

**THE GOVERNMENT**

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No. 01/2017/ND-CP

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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*Hanoi, January 06, 2017*

**DECREE**

**ON AMENDMENTS TO THE DECREES ON THE IMPLEMENTATION OF THE LAND  
LAW**

*Pursuant to the Law of Government Organization dated June 19, 2015;*

*Pursuant to the Law of land dated November 29, 2013;*

*At the request of the Minister of Natural resources and Environment;*

*The government promulgates the Decree on amendments to certain decrees that govern the implementation of the Law of land.*

**Article 1. Scope**

This Decree amends certain articles of the Decree No. 43/2014/ND-CP dated May 15, 2014 on the implementation of certain articles of the Law of land, the Decree No. 44/2014/ND-CP dated May 15, 2014 on land price and the Decree No. 47/2014/ND-CP dated May 15, 2014 on compensation, support and resettlement for the government's expropriation of land.

**Article 2. Amendments to certain articles of the Decree No. 43/2014/ND-CP dated May 15, 2014 on the implementation of certain articles of the Law of land**

1. Article 3 is amended as follows:

**“Article 3. Identification of land types**

1. The type of a land parcel used in the absence of documents defined in Section 1, 2 and 3, Article 11 of the Land Law shall be identified in the following manner:

a) If the land parcel is securely used and is not gained through illegal encroachment, occupation or conversion, its type shall accord with the current form of use;

b) If the land parcel is gained through illegal encroachment, occupation or conversion, its type shall be traced from its origin and progress of land management and use.

2. The type of a land parcel allocated, leased or enabled to be converted by the government shall be identified according to the land use plan, construction plan, urban plan, rural residential area

plan and new rural commune development plan, which have been approved by competent government authorities, and the investment project.

3. The type of a land parcel (on which there is neither garden nor pond) used for various purposes, as prescribed in Section 1 and Section 2 of this Article, shall be identified in the following manner:

a) If the boundaries of the segments in different use are specified, the land parcel shall be divided by use and the use of each divided lot is identified.

b) If the boundaries of the segments in different use are unspecified, the main purpose of use of the land parcel shall accord with the land type at the highest price in the land price list issued by the People's Committee of the relevant province or central-affiliated city (hereinafter referred to as the provincial People's Committee).

The main purpose of use of a land area for construction of a multi-purpose condominium whose floor area is partly used for offices and commercial establishments shall be residential.

4. Provincial People's Committees shall identify the type of land, as stated in Section 1, 2 and 3 of this Article, being used by religious establishments, foreign-invested companies, diplomatic foreign organizations or Vietnamese expatriates for an investment project. People's Committee of a district, township or provincial city (hereinafter referred to as the district-level People's Committee) shall identify the type of land concerning households, individuals, residential communities or Vietnamese expatriates permitted to own residential houses pursuant the legislation on residential housing. The type of land expropriated shall be identified by the agencies authorized to expropriate such land as per the legislation on land.

Provincial People's Committee shall identify the type of land over which the authority to identify land type belongs to both the provincial People's Committee and district-level People's Committee."

2. Article 3a is added as follows:

**"Article 3a. The verification of stable income(s) from agricultural production of a household or individual engaged directly in agricultural production shall be subject to Section 30, Article 3 of the Land Law.**

People's Committee of a commune, ward or town (hereinafter referred to as the communal People's Committee) shall be responsible for verifying the stable income(s) of a household or individuals from agricultural production in the following manner upon the procedure for land allocation, registration of acquisition of land use right through transfer or donation, issuance of certificates of land use right with or without ownership of house and properties attached to land, or compensation and support consequential to the government's expropriation of land:

1. People's Committee of the ward at which the permanent address of the household or individuals directly engaged in agricultural production is registered shall verify their stable income(s) from agricultural production.

2. If the members of the household or the individuals using a land parcel have their permanent addresses registered at different places, the People's Committees of the wards at which permanent addresses are registered shall verify the stable income(s) of such household or individuals who directly engage in agricultural production after receiving a written confirmation of the use of agricultural land from the People's Committee of the ward where the land parcel exists.”

3. Section 2 is renamed as Section 3, Section 3 is renamed as Section 4 and Section 2 is added in Article 4:

“2. Local agencies regarding natural resources and environments, which include the Department of Natural resources and Environment, the Office of Natural resources and Environment and the Office of land registration, shall be given certain assignments of state management of land.”

4. Point a, Section 1 of Article 5 is amended as follows:

“a) Land registration office is an agency providing public services under a Department of Natural resources and Environment and is formed or reorganized by the relevant provincial People's Committee by merging the existing Office of land use right registration under the Department of Natural resources and Environment and the existing Offices of land use right under the local Office of Natural resources and Environment. It is a juridical person in possession of its own location, seal and account to operate as per the laws.

The functions of a land registration office are to register land and land-attached properties; issue certificates of land use right with or without ownership of house and other properties attached to land when mandated as per regulations; take measurements, produce, management, update, revise and match cadastral documents with land database; reckon up and inventory land; release land information to requesting organizations and individuals as per regulations and provide other services on the premise that its functions and missions accord with competence pursuant to the laws;”

5. Article 5a is added as follows:

**“Article 5a. Competence of an organization or individual surveying and assessing land**

1. An organization or company can survey and assess land upon its satisfaction of the following requirements:

a) Its function, if it is a governmental provider of public services, is to survey and assess land;

b) It employs at least 05 individuals who meet the requirements defined in Section 2 of this Article;

c) It has sufficient equipment and technology apposite to its methods pursuant to technical regulations by the Minister of Natural resources and Environment on land surveying and assessment.

2. An individual from an organization whose function is to survey and assess land shall conduct the survey and assessment of land upon satisfying the following requirements:

a) Possess the full civil act capacity;

b) Possess university or higher qualifications in cadastral land management, land science, paedology, environment and other specializations that concern land surveying and assessment;

c) Have worked in the sector of land resource management or have surveyed and assessed land for at least 36 months.

3. Organizations analyzing soil samples are required to have a soil analysis laboratory certified by competent agencies.”

6. Article 5b is added as follows:

**“Article 5b. Requirements for organizations and individuals engaged in the construction of the land information system**

1. The requirements for organizations and individuals engaged in the construction of the land information system’s information technology infrastructure and software shall be subject to the legislation on the management, investment and application of information technology for which the state budget provides finance.

2. A public service provider or company can establish the land database upon their satisfaction of the following requirements:

a) Its function, if it is a governmental provider of public services, is to establish the land database.

b) It employs at least 10 persons for establishing a district-level land database or at least 15 persons for establishing a provincial or national land database pursuant to Section 3 of this Article;

c) It has the infrastructure, equipment and technology for establishing the land database as per regulations of the Minister of Natural resource and Environment.

3. A person can build a land database for an organization establishing the land database upon satisfying the following requirements:

a) Possess the full civil act capacity;

b) Have university or higher qualifications in land management, cadastral management, cartography, information technology and other specializations involving land database;

c) Have worked in the sector of land resource management or have built land databases for at least 24 months.

4. The scope of establishment of a land database is district-level, provincial and national.

The establishment of a national land database shall only proceed after the operational eligibility and capacity, pursuant to Section 2 of this Article, is evaluated and verified by the Ministry of Natural resources and Environment.

5. The procedure for evaluating the eligibility and capacity of an organization establishing land databases:

a) The public service provider or company submits an application to the Ministry of Natural resources and Environment for evaluation of its eligibility. The application includes:

- The documents on the expected content and workload of the establishment of the land database;

- The copy of the establishment decision, certificate of company registration or certificate of registration of investment in information technology, cadastral cartography and land management; the license of cadastral cartography;

- The list and quantity of instruments and technologies for establishing the land database;

- The list of participating personnel, in which each person's qualifications, specialization, certificates of training in land database building and working experience are described;

- The list of projects and land databases that it has built or has engaged in (if any).

b) In 30 days upon receiving the full valid application, the Ministry of Natural resources and Environment shall complete its evaluation and revert to the applicant.”

7. Section 4 of Article 6 is amended as follows:

“4. Ministry of Finance shall present the sample regulation on management and use of the land development fund to the Prime Minister for promulgation. It shall regulate the allocation, recording, disbursement and finalization of expenditure, mobilization and use of finances from the land development fund and mechanism of mandate to other local development investment funds and financial funds if an independent land development fund is not established pursuant to regulations on the management of governmental budget and financial funds.

Provincial People's Committees shall base on Section 1, 2 and 3 of this Article, the sample regulation of the Prime Minister on the management and use of the land development fund and other relevant regulations to establish a land development fund or revise the functions and

missions of the existing one and decide the organizational structure, financing and operational mechanism of the land development fund in line with local actual conditions.”

8. Section 5 is renamed as Section 6 and Section 5 is added in Article 7:

“5. When the scope, location and quantity of projects and buildings are necessarily subject to revision without a change to the land use norms by land type and to the land areas by function in the district-level land use plan, the relevant Office of Natural resources and Environment shall aggregate information on the demand of organizations, households and individuals for land use and present thereof to the district-level People's Committee which shall report to the Department of Natural resources and Environment. Department of Natural resources and Environment shall report to the provincial People’s Committee for approval and then update revisions to the district-level annual land use plan of the following year.

If the addition of a project or building results in land expropriation pursuant to Section 3, Article 62 of the Land Law, such matter shall require the approval of the People's Council of the relevant province or central-affiliated city (hereinafter referred to as the provincial People’s Council) before being considered and validated by the provincial People’s Committee and updated into the district-level annual land use plan of the subsequent year.”

9. Article 7a is added as follows:

**“Article 7a. Planning of land use in a new rural commune construction plan**

1. The content of land use plan in a new rural commune construction plan shall accord with the district-level land use plan.

New rural commune construction plans approved by competent government authorities prior to the effective date of this Decree shall be scrutinized and revised with respect to their content of land use planning in line with the district-level land use plan.

2. The expropriation, allocation, lease of land or validation of land use conversion for implementing the new rural commune construction plan shall be founded upon the district-level annual land use plan approved by the competent government authority.”

10. Section 6 is added to Article 9 as follows:

“6. The procedure for reporting to a provincial People's Committee for approval of revision to the scale, location and quantity of projects and buildings without a change to type-based land use norms and function-based land areas in the district-level land use plan:

a) In no more than 07 days upon its receipt of the request for revision to the scale, location and quantity of projects and buildings that use land pursuant to the district-level annual land use plan, the Office of natural resources and Environment shall aggregate information and report to the district-level People's Committee which then delivers the dossier to the Department of Natural resources and Environment which then reviews and presents information to the provincial

People's Committee. The dossier includes the letter of report of the district-level People's Committee; the list of projects and buildings that require revision; the drawings that depict the locations, boundaries and measurements of such projects and buildings;

b) In no more than 03 days upon receiving the full valid dossier, the Department of Natural resources and Environment shall report to the provincial People's Committee. In no more than 05 days upon receiving the full dossier from the Department of Natural resources and Environment, the provincial People's Committee shall review information, grant permission and update data to the district-level annual land use plan of the following year;

c) If the addition of a project or building results in land expropriation pursuant to Section 3, Article 62 of the Land Law, the Department of Natural resources and Environment shall, in no more than 10 days upon receiving the valid documents, list the additional project or building that requires expropriated land(s) and report thereof to the provincial People's Committee which then presents information to the People's Council for approval.”

11. Section 5, 6 and 7 are added to Article 14 as follows:

“5. If a household or individual desires to convert the purpose of use of land from rice cultivation, protection forest or special-use forest to another use for an investment project, the process of conversion shall adhere to Section 1, Article 58 of the Land Law.

6. Land areas for rice cultivation, protection forest or special-use forest, whose conversion to other purposes of use has been approved in writing by the Prime Minister or via a written resolution by the provincial People's Council though no written decision on land expropriation, land allocation, land lease or land conversion has been issued for a project, shall remain available for the maximum duration of 03 subsequent years pursuant to Section 3, Article 49 of the Land Law without reapplication for approval from the Prime Minister or People's Council pursuant to Section 1, Article 58 of the Land Law if the project continues.

