

Act No. 193/2001 Coll.

(on Support for the Establishment of Industrial Parks and Amendment of Act of the National Council of the Slovak Republic No. 180/1995 Coll. on Selected Measures for Land Ownership Settlement, as amended.)

Author: National Council of the Slovak Republic

Valid as of: 31 May 2001

Effective as of: 1 November 2005

Published in the Collection of Laws No. 81/2001, page 2054

AMENDMENTS TO BE FOUND IN THE FOLLOWING ACTS:

156/2003Coll.

542/2004Coll.

466/2005Coll.

REPEALS ACT:

AMENDS PARTS OF ACT:

180/1995 Coll. §19 (3);

SECTOR: financial law and land law

193/2001 Coll.

ACT

of 18 May 2001

on Subsidies for the Establishment of Industrial Parks and Amendment of Act of the National Council of the Slovak Republic No. 180/1995 Coll. on Selected Measures for Land Ownership Settlement, as amended

Amends: Act 156/2003 Coll.

Amends: Act 542/2004 Coll.

Amends: Act 466/2005 Coll.

The National Council of the Slovak Republic has adopted the following Act:

Article I

§ 1

Subject-matter of the Act

This Act sets out the terms and conditions for the award of subsidies for the establishment of industrial parks and the powers of state administration authorities for the award of such subsidies and the inspection of their application.

§ Industrial park

2

(1) An industrial park is a territory delineated in the zoning plan of the municipality or the zone, 2) on which industrial production or services of a single or several business entities are performed or are to be performed (hereinafter only as the "business entity").

(2) The municipality 3) establishes the industrial park in its territory. Where the industrial park is to be established in the territory of two or more municipalities, the municipalities may conclude a contract for this purpose under separate regulations. 3a)

-
- 1) § 2 (2) and § 23 of the Commercial Code.
 - 2) § 11 and 12 of Act No. 50/1976 Coll. on Spatial Planning and Construction Permit Procedures (the Building Act), as amended.
 - 3) § 1 and 22 of Act of the Slovak National Council No. 369/1990 Coll. on Municipal Administration as amended.
 - 3a) § 829 through 841 of the Civil Code

§ Types of subsidy

3

(1) A subsidy from the state budget 4) for the establishment of an industrial park (hereinafter only referred to as "subsidy") may be awarded to any municipality or a Higher Territorial Unit which meets the requirements under § 4, for

- a) technical infrastructure of the territory and engineering structures necessary for the establishment of an industrial park;
- b) compensation for the land expropriated for the purpose of the establishment of the industrial park;
- c) the coverage of costs of purchase or other transfers, lease or exchange of the plots of land designated for the establishment of the industrial park, the costs of establishment of easement on the plots of land designated for the establishment of an industrial park including the costs of transfer of plots of land disposed of by the Slovak Land Fund (hereinafter only referred to as the "Fund") 5) to the ownership of a particular municipality or a Higher Territorial Unit pursuant to a separate regulation, and 6) the coverage of costs of the lease of the respective plots of land to the municipality or a Higher Territorial Unit, or the exchange of the respective plots of land with the municipality or Higher Territorial Unit, or the establishment of easement on the plots of land necessary for purposes pertaining to construction of technical infrastructure in the territory and the construction of engineering structures necessary for the establishment of the industrial park;
- d) the payment of fees for the withdrawal of the plots of land from the forest-land resources. 8)

(2) The technical infrastructure of the territory and the engineering structures 9) necessary for the establishment of an industrial park are in particular

- a) wells, service and drinking water supply systems;
- b) sewerage systems, purification and drainage of waste water;
- c) supply and distribution of electricity including relocation of a distribution facility and the electricity connection, towers and transformer stations;
- d) gas supply and gas connection including the main gas shut-off valve and relocation of the gas equipment;
- e) access roads, railway siding, cableways and other ways;
- f) waterways including ports;

- g) telecommunications networks and equipment;
- h) storage, secondary use or removal and disposal of waste.

(3) The technical infrastructure of a territory also includes drainage, removal and storage of the top soil, ground works and terrain works.

