

THE GOVERNMENT

Chapter II

SPECIFIC PROVISIONS

Decree No. 69/2009/ND-CP of August 13, 2009, additionally providing for land use planning, land prices, land recovery, compensation, support and resettlement

Section 1. LAND USE PLANNING

Article 3. Contents of national-level land use planning

1. A national-level land use planning covers:

a/ Determining the area of land for agricultural purposes, clearly identifying areas for wet rice cultivation, protection forests, special-use forests and nature reserves;

b/ Determining the area of land for non-agricultural purposes, clearly identifying areas for defense, security, urban development, disposal and landfill of hazardous wastes, industrial parks, development of infrastructure works of national importance, and relics, spots of beauty and scenic places;

c/ Making national-level land use planning maps;

d/ Solutions for implementing the land use planning.

2. The Government shall submit to the National Assembly for decision targets of the national-level land use planning.

Article 4. Contents of provincial-level land use planning

1. A provincial-level land use planning covers:

a/ Specifically indicating areas of land of different categories in the province which have been allocated under the national-level land use planning;

b/ Determining areas of land of different categories to meet the province's socio-economic development needs, including land for

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the November 26, 2003 Land Law;

At the proposal of the Minister of Natural Resources and Environment,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree additionally provides for land use planning and plans; land recovery, compensation, support and resettlement in case of land recovery by the State; land prices; land allocation and lease; issuance of certificates of land use rights and ownership of houses and other assets attached to land, and land use duration extension.

Article 2. Subjects of application

1. Agencies performing the state management of land, and agencies, organizations and individuals involved in land management.

2. Land users and organizations and individuals related to land use.

perennials, land for production forests and land for intensive aquaculture; land for building the province's working offices and non-business works; land for provincial-level infrastructure development; land for disposal and landfill of hazardous wastes; land for mining activities; land of religious and belief establishments; provincially managed land for cemeteries; land for relics, spots of beauty and scenic places, and land for tourist zones;

c/ Areas of land of different categories subject to permission of competent state agencies upon change of use purposes to meet the province's needs;

d/ Determining unused land areas to be put into use;

e/ Making provincial-level land use planning maps;

f/ Solutions for implementing the land use planning.

2. Provincial-level People's Committees shall submit to the Government for approval targets of their provincial-level land use planings.

Article 5. Contents of district-level land use planning.

1. A district-level land use planning covers:

a/ Specifically indicating areas of land of different categories in the district which have been allocated under the provincial-level land use planning;

b/ Determining areas of land of different categories to meet the district's socio-economic development needs, including land for non-intensive aquaculture; land for salt-making; land for rural residential areas; land for building the district's working offices and non-business

works; land for disposal and burial of hazardous wastes; land for production and business establishments; land for manufacturing building materials, porcelain and china; land for development of the district's infrastructure; land with special-use water surface; and district-managed land for cemeteries;

c/ Areas of land of different categories subject to permission of competent state agencies upon change of use purposes to meet the district's needs;

d/ Determining unused land areas to be put into use;

e/ Making district-level the land use planning maps;

f/ Solutions for implementing the land use planning.

2. District-level People's Committees shall submit to provincial-level People's Committees for approval targets of their district-level land use planings.

Article 6. Contents of commune-level land use planning

1. A commune-level land use planning covers:

a/ Determining areas of land of different categories in the commune which have been allocated under the district-level land use planning;

b/ Determining areas of land of different categories to meet the commune's socio-economic development needs, including land for upland rice cultivation, land for planting other annual trees and other agricultural land; land for building the commune's working offices and non-business works; commune-managed land for cemeteries; lake and stream land; land for the

commune's infrastructure development and other non-agricultural land;

c/ Areas of land of different categories subject to permission of competent state agencies upon change of use purposes to meet the commune's needs;

d/ Making commune-level land use planning map;

e/ Solutions for implementing the land use planning.

2. Commune-level People's Committees shall submit to district-level People's Committees for approval targets of their communes' land use planning outside areas planned for urban development.

District-level People's Committees shall submit to provincial-level People's Committees for approval targets of land use plannings of wards, townships and communes within areas planned for urban development.

Article 7. Detailed land use plannings and plans of hi-tech parks and economic zones

1. Detailed land use plannings and plans of hi-tech parks and economic zones shall be expressed in their detailed construction plannings.

2. The Ministry of Construction shall coordinate with the Ministry of Natural Resources and Environment in guiding contents of detailed construction plannings of hi-tech parks and economic zones specified in Clause 1 of this Article.

Article 8. Formulation of land use plannings and plans

1. Formulation of national-level land use plannings and plans

a/ The Ministry of Agriculture and Rural Development shall propose demands for use of wet rice land, special-use forest land, protection forest land and nature reserve land, and allocate these land areas to each province or city on the basis of the sector's planning;

b/ The Ministry of National Defense and the Ministry of Public Security shall coordinate with provincial-level People's Committees in identifying demands for use of land for defense and security purposes in provinces and cities;

c/ Other ministries and branches shall propose demands for use of land for national important works and allocate these land areas to each province on the basis of their development strategies and planning;

d/ Provincial-level People's Committees shall coordinate with ministries and branches in identifying land use demands of each ministry or branch in their localities;

e/ The Ministry of Natural Resources and Environment shall make national-level land use plannings and plans on the basis of balancing land use demands specified at Points a, b, c and d of this Clause and determining these demands in each province.

2. The Ministry of Natural Resources and Environment shall guide the formulation of provincial-, district- and commune-level land use plannings and plans.

3. For localities where no People's Council is organized, their People's Committees shall make land use plannings and plans and submit them to competent state agencies for approval.

Article 9. Evaluation of land use plannings and plans

1. The Ministry of Natural Resources and Environment shall formulate national-level land use plannings and plans and submit them to the Government for further submission to the National Assembly to decide on targets of national-level land use plannings.

2. The Ministry of Natural Resources and Environment shall take charge of evaluating plannings and plans on the use of land for defense and security purposes and provincial-level land use plannings and plans.

3. Provincial-level Natural Resources and Environment Departments shall take charge of evaluating district-level land use plannings and plans; and land use plannings and plans of wards, townships and communes within areas planned for urban development.