7. The following procedure applies to a household's or individual's conversion of land use from rice cultivation to perennial crop:

a) The household or individual applies for conversion of rice cultivation land to the People's Committee of the commune where the land parcel is located;

b) The commune People's Committee shall review information and decide the types of perennial plants permissible for conversion. The conversion to perennial crop shall not efface the conditions for re-cultivation of rice; for instance, it shall not deform the ground, pollute and degrade rice-growing soil, or damage the infrastructure of transport and irrigation for rice cultivation. Moreover, it shall accord with the commune's plan for crop conversion from rice cultivation to perennial crop;

c) Rice cultivation land that undergoes crop conversion in conformity to Point b of this Section shall remain as rice cultivation land in statistical data;

d) Ministry of Agriculture and Rural development shall lead and cooperate with the Ministry of Natural resources and Environment in regulating details of the conversion of crops on rice cultivation land.”

12. Point c, d and dd are added to Section 2 of Article 15 as follows:

“c) In the event that a land parcel is detected, upon an inspection, to have not been used in more than 12 consecutive months or the progress of land use is over 24 months behind schedule, the 24-month extension of land use shall commence on the date that the agency competent to allocate or lease the land parcel decides such extension. The competent agency’s decision to extend land use schedule shall be made at the land user’s request in 30 days upon the agency's receipt of the report or conclusion of inspection.

d) A land user who has not used a land parcel in more than 12 months or whose progress of land use falls over 24 months behind schedule is required to file a written request for extension to the People’s Committee competent to allocate or lease such land parcel.

People’s Committee competent to allocate or lease the land parcel shall expropriate it 15 days after a government authority's written confirmation of the violation if the land user does not apply in writing for extension;

dd) Ministry of Finance regulates details of the calculation of the land use fee or land rent payable for the extended duration of 24 months pursuant to Point i, Section 1, Article 64 of the Land Law.”

13. Article 15a is added as follows:

**“Article 15a. Land expropriation against non-fulfillment of land user’s obligations**

Land expropriation against a land user's non-fulfillment of obligations to the government pursuant to Point g, Section 1, Article 64 of the Land Law shall proceed if the land user does not or has not fulfilled the payment of the land use fee or land rent as per the laws and then oppose competent government authorities' coercion of financial obligations.”

14. Article 15b is added as follows:

**“Article 15b. Land expropriation against termination of investment project pursuant to legislation on investment**

Land expropriation against the termination of an investment project pursuant to the legislation on investment, except the government’s expropriation of land pursuant to Section 1, Article 64 and Section 1, Article 65 of the Land Law, shall proceed in the following manner:

1. If the government allocates an area of land and charges the land use fee or leases the area of land and collects the rent in lump sum for the entire duration of the lease, land expropriation proceeds as follows:



a) The investor can continue using the land area in 24 months from the date that the investment project terminates pursuant to the legislation on investment;

b) In 24 months from the date of termination of the investment project as per regulations, the investment can transfer the land use right and sell legitimate properties on the land area to another investor as per the laws.

If the investor fails to transfer the land use right and sell its legitimate properties on the land area to another investor after the 24-month extension of land use, the government shall expropriate the land area pursuant to Point i, Section 1, Article 64 of the Land Law.

2. If the government leases the land area and collects the rent on annual basis, land expropriation shall proceed in the following manner:

a) The investor can continue using the land area in 24 months from the date that the investment project terminates pursuant to the legislation on investment;

b) In 24 months from the date of termination of the investment project as per regulations, the investment can sell legitimate properties on the land area to another investor as per the laws.

The government shall expropriate the land area from the seller of the properties on the land area and lease it to the buyer of such properties;

c) If the investor fails to sell its legitimate properties on the land area to another investor after the 24-month extension of land use, the government shall expropriate the land area pursuant to Point i, Section 1, Article 64 of the Land Law.”

15. Section 5, 6, 7, 8 and 9 are added to Article 16 as follows:

“5. If a land tract for implementing a business project comprises an area of land that belongs in the agricultural land reserve for public uses or such land tract comprises an area of land that the land user has no right to transfer, lease or contribute to capital pursuant to the legislation on land and no property exists on such land area, the competent People’s Committee shall decide to expropriate and lease such land area to the investor for implementing the project on the land area.

6. If a land tract for implementing a business project comprises an area of land allocated by the government for management pursuant to Article 8 of the Land Law, the competent People’s Committee shall expropriate and lease the land area to the investor for implementing the project.

7. If an investment project utilize land parcels of various land-use durations, which have been acquired by purchasing properties attached to land and gaining land use rights through transfer, renting or capital contribution, the duration of land use shall be re-defined in line with the duration of the investment project pursuant to Section 3, Article 126 of the Land Law. If the project is exempt from investment formalities as per the legislation on investment, the People’s Committee competent to allocate or lease such land shall determine the land-use duration, which

shall not exceed 50 years. If the land parcels acquired through transfer of land use rights are of permanent use, the duration of land use shall be permanent.

8. The use of land acquired by purchasing properties attached to the land or obtaining land use rights through transfer, renting or capital contribution for business activities shall only be permissible in the circumstances defined in Article 73 of the Land Law.

9. Ministry of Natural resources and Environment shall elaborate this Article.”

16. Point c, Section 2 of Article 18 is amended and Point d, dd and e are added thereof:

“c) The letter of application for registration of land use right in the absence of the documents defined in Point a and Point b of this Section.

The date of the letter of application for registration of land use right shall be the date of filing or the date of validation, if the dates are different, whichever is earlier;

d) The documents on the communal, district-level or provincial People's Committee's certification of registration of the land user's land use right;

dd) The documents on housing declaration, which bears the confirmation of the communal, district-level or provincial People's Committee and describes the land area on which such housing is built;

e) The documents on national defense units' allocation of housing land to officials and soldiers before the 15<sup>th</sup> of October 1993 pursuant to the Directive No. 282/CT-QP dated July 11, 1991 by the Minister of National defense provide that such allocation accorded with the plan of housing land for officials and soldiers in the national defense land plan approved by competent authorities.”

17. Section 9 is added to Article 18:

“9. Departments of Natural resources and Environment and Offices of Natural resources and Environment shall be responsible for providing land registry logbooks and land survey logbooks made before the 18<sup>th</sup> of December 1980 pursuant to Section 1 of this Article from their archives to the communal People's Committees and land users for registration, issuance of certificates of land use right with or without ownership of house and properties attached to land.”

18. Point a, Section 5 of Article 22 is amended as follows:

“a) In the event that a land parcel, on which a residential house exists, was used without dispute before 15<sup>th</sup> October 1993, the recognized size of such land parcel accords with the local limit of residential land area recognition. In the event that the land parcel was used without dispute from 15<sup>th</sup> October 1993 to before 01<sup>st</sup> July 2014, its recognized size accords with the local limit of residential land allocation;”

19. Section 6 is added to Article 23 as follows:

“6. When a person applies for the certificate of land use right with or without ownership of house and properties attached to land over an undisputed land parcel allocated by an incompetent authority before 01<sup>st</sup> July 2004 in line with the plan, whether a house exists on such land parcel upon issuance of the certificate, such person shall qualify for certification and incur financial obligation(s) as per regulations.”

20. Article 24a is added as follows:

**“Article 24a. Certification of land use right with or without ownership of house and properties attached to land over an area of land in excess of that specified in the land use right document for the household or individual using the respective land parcel**

If an actual area of land, when re-measured, is larger than that specified in the certificate of land use right or relevant documents pursuant to Article 100 of the Land Law and Article 18 of this Decree and the actual land boundaries differ from those acknowledged upon the issuance of the certificate of land use right or relevant documents, the certification of land use right with or without ownership of house and properties attached to land over the area of land in excess proceeds in the following manner:

1. If the additional area of land is acquired through transfer, inheritance or donation of a land use right for which a certificate has been issued, the process occurs as follows:

a) Implement the procedure for transfer, inheritance or donation of the additional land area pursuant to Article 79 and Section 2 of Article 82 and the procedure for replacement of the certificate, if issued, for the original land parcel (without the additional area) pursuant to Article 76 of this Decree without any request for the land user’s procedure for land merger. Land registration office shall be responsible for providing confirmation on the form of application for reissuance or replacement of the certificate of land use right and ownership of house and properties attached to land over the additional land area and for sending cadastral information to the relevant tax authority, presenting documents for issuance of the certificate, updating and revising cadastral documents and land database in regard to the entire land area in use, issuing the certificate or sending documents to the communal People's Committee to which the application was filed for further discussion.

b) Implement the procedure for transfer, inheritance or donation of the additional land area pursuant to Article 79 and Section 2 of Article 82 and the procedure for initial certification of the original land parcel pursuant to Article 70 of this Decree if the documents on the right of use of the original land parcel are available pursuant to Article 10 of the Land Law and Article 18 of this Decree. Land registration office shall be responsible for providing confirmation on the form of application for issuance of the certificate of land use right and ownership of house and properties attached to land over the additional land area and for sending cadastral information to the relevant tax authority, presenting documents for issuance of the certificate, updating and revising cadastral documents and land database in regard to the entire land area in use, issuing

the certificate or sending documents to the communal People's Committee to which the application was filed for further discussion.

2. If the additional land area is acquired through transfer, inheritance or donation of a land use right before 01<sup>st</sup> July 2014 and the documents on such land use right are available pursuant to Article 100 of the Land Law and Article 18 of the Decree, the process occurs as follows:

a) Implement the procedure for initial certification of the additional land area pursuant to Article 70 and the procedure for replacement of the certificate, if issued, for the original land parcel pursuant to Article 76 of this Decree. Land registration office shall be responsible for providing confirmation on the form of application for reissuance or replacement of the certificate of land use right and ownership of house and properties attached to land over the additional land area and for sending cadastral information to the relevant tax authority, presenting the certificate, updating and revising cadastral documents and land database in regard to the entire land area in use, issuing the certificate or sending documents to the communal People's Committee to which the application was filed for further discussion.

b) Implement the procedure for initial certification pursuant to Article 70 of this Decree for the entire tract of land if the documents on the right of use of the original land parcel are available pursuant to Article 100 of the Land Law and Article 18 of this Decree.

3. If the documents on the right of use of the additional land area are not available as stated in Article 100 of the Land Law and Article 18 of this Decree, the process occurs as follows:

a) If the land user does not violate any the laws on land, the certification of land use right with or without ownership of house and properties attached to land for the additional land area shall proceed pursuant to Article 20 of this Decree;

b) In the event that the additional land area was gained by the land user's violation of the laws on land before 01<sup>st</sup> July 2014, the certification of land use right with or without ownership of house and properties attached to land for the additional land area shall proceed pursuant to Article 22 of this Decree;

c) In the event that the additional land area was allocated to the land user by an incompetent authority before 01<sup>st</sup> July 2014, the certification of land use right with or without ownership of house and properties attached to land for the additional land area shall proceed pursuant to Article 23 of this Decree;

d) The procedure for certification of the additional land area adheres to Article 70 and the procedure for replacement of the certificate, if issued, for the original land parcel adheres to Article 76 of this Decree. Land registration office shall be responsible for providing confirmation on the form of application for reissuance or replacement of the certificate of land use right and ownership of house and properties attached to land over the additional land area and for sending cadastral information to the relevant tax authority, presenting documents for issuance the certificate after the land user's fulfillment of financial obligation(s), updating and revising cadastral documents and land database in regard to the entire land area in use, issuing the

certificate or sending documents to the communal People's Committee to which the application was filed for further discussion.

dd) The procedure for certification of the entire tract of land adheres to Article 70 of this Decree if the documents on the right of use of the original land parcel are available as per Article 100 of the Land Law and Article 18 of this Decree.”