(4) A subsidy for the purposes under paragraph (1) a) and (2) may only be provided to a particular municipality or Higher Territorial Unit if the plots of land on which the technical infrastructure and engineering structures necessary for the establishment of an industrial park are built or to be built, are owned by the municipality or Higher Territorial Unit, or if the municipality or a Higher Territorial Unit demonstrates that it holds other rights to the respective plots of land under a separate regulation. 9a)

4) 35) Act of the National Council of the Slovak Republic No. 303/1995 Coll. on Budgetary Rules, as amended.

5) § 16 (1) of the Act of the National Council of the Slovak Republic No. 180/1995 Coll. on Selected Measures for Land Ownership Settlement, as amended.

6) § 34 (3) d) of Act of the Slovak National Council No. 330/1991 Coll. on Re-parcelling, Settlement of Land Ownership, Land Offices, Land Fund and Land Associations, as amended.

7) § 11 of Act of the Slovak National Council No. 307/1992 Coll. on the Protection of Agricultural Land Resources.

8) § 4 (7) of Act No. 61/1977 Coll. on Forests, as amended.

9) E.g. Act No. 50/1976 Coll. as amended, Act No. 70/1998 Coll. on Energy Sectors and Amendment to Act No. 455/1991 Coll. on Licensed Trade (the Trades Act) as amended, Act No. 135/1961 Coll. on Roads (the Roads Act) as amended, Act No. 138/1973 Coll. on Water (the Water Act) as amended, Act of the National Council of the Slovak Republic No. 164/1996 Coll. on Railways and on Amendment to Act No. 455/1991 Coll. Licensed Trade (the Trades Act) as amended, as amended by Act No. 58/1997 Coll. 9a) § 58 (2) and 139 (1) of Act No. 50/1976 Coll. on Spatial Planning and Construction Permit Procedures (the Building Act), as amended.

§ 4

Terms and conditions for the provision of subsidy

(1) A subsidy can be provided to any municipality, provided that it demonstrates that

a) the territory for the establishment of the industrial park is delineated in the approved zoning plan of the municipality or Higher Territorial Unit, or in the zoning plan of the zone; 2)

b) it has secured funds to cover at least 15 % of the costs of procurement and establishment of the industrial park, including the costs of purchase or another transfer, lease or exchange of plots of land, and the cost of establishment of easement on the plots of land designated for the establishment of the industrial park, the costs of the technical infrastructure and engineering structures necessary for the establishment of the industrial park pursuant to § 3 (2) and (3);

c) it has obtained prior consent from the Fund for the transfer of the plots of land administered by the Fund, 5) to the municipality or Higher Territorial Unit, or for the lease of the respective plots of land to the municipality or Higher Territorial Unit, or for the exchange of the respective plots of land with the municipality or Higher Territorial Unit for the establishment of an industrial park;

d) it has concluded a pre-contract with the particular business entity 10) which regulates their relations especially where the business entity's business plan for the industrial park

is concerned and also demonstrates the existence of the necessary financing for the business plan, the securing of the business entity's financial obligations concerning the acquisition of the investment and its sum in the industrial park, the business entity's obligations to create new jobs in the operations it plans to open in the industrial park and to keep them for the period of at least five years of the beginning of operation, and also the business entity's obligation (if any) to co-finance the establishment of the industrial park. This pre-contract shall also obligate the municipality to lease the plots of land and the technical infrastructure of the industrial park, as provided in § 3 (2) and (3), to the business entity for the period of at least 20 years, following the establishment of the industrial park; the pre-contract may also grant the right of pre-emption concerning the purchase of the plots of land and technical infrastructure of the industrial park to the business entity which has provided to the municipality the funds necessary to cover its share of costs related to the establishment of the industrial park;

e) it has obtained a binding statement from energy suppliers (electricity, gas and heating) and the supplier of service and drinking water concerning the supply of energy and water for the purposes of the industrial park.