4. District-level Natural Resources and Environment Sections shall take charge of evaluating land use plannings and plans of communes outside areas planned for urban development.

5. Agencies in charge of evaluating land use planning and plans defined in Clauses 1, 2 and 3 of this Article shall set up evaluation councils or consult organizations, experts and scientists.

When necessary, agencies in charge of evaluating land use plannings and plans shall organize field trips to inspect and survey areas whose use purposes are expected to be changed, especially the change of the use purpose of land for wet rice cultivation, land for protection forests and land for special-use forests.

6. Contents of evaluation of a land use

planning

a/ Legal and scientific grounds for making the land use planning;

b/ Conformity of land use planning alternatives with the national strategy and master plan on socio-economic development, defense and security; and development plannings of branches and localities;

c/ Socio-economic and environmental impacts ;

d/ Feasibility of land use planning alternatives.

7. Contents of evaluation of a land use plan

a/ Conformity of the land use plan with the land use planning;

b/ Conformity of the land use plan with the State's five-year and annual socio-economic development plan;

c/ Feasibility of land use plans.

8. In special cases in which the use purpose of land for wet rice cultivation, land for special-use forests or land for protection forests needs to be changed, such change must be reported to the Minister of Natural Resources and Environment for consideration and submission to the Prime Minister for decision.

9. Funds for evaluating land use plannings and plans constitute a separate item in the funds for formulating land use plannings and plans.

Article 10. Implementation of land use plannings and plans

1. Provincial-level People's Committees shall direct and inspect district- and commune-level People's Committees in specifically determining

areas and boundaries of land for wet rice cultivation, land for special-use forests and land for protection forests on the field.

Chairpersons of provincial-level People's Committees shall take responsibility before the Prime Minister for the protection of land areas for wet rice cultivation, special-use forests and protection forests already determined in land use plannings or plans.

2. The Ministry of Natural Resources and Environment shall take responsibility before the Government for inspecting the achievement of targets of national- and provincial-level land use plannings and plans.

Section 2. LAND PRICES

Article 11. Re-determination of land prices in some specific cases

1. When the State allocates land with collection of land use levy not through auctioning land use rights or bidding for land-using projects, leases land or approves plans on compensation, support and resettlement in case of land recovery by the State, and when equitized state enterprises select the form of land allocation but land prices set by provincial-level People's Committees at the time of land allocation or lease, land recovery decision, or inclusion of land prices in the value of the equitized enterprises are not close to actual market prices of land-use right transfer under normal conditions, provincial-level People's Committees shall, based on actual market prices of land-use right transfer, re-determine specific land prices as appropriate.

2. Specific land prices re-determined under Clause 1 of this Article are not restricted

notwithstanding the provisions of Clause 5, Article 1 of the Government's Decree No. 123/2007/ND-CP of July 27, 2007, amending and supplementing a number of articles of Decree No. 188/2004/ND-CP of November 16, 2004, on methods of determining land prices and price brackets of land of different categories (below referred to as Decree No. 123/2007/ND-CP).

Article 12. Land rent rates

1. The annual land rent rate is equal to 0.5%-2% of the land price, depending on use purposes of leased land as decided by the provincial-level People's Committees.

2. For land in deep-lying, remote, highland or island areas or areas with socio-economic difficulties or extreme difficulties, provincial-level People's Committees may decide to promulgate land rent rates lower than prescribed ones, which must at least equal 0.25% of land prices, depending on use purposes of leased land as decided by provincial-level People's Committees.

3. Land rent rates in case of auction of leased-land use rights or bidding for leased land-using projects are auction-winning unit prices.

Article 13. Land rents in case of lump-sum payment for the whole lease term

For those who are leased land by the State and pay land rents in a lump sum for the whole lease term, the land rent to be paid in a lump sum for using land in this case will equal the land use levy to be paid in case of allocation of land with collection of land use levy for the same use purpose and use duration.

Section 3. COMPENSATION, SUPPORT AND RESETTLEMENT

Article 14. Compensation and support principles

1. Compensation will be paid to current users of land recovered by the State who fully satisfy the conditions specified in Clauses 1, 2, 3, 4, 5, 7, 9, 10 and 11, Article 8 of the Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement in case of land recovery by the State (below referred to as Decree No. 197/2004/ND-CP), and Articles 44, 45 and 46 of the Government's Decree No. 84/2007/ND-CP of May 25, 2007, additionally providing for the issuance of land use right certificates, land recovery, exercise of land use rights, order of and procedures for compensation, support and resettlement in case of land recovery by the State, and settlement of land-related complaints (below referred to as Decree No. 84/2007/ND-CP). For land users who are ineligible for compensation, provincial-level People's Committees shall consider these cases in order to provide support.

2. Land used for a certain purpose which is recovered by the State shall be compensated with new land with the same use purpose. If no land is available for compensation, compensation equal to the value of land use rights calculated based on land prices at the time of land recovery decision will be paid. In case land is compensated with new land or residential land or a house for resettlement, any difference in value shall be paid in cash as follows:

a/ In case the compensation and support amount is larger than the residential land use levy

or the price of a house in the resettlement area, the re-settler is entitled to receive the difference;

b/ In case the compensation and support amount is smaller than the residential land use levy or the price of a resettlement house, the re-settler shall pay the difference, except the case specified in Clause 1, Article 19 of this Decree.

3. For land users who are entitled to compensation upon land recovery by the State but have not yet fulfilled land-related financial obligations towards the State under law, the amount used to fulfill such financial obligations shall be deducted from the compensation and support amount for payment into the state budget.

4. The State shall earmark part of benefits from the recovery of land and change of land use purposes to provide supports for persons having land recovered under Article 17 of this Decree.

Article 15. Payment of compensation, support and resettlement money

1. Domestic organizations and individuals, overseas Vietnamese and foreign organizations and individuals that are allocated land and pay land use levy or leased land by the State under the land law and advance compensation, support and resettlement money and funds for compensation and ground clearance work under approved plans will have such advance refunded by the state budget through subtracting it from the payable land use levy or land rent. The subtracted amount must not exceed the payable land use levy or land rent.

