

DECREE No.17/1999/ND-CP OF MARCH 29, 1999 ON THE PROCEDURES FOR EXCHANGE, TRANSFER, LEASE, SUBLEASE AND INHERITANCE OF THE LAND USE RIGHT AS WELL AS FOR MORTGAGE OF AND CAPITAL CONTRIBUTION WITH THE LAND-USE RIGHT VALUE

THE GOVERNMENT

Pursuant to the Law on Organization of the Government of September 30, 1992;

Pursuant to the Land Law of July 14, 1993 and December 2, 1998 Law amending and supplementing a number of Articles of the Land Law;

Pursuant to the Civil Code of October 28, 1995;

At the proposal of the General Director of Land Administration.

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

1. This Decree prescribes the procedures for exchange, transfer, lease, sublease and inheritance of the land use right as well as for mortgage of and capital contribution with the land-use right value by domestic organizations, family households and individuals.
2. The provisions of this Decree shall not apply to cases of 5%-public land rented from wards, communes and townships.

Article 2.- Authorization to exercise the land user's rights

1. A person authorized by the head of a family household must be a household member, who represents the family household in exercising the right to exchange, transfer, lease and sub-lease the land use right as well as to mortgage or contribute capital with the land-use right value.
2. A person authorized by individual(s) shall be the latter's representative in exercising the right to exchange, transfer, lease and sub-lease the land use right as well as to mortgage and contribute capital with the land-use right value.
3. A person authorized by the head of an organization shall be the organization's representative in exercising the right to exchange, transfer, lease and sub-lease the land use right as well as to mortgage and contribute capital with the land-use right value.
4. The authorization of representative to exercise the rights stipulated in Clauses 1, 2 and 3 of this Article must be made in writing.

For family households and individuals, the authorization must be attested by the People's Committees of the communes, wards or townships where they reside.

Article 3.- Papers required for exercising the land user's rights

1. A land user, when exercising his/her rights, must have a land-use right certificate issued by the competent State agency. Such a land use right certificate must be the one issued by the former General Department for Land Management or the current General Land Administration.
2. A current land user who has one of the following papers shall proceed with the prescribed procedures so as to be granted the land-use right certificate and therefore entitled to exercise the rights provided for in this Decree:
 - a/ The land-assignment or land-lease decision issued by the competent State agency according to the provisions of the land legislation;
 - b/ The papers issued by the State agency(ies) competent to assign or lease land in the process of implementation of land policies in each period of the State of the Democratic Republic of Vietnam, the provisional Revolutionary Government of the Republic of Southern Vietnam and the State of the Socialist Republic of Vietnam, provided that the land assignee or land lessee has been using the assigned or leased land continually since then;
 - c/ The provisional land-use right certificate which has been granted by the competent State agency or registered in the land administration registration book without any dispute;
 - d/ The papers granted by the competent agency(ies) of the former regime to the land user that has been using that land continually since then without any dispute;
 - e/ The papers on land and/or house inheritance, offer or donation with certification by the commune/ward/township People's Committee, and the land is not disputed;

f/ The People's Court's judgment or ruling that has taken legal effect or the land-dispute settling decision, made by the competent State agency, that has taken legal effect;

g/ The paper(s) on the hand-over of a house of gratitude;

h/ The paper(s) on land transfer or dwelling house sale/purchase accompanied with the transfer of the land use right, provided that the land has been examined and confirmed by the commune/ward/township People's Committee as not disputed and the examination result has been certified by the People's Committee of the district, provincial town or city.

3. For economic organizations with the land use right legally transferred from others or with land leased by the State with the collection of land use levy which does not originate from the State budget, they shall be entitled to exercise the rights provided for in this Decree and shall not have to compile dossiers for renting land from the State.

4. The State agency competent to issue land-use right certificates shall have to issue such certificates within 15 days, for rural land, and 30 days for urban land.

Article 4.- Land-use purposes and term when the rights are exercised

After the exchange, transfer, lease, sublease or inheritance of the land use right and after the mortgage of or capital contribution with the land use right value, that land must be used for the right purposes and within the assignment or lease term.

Chapter II

EXCHANGE OF THE LAND USE RIGHT

Article 5.- Conditions for the exchange of the right to use agricultural, forestial and residential land by family households and individuals

Family households and/or individuals using agricultural, forestial and/or residential land may exchange the right to use that land if they fully meet the following conditions:

1. It is convenient for production and livelihood;
2. After the exchange of the land use right, the land must be used for the right purposes and within the term set by the State when the land is assigned.

