budget, off-budget transfers;

c) Assign or notify the adjusted plans to relevant agencies for implementation.

7. People's Councils of all levels shall make adjustments to the 5-year medium term public investment plans and annual local budget plans, off-budget local resources envisaged for public investment and other local loans within their respective authority in the following cases:

a) It is necessary due to changes in the local social – economic development objectives;

b) It is necessary due to changes in the local state budget or the mobilization of other local resources;

c) It is necessary due to changes in the use of fund or plan implementation perspectives among local agencies.

8. People's Committees of all levels shall make adjustments to the 5-year, 3-year, and annual local state budget plans, off-budget local resources envisaged for public investment and other local loans among sectors, sub-sectors, and programs and within sectors, sub-sectors, and programs of users of such resources and report to the People's Councils at the same level at their nearest session.

**Article 72. Implementation and disbursement time of 5-year medium term public investment plans and annual public investment plans**

1. Projects using state budget and off-budget resources:

a) The implementation and disbursement time of the preceding medium term public investment plan shall end by January 31 of the 1st year of the following medium term public investment plan period;

b) The implementation and disbursement time of the annual public investment plan shall end by January 31 of the following year. In exceptional cases and as agreed by competent authorities, the disbursement time can be extended but not longer than the medium term public investment plan period.

2. ***In case of ODA grant projects, the disburement of the foreign funding shall be in line with the implementation progress and disbursement by the foreign donors and comply with relevant legislations***.

**Part 2**

**MONITORING, SUPERVISION, EVALUATION, AND INSPECTION OF PUBLIC INVESTMENT PROGRAMS, PROJECTS**

**Article 73. Monitoring and supervision of public investment plans**

1. The public investment management agencies shall coordinate the monitoring and supervision of public investment plans under their respective authority.

2. The content of public investment plan monitoring and supervision includes:

a) The implementation of public investment legislations;

b) The development, appraisal, approval and assignment of public investment plans;

c) The development, appraisal, approval and implementation of programs, projects in the public investment plans;

d) The implementation status of public investment plans;

đ) Capital construction arrears, waste and leakage of funds in public investments.

**Article 74. Evaluation of public investment plans**

1. There shall be a mid-term and a final review of 5-year medium term public investment plans.

2. Annual public investment plans shall be reviewed on a quarterly and annual basis.

3. The content of the public investment plan review:

a) The fulfilment against the plan approved by competent authorities;

b) The impact of the public investment plan regarding other resource mobilization and the impact on the social – economic development;

c) The feasibility of the public investment plans;

d) The management of public investment plans;

đ) Setbacks, limitations, causes of setbacks during the course of implementation, solutions.

**Article 75. Monitoring and supervision of programs, projects**

1. Line agencies, program owners, investment owners, authorized investment decision makers, and public investment management agencies shall monitor, and supervise the whole investment process against the approved content and objectives to ensure to achieve the investment objectives and efficiency.

2. The program, project supervision shall be carried out as follows:

a) Project owners and investment owners shall monitor, supervise programs, projects that they manage;

b) Line agencies, competent makers of investment decision shall monitor at least once programs, projects with a duration of 12 months or longer;

c) Line agencies, competent makers of investment decision shall monitor programs, projects in case of adjustments being made leading to a change of program, project location, objectives, size, total investment value, and in other necessary cases;

d) The public investment management agencies shall conduct program, project monitoring on a scheduled or ad hoc basis.

**Article 76. Program, project review**

1. Program, project review shall comprise of initial review, mid-term review or phase review, final review, impact assessment, and ad hoc review.

2. Public investment programs are subject to mid-term or phase review, final review and impact assessment.

3. Projects of national importance, group-A projects are subject to initial review, mid-term review, final review, and impact assessment.

4. Group-B and group-C projects are subject to final review and impact assessment.

5. In addition to provisions in points 2, 3 and 4 of this article, the line agencies, competent makers of investment decision and public investment management agencies shall decide on the implementation of other reviews as specified in point 1 of this article when seemed needed.

**Article 77. Content of program, project review**

1. The content of review includes:

a) The preparation of implementation, the arrangement of funding to ensure that the program, project implementation shall achieve set objectives and on schedule;

b) New problems and issues emerging that were not evident at the time pf program, project approval;

c) Recommended solutions of the problems, issues taking into account the actual circumstances.