2. For domestic organizations and individuals, overseas Vietnamese and foreign organizations and individuals that are allocated land without

or with payment of land use levy or leased land by the State under the land law and are exempted from land use levy or land rent, their compensation, support and resettlement money and funds for compensation, support and resettlement work under approved plans will be included in their projects' investment capital.

Article 16. Compensation for agricultural land

1. Households and individuals having their agricultural land recovered by the State are entitled to compensation in land with the same use purpose. If no land is available for compensation, they are entitled to compensation in cash calculated based on the price of land with the same use purpose.

2. For households and individuals having their agricultural land in excess of the prescribed limit recovered, compensation shall be paid as follows:

a/ In case the excessive land area is bequeathed or donated by or transferred from other persons or reclaimed by households or individuals themselves under planning approved by a competent state agency, they are entitled to compensation;

b/ For the excessive land area in cases not defined at Point a of this Clause, they are not entitled to compensation for such land but are only entitled to compensation for remaining investment expenses.

3. In case recovered agricultural land belongs to public-utility land funds of communes, wards or townships, renters of such land are not entitled to compensation for the land but are only entitled to compensation for remaining investment expenses.

4. Households and individuals using land allocated under contracts for agricultural, forestry or aquaculture purpose (excluding land for special-use forests and protection forests) with state-run agricultural or forestry farms are entitled to compensation for remaining investment expenses when having such land recovered by the State.

5. When agricultural land under common use of state-run agricultural or forestry farms, compensation shall be paid for remaining investment expenses if those expenses are of non-state budget origin.

Article 17. Supports

Supports upon land recovery by the State include:

1. Support for relocation and resettlement in case of recovery of residential land;

2. Support for life and production stabilization, and support for job-change training and job creation in case of recovery of agricultural land;

3. Support upon recovery of agricultural land in residential areas, or garden or pond land not recognized as residential land;

4. Other supports.

Article 18. Removal support

1. In case of land recovery by the State, removing households and individuals are entitled to financial supports for removal.

2. Organizations which are allocated or leased land by the State or are lawfully using land which have to relocate their production and business establishments in case of land recovery by the

State are entitled to financial supports for dismantlement, relocation and installation.

3. Persons who have residential land recovered and have no other places of residence will be provided with makeshift lodgings or house rent support money, pending the creation of new places of residence (moving in resettlement areas).

4. Provincial-level People's Committee shall specify support levels mentioned in Clauses 1, 2 and 3 of this Article.

Article 19. Resettlement supports

1. Houses and residential land for resettlement are of various grades and areas to suit compensation levels as well as payment capacity of re-settlers.

Households and individuals that have residential land recovered by the State and have no other places of residence will be provided with residential land or houses for resettlement.

In case their compensation and support amount is smaller than the value of a minimum quota, households and individuals receiving residential land or houses for resettlement are entitled to the difference as resettlement support. If refusing to receive residential land or houses in resettlement areas, they are entitled to a cash amount equivalent to such difference.

2. Upon land recovery by the State, removing households and individuals that can arrange places of residence for themselves are entitled to an amount of money equal to the infrastructure investment quota calculated per household in the concentrated resettlement area, unless they have received the resettlement support money specified in Clause 1 of this Article.

3. Provincial-level People's Committees shall, based on the practical conditions of their localities, prescribe the minimum resettlement quota and support levels specified in Clauses 1 and 2 of this Article.

Article 20. Support for life and production stabilization

1. When the State recovers agricultural land (including garden, pond and agricultural land specified in Clauses 1 and 2, Article 21 of this Decree), agricultural production households and individuals are entitled to support for life stabilization as follows:

a/ Those having 30-70% of the agricultural land area under use recovered are entitled to support for life stabilization for 6 months if they are not required to move out, or 12 months if they are required to move out. If they have to move to areas with socio-economic difficulties or extreme difficulties, the maximum support duration is 24 months;

b/ Those having over 70% of the agricultural land area under use recovered are entitled to support for life stabilization for 12 months in case they are not required to move out, or 24 months in case they are required to move out. If they have to move to areas with socio-economic difficulties or extreme difficulties, the maximum support duration is 36 months;

c/ The level of support for a household member under Points a and b of this Clause will be calculated in cash equivalent to 30 kg of rice for a month at the average price at the time the support is provided in the locality

2. Economic entities and production and business households having made business registration that have land recovered by the State

and have to suspend production and business activities are entitled to the maximum support not exceeding 30% of one year's post-tax income calculated based on three preceding years' average income certified by a tax agency.

3. Upon land recovery by the State, households and individuals using land allocated under contracts for agricultural, forestry or aquaculture purpose (excluding land for special-use forests and protection forests) with state-run agricultural or forestry farms who are cadres, workers and employees of those farms and are working, have retired, have ceased working due to working capacity loss or enjoy severance allowances, and are directly engaged in agricultural or forestry production; and contracting households and individuals directly engaged in and living mainly on agricultural production are entitled to supports in cash. The maximum support level equals the compensated land price calculated based on the actually recovered land area which, however, must not exceed the agricultural-land allocation limit in the locality.

4. Households and individuals receiving compensation in agricultural land are entitled to support for production stabilization, including plant varieties and animal breeds for agricultural production, agricultural and forestry extension services, plant protection and veterinary services, cultivation and animal husbandry techniques and professional techniques for industrial and trade production and service provision.

5. Provincial-level People's Committees shall decide on support levels and durations and periodically pay supports specified in this Article as appropriate to their local practical conditions.

Article 21. Support for agricultural land in residential areas and garden and pond land not recognized as residential land

1. Households and individuals having garden or pond land in the same land lots with houses in residential areas which is not recognized as residential land; garden or pond land in the same land lots with separate houses; garden or pond land in the same land lots with houses along canals, ditches or roads, when having such land recovered, are entitled, in addition to compensation at the price of agricultural land with perennials, to support equal to 30-70% of the price of residential land of those land lots. The land area eligible for support must not exceed 5 times the land allocation limit in the locality.

2. Households and individuals having agricultural land within the administrative boundaries of wards, in residential areas within townships or in rural residential areas; agricultural land lots adjacent to the boundaries of wards or residential areas, when having such land recovered, are entitled, in addition to compensation at the price of agricultural land, to support equal to 20-50% of the average price of residential land in areas where the recovered land is located as specified in local land-price tables. The land area eligible for support must not exceed 5 times the land allocation limit in the locality.