Article 6.- Dossiers on land use right exchange

A dossier on exchange of the land use right shall include:

1. The contract for the exchange of land use right;
2. The land-use right certificate (its copy certified by the State notary public or attested by the People's Committee of the commune, ward or township where the land is located).

Article 7.- Order of land use right exchange

1. The dossier on the land use right exchange shall be submitted to the People's Committee of the commune, ward or township where the to-be-exchanged land is located.
2. Within 7 days after receiving a complete and valid dossier, the commune/ward/township People's Committee shall examine it and write certification in Part II (reserved for the State agency only) of the contract for the land use right exchange for eligible cases, then make book entry thereof for monitoring the land-related changes; where the exchange is not allowed, the dossier shall be returned to the applicant, who shall be notified of the reasons therefor.
3. The commune/ward/township People's Committee shall propose the People's Committee of the district, provincial town or city to grant land-use right certificates for cases where the exchange has been completed.

Chapter III

TRANSFER OF THE LAND USE RIGHT

Section 1. FOR FAMILY HOUSEHOLDS AND INDIVIDUALS

Article 8.- Conditions for land-use right transfer by family households and/or individuals

1. Family households and individuals using agricultural and/or forestial land for afforestation may transfer the land use right when one of the following conditions is met:

- a/ They move to other places of residence to live or take up production and/or business activities;
- b/ They change to other occupations;

c/ They are incapable of working by themselves or have no capability to work.

2. Family households and/or individuals that use residential land and/or specialized-use land may transfer the land use right when they move to other places or no longer have the need to use that land.

3. For family households and/or individuals that have been leased land by the State and have already paid the land rental for the whole lease term or for many years in advance, and the remaining land lease duration for which the land rental has been paid still lasts for at least 5 years, they shall be entitled to transfer the right to use the leased land.

Article 9.- Conditions for the transferee of the right to use agricultural land

To be transferred with the right to use agricultural land, a family household or individual shall have to satisfy the following conditions:

1. Having the demand to use that land;
2. Having no land yet or using a land area below the limits prescribed by the land legislation.

In case of the transfer of the right to use the wetrice land, the transferee must be a family household or individual directly involved in agricultural production.

Family households transferred with the right to use land acreage exceeding the prescribed limits, the excess land acreage must be converted into the leased land according to the provisions of Point 1, Clause 5, Article 1 of the Law amending and supplementing a number of Articles of the Land Law.

Article 10.- Dossier on the land use right transfer

A dossier on the land use right transfer shall include:

1. The land- use right transfer contract;
2. The land-use right certificate (its copy with certification by the State notary public or attestation by the commune/ward/township People's Committee);
3. The map of the land plot (the extract of the land-lot map or the extract of the map made through actual measurement);
4. The land rental- payment receipt.

Article 11.- Order of land use right transfer

1. The dossier on land use right transfer shall be submitted at the People's Committee of the commune, ward or township where the land is located.

2. Within 5 days after receiving a complete and valid dossier, the commune/ward/township People's Committee shall examine it and write certification in Section 1, Part II (reserved for the State agency only) of the land-use right transfer contract for eligible cases, then send the dossier to the Land Administration Office of the district, provincial town or city; where the transfer is not allowed, the dossier shall be returned to the applicant, who shall be notified of the reasons therefor.

3. Within 5 days after receiving a complete and valid dossier, the Land Administration Office shall examine it and write down the examination contents in Section 2, Part II (reserved for the State agency only) of the transfer contract, then submit the dossier to the People's Committee of the district, provincial town or city.

4. Within 3 days after receiving a complete and valid dossier from the Land Administration Office, the People's Committee of the district, provincial town or city shall complete the certification of the eligible transfer in Section 2, Part II (reserved for the State agency only) of the land-use right transfer contract.

5. After obtaining certification of the transfer eligibility from the People's Committee of the district, provincial town or city, the Land Administration Office shall notify the transferor of the payable tax on the transfer of the land use right, and the transferee of the payable registration fee as prescribed by law.

6. After the concerned parties have paid the tax on the land-use right transfer and the registration fee, the Land Administration Office shall make book entry thereof to monitor any land-related changes and return the dossier to the parties. The transferee shall be granted a land-use right certificate in accordance with the provisions of the land legislation.