(2) Financial coverage, as specified in paragraph (1) b), shall be demonstrated by the approved budget of the municipality or a representation by the business entity concerning the provision of funds to the municipality for the payment of its share of costs of the establishment of the industrial park, or a binding promise by the bank to grant a loan to the municipality amounting to its share of costs of the establishment of the industrial park. Financial coverage, as specified in paragraph (1) d) shall be demonstrated by the balance sheet and the profit and loss statement of the business entity in the full extent for the previous two years, as well as the tax declaration for the two taxation periods preceding the year in which an application for the establishment of the industrial park was submitted, or a statement from the business entity's bank account with the certificate of the bank or an international bank (hereinafter only referred to as the "Bank") testifying to the fact that the funds of the business entity are to be used for the performance of his business plan in the industrial park, or a binding promise of the Bank to provide a loan to the business entity in order that it could perform its business plan in the industrial park.

(3) If, pursuant to paragraph (2), the business entity provides funds to the municipality or a Higher Territorial Unit for the payment of their share of costs of the establishment of the industrial park, and such a business entity demonstrates the provision of such funds to the municipality or Higher Territorial Unit by means of a statement from its account or by issuance of a substitute document, such funds contributed by the business entity to the municipality or a Higher Territorial Unit shall be deemed contributions to a legal person under a separate regulation. 10a)

(4) In the decision process concerning the provision of a subsidy for the establishment of an industrial park, the Ministry of Economy of the Slovak Republic (hereinafter only as the "Ministry") shall also take into account the level of employment in the applicant's region and the impact of the business in the industrial park on the reduction of the regional unemployment.

(5) For industrial parks to be established within the territory of districts 10b) with the registered unemployment rate above 10 % (according to data provided by the Labour, Social Affairs and Family Office of the Slovak Republic for the last day of the calendar year preceding the calendar year in which the application is submitted), the share of the municipality in the costs of procurement and establishment of the industrial park, under paragraph (1) b), shall be lowered to 5 %.

10) § 289 of the Commercial Code.

10a) § 19 (2) a) of Act No. 595/2003 Coll. on the Income Tax.

10b) Act of the National Council of the Slovak Republic No. 221/1996 Coll. on Territorial and Administrative System of the Slovak Republic, as amended.

§ 5

Amount of subsidy

(1) The amount of subsidy awarded for technical infrastructure and engineering structures necessary for the establishment of the industrial park may not exceed 85 % of the relevant expended costs and 50 % of the costs of acquisition of investment in the industrial park by the business entity which has concluded a contract with the municipality in accordance with § 4 (1) d); the amount of these costs shall be verified by means of an expert opinion prepared under separate regulations. 11)

(2) The amount of subsidy for the purchase or other transfer, lease or exchange of plots of land designated for establishment of an industrial park or establishment of easement on plots of land designated for establishment of an industrial park may not exceed 85 % of the relevant expended costs (they may not exceed the prices of plots of land estimated in an expert opinion under separate regulations, 11) or, for lease of land, they may not exceed 85 % of the rent agreed for the first ten years of lease. The rent for this period may not exceed 10 % of the general value of the particular plot of land, estimated in an expert opinion under separate regulations. 11)

(3) Subsidies for the payment of fees for the withdrawal of plots of land from the forest-land resources may not exceed 85 % of the total sum of such fees.

(4) For industrial parks which are to be established within the territory of districts 10b) with the registered unemployment rate above 10 % (according to data provided by the Labour, Social Affairs and Family Office of the Slovak Republic for the last day of the calendar year preceding the calendar year in which the application is submitted), subsidies for the purposes under paragraphs (1) to (3) may be awarded to up to 95 % of the relevant costs.

11) Act No. 382/2004 Coll. on Experts, Interpreters and Translators and Amendment to Certain Acts.

Decree of the Ministry of Justice of the Slovak Republic No. 492/2004 Coll. on Appraisal of the General Value of Assets.

12) § 1b (2) and § 15 (2) of Decree of the Ministry of Finance of the Slovak Republic No. 465/1991 Coll. on prices of structures, plots of land, permanent crops, payments for the establishment of the right of personal use of plots of land and compensations for temporary use of land, as amended.

13) § 17 of Decree of the Ministry of Finance of the Slovak Republic No. 465/1991 as amended.