3. Provincial-level People's Committees shall specify support rates, support-eligible land areas and average land prices used for calculating support as appropriate to their local practical conditions.

Article 22. Support for job change and creation

1. When the State recovers agricultural land not specified in Article 21 of this Decree but no land is available for compensation, households and individuals directly engaged in agricultural production are entitled to, in addition to compensation in cash under Clause 1, Article 16 of this Decree, to support for job change or creation in cash, residential land, house or non-agricultural production and business land as follows:

a/ Cash support equal to 1.5-5 times the agricultural land price for the whole area of recovered agricultural land. The land area eligible for support must not exceed the land allocation limit in the locality;

b/ Single support equal to one residential land ration, one condominium apartment or one ration of non-agricultural production and business land. This form of support applies in localities having residential land funds and house funds and to support beneficiaries wishing to have residential land, condominium apartments or non-agricultural production and business land while the support value under Point a of this Clause is larger than or equal to the value of residential land, condominium apartment or non-agricultural production and business land. Cash support will be provided for the value difference.

2. Provincial-level People's Committees shall decide on specific support forms and levels specified in Clause 1 of this Article to suit their local practical conditions.

3. Support beneficiaries defined in Clause 1 of this Article that need vocational training are entitled to enroll in job-training establishments. Those of working age are entitled to attend one training course free of charge.

Financial supports for job change are

determined in job training and change plans and include in total funds of approved investment projects or compensation, support and resettlement plans.

Provincial-level People's Committees shall direct the formulation and implementation of job training and creation plans for those having agricultural land recovered.

Job training and creation plans shall be formulated and approved simultaneously with compensation, support and resettlement plans. In the course of formulating job training and creation plans, comments of persons having land recovered who have to change their jobs must be collected.

4. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with concerned ministries and branches in, submitting to the Prime Minister for decision mechanisms and policies for creating and training jobs for persons having agricultural land recovered under this Article.

Article 23. Other supports

1. In addition to the supports specified in Articles 18 thru 22 of this Decree, provincial-level People's Committee chairpersons shall, based on their local practical conditions, decide on other support measures to arrange housing and stabilize life and production for persons having land recovered. Special cases shall be submitted to the Prime Minister for decision.

2. When the State recovers agricultural land under use, provincial-level People's Committees may consider and provide supports suitable to their local practical conditions to households and individuals directly engaged in and living mainly

on agricultural production that are ineligible for compensation under Article 8 of the Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement upon land recovery by the State, and Articles 44, 45 and 46 of the Government's Decree No. 84/2007/ND-CP additionally providing for the issuance of land use right certificates, land recovery, exercise of land use rights, order of and procedures for compensation, support and resettlement upon land recovery by the State, and settlement of land-related complaints.

Article 24. Compensation for houses and construction works on land

1. For houses and works serving daily-life activities of households and individuals, compensation equal to the value of newly built houses and works with equivalent technical standards promulgated by the Ministry of Construction shall be paid. The value of a newly built house or work shall be calculated by multiplying the house's or work's built area by the unit price of a newly built house and work promulgated by the provincial-level People's Committee under the Government's regulations.

2. For houses and construction works other than those specified in Clause 1 of this Article, compensation shall be paid as follows:

a/ The level of compensation for a to be-dismantled house or work equals the total current value of the house or work plus a cash amount calculated in percentage of this value;

The current value of a to be-dismantled house or work is determined to be the value of a newly built house or work with equivalent technical regulations promulgated by a line ministry

multiplied by the percentage of the residual quality of the house or work.

Provincial-level People's Committees shall specify cash amounts calculated in percentage of the current value of houses or works which must not exceed 100% of the value of a newly built house or work of technical standards equivalent with the to be-dismantled house or work.

b/ For partially dismantled houses and constructions works with the remaining part unusable, compensation shall be paid for the whole houses or works; if the remaining part still exists and is usable, compensation shall be paid for the value of the dismantled part of the house or work and expenses for repairing and refurbishing the remaining part up to technical standards of the house or work before it is dismantled.

3. For technical infrastructure or social infrastructure works currently in use, the compensation level will equal the value of a newly built work of equivalent technical standards promulgated by a line ministry. Compensation will not be paid for unused works.

In case a to be-relocated infrastructure work under a project has no classified technical standard or has a technical standard to be upgraded, the provincial-level People's Committee shall reach agreement with the agency with investment-deciding competence or the project investor in determining the grade of its technical standard for compensation.

4. Compensation will not be paid for assets attached to land which fall into any of the cases specified in Clauses 4, 6, 7 and 10, Article 38 of the Land Law.

5. Assets attached to land which fall into any of the cases specified in Clauses 2, 3, 5, 8, 9, 11

and 12, Article 38 of the Land Law shall be handled under Article 35 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the enforcement of the Land Law (below referred to as Decree No. 181/2004/ND-CP).

Article 25. Assignment of compensation, support and resettlement tasks

1. Based on local practical conditions, provincial-level People's Committees shall assign compensation, support and resettlement tasks to compensation organizations, including:

a/ District-level compensation, support and resettlement councils;

b/ Land fund development organizations.

2. A district-level compensation, support and resettlement council has its chairman being a leader of the district-level People's Committee, and the following members:

a/ A representative of the finance agency;

b/ A representative of the Natural Resources and Environment agency;

c/ A representative of the Planning and Investment agency;

d/ The investor;

e/ A representative of the commune-level People's Committee of the locality with recovered land;

e/ One or two representatives of households having land recovered;

g/ Other members as decided by the council chairman to suit local practical conditions.

3. Provision of compensation and ground clearance services:

District-level compensation, support and

resettlement councils or land fund development organizations may hire enterprises to provide compensation and ground clearance services.

Article 26. Expenses for organizing compensation, support and resettlement

1. Organizations responsible for organizing compensation, support and resettlement work shall make estimates of expenses for this work under each project as follows:

a/ For expenses with norms, criteria and unit prices prescribed by competent state agencies, estimates shall be made under current regulations;

b/ For expenses without norms, criteria and unit prices, estimates shall be made based on actual expenses to suit each project's characteristics and local practical conditions;

c/ Expenses for printing of documents, stationery, petrol, logistics and for the managerial apparatus shall be calculated based on actual needs of each project.