2. The content of the mid-term or phase review includes:

a) The relevance of achieved results to program, project objectives;

b) The completed amount at the time of review against approved targets;

c) Recommended solutions, including program, project adjustments.

3. The content of the final review includes:

a) The program, project implementation process: the management of the implementation; achievement of program, project targets; mobilized resources; benefits generated for beneficiary groups; program, project sustainability, and impact;

b) Lessons learnt and recommendations; responsibilities of consultants, line agencies, program owners, investment owners, competent makers of investment decision, and related agencies, organizations, and individuals.

4. The content of the program, project impact assessment includes:

a) The social – economic environment of the project operation;

b) Social – economic impact;

c) Impact on the environment, ecology;

d) The program, project sustainability;

đ) Lessons learnt regarding the investment intention, investment decision, implementation, operation of the program, project; responsibilities of consultants, line agencies, program owners, investment owners, competent makers of investment decision, and related agencies, organizations, and individuals.

5. The content of the ad hoc review includes:

a) The relevance of achievements at the time of review to the investment objectives;

b) The completed amount at the time of review against approved plan targets;

c) Unexpected problems, if any, and causes; and responsibilities of related agencies, organizations, and individuals;

d) The impact and its extent of unexpected problems on the program, project implementation, the achievement of project objectives;

đ) Recommended solutions.

**Article 78. Investment monitoring by the community**

1. Programs, projects are subject to the monitoring by the community. The Vietnam National Fatherland Front at all levels shall coordinate the community monitoring of programs, projects.

2. Line agencies shall consult with the local communities where programs, projects are implemented in case of projects of national importance, group-A projects, projects involving large scale relocation and displacement, projects with major direct social – economic impact on the local community due to construction work, waste treatment, land compensation, resettlement, relocation of agricultural production as required by current legislations. Competent organizational and individual makers of investment decision can decide on the format of community consultation.

3. The content of community monitoring:

a) The compliance with legislations on investment, construction, land, waste treatment, and environmental protection;

b) Site clearance and land compensation, residential resettlement and production relocation while protecting the interest of the community;

c) Programs, projects part of which are financed with community contributions;

d) Program, project implementation progress;

đ) The openness and transparency of the implementation of the Law on public investment as required in article 14 of this Law;

e) Detection of community interest violations; negative impact on the community during the course of project implementation and operation; wasteful behaviors and leakages of funds and project assets.

**Article 79. Community monitoring steps, procedures**

1. The Vietnam National Fatherland Front shall coordinate with social and political bodies, and related agencies to:

a) Make annual community monitoring plans as specified in article 82.3 of this Law;

b) Form community monitoring boards for each program, project;

c) Communicate to project, program owners, project management units the monitoring program and members of the community monitoring boards at least 45 days in advance of the monitoring.

2. Program, project owners, project management units shall have the responsibility to:

a) Provide full, true, timely information related to the program, project implementation as specified in article 82.2 of this Law to the community monitoring board;

b) Provide favorable conditions for the community monitoring board to work effectively as required by legislations;

c) Take opinions expressed as a result of the monitoring exercise and improve program, project implementation measures.

**Article 80. Monitoring, supervision and evaluation of program, project implementation**

1. Program owners, investment owners shall conduct the initial, mid-term and final monitoring and evaluation of programs, projects.

2. Line agencies, makers of investment decision, and public investment management agencies shall conduct monitoring, supervision and impact assessment, and ad hoc assessment of the programs, projects under their management.

3. Assessment agencies shall carry out the assessment themselves or recruit competent consultants to do the assessment.

4. The Government shall provide detailed guidance on the monitoring, supervision and assessment of programs, projects, and the community monitoring.

**Article 81. Inspection of public investments**

1. The inspection of the use of public investment capital shall comply with provisions of this Law and other related legislations.

2. The public investment inspection shall be linked with the mandates, functions of the inspection units of organizations and agencies, and shall comply with steps, procedures as stipulated in legislations on inspection.