Section 2. FOR ORGANIZATIONS

Article 12.- Conditions for land-use right transfer by economic organizations

An economic organization may transfer the land use right if it satisfies one of the following conditions:

1. The land is assigned by the State with the collection of land use levy;
2. The land is acquired through the lawful land-use right transfer;
3. The land is leased by the State for which the land rental has been paid for the whole lease term or for many years in advance, and the remaining land-lease duration for which the rental has been paid still lasts at least for 5 years.

Article 13.- Dossier on land-use right transfer

A dossier on land-use right transfer shall include:

1. The land-use right transfer contract;
2. The land-use right certificate;
3. The extract of map of the to-be-transferred land lot;
4. The land-use levy and land-rental payment receipts (their copies with certification by the State notary public).

Article 14.- Order of the land-use right transfer

1. The dossier on land-use right transfer shall be submitted to the Land Administration Service or the Land Administration and Housing Service of the province or centrally-run city.
2. Within 15 days after receiving a complete and valid dossier, the provincial/municipal Land Administration Service or the Land Administration-Housing Service shall examine it and write certification in Section 4, Part II (reserved for the State agency only) of the transfer contract for eligible cases; where the transfer is not allowed, the dossier shall be returned to the applicant-organization, which shall be notified of the reasons therefor.
3. The provincial/municipal Land Administration Service or Land Administration-Housing Service shall notify the transferor of the payable tax on the land-use right transfer and the transferee of the payable registration fee as prescribed by law.
4. After the parties have paid tax on the land-use right transfer and the registration fee, the provincial/municipal Land Administration Service or Land Administration - Housing Service shall submit the dossier to the People's Committee of the province or centrally-run city, proposing the latter to issue a land-use right certificate to the transferee.
5. The land-use right transferee shall register the right to use land at the People's Committee of the commune, ward or township where the land is located.

Chapter IV

LAND LEASE AND SUBLEASE

Section 1. FOR FAMILY HOUSEHOLDS AND INDIVIDUALS

Article 15.- Conditions for land leasing

1. Family households and/or individuals using agricultural land for cultivation of annual crops or aquaculture shall be entitled to lease such land if they meet one of the following conditions:

- a/ The family is in poverty and meet with difficulty;
- b/ They have taken up other occupations but not yet settled down therein;
- c/ They lack man power.

The annual crop or aquaculture agricultural land lease term shall be agreed upon by the parties but shall not exceed 3 years. For particularly difficult cases as certified by the commune/ward/township People's Committee, such lease term may be longer but not more than 10 years.

2. Family households and individuals may lease residential land or specialized-use land.

Article 16.- Conditions for subleasing land

Family households and/or individuals leased land by the State may sub-lease such land if they meet the following conditions:

1. They have paid land rental for the whole lease term or for many years in advance, and the remaining land-lease duration for which the land rental has been paid still last at least for 5 years;
2. The land has been invested in for the right purposes as stated in the project dossier or the application for land-renting.

Article 17.- Land-lease or sublease dossier

A land-lease or sublease dossier shall include:

1. The land-lease or sublease contract;
2. The land-use right certificate (its copy with certification by the State notary public or the commune/ward/township People's Committee);
3. The land-lot map (the extract of the land-lot map or the map made through actual measurement);
4. The land-rental payment receipt (its copy with certification by the State notary public or the commune/ward/township People's Committee);

Article 18.- Land-lease or sublease order

1. Land-lease order:

a/ The land-lease dossier shall be submitted at the People's Committee of the commune, ward or township where the land is located.

b/ Within 7 days after receiving a complete and valid dossier, the commune/ward/township People's Committee shall examine it and write certification in Section 1, Part II (reserved for the State agency only) of the land-lease contract, for eligible land-lease cases, then make book entry thereof for monitoring any changes; where the lease is not allowed, the dossier shall be returned to the applicant who shall be notified of the reasons therefor.

c/ After obtaining certification of the land-lease eligibility, the lessor shall have to register the land lease at the People's Committee of the commune, ward or township where the land is located.