2. Funds for organizing compensation, support and resettlement must not exceed 2% of the total compensation and support fund of a project. For projects implemented in geographical areas with socio-economic difficulties or extreme difficulties, and projects to build infrastructure works in lines, organizations in charge of compensation, support and resettlement may make estimates of funds for organizing compensation, support and resettlement under the projects based on actual work volumes, which are not restricted at 2%.

The agency competent to approve compensation plans shall decide on funds for organizing compensation, support and resettlement for each project under law.

*Section 4. ORDER OF AND PROCEDURES
FOR LAND RECOVERY, ALLOCATION AND
LEASE*

Article 27. Bases for land allocation, land lease and land use purpose change

Bases for deciding to allocate land, lease land or permit the change of land use purposes include:

1. Land use plannings and plans approved by competent state agencies.

In case approved land use plannings or plans are unavailable yet, urban construction plannings or rural residential-area construction plannings approved by competent state agencies shall be based on.

2. Land use demands, indicated in the following documents:

a/ Investment projects approved or investment certificates issued by competent state agencies, for organizations;

For projects which are not required to be submitted to competent state agencies for approval or to have investment certificates, land use demands must be indicated in land allocation or lease applications enclosed with provincial-level Natural Resources and Environment Departments' written evaluation thereof.

b/ Applications for land allocation, land lease or change of land use purposes, with the certification of land use demands made by commune-level People's Committees of localities where exists land, for households and individuals.

For households or individuals that wish to use land for implementing investment projects, district-level Natural Resources and Environment

Sections' written evaluation of their land use demands is required;

c/ Land allocation applications, with the certification of land use demands made by commune-level People's Committees of localities where exists land, for population communities;

d/ Econo-technical reports on the construction of religious works, for religious establishments.

Article 28. Application of land recovery, allocation and lease procedures to investment projects

1. Land recovery, allocation and lease order and procedures applicable to cases in which the State recovers land for defense or security purposes, in national and public interests, or for economic development:

a/ In case neither auction of land use rights nor bidding for land-using projects is organized, the order and procedures comply with Articles 29, 30 and 31 of this Decree;

b/ In case auction of land use rights or bidding for land-using projects is organized, land shall be recovered and allocated to land fund development organizations for clearing the ground and organizing the auction of land use rights or bidding for land-using projects under law.

Based on auction results recognized in writing by competent state agencies and written certification of auction winners' full payment of land use levy or land rent, natural resources and environment agencies shall carry out procedures to issue certificates of land use rights or ownership of houses and other assets attached to land. Competent state agencies are not required to issue land allocation or lease decisions.

2. For land-using investment projects for which the State does not organize land recovery, land recovery procedures are not required to be carried out. After an investment site is introduced, the investor and land users shall agree to transfer or lease land or contribute land use rights as capital and carry out procedures for changing land use purposes in case of change of land use purposes.

Article 29. Introduction of investment sites and notification of land recovery

1. The investor or agency assigned to prepare an investment project shall submit a dossier at the local agency in charge of receiving investment dossiers. The dossier-receiving agency shall consult agencies related to the investment project in order to introduce an investment site according to its competence or submit the dossier to the provincial-level People's Committee to consider and introduce an investment site.

2. The provincial-level People's Committee shall notify land recovery or authorize the district-level People's Committee to notify land recovery right after introducing an investment site. In case land is recovered under planning, land recovery shall be notified after the land use planning, land use plan, urban construction planning or rural residential-area construction planning is approved and publicized.

A land recovery notice must state the reason for land recovery, the area and location of the to-be-recovered land lot on the basis of existing cadastral dossiers or approved detailed construction planning, and the relocation plan.

Land recovery notices shall be published on

the local mass media and posted up at head offices of commune-level People's Committees of localities where the land exists and at public-activity places of residential areas with to be-recovered land.

3. Permission for survey for formulating investment projects

a/ The provincial-level People's Committee chairperson may permit the investor to conduct survey and measurement to make a map of the project area right after the investment is approved for formulating and submitting detailed construction planning for approval, recovering land and making a master plan on compensation, support and resettlement, and shall direct district- and commune level People's Committees to perform the jobs specified at Points b and c of this Clause;

b/ The district-level People's Committee chairperson shall set up a compensation, support and resettlement council to make a compensation, support and resettlement plan and a job training and change plan. For localities where land fund development organizations exist, competent People's Committees may assign these organizations to make compensation, support and resettlement plans and job training and change plans;

c/ The commune-level People's Committee chairperson shall coordinate with the investor in informing the survey and measurement plan to land users within the project area and request them to create conditions for the investor to conduct survey and measurement for determining the land area in order to formulate an investment project.

4. For national important projects in which the investment has been decided by the National Assembly; group-A projects and projects to build transport, irrigation and dike systems which are in line with approved plannings, the jobs specified in Clause 1 of this Article are not required to be performed.

5. The time limit for issuing a document introducing an investment site or land recovery notice, or setting up a compensation, support and resettlement council under Clauses 2 and 3 of this Article is 30 days from the date of receipt of a valid investment dossier.

6. After being introduced an investment site, the investor shall formulate an investment project under the laws on investment and construction and make a dossier of application for land allocation or lease under the land law. Such an investment project must contain a master plan on compensation, support and resettlement.

Article 30. Making of compensation, support and resettlement plans

After an investment project is approved, the compensation, support and resettlement council or land fund development organization shall make and submit a compensation, support and resettlement plan under the Government's Decree No. 197/2004/ND-CP and Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the Decree guiding the Land Law, and Decree No. 187/2004/ND-CP on the transformation of state companies into joint-stock companies (below referred to as Decree No. 17/2006/ND-CP), and the following regulations:

1. A compensation, support and resettlement

plan contains the following details:

a/ Names and addresses of persons having to-be-recovered land;

b/ Area, type, location and origin of the to-be-recovered land; quantity, volume and percentage of the residual quality of assets to be dismantled;

c/ Bases for calculating compensation and support amounts, such as land prices and house and work prices used for compensation calculation, number of household members, number of people of working age, and number of social allowance beneficiaries;

d/ Compensation and support amounts;

e/ Resettlement arrangement;

f/ Relocation of works of the State, organizations, religious establishments or population communities;

g/ Relocation of graves.