§ 6

Decision on the provision of subsidy

(1) A decision on the provision of subsidy (§ 3) shall be issued by the Ministry upon written application by the municipality or Higher Territorial Unit after a proposal for the provision of subsidy has been approved by the Government of the Slovak Republic (hereinafter only as the "Government"). There is no legal entitlement to the provision of the subsidy.

(2) An application for the provision of subsidy (hereinafter only as the "application") shall include the following:

- a) identification of the applicant (name of the municipality or Higher Territorial Unit, district, region; number of inhabitants of the municipality or Higher Territorial Unit; existing production basis; industrial and social structure; unemployment rate; names and positions of persons authorised to act on behalf of the municipality or Higher Territorial Unit without any restriction);
- b) name of the industrial park, location of the industrial park, total area of plots of land on which the industrial park is to be established;
- c) identification of plots of land on which the industrial park is to be established based on the data from the Land Register (cadastral area, parcel number, type of the plot, area of the plot) incl. the specification of ownership relations;
- d) type, purpose and amount of subsidy applied for by the municipality or Higher Territorial Unit;
- e) documents demonstrating compliance with the conditions for the provision of the subsidy under § 4;
- f) the business plan to be carried out in the industrial park and the identification of the business entity or entities which are to conduct business in the industrial park.

(3) If the application for the provision of a subsidy does not include the essentials under paragraph (2), or if it has any other removable defect, the Ministry shall call upon the municipality or a Higher Territorial Unit in writing to supplement the application or remove the defect within the period of time set by the Ministry. If the municipality or the Higher Territorial Unit fails to supplement the application or remove the defect within the specified period of time, the Ministry shall suspend the proceedings and inform the municipality or Higher Territorial Unit in this respect.

(4) If the proceedings on the provision of the subsidy are not suspended under paragraph (3), the Ministry shall have an expert opinion drawn up on the benefits from the establishment and operation of the industrial park for public finance, regional development and increase in the employment rate, and it shall prepare a proposal for the award of a subsidy to the municipality (hereinafter only as the "proposal for subsidy").

(5) If the Fund administers under a separate regulation the plots of land that are to be transferred or leased to the municipality or Higher Territorial Unit or exchanged with the municipality or Higher Territorial Unit for the purpose of the establishment of an industrial park, 5) the Ministry shall seek an opinion on the proposal for subsidy from the Fund. The Fund shall inform the Ministry of its opinion within the period of 30 days of the delivery of the application from the Ministry; if the Fund fails to do so within this period, the Fund shall be deemed to agree with the transfer, lease or exchange of plots of land.

(6) The Ministry shall submit a subsidy proposal together with an expert opinion (paragraph (4)) and the opinion of the Fund (paragraph (5)) for Government's approval.

(7) If the Government approves the subsidy proposal, the Ministry shall issue a decision on the award of the subsidy within the period of 15 days of approval by the Government. If the Government fails to approve the subsidy proposal, the Ministry shall reject the application.

(8) The decision on the award of subsidy shall contain in particular

- a) the identification of the municipality or Higher Territorial Unit for which the subsidy is to be awarded;
- b) type, purpose, sum and the particular drawdown schedule;
- c) terms and conditions under which the subsidy may be drawn by the municipality or Higher Territorial Unit;

- d) identification of the plots of land based on the data from the Land Register (cadastral area, parcel No., type of land, land area), including identification of ownership relations;
- e) other terms and conditions of the Subsidy Award Contract

(9) The Ministry shall deliver its decision to award the subsidy or to reject the subsidy

a) to the municipality or Higher Territorial Unit which has applied for it;

b) to the Fund, if the plot of land which is to be transferred or leased to the municipality or Higher Territorial Unit, or which is to be exchanged with the municipality or Higher Territorial Unit for the purpose of the establishment of an industrial park, is administered by the Fund under a separate regulation. 5)

§ 7

Award of subsidies

(1) Based on the decision on the award of subsidy [§ 6 (8)] the Ministry and the municipality or a Higher Territorial Unit shall conclude a written contract on the award of budgetary funds;¹⁴ besides the essentials of the decision under § 6 (8) this contract shall also contain the stipulation of mutual rights and obligations, as well as the conditions of withdrawal from the contract under § 10.

(2) On the basis of the contract on the award of budgetary funds the Ministry shall transfer these funds to a separate bank account of the municipality or a Higher Territorial Unit.

(3) The bank shall release the budgetary funds to the municipality or Higher Territorial Unit in accordance with the contract under paragraph (1).

(4) The administration and use of budgetary funds awarded to a municipality or a Higher Territorial Unit for the establishment of an industrial park and their management shall be governed by special regulations.⁴ 4)

14) § 6 (3) of Act of the National Council of the Slovak Republic No. 303/1995 Coll., as amended.

§ 8

Transfer, lease and exchange of plots of land

(1) Following the acceptance of the decision by the Ministry on the award of the grant [§ 6 (9) (b)] the Fund shall enter into a written transfer of land contract or land lease agreement with the municipality or the Higher Territorial Unit and on the basis of that contract it shall transfer plots of land which it transfers⁵ into the ownership of the municipality or the Higher Territorial Unit or lease them to the municipality or the Higher Territorial Unit for the purpose of the establishment of an industrial park; if plots of land disposed of by the Fund can be exchanged for plots of land owned by the municipality or the Higher Territorial Unit, such an exchange shall take precedence. In order to effect the above exchange of plots of land the Fund and the municipality or the Higher Territorial Unit shall enter into a written exchange contract.¹⁵ 15) The contracts concluded as stated above shall include the conditions of withdrawal under § 11.

(2) The Fund shall effect the transfer of land under paragraph (1) for a price not lower than the price established based on price regulations.¹² 12)

(3) The land lease agreement (paragraph (1)) shall be concluded between the Fund and a municipality or a Higher Territorial Unit for a definite period of time, for at least 50 years, unless the parties agree otherwise; the contract shall lay down the right of the municipality or Higher Territorial Unit to build technical infrastructure and engineering structures necessary to the establishment of the industrial park [§ 3 (2) and (3)] and the right of the municipality or Higher Territorial Unit to create easements¹⁶⁾ pertaining to the plot of land or a construction¹⁷⁾ in the industrial park, as well as the right of the municipality of the Higher Territorial Unit to sub-lease the plot of land in the industrial park to business entities for the purpose of building constructions¹⁷⁾

(4) Contracts or agreements under paragraphs (1) through (3) shall be concluded within 30 days of the delivery of a proposal by the municipality or the Higher Territorial Unit to conclude a contract, unless the parties agree otherwise.

15) § 611 of the Civil Code

16) § 151n through 151p of the Civil Code

17) § 43 through 43c of Act No. 50/1976 Coll., as amended.

§ 8a

Transfer of land, technical infrastructure and engineering structures necessary for the establishment of industrial park to a business entity in the industrial park

(1) A municipality may transfer land plots, technical infrastructure and engineering structures necessary for the establishment of industrial park to a business entity undertaking in the industrial park for remuneration. This transfer shall be performed for a general value of the entire plot of land, general value of technical infrastructure and general value of engineering structures in the entire industrial park, which shall be ascertained by means of an expert opinion under special regulations.¹¹ If the sale in question will involve solely a part of the industrial part, the transfer against payment shall be performed for the general value of the designated plot of land, general value of the designated technical infrastructure and designated engineering structures in one of the parts of the industrial park, which shall be ascertained by means of an expert opinion under special regulations.¹¹ 11)

(2) Income from the transfer under paragraph (1) shall be broken down between the budget of the municipality and the national budget in a ratio identical to the ratio of their contributions to the funding of costs incurred in relation with the establishment of the industrial park.

§ 9

Inspection of the use of subsidy

The inspection of the use of the awarded subsidy and the application of liability for a breach of budgetary discipline shall be governed by special regulations.¹⁸

18) Act No. 440/2000 Coll. on Financial Control Administration Act of the National Council of the Slovak Republic No. 303/1995 Coll., as amended.