3. The conclusions of inspection shall be disclosed as required by legislations. In the case that violations of the public investment legislations are detected, the inspecting agency shall take actions as allowed or refer the case to other relevant state agencies.

**Chapter V**

**RIGHTS AND RESPONSIBILITIES, RESPONSIBILITIES OF AGENCIES, ORGANIZATIONS, AND INDIVIDUALS IN THE FIELD OF PUBLIC INVESTMENT**

**Article 82. Rights and responsibilities of the National Assembly**

1. Passing laws and resolutions on public investment.

2. Making decision on the investment intention of national target programs, projects of national importance using public investment resources.

3. Making decision on and adjustments to 5-year medium term public investment plans and annual public investment plans.

4. Making adjustments to classification criteria of projects of national importance.

5. Supervising the implementation of public investment plans, national target programs, projects of national importance; supervising the implementation of public investment legislations.

**Article 82a. Rights and responsibilities of the National Assembly’s Standing Committee**

***1. Passing the list of public investment projects according ot objectives, directions, and composition as approved by the National Assembly;***

***2. Adjusting the 5-year medium term nd annual public investment plans among central ministries, agencies and provinces within the 5-year and annual investment values as approved by the National Assembly;***

***3. Adjusting the classification criteria of national important projects as specified in Art. 11.2 of this law;***

***4. Monitoring the implementation of the public investment plans, national target programs, and the implementation of publin legislations.***

**Article 83. Rights and responsibilities of the Government**

1. Performing a consistent state administration of public investments.

2. Submitting to the National Assembly law and resolution drafts, submitting to the Standing Committee of the National Assembly ordinance and resolution drafts.

3. Passing public investment legislations.

4. Submitting to the National Assembly investment intention decision draft of national target programs, projects of national importance.

5. Making decision on investment intention as stipulated in article 17.2 of this Law.

6. Submitting to the National Assembly the draft adjustments to the medium term public investment plans and annual public investment plans.

7. Coordinating the implementation of the medium term public investment plans and annual public investment plans.

8. Reporting to the National Assembly on the implementation progress of medium term public investment plans, annual public investment plans of national target programs, projects of national importance.

9. Monitoring, supervising the implementation of medium term public investment plans, annual public investment plans; monitoring the implementation of programs, projects using central state budget resources, national bond proceeds, government bond proceeds; monitoring the implementation of local public investment objectives and policies.

**Article 83. Rights and responsibilities of the Prime Minister**

***1. Leading the development and submission of public investment plans and list of projects to the National Assembly, the National Assembly’s Standing Committee;***

***2. Assigning the medium term public investment plans with reference to resolutions of the National Assembly and the National Assembly’s Standing Committee;***

***3. Performing rights and responsibilities as stipulated in this law.***

**Article 84. Rights and responsibilities of Ministry of Planning and Investment**

1. Taking accountability regarding a consistent state administration of public investments to the Government.

2. Passing or submitting drafts of public investment legislations including principles, criteria, fund allocation norms.

3. Coordinating with Ministry of Finance to report to the Government the total estimated public investment state budget in the 5-year, 3-year and annual public investment plans.

4. Submitting to the Government comprehensive medium term public investment plans and annual public investment plans of the whole country.

5. Submitting to the Government the adjustments to medium term public investment plan and annual public investment plans of the country.

6. Taking responsibility to the Government regarding a consistent state administration of ODA and concessional capital, acting as contact point for the mobilization, coordination, management and use of ODA and concessional capital.

7. Coordinating with related agencies to appraise the funding sources, fund availability of projects using state budget the investment intention of which is subject to the approval of the Prime Minister.

8. Taking responsibility to the Government for the consistent state administration of national target programs.

9. Coordinating, monitoring, supervising, inspecting, reviewing the implementation of public investment programs, projects, and performing other public investment state administration functions.

**Article 85. Rights and responsibilities of Ministry of Finance**

1. Coordinating with Ministry of Planning and Investment to make medium term public investment plan and annual public investment plans.

2. Coordinating with Ministry of Planning and Investment to report to the Government the total development investment funding of the state budget in the 5-year, 3-year and annual public investment plans.

3. Coordinating with Ministry of Planning and Investment to guide local financial departments to arrange recurrent expenses for the payment of project preparation, appraisal, decision making, and approval of investment decisions, as well as project operating costs.