2. Collection of comments on compensation, support and resettlement plans:

a/ Compensation, support and resettlement plans must be publicly posted up at head offices of commune-level People's Committees and public-activity places of residential areas where exists the to-be-recovered land for persons having to-be-recovered land and related persons to give comments;

b/ The posting up of plans must be recorded and certified by representatives of the commune-level People's Committee and Fatherland Front committee and persons having to-be-recovered land;

c/ The duration for posting up a plan and receiving comments is at least twenty (20) days

after a plan is posted up.

3. Completion of compensation, support and resettlement plans:

a/ Upon the expiration of the duration for posting up a plan and receiving comments, the compensation and ground clearance organization shall sum up comments in writing, including comments for, comments against and comments divergent from the compensation, support and resettlement plan; then complete the plan and send it enclosed with a sum-up of comments to the natural resources and environment agency for evaluation;

b/ If there are many comments against the compensation, support and resettlement plan, the compensation and ground clearance organization shall clearly explain the plan or re-consider and adjust the plan before sending it to the natural resources and environment agency for evaluation.

4. Natural resources and environment agencies shall assume the prime responsibility for, and coordinate with concerned agencies in, evaluating compensation, support and resettlement plans and preparing land recovery dossiers under the following regulations:

a/ Provincial-level Natural Resources and Environment Departments shall prepare land recovery dossiers and submit them to provincial-level People's Committees to issue land recovery decisions with respect to organizations, religious institutions, overseas Vietnamese and foreign organizations and individuals;

b/ District-level Natural Resources and Environment Sections shall prepare land recovery dossiers and submit them to district-

level People's Committees to issue land recovery decisions with respect to households, individuals and population communities.

Article 31. Land recovery decision, approval and implementation of compensation, support and resettlement plans, land allocation and land lease

1. The competence to decide to recover, allocate or lease land complies with Articles 37 and 44 of the Land Law.

In case both the land recovery and land allocation or lease falls within the competence of a certain authority, the land recovery and land allocation or lease shall be conducted under a single decision.

In case the to-be-recovered land lot is used by organizations, households and individuals as well, district-level People's Committees shall decide to recover land from households, individuals and population communities. Within 5 working days after the district-level People's Committee decides to recover land, the provincial-level People's Committee shall decide to recover land from organizations, overseas Vietnamese and foreign organizations and individuals and allocate or lease land under a project to the investor under a single decision.

2. Within 5 working days after issuing a decision to recover and allocate or lease land, the natural resources and environment agency shall submit a compensation, support and resettlement plan to the People's Committee of the same level for approval and publicization under the following regulations:

a/ Provincial-level Natural Resources and Environment Departments shall submit to

provincial-level People's Committees for approval compensation, support and resettlement plans, in case to be recovered-land areas belong to 2 or more urban districts, rural districts, towns or provincial cities;

b/ District-level Natural Resources and Environment Sections shall submit to district-level People's Committees for approval compensation, support and resettlement plans, for cases not defined at Point a of this Clause;

c/ Within three (3) days after receiving an approved compensation, support and resettlement plan, the compensation and ground clearance organization shall coordinate with the commune-level People's Committee in disseminating the decision approving the compensation plan and publicly posting it up at the head office of the commune-level People's Committee and public-activity place of the residential area where exists the to-be-recovered land; and send compensation, support and resettlement decisions to persons having to-be-recovered land, indicating the compensation and support level, arrangement of a resettlement house or land (if any), time and place for paying the compensation and support money, and time for handing over the recovered land to the compensation and ground clearance organization.

3. Compensation, support and resettlement councils or land fund development organizations shall pay compensation and support money and arrange places for resettlement.

4. Within twenty (20) days after the compensation and ground clearance organization fully pays the compensation and support money

to persons having land recovered under the approved plan, the latter shall hand over their land to the former.

In case compensation is paid gradually according to schedule, the investor may be handed over the ground area for which compensation and support have been completed to implement the project.

5. In case the investor and persons having land recovered have reached agreement in writing on the plan to compensate for land and assets attached to land or when the to-be-recovered land lot does not require ground clearance, the competent People's Committee may issue a land recovery and allocation or lease decision without having to wait until the expiration of the duration for land recovery notice.

Article 32. Land recovery coercion

1. Land recovery coercion under Clause 3, Article 39 of the Land Law may be conducted only when the following conditions are fully satisfied:

a/ The order of and procedures for land recovery, compensation, support and resettlement under Articles 27, 28, 29 and 39 of this Decree have been complied with;

b/ Persons having to be-recovered land fail to hand over land to the compensation and ground clearance organization within thirty (30) days after the time for handing over land under Clause 6, Article 29 of this Decree;

c/ Persons having to be-recovered land fail to hand over the recovered land to the State after being persuaded by representatives of the compensation and ground clearance organization,

commune-level People's Committee and Fatherland Front committee of the locality where exists to-be-recovered land;

d/ A coercion decision of the competent People's Committee under law has taken effect;

e/ The coerced person has received the coercion decision. If he/she refuses to receive that decision, the compensation and ground clearance organization shall coordinate with the commune-level People's Committee in publicly posting up the coercion decision at the head office of the commune-level People's Committee of the locality where exists to-be-recovered land.

2. If the coerced person fails to hand over land, within fifteen (15) days after the coercion decision is directly handed to him/her or publicly posted up under Point e, Clause I of this Article, the district-level People's Committee shall direct and organize the coercive recovery of land in accordance with law.

Article 33. Separation of compensation, support and resettlement issues into a sub-project and responsibility to organize land recovery, compensation, support and resettlement for investment projects of ministries and branches

1. Based on the area of to-be-recovered land for implementation of investment projects, agencies with investment project-approving competence may decide to separate compensation, support and resettlement issues into a sub-project for independent implementation.

2. Provincial-level People's Committees shall direct the organization of land recovery, compensation, support and resettlement for investment projects of ministries, ministerial-

level agencies, government-attached agencies, business groups, corporations and central non-business units (referred to as ministries and branches in this Article) for which land is to be recovered by the State.