§ 10

Suspension of the provision of subsidy and reimbursement of awarded budgetary funds

(1) The Ministry shall withdraw from the contract on the award of budgetary funds [(§ 7 (1)] if the municipality or the Higher Territorial Unit are not complying with the conditions for the award of budgetary funds stipulated in the contract or if within two years of the conclusion of the respective contract the municipality or the Higher Territorial Unit fail to

commence with the construction of the technical infrastructure and engineering structures necessary for the establishment of the industrial park. In such case the municipality or the Higher Territorial Unit shall, within 30 days of the delivery of notification of withdrawal from the contract, return to the Ministry the budgetary funds awarded to the municipality or to the Higher Territorial Unit for the establishment of the industrial park.

(2) The Ministry may not be held liable for any damage suffered by the municipality or by the business entity in an industrial park due to their withdrawal from the contract under paragraph (1).

§ 11

Return of land and termination of the lease agreement or exchange contract

(1) The Fund shall withdraw from the land transfer contract or from the land lease agreement with a municipality or a Higher Territorial Unit or from an exchange contract [§ 8 (1)] if the municipality or the Higher Territorial Unit are not complying with the conditions of the transfer or lease or exchange of land as stipulated in the contract or if, within two years of the conclusion of that contract, the municipality or the Higher Territorial Unit fail to commence with the construction of the technical infrastructure and engineering structures necessary for the establishment of the industrial park; in such a case the municipality or the Higher Territorial Unit shall return the leased, transferred or exchanged plot of land to the Fund within three months of the notification of withdrawal from the contract, unless the parties agree otherwise. Prior to the return of land the municipality or the Higher Territorial Unit shall restore it to the original condition at their own cost; should the municipality or the Higher Territorial Unit fail to comply with this obligation, the Fund is entitled to restore the land to its original condition at the cost of the municipality or the Higher Territorial Unit.

(2) If plots of land returned to the Fund by the municipality or the Higher Territorial Unit under paragraph (1) had been excluded from the agricultural land fund¹⁹⁾ the Fund shall request the competent body charged with the protection of agricultural land fund²⁰⁾ for approval to transform non-agricultural land into agricultural land under special regulation.²¹⁾

(3) If a municipality or a Higher Territorial Unit continue to use the land after the expiry of the period for its return under paragraph (1), the municipality or the Higher Territorial Unit shall pay the Fund a fine for unlawful use of land amounting to one tenth of the price of that land plot under price regulation¹²⁾ for each commenced month of unlawful use of land after the expiry of the period for its return.

(4) The Fund shall not be held liable for any damage suffered by the municipality or the Higher Territorial Unit or by a business entity in an industrial park due to their withdrawal from the contract [paragraph (1)].

19) § 7 and 8 of Act of the Slovak National Council No. 307/1992, as amended.

20) § 14 and 16 of Act of the Slovak National Council No. 307/1992, as amended.

21) § 3 of the Act of the Slovak National Council No. 307/1992.

§ 12

Applicability of the Code of Administrative Procedure

Proceedings under this Act shall not be governed by the general regulation on administrative proceedings.^{22) 22)}

22) Act No. 71/1967 on Administrative Procedure (Code of Administrative Procedure).

§ 13

Transitional provisions

Municipalities or Higher Territorial Units which have started the establishment of an industrial park prior to the effective date of this Act may receive a subsidy under § 3, on the condition that they satisfy the conditions for the award of subsidy under § 4 and that the technical infrastructure and engineering structures necessary for the establishment of the industrial park have not been finished and compensation and payments under § 3 have not been paid yet.

Article II

Act of the Slovak National Council No. 180/1995 on Certain Measures for the Settlement of Title to Lands, as amended by the Finding of the Constitutional Court of the Slovak Republic No. 131/1996, Act No. 80/1998 and Act No. 219/2000 shall be amended as follows:

In § 19 (3) the full stop at the end of the sentence shall be omitted and the following words shall be added: "and for the purposes of the establishment of the industrial park".

Article III

This Act shall enter into force as of 1 June 2001.

Act No. 156/2003 Coll. shall enter into force upon its publication, i.e. on 17 May 2003.

Act No. 542/2004 Coll. shall enter into force as of 1 November 2004.

Act No. 466/2005 Coll. shall enter into force as of 1 November 2005.

Rudolf Schuster in his own hand
Jozef Migaš in his own hand
Mikuláš Dzurinda in his own hand