21. Point c is added to Section 1 of Article 26 as follows:

“c. The main investor of a condominium mixed with office and commercial space, if qualifying and applying, shall be bestowed the certificate of land use right with or without ownership of house and properties attached to land over one or multiple apartments, offices and commercial space under its ownership.”

22. Section 4 is added to Article 32 as follows:

“4. In the event that a project comprises various buildings as defined in the decision on approval of investment project, the decision on project investment, the license of investment, the certificate of investment, the certificate of investment registration issued by the competent authority, the decision on approval of the detailed construction plan and/or the building permit, the main investor, if qualifying and applying, shall be bestowed by the competent government authority the certificate of land use right with or without ownership of house and other properties attached to land over each building or each area in a building.”

23. Section 3 is renamed as Section 5, Section 3 and Section 4 are added in Article 37 as follows:

“3. Local land registration office, if formed, or its branch shall update information onto the issued certificates of land use right with or without ownership of house and other properties attached to land at the discretion of the provincial People's Committee.

4. Provincial People’s Committee shall consider the organization system and facilities of the local land registration office to authorize the Department of Natural resources and Environment's mandate for the land registration office to issue certificates of land use right with or without ownership of house and other properties attached to land under the circumstance defined in Section 1 of this Article.

The official seal of the Department of Natural resources and Environment shall be accessible to the mandates for issuance of certificates of land use right with or without ownership of house and other properties attached to land as stated in Section 1 of Article 105 of the Land Law and this Section.”

24. Article 38a is added as follows:

**“Article 38a. Lease of properties on a land parcel rented or sub-rented on annual rental basis**

1. Business organizations, Vietnamese expatriates, foreign-invested companies, households and individuals renting state-held land on annual rental basis or renting or sub-renting land in industrial parks, export processing zones, industrial clusters or handicraft villages on annual rental basis, after having obtained relevant certificates of land use right, can lease properties legally built on such land, as per the laws if the requirements pursuant to the legislation on real estate business are satisfied in full. The renters of such properties shall employ them for the purposes defined in competent government authorities' decisions on land lease or in the signed contracts for land lease or land sublease.

2. Self-financed public service providers renting state-held land on annual rental basis or renting or sub-renting land in industrial parks, export processing zones, industrial clusters or handicraft villages on annual rental basis, after having obtained relevant certificates of land use right, can lease the properties on such land as per the legislation on land and on the management and use of state-owned assets. The renters of the properties on the land are required to use the land for appropriate purposes.”

25. Section 3 is added to Article 39 as follows:

“3. Foreign-invested companies that use land acquired through transfer of land use rights as capital contributions pursuant to Point b, Section 1, Article 169 of the Land Law shall have the rights and duties defined in Section 3, Article 183 of the Land Law.”

26. Article 42a is added as follows:

**“Article 42a. Conditions for transfer of land use rights in connection with the transfer of an investment project, in part or in full, which does not construct housing or infrastructure for sale or for lease**

The transfer of land use rights in connection with the transfer of an investment project, in part or in full, which does not construct housing or infrastructure for sale or for lease shall be subject to the legislation on investment and real estate business and to the following conditions:

1. The requirements defined in Section 1, Article 188 of the Land Law;
2. The main investor fulfills financial obligations regarding the project’s land, which include the land use fee, land rent, land-related taxes and charges (if any) in the following manner:
  - a) If the main investor transfers the entire investment project, it shall fulfill financial obligations regarding all land of the project;
  - b) If the main investor transfers a part of the investment project, it shall fulfill financial obligations regarding the land areas on transfer.
3. The transferees of the land use rights transferred in connection with the partial or full transfer of an investment project shall meet the requirements defined in Article 58 of the Land Law,

Article 13 and Article 14 of this Decree and are required to use the land for appropriate purposes.”

27. Article 43 is amended as follows:

**“Article 43. Land use in regard to the purchase, sale or transfer of capital contributions or shares in companies or the privatization of state-owned enterprises**

1. The use of land with regard to the purchase, sale or transfer of a company’s capital contributions or shares, which include land use rights and/or properties attached to land, shall proceed in the following manner:

a) If a company’s capital contributions or shares, which include land use rights and/or properties attached to land, are purchased, sold or transferred without any change in the land users and/or the owners of the properties attached to land, the procedure for registration of revisions in land and properties attached to land.

b) If a company’s capital contributions or shares, which include land use rights, are purchased, sold or transferred with changes in the land users and/or the owners of properties attached to land, the company shall proceed with the procedures for land use right transfer and for registration of revisions in land and properties attached to land with competent government authorities and fulfill financial obligations as per regulations in 30 days from the date of purchase, sale or transfer of the company’s capital contributions or shares. The duration of land use for a foreign-invested company shall match the duration of its investment project(s) but shall not exceed the limit defined in Section 3, Article 126 of the Land Law.

c) The value of land use rights apportioned to a company’s state-held capital contributions or shares purchased, sold or transferred shall be determined pursuant to the legislation on land, on the management and use of state capital invested into companies’ production and business, and on the privatization of state-owned enterprises.

The value of land use rights shall be re-computed according to the prices of land on transfer upon the purchase, sale or transfer of state-held contributions or shares as stated in this Article. The purchase, sale or transfer of capital contributions or shares shall adhere to the legislation on land and on the management and use of state capital invested into companies’ production and business.

2. The management and use of land upon the privatization of a state-owned enterprise shall proceed in the following manner:

a) A state-owned enterprise, when privatized, shall be responsible for verifying all land under its management and use to plan the use of land pursuant to the legislation on land and on the re-arrangement and handling of state-owned real estate and then report thereof to competent state authorities prior to its valuation.

The land use plan of the privatized enterprise shall be part of the documentation presented to competent government authorities for approval of the privatization plan and shall proceed publicly as per the laws.

b) In 60 days upon the issuance of the initial certificate of business registration, the joint-stock company shall be responsible for implementing the procedures for the government's allocation or lease of land and for the certification of land use rights and ownership of houses and properties attached to the land as per the laws.

The joint-stock company shall rent the land parcels that the government allocated without the charge of land use fee if such company qualifies for renting land from the government pursuant to the Land Law. Otherwise, the government shall allocate land to the joint-stock company, if eligible, on land-use fee basis. The land prices at which the government lease or allocate land shall be specified upon the competent government authorities' decisions on land allocation or land lease. The duration of land use shall commence on the date that the decision on land allocation or land lease is issued to the joint-stock company. The joint-stock company shall be liable for paying the land use fee or land rent as per the laws.

The joint-stock company can continue renting the land parcels leased by the government to the state-owned enterprise on annual rental basis or on one-off rent payment for the remaining duration of the lease. Likewise, the joint-stock company can continue renting the land parcels which had been originally rented out by the government on one-off rent payment before they were transferred to the state-owned enterprise for the remaining duration of the lease. The joint-stock company shall be responsible for implementing the procedure for land lease and re-signing of land rent contract(s) with competent government authorities in 60 days upon the issuance of the initial certificate of business registration. The payments that the state-owned enterprise made for its receipt of the land use rights on transfer shall be handled pursuant to the legislation on land and on privatization.

The joint-stock company, upon its privatization, shall proceed to rent the land parcels allocated by the government on land-use fee basis if it qualifies for renting such land parcels pursuant to the 2013's Land Law. Likewise, the joint-stock company, when privatized, shall proceed to rent the land parcels that were allocated by the government on land-use fee basis and were then transferred to the state-owned enterprise. The payments that the state-owned enterprise made for the government's allocation of the land or for the enterprise's receipt of the land use rights on transfer shall be handled pursuant to the legislation on land and on privatization.

The joint-stock company, upon its privatization, shall proceed to use the land parcels, in their allocated form, which have been allocated by the government on land-use fee basis if it qualifies for using such land parcels on land-use fee basis pursuant to the 2013's Land Law. Likewise, the joint-stock company, when privatized, shall proceed to use the land parcels, in their allocated form, which had been allocated by the government on land-use fee basis before transferred to the state-owned enterprise.

c) The valuation of the land use rights upon the privatization of the state-owned enterprise shall proceed as per the legislation on land and on privatization of state-owned enterprises; however, it



shall adhere to the principle that the land price for valuation of land use right is specified by the relevant provincial People's Committee pursuant to Section 3 and Point d, Section 4, Article 114 of the Land Law.

The agency responsible for specifying the land price for valuation of land use right and calculation of land rent upon the privatization of the state-owned enterprise shall publish the land price specified on the websites of the provincial People's Committee, the Ministry of Natural resources and Environment and the Ministry of Finance in at least 15 days before reporting to the provincial People's Committee for approval.

3. The privatized enterprises that have been using land before the effective date of this Decree but have not fulfilled legal formalities regarding land use right shall be handled in the following manner:

a) The provincial People's Committee shall be responsible for giving instructions to examine and scrutinize the management and use of land according to the privatization plan approved for completing the procedures for land allocation, land lease and issuance of the certificate of land use right with or without ownership of house and other properties attached to land to the joint-stock company as per regulations.

When detecting a violation of the management and use of land, the provincial People's Committee shall be responsible for organizing an inspection that settles such violation before the procedure for land allocation, land lease and certification for the joint-stock company.

b) The joint-stock company shall be responsible for implementing the procedures for the allocation or lease of land and for the certification of land use rights and ownership of houses and properties attached to the land as per the laws. The settlement of land-related financial obligations (if any) shall adhere to the legislation on collection of land use fee and land rent and on privatization.

c) Land-related procedures stated in Point a and Point b of this Section are subject to completion in 180 days from the date that this Decree comes into force.

4. A state-owned enterprise that was privatized before the effective date of this Decree and had its land use rights processed as per the legislation on land upon its privatization is permitted to continue using the land allocated by the government on land-use fee basis or to continue renting the land for the remaining duration of land use."

28. Article 43a is added as follows:

**“Article 43a. Handling of the right of use of a land parcel on lease or under mortgage upon the government's land expropriation**

1. When a land parcel on lease or under mortgage is expropriated by the government pursuant to Article 61 and Article 62 of the Land Law, the land rent contract or the contract for mortgage of land use right shall terminate. The rights and obligations regarding the land use between the

parties in the land rent contract or the mortgage contract shall be settled pursuant to the legislation on civil affairs.

2. When a land parcel on lease is expropriated pursuant to Point a, b, c, d, g, h and i, Section 1, Article 64 of the Land Law, the land rent contract shall terminate and the land expropriation shall proceed in the following manner:

a) The government expropriates the land parcel whose lessor has violated the legislation on land. The lessor shall make amends to the renter pursuant to the legislation on civil affairs;

b) The government expropriates the land parcel whose renter has violated the legislation on land. The renter shall make amends to the lessor pursuant to the legislation on civil affairs;

c) If the transgressor of the legislation on land is neither the lessor nor the renter, the government shall expropriate the land parcel and the transgressor shall be held liable to make amends to the affected entities as per regulations.

3. If the right of use of a land parcel that the government expropriates pursuant to Point a, b, c, d, g, h and i, Section 1, Article 64 of the Land Law is under mortgage, the contract for mortgage of land use right shall terminate and the mortgagee shall repay the loan to the mortgagor as per the legislation on civil affairs and other relevant regulations.

4. The government shall expropriate a land parcel being leased or mortgaged by land user(s) who pass(es) away without an inheritor and shall be responsible for settling the rights and obligations concerning such land parcel as per the laws. In such event, the land rent contract or the mortgage contract shall terminate while the land use right is handled in the following manner:

a) If the land parcel is on lease, the government shall continue leasing it to the current renter for the remaining duration of the land rent contract signed;

b) If the land use right is under mortgage, it shall be handled as per the legislation on secured transactions.”