Ministries and branches having investment projects shall coordinate with provincial-level People's Committees and compensation and ground clearance organizations in organizing compensation, support and resettlement and ensure funds for this work under regulations.

*Section 5. LAND FUND DEVELOPMENT,
ISSUANCE OF CERTIFICATES OF LAND
USE RIGHTS AND OWNERSHIP OF
HOUSES AND OTHER ASSETS ATTACHED
TO LAND, USE OF LAND OF
UNDERGROUND WORKS, AND LAND USE
EXTENSION*

Article 34. Land development funds

1. Provincial-level People's Committees may deduct 30-50% of annually collected revenues from land use levies, land rents and land-use-right auction proceeds to set up land development funds. A land development fund shall be used for the following purposes:

a/ Advancing capital to the land fund development organization for land development;

b/ Advancing capital to create land funds and resettlement house funds under planning;

c/ Advancing capital for land recovery, compensation and ground clearance under planning to create land funds for socio-economic development, education-training, vocational training, health care, culture, physical training and sports and environment, and other local

needs;

d/ Supporting the implementation of job training and change schemes;

e/ Supporting the construction of resettlement areas; supporting the construction of infrastructure works in places with recovered land;

f/ Paying the difference for households and individuals to settle in resettlement areas under Clause 1, Article 22 of this Decree.

Provincial-level People's Committees shall decide on the use of land development funds in order to provide supports for the cases specified at Points d, e and f of this Clause.

2. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, submitting to the Prime Minister for assignment levels of deduction from state budget revenues collected from land to provinces and centrally run cities for setting up land development funds, and promulgate a model regulation on the management and use of land development funds on the following principles:

a/ A land development fund is a state financial institution operating on the principles of capital preservation, self-financing in the course of operation and not-for-profit purpose;

b/ A land development fund has the legal entity status, conducts independent cost-accounting, has its own seal and balance sheet, and may open accounts at state treasuries and credit institutions to under law for its operation;

c/ A land development fund shall be managed, administered and organized under its

organization and operation charter promulgated by the provincial-level People's Committee based on the model regulation;

d/ A land development fund is eligible for preferences under current regulations.

3. The Ministry of Finance shall assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment in, guiding the exemption from taxes and other state budget remittances as stipulated at Point d, Clause 2 of this Article.

Article 35. Land fund development organizations

1. A land fund development organization is a non-business unit having revenues and set up at the provincial or district level under decision of the provincial-level People's Committee.

2. A land fund development organization has the following tasks:

a/ To create land funds for auctioning land use rights;

b/ To create land funds for socio-economic development;

c/ To create land funds for education and training, vocational training, health care, culture, physical training and sports and environmental development and other local needs, and for stabilizing the real estate market;

d/ To receive transferred land use rights under law;

e/ To manage land funds with cleared ground, funds of transferred land for which investment projects have not yet been formulated or land use rights have not yet been auctioned; and land

recovered under Clauses 2 thru 12, Article 38 of the Land Law, for land in urban areas and areas under urban development planning;

f/ To auction land use rights under law;

g/ To assume the prime responsibility for, or coordinate with the compensation and ground clearance council in, organizing compensation and ground clearance;

h/ To provide compensation and ground clearance services;

i/ To develop resettlement areas;

j/ To build infrastructure on land funds assigned to it for management in order to organize auction;

k/ To provide information on land prices and land funds to organizations and individuals upon request;

l/ To perform other tasks under decisions of the provincial-level People's Committee.

3. Funding sources of a land fund development organization include:

a/ Capital advanced from the land development fund under Article 34 of this Decree;

b/ Capital advanced from the state budget;

c/ Capital raised in other forms under law.

4. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the Ministry of Home Affairs and the Ministry of Finance in, guiding the functions, tasks, powers and financial mechanisms of land fund development organizations.

Article 36. Issuance of certificates of land

use rights and ownership of houses and other assets attached to land, with regard to land being used by enterprises as ground for building production and business establishments

1. Enterprises using land as ground for building production and business establishments that have not yet been issued certificates of land use rights and ownership of houses and other assets attached to land shall themselves review and declare the use of such land and report thereon to provincial-level People's Committees of localities where exists the land.

2. On the basis of enterprises' reports, provincial-level People's Committees of localities where exists the land shall conduct field inspections and decide on handling measures and issue, on a case-by-case basis, certificates of land use rights and ownership of houses and other assets attached to land under the following regulations:

a/ For land areas which have been leased by the State; of which lawful use rights have been transferred from other persons or which have been allocated by the State with collection of land use levy and the amount paid for such transfer or the land use levy paid to the State is of non-state budget origin, and are being used for proper purposes as stated in land allocation or lease decisions or land rent contracts, enterprises may continue using them and will be issued certificates of land use rights and ownership of houses and other assets attached to land for such land areas;

In case land use purposes have been changed to conform with planning, financial obligations must be fulfilled under law before the issuance of certificates of land use rights and ownership of houses and other assets attached to land.

b/ For land areas which have been allocated by the State without collection of land use levy; of which lawful use rights have been transferred from other persons or which have been allocated by the State with collection of land use levy and the amount paid for such transfer or the land use levy paid to the State is of state budget origin and are being used for proper purposes, enterprises shall shift to lease or have them allocated with payment of land use levy and will be issued certificates of land use rights and ownership of houses and other assets attached to land for such land area,

c/ For land areas left unused, land areas used for improper purposes, land areas illegally encroached, occupied or lost due to irresponsibility; land areas leased or borrowed to other organizations or individuals for illegal use or cooperation, provincial-level People's Committee shall decide to recover them;

d/ Residential land areas shall be handed over to the district-level People's Committee for management. In case residential land areas conform with approved land use planning, their users will be issued certificates of land use rights and ownership of houses and other assets attached to land and shall fulfill financial obligations under the Government's regulations on collection of land use levy;

e/ For land areas which have been acquired from illegal encroachment or occupation or have been illegally encroached or occupied or are under dispute, provincial-level People's Committee shall resolutely handle these cases in order to identify land users.