2. Land-sublease order:

a/ The land-sublease dossier shall be submitted at the People's Committee of the district, provincial town or city if the land is leased by the People's Committee of the district, provincial town or city; at the provincial/municipal Land Administration Service or Land Administration - Housing Service, if the land is leased by the People's Committee of the province or centrally-run city;

b/ Within 10 days after receiving a complete and valid dossier, the State agency stipulated in Point a, Clause 2 of this Article shall examine it and write certification in Part II (reserved for the State agency only) of the land-sublease contract, for eligible land-sublease cases; where the sublease is not allowed, the dossier shall be returned to the applicant who shall be notified of the reasons therefor.

c/ After obtaining certification of the land-sublease eligibility, the sublessor shall have to register the land sublease at the People's Committee of the commune, ward or township where the land is located.

Section 2. FOR ORGANIZATIONS**Article 19.-** Conditions for land lease, sublease by economic organizations

1. Economic organizations may lease the land use right if they meet the following conditions:

a/ The land is assigned by the State with the collection of the land use levy; the land is acquired through the lawful land-use right transfer;

b/ The leased land has been invested with the construction of architectural and infrastructural projects.

2. Economic organizations may sublease the land use right if they meet the following conditions:

a/ The land is leased by the State for which the land rental has been paid for the whole lease term or for many years in advance, and the remaining land-lease duration for which the land rental has been paid still lasts for at least 5 years;

b/ The subleased land has been invested in according to projects.

Article 20.- Land-lease or sublease dossier

A land-lease or -sublease dossier shall include:

1. The land-lease or -sublease contract;

2. The land-use right certificate (its copy with certification by the State notary public);

3. The extract of the land-lot map;

4. The land use levy- and land-rental payment receipts (the copies thereof with certification of the State notary public);

Article 21.- Land-lease or sublease order:

1. The land-lease or -sublease dossier shall be submitted at the provincial/municipal Land Administration Service or Land Administration - Housing Service;

2. Within 15 days after receiving a complete and valid dossier, the provincial/municipal Land Administration Service or Land Administration - Housing Service shall examine it and write certification in Section 2, Part II (reserved for the State agency only) of the land-lease or -sublease contract, for eligible land-lease or -sublease cases; where the lease or sublease is not allowed, the dossier shall be returned to the applicant-organization, which shall be notified of the reasons therefor.

3. After obtaining certification of the land-lease or sublease eligibility, the lessor or sublessor shall register the land lease or sublease at the People's Committee of the commune, ward or township where the land is located.

Chapter V

**INHERITANCE OF THE LAND
USE RIGHT**

Article 22.- The land use right bequeathers

1. The following people shall be entitled to bequeath the land use right:
 - a/ Individuals that use agricultural land for cultivation of annual crops, perennial trees and/or for aquaculture; forestial land for afforestation; residential land; or specialized-use land;
 - b/ Family households' members that use land for cultivation of perennial trees; forestial land for afforestation; residential land; or specialized-use land;
 - c/ Individuals who have been leased land by the State and have paid the land rental for the whole lease term or for many years in advance.
2. For a family household which has been assigned by the State the agricultural land for cultivation of annual crops and/or aquaculture, if a member of such family dies, he/she shall not be entitled to bequeath the land use right and the other members in the family shall have the right to continue using the land acreage of the deceased member.

Article 23.- Order of land use right inheritance

1. The land use right heir shall submit the will or the record on the bequest, the people court's effective judgment or the decision settling the dispute over the land-use right inheritance, together with the land-use right certificate at the People's Committee of the commune, ward or township where the land is located.
In cases where the land use right heir is the only person entitled to inheritance, he/she shall bring the inherited land-use right certificate to the commune/ward/township People's Committee for the declaration and registration of the land use right.
2. Within 5 days after receiving the papers stipulated in Clause 1 of this Article, the communic/ward/township People's Committee shall examine the dossier, certify the land-use right inheritance and make the registration thereof in the land administration book.