29. Article 43b is added as follows:

**“Article 43b. Business organizations’ use of land acquired through transfer of agricultural land use rights from households and individuals for investment projects**

Business organizations’ use of the land that are not being rented on annual rental basis and are acquired through transfer of agricultural land use rights from households and/or individuals for an investment project proceeds in the following manner:

1. If a business organization uses the land acquired through transfer of agricultural land use rights from households and/or individuals who are not renting such land, except rice cultivation land, protection forestland and specialized forestland, for implementing an agricultural production investment project and the purpose of use of such land is not converted, such

organization can continue using the land without being subjected to renting them. In this event, the duration of land use shall accord with the duration of the investment project pursuant to Section 3, Article 126 of the Land Law.

If the business organization applies for conversion of the land' purpose of use to another under the category of agricultural land pursuant to Section 1, Article 57 of the Land Law, it shall be required to fulfill financial obligations as per the laws without being subjected to renting the land. In this event, the duration of land use shall accord with the duration of the investment project pursuant to Section 3, Article 126 of the Land Law.

2. If a business organization uses the land acquired through transfer of agricultural land use rights from households and/or individuals who are renting such land from the government by paying the rent in lump sum for the entire duration of the lease, except rice cultivation land, protection forestland and specialized forestland, for implementing an agricultural production investment project, such organization can continue renting the land. In this event, the duration of land use shall accord with the duration of the investment project pursuant to Section 3, Article 126 of the Land Law.

If the business organization applies for conversion of the land' purpose of use to another under the category of agricultural land pursuant to Section 1, Article 57 of the Land Law, it can continue renting the land and shall fulfill financial obligations as per the laws. In this event, the duration of land use shall accord with the duration of the investment project pursuant to Section 3, Article 126 of the Land Law.

3. When the duration of land use ends, in the events stated in Section 1 and Section 2 of this Article, competent government authorities shall consider extending the duration of land use upon request and the land are subject to being rented out as per the laws. The procedures for transfer of land use right and land use conversion are governed by Article 69 and Article 79 of this Decree.

4. If a business organization uses the land acquired through transfer of agricultural land use rights from households and/or individuals and has their purpose of use converted for a non-agricultural business investment project, such organization shall be subjected to renting such land and fulfills financial obligations as per the laws. The duration of land rent shall accord with the duration of the investment project pursuant to Section 3, Article 126 of the Land Law.”

30. Article 43c is added as follows:

**“Article 43c. Business organizations, households and individuals using land whose purpose of use is converted**

1. Upon the conversion of the purpose of use of a land parcel that a business organization is using, except for the circumstances defined in Article 43b of this Decree, the form of land use is determined in the following manner:

a) If the purpose of use of a land parcel is converted to another purpose of use that serves a project for investment and construction of housing for sale or for sale and lease or a cemetery facility investment project through which land use rights connected with the facilities, such land parcel shall be allocated for use at the charge of a land use fee which is payable upon the conversion of land use as per regulations;

b) If the purpose of use of a agricultural or residential land parcel leased by the government or of a non-agricultural land parcel allocated by the government without the charge of a land use fee is converted to another purpose of use for non-agricultural business, construction of public business building(s), investment in housing for lease or construction of public service building(s), the land parcel shall be rented on annual rental basis or on one-off rent payment for the entire duration of the lease. The land rent, in this event, shall be payable upon the conversion of land use (if any) as per regulations;

c) If the purpose of use of a residential land parcel or non-residential non-agricultural land parcel allocated by the government with the charge of a land use fee whose payments have not been sourced from the state budget is converted to another purpose of use for non-agricultural business, construction of public business building(s), investment in housing for lease or construction of public service building(s), the land parcel shall remain allocated with the charge of a land use fee. The land use fee, in this event, shall be payable upon the conversion of land use (if any) as per regulations;

d) If the purpose of use of a land parcel allocated by the government with the charge of a land use fee whose payments have not been sourced from the state budget is converted to another under the same category of agricultural land, such land parcel shall remain allocated with the charge of a land use fee which is payable upon the conversion of land use (if any) as per regulations;

dd) If the purpose of use of a land parcel rented from or allocated by the government without or with the charge of a land use fee whose payments have been sourced from the state budget is converted to another under the same category of agricultural land, such land parcel shall be rented on annual rental basis or on one-off rent payment for the entire duration of the lease. The land rent, in this event, shall be payable upon the conversion of land use (if any) as per regulations.

2. The form of land use shall be determined in the following manner upon the conversion of the purpose of use of a land parcel being used by a household or individual:

a) If an agricultural land parcel not rented from the government is converted to commercial land or non-agricultural business land, such land parcel shall be allocated with the charge of a land use fee which is payable upon the conversion of land use as per regulations;

b) If an agricultural land parcel rented from the government is converted to commercial land or non-agricultural business land, such land parcel shall be rented on annual rental basis or on one-off rent payment for the entire duration of the lease. In this event, the land rent is payable upon the conversion of land use as per regulations;

c) The duration of land use upon conversion pursuant to Point a and Point b of this Section shall accord with the duration of the investment project pursuant to Section 3, Article 126 of the Land Law. If no investment project exists, the duration of land use shall be no more than 50 years. In an administrative division that is (severely) troubled economically and socially, the duration of land use shall be no more than 70 years. The duration of land use commences upon the competent authority's approval of land use conversion."

31. Article 43d is added as follows:

**"Article 43d. Minimum area that qualifies for subdivision**

Provincial People's Committees shall stipulate the minimum area of each type of land that qualifies for subdivision according to local conditions."

32. Article 43dd is added as follows:

**"Article 43dd. Use of land acquired in recompense for the government's expropriation of agricultural land from households and individuals before 01<sup>st</sup> October 2009 for non-agricultural production or service**

In the event that the allocation of (a) non-agricultural business land parcel(s) to a household or individual in recompense for the government's expropriation of their agricultural land(s) pursuant to Section 4 and Section 5, Article 4 of the Government's Decree No. 17/2006/ND-CP dated January 27, 2006 and Article 30 of the Government's Decree No. 84/2007/ND-CP dated May 15, 2007 occurs after 01<sup>st</sup> July 2014 as per the compensation and settlement plan approved by competent government authorities, such household or individual can use the land parcel(s) permanently and stably for the non-agricultural business or service defined, shall not incur the land use fee upon obtaining the permission for converting the land parcel(s) to residential use and shall receive compensation based on residential land price upon the government's expropriation of such land parcel(s)."

33. Article 45a is added as follows:

**"Article 45a. Natural production forestland**

1. The government shall allocate areas of natural production forestland to forest management organizations that manage, protect and develop forest.

The government shall allocate areas of natural production forestland to resident households, individuals and communities, if desiring and be able to protect and develop forest, in a natural production forest zone where a forest management organization does not exist without the charge of land use fee under their protection, development and other beneficial uses pursuant to the legislation on forest protection and development.

2. The households and individuals to whom the government allocated or leased natural production forestland or the residential communities to which the government allocated natural

production forestland before 01<sup>st</sup> July 2004 can continue using the land for the remaining duration. The government shall consider extending the expired duration of land use upon request as per regulations.”

34. Article 49a is added as follows:

**“Article 49a. Contribution of land use rights and revision to land use rights for investment projects**

1. The following requirements apply to the contribution of a land use right and the revision to a land use right for implementing an investment project:

a) In the circumstance defined in Point i, Section 1, Article 179 of the Land Law;

b) The implementation of the investment project has to accord with the land use plans, construction plans, urban plans, housing development programs and plans, rural residential plans, new rural commune development plans approved by competent government authorities;

c) The plan(s) for land use right contribution and revision to land use right must be made available, be accepted by the user(s) of the land parcels on which the project is expected to occur and be approved by the relevant provincial People's Committee;

d) The rights of land users in the project’s vicinity must be maintained.

2. Provincial People’s Committees shall promulgate regulations on the contribution of land use rights and revision to land use rights for investment projects.”

35. Section 3 is removed, Section 4 is renamed as Section 3, and Section 5 is renamed as Section 4 in Article 50.

36. Article 51 is amended as follows:

**“Article 51. Land of industrial parks, export processing zones, industrial clusters and handicraft villages**

1. The duration of use of land parcels in an industrial park, export processing zone, industrial cluster or handicraft village shall accord with the duration of the investment projects.

If the duration of the investment project(s) exceeds the remaining duration of use of the land parcel(s) in the industrial park, export processing zone, industrial cluster or handicraft village, the enterprise(s) constructing and operating the infrastructure of such industrial park, export processing zone, industrial cluster or handicraft village shall apply to competent government authorities for adjusting the duration of land use accordingly; however, the total duration of land use shall not exceed 70 years and the land use fee or land rent shall be charged on the area(s) of land whose duration of use is extended.

2. When planning details on the construction of an industrial park, export processing zone or industrial cluster, a provincial People's Committee shall consider the current status of local residential areas and the accommodation need of the workers taking up employment in the industrial park, export processing zone or industrial cluster to allocate land outside the industrial park, export processing zone or industrial cluster in accordance with the land use plan for the construction of apartment buildings and cultural and social facilities that serve the workers.

3. The form of land use in a handicraft village shall be similar to that in an industrial park, export processing zone or industrial cluster pursuant to Section 2, 3, 4 and 5, Article 149 of the Land Law.

4. Provincial People's Committees shall be responsible for organizing inspections and actions against the entities that rent or sub-rent land in industrial parks, export processing zones, industrial clusters or handicraft villages but desist or delay the use of such land against the agreed schedule of land use in the land rent or land sub-rent contract with the company that invests in and operates the infrastructure.

5. Responsibilities of a company that invests in and operate the infrastructure of an industrial park, export processing zone, industrial cluster or handicraft village:

a) Upon the signing of a land lease or sublease contract, it shall specify the land use progress in line with that of the investment project and remedial actions against the renter's or sub-renter's desistence or delay of land use against the agreed schedule of land use in the contract;

b) It shall be liable to the government and the law for managing the use of land in the industrial park, export processing zone, industrial cluster or handicraft village; and be responsible for examining, monitoring and expediting the renter's or sub-renter's land use in conformity to the agreed schedule in the contract;

c) On annual basis, the company investing in, constructing and operating the infrastructure of the industrial park, export processing zone, industrial cluster or handicraft village shall be responsible for reporting to the provincial People's Committee and the General Department of Land Administration and publish the area of land available for lease or sublease in the industrial park, export processing zone, industrial cluster or handicraft village on the websites of the company, the People's Committee of the province in which the land exist, and the General Department of Land Administration.

6. If the renter or sub-renter desists or delays the use of the land against the agreed schedule in the land rent or sub-rent contract, except in case of force majeure pursuant to Section 1, Article 15 of the Decree, the company investing in and operating the infrastructure of the industrial park, export processing zone, industrial cluster or handicraft village shall be responsible for:

a) Requesting the renter or sub-renter to carry out measures to put the land into use or terminating the land rent or sub-rent contract unilaterally;

b) Listing the entities that desist or delay the use of land against the land use schedule and reporting thereof to the Industrial Park Management Board, Department of Planning and Investment, Department of Natural resources and Environment, provincial People's Committee, Ministry of Planning and Investment and Ministry of Natural resources and Environment. The bodies receiving the report and the company investing in and operating the infrastructure of the industrial park, export processing zone, industrial cluster or handicraft village shall be responsible for publishing the list of the entities that desist or delay land use on the websites of such bodies and the company.

7. In the event that the renter or sub-renter continues desisting or delaying land use though the company investing and operating the infrastructure of the industrial park, export processing zone, industrial cluster or handicraft village has acted pursuant to Section 6 of this Article, the provincial People's Committee shall expropriate the renter's or sub-renter's area of land in violation according to the conclusion of inspection and allocate it to the company investing in and operating the infrastructure of the industrial park, export processing zone and handicraft village. The company investing in and operating the infrastructure of the industrial park, export processing zone, industrial cluster or handicraft village shall lease or sublet the areas of land that the government has expropriated to the investors in need of such areas.

The settlement of rights and obligations between the entity investing in and operating the infrastructure of the industrial park, export processing zone, industrial cluster or handicraft village and the renter or sub-renter shall be subject to the legislation on civil matters.

8. In regard to the entities that have rented or sub-rented land from an entity investing in and operating the infrastructure of the industrial park, export processing zone, industrial cluster or handicraft village prior to the effective date of this Decree, except in case of force majeure pursuant to Section 1, Article 15 of this Decree, provincial People's Committees shall expropriate the land in the following circumstances:

a) The land has not been used or its use is delayed 36 months behind the agreed schedule of land use in the land rent or sub-rent contract;

b) The land has not been used or its use is delayed more than 36 months from the date of issue of the certificate of land use if the entities involved do not stipulate a schedule of land use in their contract.

9. Provincial People's Committees shall regulate detail on the expropriation of the land whose use is not progressive or is delayed pursuant to Section 7 and Section 8 of this Article.”

37. Section 2 of Article 52 is amended as follows:

“2. Management Boards of high-tech parks, with respect to land management, shall be responsible for:

a) Cooperating with land clearance and compensation organizations in providing compensation, support and resettlement;



b) Presenting to provincial People's Committees the decisions on collection of land rent and on reduction or exemption of land rent for each project;

c) Expropriate land parcels rented out or allocated when land users violate the legislation on land pursuant to Point a, b, c, d, e, g and i, Section 1, Article 64 of the Land Law; or when land users terminate their land use lawfully or return the land parcels voluntarily pursuant to Point a, b, c and d, Section 1, Article 65 of the Land Law. Land rent, properties attached to land and remaining cost of investment in land shall be handled in a manner similar to that of the government's expropriation of land pursuant to the legislation on land;

d) Managing the land expropriated in the events prescribed in Point c of this Section;

dd) Deciding to re-allocate land without land use fee to land users in the high-tech parks under the circumstances defined in Section 2 and Section 3, Article 54 of the Land Law; deciding to extend the duration of land use at the end of the duration of land allocation or land lease in accordance with the duration of the investment projects;

e) Stipulating the administrative procedures for land in the high-tech parks;

g) Sending the decisions on land re-allocation, land lease, land use extension, cadastral map extraction or cadastral measurement extraction to the land registration offices that register information into cadastral records, update the land database and report to the authorities competent to certify land use right with or without ownership of house and properties attached to land.”

38. Section 4 is amended and Section 5 is added in Article 52 as follows:

“4. Management Boards of high-tech parks under the management of the central government shall bear the following responsibilities in managing and using the land allocated by provincial People's Committees before 01<sup>st</sup> July 2014:

a) Implement Point a, c, d, dd, e and g, Section 2 of this Article; continue implementing the construction plan that competent authorities have approved;

b) Specify land prices in detail by land pricing coefficient method to calculate the rent on the leased land in the high-tech parks; however, such land prices shall not be lower than those defined in the provincial People's Committees' land price lists;

c) Decide the land pricing coefficient and the proportion (%) of land rent to land price, and decide the amount of land rent deducted or exempted for each project pursuant to the regulations of the government and Prime Minister;

d) Specify the land rent payable and notify renters in writing of the rent as per regulations.

5. The management and use of the land allocated by provincial People's Committees before 01<sup>st</sup> July 2014 to high-tech parks under the management of the provincial People's Committees shall proceed in the following manner:

- a) The management and use of land are governed by Article 150 of the Land Law, Section 1 and Section 2 of this Article;
- b) Continue implementing the construction plan approved by competent authorities.”

39. Article 57a is added as follows:

**“Article 57a. Land on which water surface of hydroelectric or irrigational reservoir exists**

1. Provincial and district-level People's Committees shall decide on the lease of the land on which water surface of a hydroelectric or irrigational reservoir exists, under their authority, for non-agricultural use or aquaculture pursuant to Article 59 of the Land Law.
2. The use of the land on which water surface of a hydroelectric or irrigational reservoir exists for non-agricultural use or aquaculture shall not affect the primary purpose of use defined and shall adhere to other relevant the laws.
3. The duration of use of the land on which water surface of a hydroelectric or irrigational reservoir exists shall be left to the discretion of the People's Committee competent to decide on the lease of such land; however, it shall not exceed 50 years.”

40. Article 61 is amended as follows:

**“Article 61. Duration of administrative procedures for land**

1. The duration of the procedures for land allocation, land lease and land use conversion is defined below:
  - a) The allocation or lease of land shall not take more than 20 days, which does not include the time for land expropriation, compensation and land clearance;
  - b) The approval of land use conversion shall not take more than 15 days.
2. The duration of the procedures for registration of land and properties attached to land, for certification and re-certification is defined below:
  - a) The registration of land and properties attached to land or the certification of land use right with or without ownership of house and properties attached to land shall not take more than 30 days;

- b) The registration and certification of land use right with or without ownership of house and properties attached to land for a transferee receiving land use right with or without ownership of house or building from a construction investment organization shall not take more than 15 days;
- c) The registration and certification of land use right with or without ownership of house and properties attached to land upon a change to the properties attached to land shall not take more than 15 days;
- d) The registration of change to land or properties attached to land for a winner of an auction of land use right; the settlement of land-related dispute, complaint or denunciation; the settlement of a land use right mortgage contract or a contract for contribution of capital in the form of land use right; the distraintment and auction of land use right or properties attached to land for the execution of a sentence; the division, merger or consolidation of an organization or conversion of a company; the division or consolidation of land use right(s) and ownership(s) of properties attached to land under an agreement of a household, married couple or group of land users shall not take more than 10 days;
- dd) The division or consolidation of land lots or the registration of land allocated by the government for management shall not take more than 15 days;
- e) The procedure for land use extension shall not take more than 07 days;
- g) The procedure for confirmation of a household's or individual's continued use of land upon expiration of land use duration shall not take more than 05 days;
- h) The registration, revision or termination of a limited right of use of a contiguous land lot shall not take more than 10 days;
- i) The registration of change to the land user(s), to the owner(s) of properties attached to land, to the shape, size, number or address of a land lot or to limitation(s) on land use right or to financial obligations or to properties attached to land against the previous registration shall not take more than 10 days;
- k) The procedure for changing from renting of land on annual rental basis to renting of land on one-off rent payment; or from the government's allocation of land without land use fee to renting of land; or from renting of land to land allocation with the charge of land use fee shall not take more than 30 days;
- l) The procedure for exchange, transfer, inheritance, donation of land use right with or without ownership of properties attached to land or for registration of capital contribution in the form of land use right or ownership of properties attached to land shall not take more than 10 days;
- m) The procedure for termination of registration of capital contribution in the form of land use right with or without ownership of properties attached to land shall not take more than 03 days;

n) The procedure for registration or termination of registration of mortgage, lease or sublease of land use right shall not take more than 03 days;

o) The procedure for changing a spouse's land use right with or without ownership of properties attached to land to the spouses' concurrent right and ownership shall not take more than 05 days;

p) The procedure for replacement of a certificate of land use right, certificate of house ownership or certificate of ownership of a building shall not take more than 07 days; however, the procedure for replacement of multiple land users' certificates due to map redrawing shall not take more than 50 days;

q) The procedure for reissuance of a lost certificate of land use right, lost certificate of house ownership or lost certificate of ownership of a building shall not take more than 10 days;

r) The procedure for correction of information on an issued certificate of land use right with or without ownership of house and properties attached to land, an issued certificate of land use right, an issued certificate of house ownership and land use right, an issued certificate of house ownership or an issued certificate of ownership of a building shall not take more than 10 days.

3. The duration of the procedures for reconciliation or settlement of dispute over land is defined below:

a) The reconciliation of land dispute shall not take more than 45 days;

b) The settlement of land dispute under the jurisdiction of the chairperson of a district-level People's Committee shall not take more than 45 days;

c) The settlement of land dispute under the jurisdiction of the chairperson of a provincial People's Committee shall not take more than 60 days;

d) The settlement of land dispute under the jurisdiction of the Minister of Natural resources and Environment shall not take more than 90 days;

dd) The coercive execution of a decision on land dispute settlement shall not take more than 30 days.

4. The duration defined in Section 1, 2 and 3 of this Article shall commence from the date of receipt of a valid application. It does not include regulated holidays and days-off; time for intake of documents at communal level, time for land user's fulfillment of financial obligations; time for consideration and execution of actions against a violation of the legislation on land use and time for solicitation of appraisal.

If an application is insufficient or invalid, the agency taking in the application shall, in no more than 03 working days, inform and guide the applicant to supplement and complete the documents as per regulations.

The duration of each procedure defined in this Article shall be elongated by 10 days, except the reconciliation of land dispute, in mountainous communes, islands, remote regions and areas that are (severely) troubled socially and economically.

5. Provincial People's Committees shall stipulate the length of time of multiple land-related administrative procedures, which shall not exceed the duration of such procedures in total pursuant to this Article."

41. Section 4 and Section 5 are added to Article 63 as follows:

"4. The charge of a land use fee on a land use right recognized shall commence upon the relevant land registration office's delivery of cadastral information to the tax authority.

A land registration office shall deliver cadastral information to a tax authority in no more than 15 days from the date of receipt of the full and valid application. Upon receiving cadastral information from the land registration office, the tax authority shall notify the land user(s) of financial obligations in no more than 05 days.

If the land registration office or the tax authority delays its delivery of information or determination of financial obligations, respectively, the land use fee shall be charged upon the land registration office's receipt of the full and valid application.

5. The base price of land for calculation of financial obligations upon the reissuance of an invalidly issued certificate of land use right shall be determined in the following manner:

a) If a governmental agency is liable for the invalid issuance of the certificate, the base price shall be that determined upon the issuance of the previous certificate;

b) If the land user is liable for the invalid issuance of the certificate, the base price shall be that determined upon the reissuance of the certificate of land use right with or without ownership of house and properties attached to land;

c) Ministry of Finance shall stipulate detail on the collection, payment and refund of financial obligations pursuant to this Section."

42. Point c, Section 3 of Article 65 is amended as follows:

"c) If the person in possession of a land parcel under expropriation, despite efforts of persuasion, does not abide by the decision on land expropriation, the relevant Department of Natural resources and Environment shall report to the chairperson of the district-level People's Committee, who shall decide on coercive execution of the decision on land expropriation;"

43. Point e, Section 3 of Article 65 is amended as follows:

"e) The chairperson of the People's Committee that decided on coercion shall be responsible for arranging personnel to execute forcibly the decision on coercion against the individual(s) or

organization that refuses to adhere to the coercion decision despite the efforts of persuasion pursuant to Point dd of this Section.”

44. Point a, Section 1 of Article 66 is amended as follows:

“a) The agencies in charge of natural resources and environment or competent government authorities shall conduct inspections to identify the violations defined in Point c, d, g, h and i, Section 1, Article 64 of the Land Law;”

45. Article 69a is added as follows:

**“Article 69a. Procedure for revision to a decision issued by the Prime Minister before 01<sup>st</sup> July 2004 on land expropriation, land allocation, land lease or land use conversion**

1. In no more than 15 days upon receiving a written request of a land user or a competent agency for revision to a Prime Minister’s decision on land expropriation, land allocation, land lease or land use conversion, a Department of Natural resources and Environment shall provide guidelines to the land user for preparing and filing the application for revision to the decision on land expropriation, land allocation, land lease or land use conversion to the relevant provincial People’s Committee.

2. In no more than 05 days upon receiving the full and valid application, the provincial People’s Committee shall decide to revise the decision on land expropriation, land allocation, land lease or land use conversion. If the revision to such a decision has to be reported to the Prime Minister, the provincial People’s Committee shall transfer the application to the Ministry of Natural resources and Environment.

3. In no more than 10 days upon receiving the valid application in full, the Ministry of Natural resources and Environment shall be responsible for verifying information and reporting to the Prime Minister.