Article 37. Use of land for building underground works

The use of land for building underground works (other than underground parts of construction works on the ground) complies with the following regulations:

1. Provincial-level People's Committees shall decide to permit organizations, individuals, overseas Vietnamese and foreign organizations and individuals to use land for building underground works for production and business purposes in accordance with the investment law. Permitted users of land for building underground works shall sign land rent contracts with provincial-level Natural Resources and Environment Departments;

2. Rent rates of land for building underground works must not exceed 30% of rent rates of land for building works on the ground having the same use purposes. Provincial-level People's Committees shall decide on specific rent rates to suit local practical conditions;

3. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with concerned ministries and branches in, formulating mechanisms on the management and use of land for building underground works, then submit them to the Prime Minister for decision.

Article 38. Order of and procedures for land use duration extension for economic entities, overseas Vietnamese, foreign organizations and individuals that use land; households and individuals that use non-agricultural land; and households and individuals not directly engaged in agricultural production that are leased agricultural land by the State

1. Six (6) months before the expiration of the

land use duration, land users wishing to extend the land use duration shall file requests for land use duration extension with provincial-level Natural Resources and Environment Departments, for economic entities, overseas Vietnamese, foreign organizations and individuals; or with district-level Natural Resources and Environment Sections, for households and individuals.

In case the size of an investment project is adjusted, resulting in a change in the project operation duration, its land use duration shall be adjusted corresponding to the project operation life right after the project has adjusted its registered size.

2. The extension is specified as follows:

a/ Natural resources and environment agencies shall evaluate land use demands.

In case the request for land use duration extension requires registration of the adjustment of the investment project, land use demands shall be evaluated simultaneously with the registration of the adjustment of the investment project.

b/ Land use right registries shall send copies of cadastral dossiers and data to agencies responsible for determining financial obligations;

c/ Land users shall submit certificates of land use rights and ownership of houses and other assets attached to land and papers evidencing the fulfillment of financial obligations, for cases eligible for land use duration extension, to natural resources and environment agencies;

d/ Natural resources and environment agencies shall adjust the land use durations indicated in certificates of land use rights and ownership of houses and other assets attached to

land, for cases eligible for land use duration extension;

e/ The time limit for performing the jobs specified at Points a, b, c and d of this Clause is twenty (20) working days (excluding the time for the land user to fulfill his/her/its financial obligations), counting from the date the natural resource and environment agency receives a complete and valid dossier to the date the land user receives the certificate of land use rights and ownership of houses and other assets attached to land.

3. For cases ineligible for land use duration extension, natural resources and environment agencies shall recover land upon the expiration of the land use duration under Clause 3, Article 132 of Decree No. 181/2004/ND-CP.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 39. Handling of problems arising after the promulgation of this Decree

1. The formulation of land use plans under this Decree applies to the period from 2011 onwards. The adjustment of land use plans for the 2001-2010 period complies with Decree No. 181/2004/ND-CP.

For existing urban areas of urban districts, towns, cities, wards or townships with approved detailed construction plans, which already contain land use planning contents, these contents shall be incorporated in the superior level's land use plans.

2. The determination of land rents under Clauses 1 and 2, Article 12 of this Decree applies

to cases in which land rent contracts are signed on or after January 1, 2010. For signed land rent contracts which already indicate rent rates, such land rent rates shall be kept unchanged for five (5) years.

3. Projects and work items for which compensation, support and resettlement money had been paid before the effective date of this Decree are not governed by this Decree.

4. For projects and work items for which compensation, support and resettlement plans have been approved or compensation, support and resettlement money is being paid under plans approved before the effective date of this Decree, these approved plans shall still be implemented without being adjusted or governed by this Decree. In case of delayed compensation, land prices used for compensation and support comply with Clause 2, Article 9 of Decree No. 197/2004/ND-CP.

Article 40. Settlement of complaints about compensated land prices, compensation, support and resettlement decisions or land recovery coercion decisions

1. The settlement of complaints complies with Article 138 of the Land Law, Articles 63 and 64 of Decree No. 84/2007/ND-CP, and the Government's Decree No. 136/2006/ND-CP of November 14, 2006, detailing and guiding a number of articles of the Law on Complaints and Denunciations, and the Laws Amending and Supplementing a Number of Articles of the Law on Complaints and Denunciations.

2. Pending a complaint settlement decision, the land recovery decision must still be complied with. In case a state agency with complaint-

settling competence concludes that land recovery is unlawful, the land recovery decision must cease to be implemented. The state agency which has issued the land recovery decision shall issue another decision annulling the land recovery decision and pay compensation for damage caused by the land recovery decision (if any). In case the state agency with complaint-settling competence concludes that land recovery is lawful, the person having land recovered shall abide by the land recovery decision.

Article 41. Implementation provisions

1. This Decree takes effect on October 1, 2009.

2. To annul the following regulations:

a/ Articles 10 and 12, contents of detailed land use planning and plans of hi-tech parks and economic zones under Articles 14, 30, 52, 125, 126, 127 and 141 of Decree No. 181/2004/ND-CP;

b/ Articles 3, 6, 10, 19 and 27; Clauses 1 of Articles 28, 32, 36, 39 and 48, of Decree No. 197/2004/ND-CP;

c/ Article 4 of Decree No. 142/2005/ND-CP of November 14, 2005, on the collection of land use levy and water surface rent;

d/ Clause 1, Article 2; and Clauses 4, 5 and 6, Article 4, of the Government's Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the decrees guiding the Land Law, and Decree No. 187/2004/ND-CP on the transformation of state companies into joint-stock companies;

e/ Articles 43 and 48 thru 62 of the Government's Decree No. 84/2007/ND-CP of May 25, 2007, additionally providing for the

issuance of land use right certificates, land recovery, exercise of land use rights, order of and procedures for compensation, support and resettlement upon land recovery by the State, and settlement of land-related complaints;

f/ Point 2, Clause 12. Article 1 of the Government's Decree No. 123/2007/ND-CP of July 27, 2007, amending and supplementing a number of articles of Decree No. 188/2004/ND-CP of November 16, 2004, on methods of determining land prices and price brackets of land of different categories.

4. The Ministry of Natural Resources and Environment shall guide the implementation of this Decree.

Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree.

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG