

NOTABLE REGULATIONS ON MANAGEMENT AND DEVELOPMENT OF INDUSTRIAL CLUSTERS

THANH MAI

On March 15, 2024, the Government issued Decree 32/2024/ND-CP regulating the management and development of industrial clusters (**Decree 32**). Decree 32, upon its effectiveness on May 1, 2024, will replace Decree 68/2017/ND-CP and Decree 66/2020/ND-CP amending and supplementing a number of articles of Decree 68/2017/ND-CP (hereinafter collectively referred to as **Decree 68**). The following are some notable regulations set forth in Decree 32:

Firstly, adjusting the industries, business lines, and business and production establishments encouraged to make their investment in and relocate to industrial clusters. Accordingly, Decree 32 stipulates that industries, business lines, and business and production establishments encouraged to make their investment in and relocate to industrial clusters include:

- i. Processing and manufacturing industries serving agriculture; mechanical industry; supporting industry; textile and apparel and footwear industry;
- ii. Information technology and communications, electronics industry; smart energy; digital technology, automation, high-end equipment, new materials, biotechnology;
- iii. Industries and cottage industries at the locality that need to be preserved and developed; warehousing services, packaging, transport of goods, repair and maintenance of industrial machinery and equipment, and other services directly serving local industrial and cottage industry production with a total area not exceeding 10% of the industrial cluster area;
- iv. Other industries employing high, clean, and energy-efficient technologies resulting in high value and sustainable development;
- v. Industrial and cottage industrial production establishments that cause pollution or are likely to cause pollution in craft villages and residential areas are encouraged to be relocated to industrial clusters.

In comparison with Decree 68, basically, there are some adjustments regarding industries, business lines, and business and production establishments



encouraged for investment in and relocation to industrial clusters under Decree 32 such as (a) some industries have been removed, including agricultural, forestry and fishery processing industries; production of consumer products using local raw materials, local labor, (b) Decree 32 supplements industries and business lines with high and technology of low energy consumption, bringing high added value and sustainable development. In addition, the Decree also supplements the regulation on authorization to the People's Committees at the provincial level to decide on specific industries, and business lines in industrial clusters in accordance with the industrial cluster development plan under the provincial planning, which is reflected in the Decision on establishment and expansion of industrial clusters.

Secondly, supplementing regulations related to the selection of investors to build the industrial cluster's technical infrastructure. Accordingly, in order to select investors, the People's Committees at the provincial level shall establish an Assessment Council to select a qualified investor to build the industrial cluster's technical infrastructure. The Council shall score the following criteria on a 100-point scale: (i) Investment plan for technical infrastructure construction (maximum 15 points); (ii) Environmental protection and management plan (maximum 15 points) of the industrial cluster; (iii) Capacity and experience of enterprises and cooperatives (maximum 30 points) and (iv) Financial plan for investment in technical infrastructure construction (maximum 40 points). Based on actual local conditions and relevant laws, the Council shall agree on the working principles and methods, contents of each criterion, and the appropriate corresponding maximum point.

Thirdly, amending and supplementing the obligations of investors to build industrial cluster infrastructure. Accordingly, Decree 32 supplements the provisions that investors must establish a unit to manage and operate industrial cluster infrastructure construction projects. Additionally, the regulation on the obligation to arrange water sources to serve on-

site fire fighting and electrical safety of investors as specified in Decree 68 has been generalized in Decree 32 to be the obligation to comply with the provisions of laws on environmental protection, water resource conservation, fire prevention, and fighting, as well as rescue and relief.

Fourthly, amending regulations on incentives and support policies for the development of industrial clusters. Under Decree 32, the application of investment support and incentives in industrial clusters to industrial cluster infrastructure construction projects, and production and business investment projects in industrial clusters shall comply with the provisions of the law on tax, land, finance, and other relevant regulations. In respect of investment support for industrial clusters' technical infrastructure construction, Decree 32 clearly stipulates that the state budget will support no more than 30% of the total investment capital of the industrial cluster's infrastructure construction project. The financial assistance shall be excluded from the total investment of the project to determine the land sublease rents, and infrastructure usage fees for investment projects in industrial clusters. The technical infrastructure investor shall be responsible for managing, repairing, and regularly operating the technical infrastructural works provided with financial assistance to serve common activities of the industrial cluster. Previously, Decree 68 had no specific provisions on the state budget financial assistance.

COMMENTS AND RECOMMENDATIONS

The promulgation of Decree 32 has contributed to the completion of the legal framework and policies on the management and development of industrial clusters, serving as a basis for organizations and individuals investing in infrastructure construction, production, and business in industrial clusters to implement the State's policies and regulations on industrial cluster development. Particularly, Decree 32 has developed new regulations compared to Decree 68, such as the regulations on scoring investors, or specific regulations on using the state budget to support investment projects in technical infrastructure construction in industrial clusters. The newly promulgated regulations will create a positive motivation in attracting organizations and individuals that are planning to invest in industrial clusters in the future.