If the revision to a Prime Minister’s decision on land expropriation, land allocation, land lease or land use conversion concerns other ministries or agencies, the Ministry of Natural resources and Environment shall be responsible for inquiring into their opinions before reporting to the Prime Minister. In no more than 10 days upon receiving the written request from the Ministry of Natural resources and Environment, the ministries and agencies concerned shall revert to the Ministry of Natural resources and Environment.

4. Upon the approval of the Prime Minister, the provincial People's Committee shall decide on revising the decision on land expropriation, land allocation, land lease or land use conversion.”

46. Section 2 of Article 72 is amended as follows:

“2. In no more than 30 days upon receiving the valid application, the Department of Natural resources and Environment shall be responsible for verifying the current status of land use,

housing and building(s) in existence and the project investor's eligibility for transferring land use right and for selling houses.

Upon completing its verification, the Department of Natural resources and Environment shall be responsible for informing the project investor of the result of verification and for sending a notification and the property map verified to the relevant land registration office registering the housing and land of the buyers that qualify as per the laws. Moreover, it shall publish the result of verification on the websites of the provincial People's Committee and the Department of Natural resources and Environment that governs the area of land.”

47. Article 72a is added as follows:

**“Article 72a. Procedure for re-verification of the size of households’ or individuals’ residential land certified in writing**

The size of a residential land parcel, pursuant to Point b, Section 5, Article 24 of this Decree, shall be re-verified in the following manner:

1. The land user submits 01 application for re-verification of the size of residential land to the agency defined in Article 60 of this Decree.
2. The land registration office shall be responsible for examining the documents on which certification was previously founded and, if re-verification of residential land size adheres to Section 5, Article 24 of this Decree, report to the competent authority defined in Article 37 of this Decree for issuance of the certificate of land use right with or without ownership of house and properties attached to land. Furthermore, the cadastral record and land database shall be updated and the certificate of land use right with or without ownership of house and other properties attached to land is bestowed upon or forwarded to the land user through the communal People's Committee that takes in the application.”

48. Article 74a is added as follows:

**“Article 74a. Procedure for extension of religious establishments’ use of agricultural land**

The extension of a religious establishment's use of its agricultural land shall proceed in the following manner:

1. The religious establishment submits 01 application for land use extension no less than 06 months prior to the expiration of its land use right.
2. Department of Natural resources and Environment is responsible for assessing the demand for land use and for, if conditions are met, reporting to the provincial People's Committee that shall decide on the extension of land use right. The documents shall be then transferred to the land registration office for registration.

3. The religious establishment returns the issued certificate, in case of land use extension, to the Department of Natural resources and Environment.

4. The land registration office is responsible for certifying the extension of land use onto the issued certificate; updating the cadastral record and land database and granting the certificate to the religious establishment.

5. Department of Natural resources and Environment informs the land user that does not qualify for land use extension and follow the procedure of land expropriation as per regulations.”

49. Point a, Section 3 of Article 75 is amended as follows:

“a) Perform cadastral measurement to subdivide the land parcel and send the new land measurement extract to the land user for signing the contract and papers on the right of use of a portion of the subdivided land parcel;”

50. Article 79a is added as follows:

**“Article 79a. Procedure for registration of land parcels over which the right of use is acquired for business purpose**

The registration of land parcels over which the right of use is acquired through transfer, lease or capital contribution for the operation of a business project or facility pursuant to Article 73 of the Land Law shall proceed in the following manner:

1. If the land parcels reserved for the business project or facility are used for a purpose different from that defined upon the main investor's acquisition of such land parcels through transfer, renting or capital contribution in the form of land use right, the following process shall apply:

a) If the main investor rents land use rights from land users, such land users shall undergo the procedure of land use conversion before renting out their land use rights to the main investor;

b) If the main investor receives capital contributions in the form of land use right, the land users shall undergo the procedure of land use conversion before contributing their land use rights to the main investor. Otherwise, the main investor can have land use purposes converted after the contribution of capital in the form of land use right completes;

c) If the land use rights are transferred from the land users to the main investor, the transfer procedure shall precede the land use conversion.

2. If the land parcels reserved for the business project or facility are used for a purpose identical to that defined upon the acquisition of such land parcels through transfer, renting or capital contribution in the form of land use right, the main investor or land users shall proceed pursuant to Article 79 of this Decree.



3. If the rights of use of agricultural land are transferred, rented or contributed to the capital of a non-agricultural business project, the procedure of transfer, lease or capital contribution shall proceed after competent authorities' approval in writing pursuant to Section 1, Article 193 of the Land Law.”

51. Point a, Section 2 of Article 80 is amended as follows:

“a) Validate the termination of lease, sublease or capital contribution onto the certificate as per regulations and return it to the lessor, sub-lessor or contributor. If the land parcel leased or subleased is in an industrial park or the renter, sub-renter or receiver of contributed capital obtains the certificate(s) of the land use right(s) contributed into capital, the certificate(s) shall be revoked and new certificate(s) of land use right with or without ownership of house and properties attached to land is (are) reissued to the contributor(s).

If the expiry date of land use falls on the date that the lease, sublease or contribution of the land use right(s) into capital is terminated and the land user(s) does (do) not desire to continue using the land or competent government authorities reject the extension of land use, the issued certificate(s) shall be revoked;”

52. Point a, Section 4 of Article 80 is amended as follows:

“a) When the duration of capital contribution expires or ends under an agreement of the parties involved, the contributor of the land use right can continue using the land for the remaining duration.

In the event that the investor applies for registration or land use conversion after the land user contributes the land use right, the rights and obligations between the contributor and the receiver upon the expiration of capital contribution shall adhere to their agreement as per the laws. If the contributor does not desire to continue using the land upon the expiration of land use, the government shall expropriate the land.”

53. Point c is added to Section 2 and Section 3 is added in Article 81 as follows:

“c) When an organization permitted to trade in debts as per the laws buys a debt secured by land use right(s) under mortgage or used as surety pursuant to the 2003's Land Law from the mortgagee or beneficiary, such organization shall inherit the rights and obligations of the mortgagee or beneficiary as defined in the contract of mortgage or surety. The debt trading organization has the right to liquidate the land use right(s) under mortgage or used as surety according to the signed contract of mortgage or surety.

If failing to liquidate the property according to the agreement, the debt trading organization shall, if state-owned, have the land use right(s) auctioned as per the laws or, if privately owned, transfer the land use right(s) under mortgage or used as surety to other entities or have such right(s) auctioned through an auction house without the permission of the mortgagee or beneficiary. Otherwise, it may file a lawsuit for court proceedings as per the laws.

3. The land use right shall be handled in the following manner upon the liquidation of the properties attached to a land parcel rented out on annual rental basis for debt recovery:

a) In the event that the user of the land parcel rented out on annual rental basis has mortgaged or has given the properties attached to the land as guarantee pursuant to the 2003's Land Law but has failed its obligation(s) to the mortgagee or beneficiary, the government shall expropriate the land from the mortgagor or guarantor and then lease it to the buyer or receiver of the properties, unless otherwise negotiated. The buyer or receiver of the properties used as guarantee shall negotiate, with the mortgagor or guarantor, the settlement of the remaining cost of investment in the land up to the time of land expropriation. If negotiation fails, the entities involved have the right to petition a court as per the laws;

b) The government shall continue leasing the land to the buyer or receiver of the properties for the remaining duration of land use with the charge of a land use fee for the purpose of use defined. Land use conversion, if requested, shall be subject to the Land Law and this Decree;

c) The buyer of the properties has to adhere to the requirements in Section 2, Article 189 of the Land Law.”

54. Section 1 of Article 82 is amended as follows:

“1. A user of a land parcel that has not been certified, if using such land parcel under a following circumstance but not in an event defined in Section 2 of this Article, shall apply for land registration and for initial certification of land use right with or without ownership of house and properties attached to land as per the Land Law and this Decree without undergoing the procedure for transfer of land use right. In addition, the agency taking in the application cannot request the transferee of land use right to submit the contract and documents on land use right transfer as per the laws:

a) The land parcel was acquired through transfer or donation of land use right before 01<sup>st</sup> January 2008;

b) The land parcel was acquired through transfer or donation of land use right from 01<sup>st</sup> January 2008 to a date before 01<sup>st</sup> July 2014 and the documents on land use right pursuant to Article 100 of the Land Law and Article 18 of this Decree is are available;

c) The land parcel was acquired through inheritance of land use right before 01<sup>st</sup> July 2014.”

55. Article 83a is added as follows:

**“Article 83a. Procedure for registration of change upon households’ or individuals’ moving of land use rights into a company**

1. When a household or individual renting a land parcel from the government on annual rental basis establishes a company and continues using such land parcel for the purpose defined in the government’s lease, the company can use the land parcel for the remaining duration of land use

and is responsible for applying for registration of land user change pursuant to Point b, Section 4, Article 95 of the Land Law and Article 85 of this Decree.

The land registration office shall be responsible for notifying the change of land user to the People's Committee of the district where the land parcel exists to terminate the land rent contract with the household or individual.

The company shall then sign the land rent contract with the Department of Natural resources and Environment before the procedure for certification of land use right with or without ownership of house and properties attached to land as per regulations.

The base land price from which the land rent is computed for the company after its establishment shall be the base price from which the household's or individual's land rent was determined if the company is founded during the 5-year cycle of land rent stabilization and the rent is subject to recalculation as per the government's regulations.

2. If the land parcel that the household or individual is using is not rented out on annual rental basis and the purpose of land use remains unchanged upon the establishment of a company by the household's member(s) or the individual, the company can continue using such land parcel and is responsible for applying for registration of change as per the legislation on land.

3. If the land parcel that the household or individual is using is allocated or leased by the government but the purpose of land use is changed upon the establishment of the company, such company has to follow the procedure for land use conversion and fulfill financial obligations as per regulations. The company shall submit the applications for land use conversion and for registration of change(s) to the land; thus, the competent agency shall consider and decide on the conversion of land use and the registration of change(s) simultaneously as per the legislation on land.”

56. Point b and Point c, Section 4 of Article 87 are amended as follows:

“b) If the competent government authority that issued the certificate of land use right with or without ownership of house and properties attached to land finds the issued certificate contradictory to the legislation on land, it shall examine information, notify the land user of the specific reason and issue a decision on revocation of such certificate;

c) The land user, when finding the issued certificate contradictory to the legislation on land, shall notify in writing the government authority competent to issue the certificate of land use right with or without ownership of house and other properties attached to land. The government authority competent to issue the certificate of land use right with or without ownership of house and other properties attached to land shall be responsible for reviewing and revoking the issued certificate contradictory to the legislation on land;”

57. Section 3 of Article 88 is amended as follows:

“3. If the disputing parties dissent in writing from the agreed content of the successful reconciliation record in 10 days upon the making of such record, the chairperson of the communal People’s Committee shall hold another reconciliation meeting to settle such additional opinions and make a record of successful or unsuccessful reconciliation.”

58. Article 90a is added as follows:

**“Article 90a. Statute of limitation for second dispute resolution and enforcement of decisions on land dispute resolution**

1. The disputing parties, if opposing the initial decision on dispute resolution, can petition the competent person for second dispute resolution. If none of the disputing parties petitions the competent person for second land dispute resolution in at most 30 days or in at most 45 days in a mountainous commune, island, remote area or an area (severely) troubled economically and socially upon the receipt of the initial decision on dispute resolution, such decision shall come into force.

2. The second decision on land dispute resolution shall come into effect in at most 30 days or in at most 45 days in a mountainous commune, island, remote area or an area (severely) troubled economically and socially upon the receipt of such decision.”

59. Section 2 is amended and Section 3, 4, 5, 6, 7 and 8 are added to Article 91 as follows:

“2. Principles for coercive enforcement of a decision on land dispute resolution:

a) Coercive enforcement shall proceed openly, democratically, impartially, safely, orderly and lawfully;

b) Coercive enforcement shall proceed in office hours;

c) Coercive enforcement does not proceed from 22 o’clock to 06 o’clock in the next morning; on regulated holidays and days-off; in 15 days' time before and after the Tet holiday; on traditional days reserved for the persons entitled to regulated welfare if such persons are subjected to coercive enforcement and in other special circumstances that produce serious impacts on security, politics, social order and safety, local traditions and habits.

3. The coercive enforcement of a decision on land dispute resolution shall proceed upon the satisfaction of all the following requirements:

a) Both or one of the disputing parties do (does) not abide by the land dispute resolution decision in effect despite the efforts of persuasion of the People's Committee and/or the Committee of Vietnam Fatherland Front in the commune where the disputed land exists;

b) A decision on coercive enforcement of the decision on land dispute resolution has been posted in public at the office of the People’s Committee of the commune or at the public area of the neighborhood where the disputed land exists;

c) The decision on coercive enforcement of the decision on land dispute resolution has come into force;

d) The person(s) coerced has (have) received the written decision on coercive enforcement.

If the person(s) coerced refuse(s) to take in the decision on coercive enforcement or is (are) absent upon the delivery of such decision, the communal People's Committee shall record such situation in writing.

4. Chairperson of the district-level People's Committee shall issue and organize the implementation of the decision on coercive enforcement of the decision of land dispute resolution.

5. Procedure for coercive enforcement:

a) Prior to the coercive enforcement, the chairperson of the district-level People's Committee decides on forming the coercive enforcement committee;

b) The coercive enforcement committee persuades and communicates with the person(s) coerced.

If the person(s) coerced adhere(s) to the decision on land dispute resolution, the coercive enforcement committee shall record such adherence in writing and the content of the dispute resolution decision shall be then fulfilled under the supervision of the coercive enforcement committee;

c) If the person(s) coerced does (do) not adhere to the decision of land dispute resolution despite the effort of persuasion, the coercive enforcement committee shall coerce and compel such person(s) to fulfill the content of the decision of land dispute resolution.

6. A coercive enforcement committee comprises:

a) Chairperson or Vice Chairperson of the district-level People's Committee, as the leader;

b) Representatives of the district-level agencies regarding inspection, justice, natural resources and environment, construction; the representative of the leadership of the People's Committee of the commune where the land exists and other members designated by the chairperson of the district-level People's Committee.

7. Provincial People's Committees shall allocate expenditure for the coercive enforcement of the decision on land dispute resolution.

8. Provincial People's Committees shall specify detail on this Article."

60. Section 3 and Section 4 are added to Article 99 as follows:

“3. In the event that an investment project subjected to the government’s land expropriation pursuant to the 2003’s Land Law and guiding documents is not subjected to the government’s land expropriation pursuant to the 2013’s Land Law, its main investor was selected pursuant to the legislation on investment before 01<sup>st</sup> July 2014 and it accords with the annual land use plan of the relevant district, the provincial People’s Committee shall include it in the list of projects subject to land expropriation and propose thereof to the People’s Council for approval before the competent government authority decides on land expropriation.

The procedure for land expropriation in the circumstance defined in this Section shall be subject to Article 69 of the Land Law.

4. In the event that an investment project subjected to the government’s land expropriation pursuant to the 2003’s Land Law and guiding documents is not subjected to the government’s land expropriation pursuant to the 2013’s Land Law and it has been approved by the competent People’s Committee before 01<sup>st</sup> July 2014 for negotiating the transfer of land use rights for implementing the project but the main investor has not negotiated for all areas of land with the land users under the scope of the project, the provincial People’s Committee shall include the project in the list of projects subject to land expropriation and propose thereof to the People’s Council for approval before the competent government authority decides on the expropriation of the un-negotiated areas of land which shall be then allocated or rented out to the main investor.”

61. Article 100a is added as follows:

**“Article 100a. Application of requirements for land allocation, land lease, land use conversion; management and use of land**

1. Section 2, Article 58 of the Land Law and Article 13 of this Decree shall take effect against the projects that use lands on an island or in a borderline or coastal commune, ward or town and are not subject to the approval of the National Assembly or Prime Minister if, having received the certificate of investment before 01<sup>st</sup> July 2014, such project does not yet obtain a decision on land allocation, land lease or land use conversion pursuant to the legislation on land.

2. The requirements for land allocation, land lease and land use conversion, applicable to the person(s) to whom the government allocates or leases lands or grants approval of land use conversion for an investment project pursuant to Section 3, Article 58 of the Land Law and Article 14 of this Decree, shall not take effect in the following circumstances:

a) The investment project has obtained competent government authorities’ approval of investment and the certificate of investment or the project’s preliminary proposal was approved by the National Assembly or Prime Minister before 01<sup>st</sup> July 2014;

b) The investment project is not subject to competent authorities’ approval or certification of investment; nevertheless, its demand of lands was verified by the agencies in charge of natural resources and environment and it obtained competent authorities’ approval of investment before 01<sup>st</sup> July 2014.

3. The certification of the rights of use of the land parcels which are allocated by the government with or without the charge of a land use fee or are acquired by transfer of land use rights to a social organization or residential community for non-agricultural uses, if the payments for land use are sourced from the state budget, shall proceed in the form of land allocation without land use fee. Likewise, the certification of the rights of use of the land parcels that are used without documentation on land use right shall proceed in the form of land allocation without land use fee. The duration of land use thereof shall be subject to Article 126 of the Land Law and commences from the date of certification of land use right.

The land parcels that are leased or allocated by the government with the charge of a land use fee or are acquired by transfer of land use rights, if the payments for land use are not sourced from the state budget, shall be continuously used as allocated or leased by the government for the remaining duration of land use.

4. Business organizations can continuously use the land parcels that were allocated with the charge of a land use fee or are leased by the government before being acquired through transfer of land use rights, if the payment(s) for such land use rights are not sourced from the state budget, in the form of land allocation or land lease for the remaining duration of land use.

5. The government shall certify the cooperatives' land parcels acquired through their members' contribution of land use rights by allocating such land parcels with the charge of a land use fee without a requisite for land lease. The duration of land use in this event shall be 50 years from the date of certification of land use right. The duration of land use shall be permanent if such land parcels are originally used on long term.

6. Competent People's Committees shall allocate or lease lands, without auctioning the land use rights, to the main investors of the investment projects whose preliminary proposals were approved by competent authorities or main investors were selected pursuant to the legislation on investment before 01<sup>st</sup> July 2014 if the allocation or lease of lands to the main investors does not progress yet but currently accords with the relevant land use plan.

7. The government shall not expropriate the land parcels that were allocated or leased beyond authority or to inappropriate entities before 01<sup>st</sup> July 2004 and for which the households or individuals using such lands have paid for land use or land allocation, though the land users have not been subjected to any financial obligations, if the use of such lands accords with the land use plan, construction plan, urban plan, rural residential plan and new rural commune development plan.

8. The unfulfilled land use norms in a district's annual land use plan that expires shall remain effective until the subsequent year's land use plan is approved by competent government authorities.”

62. Article 101 is amended as follows:

**“Article 101. Authority to revise the decisions made by the Prime Minister before the effective date of the Land Law on land expropriation, land allocation, land lease and land use conversion**

If a decision made by the Prime Minister before 01<sup>st</sup> July 2004 on land expropriation, land allocation, land lease or land use conversion is subject to revision, the relevant provincial People’s Committee shall decide to revise the content of such decision providing that such revision does not restructure the use of lands in contradiction to the Prime Minister’s decision.

If the revision to the Prime Minister’s decision on land expropriation, land allocation, land lease or land use conversion restructures the use of lands defined in the Prime Minister’s decision, the provincial People’s Committee shall report to the Prime Minister before deciding on the revision.”

**Article 3. Amendments to the Decree No. 44/2014/ND-CP dated May 15, 2014 on land pricing**

1. Section 4 is added to Article 7 as follows:

“4. Land prices in the price list for lands used for definite duration pertain to a duration of land use of 70 years.

Land price lists for which the provincial People’s Committees stipulate a land use duration different from that defined in this Section shall be subject to revision accordingly.”

2. Point e is added to Section 3 of Article 11 as follows:

“e) Provincial People’s Committees shall consider the prices of non-commercial lands used for non-agricultural business in the environs, which have been defined in the land price list, to price non-agricultural lands for religious establishments, cemetery land and other non-agricultural lands.”

3. Article 15a is added as follows:

**“Article 15a. Responsibility for organizing the computation of starting prices of land use rights at auction**

1. Department of Natural resources and Environment shall be responsible for organizing the computation of the starting prices of land use rights at auction when the government allocate the lands with the charge of a land use fee or lease such lands on one-off rent payment for the entire duration of the lease pursuant to Section 1, Article 15 of this Decree.

2. Department of Finance shall lead and cooperate with Department of Natural resources and Environment in organizing the computation of the starting prices for the auctions of the rights of use of the lands on which state-owned properties exist pursuant to the legislation on the management and use of state-owned assets.”



4. Section 2 and Section 3 of Article 18 are amended as follows:

“2. Land pricing by land price adjustment coefficient, as defined in Section 5, Article 4 of this Decree, shall apply to the following circumstances:

a) In the circumstances defined in Point a, b, c and d, Section 4, Article 114, in Section 2, Article 172 and in Section 3, Article 189 of the Land Law, land price is determined as the starting price of the right of use, at auction, of a project's land parcel or land area that the government allocates with the charge of a land use fee or leases on one-off rent payment for the entire duration of the lease and whose value (based on the land price list) is lower than VND 30 billion, if the land is located in a centrally-affiliated city, or less than VND 10 billion, if it is located in a mountainous or highland region, or below VND 20 billion, if it is located in other provinces. Likewise, land price is computed to serve the calculation of the starting price of the right of use, at auction, of a land parcel that the government leases on annual rental basis. In addition, land price is computed to serve the calculation of the annual land rent whose unit rate has to be re-defined for the subsequent cycle of the government's lease of the relevant land on annual rental basis;

b) Under the circumstance defined in Point dd, Section 4, Article 114 of the Land Law, in which a project's contiguous land parcels whose purpose of use, profitability and yield from land use are similar, or in which the information regarding the expropriated land area does not suffice for applying the land pricing methods defined in Section 1, 2, 3 and 4, Article 4 of this Decree to specify the price of each land parcel.

3. Provincial People's Committees shall, on annual basis, stipulate the land price adjustment coefficient for the circumstances prescribed in Point a, Section 2 of this Article.

Provincial People's Committees shall decide the land price adjustment coefficient for each type of land by project or by region to compute the land price for determining the amount of compensation for the government's expropriation of lands in the circumstance prescribed in Point b, Section 2 of this Article.”

5. Point c, Section 2 of Article 20 is amended as follows:

“c) Possess university or higher qualifications or specialization in land, cadastre, real estate, pricing, valuation, economics, finance, accounting, auditing, banking, technical economics, engineering or law.”

6. Section 3 is added to Article 20 as follows:

“3. The holder of a certificate in land valuation is subject to the following requirements:

a) All requirements defined in Point a, b, c and d, Section 2 of this Article;

b) In possession of a certificate of completion of supplemental training in land valuation according to the Ministry of Natural resources and Environment's program for supplemental training in land valuation.”

**Article 4. Amendments to the Decree No. 47/2014/ND-CP dated May 15, 2014 on compensation, support and resettlement upon the government's expropriation of lands**

1. Article 11 is amended as follows:

**“Article 11. Compensation for the government's expropriation of uncertified lands that were allocated beyond authority before 01<sup>st</sup> July 2004 and for which land use payments have been made**

1. Land users shall be entitled to land compensations commensurate with the size and type of the land parcels that were allocated beyond authority before 15<sup>th</sup> October 1993 if written evidences on the payments made to relevant agencies and organizations for the use of such land parcels are available but the rights of use of such land parcels are not yet certified in writing.