4. Coordinating with ministries, central agencies and provinces the payment, finalization procedures of public investment programs, projects.

5. Submitting reports to the Government on the disbursement, finalization of programs, projects.

**Article 86. Rights and responsibilities of ministries, central agencies**

1. Performing the state administration functions regarding public investment as required by legislations.

2. Passing guidelines, monitoring and supervising the compliance with standards, economic and technical norms.

3. Coordinating with relevant agencies the appraisal of funding sources and availability of projects using public investment capital the investment intention of which is subject to their own responsibility, and investment capital contributions in projects of other agencies the investment intention of which is subject to their own responsibility.

3. Making decision on the investment intention of programs, projects as specified in article 17.4 of this Law and making investment decision of programs, projects as specified in article 39.2 of this Law.

4. Coordinating the development of public investment plans.

5. Monitoring, supervising, inspecting, evaluating the implementation progress of programs, projects under their respective authority.

6. Reporting on the implementation progress and results of programs, projects.

7. Coordinating with ministries, central agencies and provinces the implementation of programs, projects in line with their respective mandates.

**Article 87. Rights and responsibilities of People's Councils**

1. People's Councils of all levels shall have the following Rights and responsibilities:

a) Making decision on the investment intention of programs using entirely local budget resources, local off-budget, and other local loans envisaged for public investment;

b) Making decision on the investment intention of programs, projects specified in articles 17.5 and 17.6 of this Law;

c) Reviewing, commenting on the local 5-year medium term public investment plans and annual public investment plans including the entire investment portfolio and local budget allocation for each project;

d) Making investment decision of the local 5-year medium term public investment plans and annual public investment plans including the entire investment portfolio, and the allocation of the local budget, local off-budget resources and other local resources envisaged for public investment;

đ) Monitoring projects using public investment capital managed by local authorities including central budget, local budget, local off-budget resources and other local resources envisaged for public investments.

2. Provincial People's Councils shall carry out rights and responsibilities specified in point 1 of this art and the following rights and responsibilities:

a) Reviewing and commenting on investment intention proposals of group-A projects managed by local authorities;

b) Setting criteria for local key investments that are consistent with the objectives, development orientation, local budget availability, and local circumstances.

**Article 88. Rights and responsibilities of permanent committees of People's Councils:**

1. Permanent committees can perform functions in the authority of the respective People's Councils as specified in article 87.1 during the time between their sessions; the permanent committee shall report to the People's Councils at the nearest session.

2. Permanent committees of provincial People’s Councils can perform functions in the authority of the provincial People's Councils as specified in article 87.1 and 87.2 during the time between their sessions; the permanent committee of the provincial People’s Councils shall report to the latter at the nearest session

**Article 89. Rights and responsibilities of provincial People's Committees**

1. Performing the state administration of public investment in the province as specified by legislations.

2. Submitting to provincial People's Councils:

a) The investment intention of programs using entirely local budget resources, local off-budget resources and other local resources envisaged for public investment;

b) Reviewing, commenting on the investment intentions that are subject to approval of the Prime Minister as specified in article 17.3 of this Law;

c) Reviewing, commenting on the 5-year medium term public investment plans and annual public investment plans using central budget resources and project fund allocations;

d) Making decision on 5-year medium term public investment plan and annual public investment plans using local budget resources, local off-budget resources, and other local loans envisaged for public investments.

3. Making investment decision of projects as specified in article 17.7 of this Law and investment decision of programs, projects as specified in article 36.3 of this Law.

4. Provincial People's Committees can authorize sub-ordinate agencies to make investment decisions regarding group-B and group-C projects under the provincial management, except projects specified in article 36.1.c of this Law.

5. Coordinating the implementation, monitoring, and evaluation of public investment plans under their respective management.

6. Coordinating with ministries, central agencies the implementation, monitoring, and evaluation of programs, projects in the province.

**Article 90. Rights and responsibilities of district, commune People's Committees**

1. Coordinating the development of medium term public investment plans and annual public investment plans under their respective authority.

2. Coordinating the appraisal of programs, projects under their respective management.

3. Submitting to the People's Councils of the same administrative level:

a) Investment intention decision of programs using entirely local budget resources and other off-budget resources of district, commune authorities;

b) Proving opinions on investment intention of projects that is subject to the approval of the Prime Minister as specified in article 17.3 of this Law and the upper level People's Councils;

c) Making investment intention decision of group-B projects under their respective authority specified in article 17.6.b of this Law;

d) Making decision on the 5-year medium term public investment plans and the annual public investment plans using local budget resources, and off-budget retained budget revenues of the district, commune authorities.

4. Making investment intention decision of projects specified in article 17.7 of this Law and investment decision of programs, projects specified in article 36.4. of this Law.

5. Coordinating the implementation, monitoring, evaluation, supervision, inspections of programs, projects; and other state administration functions as authorized;

6. Coordinating with related agencies, organizations to implemented, monitor, supervise, and evaluate programs, projects in the respective districts, communes.

**Article 91. Rights and responsibilities of the State Audit**

1. Making decision on the annual audit plan of programs, projects and report to the National Assembly, the Government prior to implementation.

2. Coordinating the implementation of the annual audit plans, the special audit plans, and audits of programs, projects as required by the National Assembly, the Standing Committee of the National Assembly, the Government and the Prime Minister.

3. Reporting to the National Assembly, the Standing Committee of the National Assembly on the results of the annual audits, special audits and the implementation of auditor’s recommendations.

4. Disclosing the audit results as legally required.

**Article 92. Rights and responsibilities of the Vietnam National fatherland Front**

1. Coordinating the community monitoring of programs, projects as specified in articles 78.1 and 78.3 of this Law and other related legislations.

2. Conducting community consultation on the investment intention of programs, projects implemented in the respective communities as specified in article 78.2 of this Law and other regulations on grass root democracy.

**Article 93. Rights and responsibilities of organizations, individuals regarding the investment intention proposal**

1. Making proposals regarding programs, projects aligned with social – economic development strategies and plans and related planning in each period.

2. Arranging resources for the timely implementation of programs, projects as planned.

3. Recommending competent authorities to make investment intention decision when there is no overlapping with other programs and other routine mandates.

4. Taking responsibilities regarding information and data of proposed programs, projects.

**Article 94. Rights and responsibilities agencies, organizations, individuals related to the investment intention decision**

1. Organizations, agencies, individuals and heads of organizations making investment intention decision shall comply with provisions of article 18 of this Law.

2. Agencies, organizations, individuals specified in articles 2, 3, 4, 5, 6 and 7 of this Laws who make wrong, inefficient decisions without adequate funding resulting in wastes and leakages shall be subject to discipline measures including administrative, criminal charges, and compensation for the wrong doing depending on their violations.

3. Agencies, organizations, individuals involved in the investment intention development and appraisal who commit wrong doing resulting in wrong or inefficient investments shall be subject to discipline measures including administrative, criminal charges, and compensation for the wrong doing depending on their violations.

**Article 95. Rights and responsibilities of project owners, investment owners relating to the investment intention development**

1. Project owners, investment owners shall be held responsible for the dossier that they submit to competent authorities to seek appraisal and decision.

2. Program owners and investment owners shall provide needed materials to appraising authorities for conducting the program, project appraisal.

3. Program owners, investment owners shall make recommendations to mobilize funding from different sources for timely program, project implementation.

4. Program owners, investment owners shall be held responsible for the program, project proposal. Violations shall be subject to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

**Article 96. Rights and responsibilities of agencies, organizations, and individuals making investment decision of programs, projects**

1. Making investment decision that is in line with approved investment intention, the budget availability under their management, and standards, and norms as contained in the appraisal results. Violations resulting in wrong, inefficient or unfocused investments, wastes and leakages shall be subject to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

2. Appraising programs, projects prior to making the investment decision including the funding source appraisal and the funding availability appraisal.

3. Arranging funding for the payment of program, project proposal development, appraisal costs.

4. Making sure that program owners, investment owners implement the program, project on time, meeting quality requirements as approved.

5. Making adjustments, temporary cessation, or cancellation of programs, projects.

6. Monitoring, supervising, evaluating programs, projects, and activities of program owners, investment owners during the course of implementation.