Chapter VI

**MORTGAGE OF THE LAND-USE
RIGHT VALUE**

**Section 1. FOR FAMILY HOUSEHOLDS
AND INDIVIDUALS**

Article 24.- Conditions for mortgage of the land-use right value

1. Family households and/or individuals using agricultural land and/or forestial land, which is assigned by the State or acquired from the lawful land use right transfer, shall be entitled to mortgage the land-use right value at Vietnamese credit institutions to borrow capital for their production and/or business activities.
2. Family households and/or individuals using land leased by the State and having paid the land rental for the whole lease term or for many years in advance, but the land-lease duration for which the land rental has been paid is still valid for at least 5 more years. The value of the mortgaged land-use right in case of renting land shall include the damages when leased land (if any) by the State, the land rental already paid to the State after subtracting the land-rental amount payable for the period in which the land has been used and the value of properties (if any) associated with that land.
3. Family households and/or individuals leased land by the State, that pay the land rental annually, shall be entitled to mortgage their own properties associated with the leased land, at Vietnamese credit institutions to borrow capital for production and/or business development.
4. Family households and/or individuals using residential land and/or specialized-use land shall be entitled to mortgage the land-use right value at Vietnamese economic organizations, credit institutions and with individuals inside the country.

Article 25.- Dossier on the land-use right value mortgage

A dossier on land-use right value mortgage shall include:

1. The contract for the mortgage of the land-use right value;
2. The land-use right certificate;
3. The land-lot map (the extract of the land-lot map or the map made by actual measurement);

4. The land-rental payment receipt.

Article 26.- Order of land-use right value mortgage

The mortgagor and the mortgagee shall sign the mortgage contract. After signing such contract, the mortgagor shall have to make registration at the People's Committee of the commune, ward or township where the land is located. When the registration is completed, the mortgagee shall provide loan to the mortgagor as agreed upon in the contract.

Section 2. FOR ORGANIZATIONS

Article 27.- Conditions for mortgage of the land-use right value

Economic organizations may mortgage the land-use right value at Vietnamese credit institutions when they satisfy one of the following conditions:

1. The land is assigned by the State with the collection of the land-use levy;
2. The land is acquired through the lawful land use right transfer;
3. The land is leased by the State and the organization has paid land rental for the whole lease term or for many years in advance, while the remaining land-lease duration for which the land rental has been paid still lasts for at least 5 years. The mortgaged land-use right value in case of renting land shall include the damages when leased land (if any) by the State, the land rental already paid to the State after subtracting the land rental amount payable for the period in which the land has been used, and the value of properties associated with that land.
4. Economic organization assigned land by the State without collecting the land use levy for agricultural, forestrial production, aquaculture and/or salt making or with land leased by the State with the land rental being paid annually, shall be allowed to mortgage only their own properties associated with that land.

Article 28.- Dossier on the land-use right value mortgage

A dossier mortgage of the land-use right value shall include:

1. The contract for the mortgage of the land-use right value;
2. The land-use right certificate;
3. The extract of the land lot map;
4. The land-rental payment receipt (its copy with certification by the State notary public).

Article 29.- Order of the land-use right value mortgage

1. The mortgagor shall declare the contents defined for him/her in Part I (reserved for the parties) of the mortgage contract and submit the mortgage dossier to the provincial/municipal Land Administration Service or Land Administration-Housing Service of the locality where the land is located.
2. With 7 days after receiving a complete and valid dossier, the provincial/municipal Land Administration Service or Land Administration-Housing Service shall examine the dossier and write certification of eligibility for such case of the mortgage in Section 2, Part II (reserved for the State agency only) of the mortgage contract; if the mortgage is not allowed, the dossier shall be returned to the applicant-organization, which shall be notified of the reasons therefor.
3. After obtaining certification of the mortgage eligibility from the provincial/municipal Land Administration Service or Land Administration-Housing Service, the mortgagor and the mortgagee shall sign the mortgage contract.
4. The mortgagor shall register the mortgage at the provincial/municipal Land Administration Service or Land Administration-Housing Service.

**Section 3. CLEARANCE OF THE
MORTGAGE, HANDLING OF THE
MORTGAGED LAND USE RIGHT FOR
DEBT RETRIEVAL**

Article 30.- Mortgage clearance

1. When the mortgagor has fulfilled the debt-payment obligations towards the mortgagee, the mortgagee shall write off the mortgage registration according to the contents stipulated in Part II of the mortgage contract.
2. The mortgagor shall send the mortgage contract for the clearance of the mortgage registration according to the following stipulations:
 - a/ If the mortgagor is a family household or individual, the contract shall be sent to the People's Committee of the commune, ward or township where the mortgage has been registered;

b/ If the mortgagor is an economic organization, the contract shall be sent to the provincial/municipal Land Administration Service or, Land Administration-Housing Service.