2. Land users shall be entitled to the following compensations for the land parcels that were allocated beyond authority from 15<sup>th</sup> October 1993 to before 01<sup>st</sup> July 2004 if written evidences on the payments for the use of such land parcels are available but the rights of use of such land parcels are not yet certified in writing:

a) Land compensations commensurate with the size and type of the land areas allocated, if there are written evidences on the payments made for the use of such land areas at the rate of fee defined in the 1993's legislation on land;

b) Land compensations commensurate with the size and type of the land areas allocated, providing that the land use fee payable (if any) has been paid according to the government's regulations on the collection of the land use fee upon the issuance of a land use right certificate, if written evidences show that the payments for the use of such land areas were made at a rate lower than that defined in the 1993's legislation on land.

3. Land users shall be entitled to land compensations commensurate with the size and type of the lands allocated beyond authority before 01<sup>st</sup> July 2004, providing that the land use fee payable (if any) has been paid according to the government's regulations on the collection of the land use fee upon the issuance of a land use right certificate, if no written evidence on any payments for the use of the land areas allocated is available.”

2. Article 18a is added as follows:

**“Article 18a. Settlement of the payments of land use fee and land rent, remaining cost of land-related investment and properties attached to land upon the government's expropriation of lands**

1. When the government expropriates an area of land pursuant to Point c and Point g, Section 1, Article 64 and Point c, Section 1, Article 65 of the Land Law, the owner of the properties on such land area shall be given restitution for the remaining value of those properties, if lawfully established and not sourced from the state budget, on the following principle:

a) The restitution for the remaining value of the properties attached to land shall proceed upon the government's allocation or lease of the land area expropriated to another user;

b) The user to whom the government allocates or leases the land area shall be responsible for making restitution to the entity whose land is expropriated for the remaining value of the properties attached to land;

c) Provincial People's Committee shall, on case basis, decide the restitution for the remaining value of the properties on the lands expropriated pursuant to this Section.

d) Ministry of Finance shall elaborate this Section.

2. When the government expropriates land(s) from a dissolved or bankrupt organization pursuant to Point a, Section 1, Article 65 of the Land Law, the land user's remaining cost of investment in the land(s) and the properties attached to land (if existing) shall be settled pursuant to the legislation on dissolution and bankruptcy.

3. A land user, if qualifying, shall be entitled to the following restitution for the value of the right of use of a land parcel that such user voluntarily returns upon the government's expropriation of such land parcel pursuant to Point c, Section 1, Article 65 of the Land Law providing that such parcel is an area of agricultural land allocated by the government to a household or individual without land use fee or such land parcel is allocated by the government with the charge of a land use fee, is certified in regard to the land use right with the charge of a land use fee or is leased on one-off rent payment for the entire duration of the lease and the land use fulfills relevant financial obligations:

a) The value of the land use right, on which restitution is made, shall be determined upon the government's decision on land expropriation;

b) The value of the land use right, on which restitution is made, shall be calculated for the remaining duration of land use, if definite, on the basis of the relevant provincial People's Committee's land price list in line with the purpose of land use defined upon the government's land allocation, land lease or certification of land use right. In the event that the agricultural land parcel used by the household or individual engaged directly in agricultural production is allocated by the government without land use fee, the land user shall be given restitution for the full value of the land use right without any reduction for the spent duration of land use;

c) The restitution for the value of land use right to an entity that voluntarily returns a land parcel shall be made upon the government's allocation or lease of such land parcel to another use;

d) The user to whom the government allocates or leases the land area shall be responsible for making restitution to the entity whose land is expropriated for the value of the relevant land use right.

dd) Ministry of Finance shall elaborate this Section.

4. When the government expropriate a land parcel against a violation of the legislation on land pursuant to Section 1, Article 64 of the Land Law, the land user shall not be refunded the paid amounts of the land use fee or land rent and shall not be compensated for the remaining cost of investment in such land parcel (if any) and the remaining value of the properties attached to land, except for the circumstance defined in Section 1 of this Article.

5. When the government expropriates a land parcel whose use terminates pursuant to Section 1, Article 65 of the Land Law, the paid amounts of the land use fee or land rent and the remaining cost of investment in the land parcel shall be settled in the following manner:

a) The paid amounts of the land use fee or land rent are not refundable, except for the circumstance defined in Section 3 of this Article;

b) The remaining cost of investment in the land parcel is not compensated, except for the circumstance defined in Section 2 of this Article.

6. In the event that a competent People's Committee issued a decision on expropriating a land parcel against a violation of the legislation on land before 01<sup>st</sup> July 2014 but the land use fee or land rent, the remaining cost of land investment and the invested properties attached to land (if any) have not been settled, the process of settlement shall be governed by the legislation on land in effect before 01<sup>st</sup> July 2014.”

3. Article 18b is added as follows:

**“Article 18b. Settlement of the remaining amount of the upfront payment of several years' rent on land parcels leased by the government on annual rental basis upon the government's expropriation of such land parcels**

1. Upon expropriating a land parcel leased by the government on annual rental basis, the government shall refund the remaining amount of the rent, if paid in advance to the government for several years, for the unspent duration of lease, which is determined upon the decision on land expropriation.

2. Ministry of Finance shall provide guidance on the source of refund and the calculation of the remaining amount of the upfront rent payment refundable to the land user pursuant to Section 1 of this Article.”

4. Article 18c is added as follows:

**“Article 18c. Settlement of the properties that the government assigns for management upon land expropriation and non-compensatory expropriation of lands**

1. When the government expropriates a land parcel, the organization suffering damage to the state-assigned properties under its management and use and indispensably relocating can spend the monetary compensation for such properties on investing in its new facilities in an investment project approved by competent authorities.

2. The organization to which the government allocates lands with or without land use fee or leases lands on one-off rent payment for the entire duration of the lease, if the paid amounts of the land use fee or land rent are sourced from the state budget, shall not receive land compensation but shall be entitled to monetary support upon the government's expropriation of such lands providing that such organization has to relocate at the discretion of a competent government authority. Such support shall not exceed the limit of land compensation.

3. Ministry of Finance shall provide guidance on the management, disbursement and finalization of the monetary support prescribed in this Article.”

5. Section 1 and Section 2 of Article 19 are amended as follows:

“1. Support for stabilization of life and production shall be given to:

a) Households and individuals to whom the government allocates agricultural lands upon the implementation of the following decrees: The government's Decree No. 64/CP dated September 27, 1993 on the regulation of allocation of agricultural lands to households and individuals that use the lands permanently for agricultural production; the government's Decree No. 85/1999/ND-CP dated August 28, 1999 on amendments to certain articles of the regulation of allocation of agricultural lands to households and individuals that use the lands permanently for agricultural production and on the supplemented allocation of salt-making lands to households and individuals that use the lands permanently; the government's Decree No. 02/CP dated January 15, 1994 on the regulation of allocation of forestlands to organizations, households and individuals that use the lands permanently for forestry; the government's Decree No. 163/1999/ND-CP dated November 16, 1999 on the allocation and lease of forestlands to organizations, households and individuals that use the lands permanently for forestry; and the government's Decree No. 181/2004/ND-CP dated October 29, 2004 on the implementation of the Land Law and Section 1, Article 54 of the Land Law;

b) Agricultural workers in a household as defined in Point a of this Section providing that such persons come into existence after the allocation of the agricultural land(s) to such household;

c) Households and individuals that are eligible for the allocation of agricultural lands pursuant to Point a of this Section and are using agricultural lands acquired through transfer, inheritance, donation or reclamation as per the law, providing that the People's Committee of the commune where such lands exist confirms their direct engagement in production activities on the agricultural lands;

d) Households and individuals that are using contracted lands for the purpose of agriculture, forestry or aquaculture (except specialized forestlands and protection forestlands) in state-owned agricultural or forestry plantations providing that the land users are such plantations' officials and employees on employment or that the land users, whether they are retired, stop working due to working capacity loss or leave employment on benefit, are directly participating in agricultural or forestry production;

dd) Households and individuals that are using the contracted lands from state-owned agricultural or forestry plantations or from agricultural or forestry companies that were converted from state-owned agricultural or forestry plantations, providing that the land users directly participate in and gain stable earning(s) from agricultural production activities on such lands;

e) Households and individuals that are using the contracted lands from agricultural production groups or agricultural cooperatives, providing that the land users directly participate in and gain stable earning(s) from agricultural production on such lands;

g) Business organizations, households and individuals engaged in business activities, foreign-invested companies, whose business operations cease upon the government's land expropriation, shall receive a support for stabilizing their business.

2. The support for stabilization of life and production is subject to the following requirements:

a) Households, individuals, business organizations and foreign-invested companies that are using lands pursuant to Section 1 of this Article and have obtained the certificates of land use right or qualify for the issuance of the certificates of land use right with or without ownership of house and other properties attached to land as per the legislation on land, except for the circumstance defined in Section 2, Article 77 of the Land Law and Point b of this Section;

b) Households and individuals that are using contracted lands for the purpose of agriculture, forestry or aquaculture (except specialized forestlands and protection forestlands) as stated in Point d, dd and e, Section 1 of this Article, the contracts for land use must be available.”

6. Section 1 of Article 20 is amended as follows:

“1. The following support for training, job change and job search shall be given, upon the government's expropriation of agricultural lands, to households and individuals that are directly engaged in agricultural production pursuant to Point a, b, c, Section 1, Article 19 of this Decree, if receiving monetary compensation upon the government's expropriation of agricultural lands; and to households and individuals that are using lands pursuant to Point d, dd and e, Section 1, Article 19 (except those who used to work for a state-owned agricultural or forestry plantation or an agricultural or forestry company converted from a state-owned plantation and presently retire, stop working due to working capacity loss or leave employment on benefit):

a) Monetary support, which shall not exceed 5 times the price of agricultural land of the same type in the local land price list, for the entire area of agricultural land expropriated; however, the area of land that the support covers shall not exceed the local limit on agricultural land allocation pursuant to Article 129 of the Land Law;

b) Provincial People's Committees shall specify the amount of support according to each province's actual conditions.”

7. Point c is added to Section 4 of Article 30 as follows:

“c) The entities to which the government allocates lands with the charge of a land use fee or leases lands through an auction of land use rights, providing that they finance the compensation, support and resettlement in advance, can participate in organizing the procedure of compensation, support and resettlement upon the government’s expropriation of the lands.”

8. Section 6 and Section 7 are added to Article 34 as follows:

“6. In the event that compensation was not made before 01<sup>st</sup> July 2014 though the decision on land expropriation for an investment project had been issued and the plan for compensation, support and resettlement had been approved by competent government authorities, the compensation deferred shall be settled as per the legislation on land in effect before 01<sup>st</sup> July 2014.

7. Ministries and agencies shall be responsible for reporting to the Prime Minister for decision on their investment projects for which the Prime Minister approved the framework policy for compensation, support and resettlement before 01<sup>st</sup> July 2014 and the policy for compensation, support and resettlement, after 01<sup>st</sup> July 2014, changes and differs from the framework policy approved before local authorities validate the plan for compensation, support and resettlement. Ministries and agencies that involve in such investment projects shall cooperate with the People's Committees of the provinces where the projects are located in implementing the Prime Minister's decisions.”

#### **Article 5. Transition**

In the event that the decision on land expropriation was issued and the plan for compensation, support and resettlement was approved pursuant to the legislation on land before the effective date of this Decree, the plan approved shall proceed without being subject to this Decree.

#### **Article 6. Implementation**

1. This Decree comes into force as of March 03, 2017.

2. Ministries, ministerial-level agencies, governmental agencies, provincial People’s Committees shall be responsible for providing guidance on the implementation of relevant articles and sections in this Decree, reviewing and amending the documents promulgated in adherence to this Decree.

3. Ministers, heads of ministerial-level agencies, heads of governmental agencies, chairmen of People’s Committees, organizations and individuals concerned shall be responsible for implementing this Decree./.

**FOR THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**