7. Taking responsibilities regarding violations of authority during the process of selecting program owners, investment owners.

**Article 97. Rights and responsibilities of agencies, organizations, and individuals related to program, project design**

1. Program designers can request related information, materials from program owners, investment owners.

2. Designing programs, projects according to approved standards, criteria, norms, proposing technical solutions to ensure the program, project quality; no violation of approved standards, criteria, norms shall be permitted.

3. Taking responsibilities for the design of programs, projects. If there is a wrong design resulting in inefficient investments, wastes and leakages shall be subject to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

**Article 98. Rights and responsibilities of agencies, organizations, individuals related to the appraisal of programs, projects**

1. Agencies, organizations, individuals related to the appraisal of programs, projects shall appraise programs, projects as legally regulated and shall be held responsible for their appraisal results and recommendations.

2. The appraisal shall be independent, honest, objective, and compliant with provisions of this Law and other related laws.

3. Poor appraisals shall be subject to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

**Article 99. Rights and responsibilities of program owners, investment owners regarding the program, project implementation and management**

1. Implementing, managing program, project to make sure the objectives will be achieved on schedule and to the intended quality.

2. Reporting on the program, project implementation progress as required by this Law and other related laws.

3. Wastes and leakages shall lead to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

**Article 100. Rights and responsibilities of the management units of programs, projects**

1. Recommending solutions to make sure that programs, projects are implemented on time, meeting objectives, quality requirements as expected by program owners, investment owners.

2. Reporting to program owners, investment owners on the implementation progress.

3. Wastes and leakages shall lead to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

**Article 101. Rights and responsibilities of agencies, organizations, and individuals in charge of monitoring, supervising, and evaluating the plans, programs, and projects**

1. Heads of ministries, central agencies and provinces, chairmen of district and commune People's Committees, program owners, investment owners shall be held responsible for failing of monitoring, supervising, and evaluating programs, projects or failing to report as legally regulated.

2. Agencies, organizations, individuals who are in charge of monitoring, supervising, and evaluating programs, projects shall be held responsible for their reports.

3. Program owners, investment owners shall be held responsible for their report, and for reporting wrongly on the implementation progress under their respective authority.

4. Agencies, organizations, individuals who are in charge of monitoring, supervising, and evaluating programs, projects concealing violations shall be subject to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

**Article 102. The national information system and database**

1. The national information system and database on public investment shall be developed, and implemented in a consistent manner on the national scale, including consolidation, reporting, assignment, monitoring, and evaluating features; it also manages, stores and discloses data as required.

2. Responsibilities of developing the national information system and database on public investment are as follows:

a) Ministry of Planning and Investment shall develop, manage and implement the national information system and database on public investment;

b) Ministries, central agencies and provinces shall implement the national information system and database on public investment in their respective systems.

3. Information and data contained in the national information system and database is the primary data of public investment programs, projects and plans

4. The Government shall provide more detailed guidance on this provision.

**Article 103. Violations**

Agencies, organizations, and individuals committing violations of this Law shall be subject to discipline measures including administrative, criminal charges, and compensation depending on their nature and extent.

**Chapter VI**

**IMPLEMENTING PROVISIONS**

**Article 104. Transitional provision**

1. Programs, projects that have been approved by competent authorities but no corresponding fund has been arranged shall be implemented as follows:

a) Programs, projects of national importance shall continue to be implemented as per resolution of the National Assembly and the investment decision of the Government;

b) Programs, projects that are already included in the approved public investment plan shall continue to be implemented as planned;

c) Programs, projects that have not been included in the approved public investment plan shall be subject to the investment intention proposal development, appraisal, and approval procedures as contained in this Law.

2. Public investment capital shall only be arranged for paying capital construction arrears incurring prior to 31/12/ 2014.

**Article 105. Effective date**

This Law shall replace the Law on Public Investment numbered 49/2014/QH13 and shall be effective as of \_\_\_/\_\_\_/\_\_\_

**Article 106. Detailed provisions**

The Government shall provide details of provisions of the Law.

*This Law has been passed by the National Assembly of the Socialist Republic of Vietnam at its session \_\_\_, on \_\_\_/\_\_\_/\_\_\_*

Chairwomen of the National Assembly