3. The commune/ward/township People's Committee; the provincial/municipal Land Administration Service or Land Administration-Housing Service shall examine the mortgage dossier in order to write off the mortgage in the land mortgage registration book.

Article 31.- Handling of the mortgaged land use right for debt retrieval

1. When the mortgagor of the land-use right value fails to fulfill or improperly fulfill the debt-payment obligation according to the mortgage contract, the mortgaged land use right shall be handled according to the agreement in the contract; where it cannot be handled according to the agreement stated in the contract, the provisions of law shall apply.
2. After completing the handling of the mortgaged land use right for debt retrieval, the mortgagor shall go to the agency stipulated in Clause 2, Article 30 of this Decree to write off the mortgage registration.
3. The land-use right receiver stipulated in this Article shall be granted a land-use right certificate.

Chapter VII

CAPITAL CONTRIBUTION WITH THE LAND-USE RIGHT VALUE

Section 1. FOR FAMILY HOUSEHOLDS AND INDIVIDUALS

Article 32.- Conditions for capital contribution with the land-use right value

Family households and/or individuals may contribute the land-use right value as capital for production and/or business cooperation with domestic organizations and/or individuals when they satisfy one of the following conditions:

1. The land is assigned by the State;
2. The land is acquired through the lawful land-use right transfer;
3. The land is leased by the State for which the land rental has been paid for the whole lease term or for many years in advance, while the remaining land-lease duration for which the land rental has been paid is still valid for at least 5 years.

Article 33.- Dossier on capital contribution with the land-use right value

A dossier on capital contribution with the land-use right value shall include:

1. The declaration on capital contribution with the land-use right value;
2. The land-use right certificate;
3. The land-lot map (the extract of the land-lot map or the map made through actual measurement);
4. The land-rental payment receipt (its copy with certification by the State notary public or attestation by the People's Committee of the commune, ward or township where the land is located).

Article 34.- Order of capital contribution with the land-use right value

1. The parties contributing capital with the land-use right value shall submit the capital-contribution dossier at the People's Committee of the commune, ward or township where the land is located.
2. Within 5 days after receiving a complete and valid dossier, the commune/ward/township People's Committee shall examine it and write certification of eligibility for such case of capital contribution in Part II (reserved for the State agency only) of the capital-contribution declaration form; where the capital contribution is not allowed, the dossier shall be returned to the involved party which shall be notified of the reasons therefor.
3. After obtaining certification of capital-contribution eligibility from the commune/ward/township People's Committee, the capital contributors shall have to complete the investment procedures as prescribed by law. In cases where there appears a new land-using legal person, such legal person shall have to register the land use right and be granted a land-use right certificate. In cases where no new land-using legal person appears, such land shall still belong to the capital contributor's use right. The capital contributor shall have to register the capital contribution with the land use right at the People's Committee of the commune, ward or township where the land is located.

Section 2. FOR ORGANIZATIONS

Article 35.- Conditions for capital contribution with the land-use right value

Economic organizations using land may contribute capital with the land-use right value for production and/or business cooperation with domestic and foreign organizations and/or individuals when they satisfy one of the following conditions:

1. The land is assigned by the State without collecting the land use levy for agricultural, forestial production, aquaculture or salt making;
2. The land is assigned by the State with the collection of land use levy;
3. The land is acquired through the lawful land-use right transfer;
4. The land is leased by the State for which the land rental has been paid for the whole lease term or for many years in advance, while the remaining land-lease duration for which the land rental has been paid still lasts for at least 5 years;
5. The land is leased by the State to State enterprises that pay the land rental annually; if the capital is contributed with the land-use right value to joint venture with foreign organizations and/or individuals, the Prime Minister's permission is required.

Article 36.- Capital-contribution dossier

A dossier on capital contribution with the land-use right value shall include:

1. The declaration on capital contribution with the land-use right value;
2. The land-use right certificate;
3. The extract of the land-lot map;
4. The land-rental payment receipt.

Article 37.- Order of capital contribution with the land-use right value for domestic organizations and/or individuals

1. The capital contributor shall submit the capital-contribution dossier to the provincial/municipal Land Administration Service or Land Administration -Housing Service of the locality where the land is located.
2. Within 10 days after receiving a complete and valid dossier, the provincial/municipal Land Administration Service or Land Administration - Housing Service shall examine it and write the certification of eligibility of such case of capital contribution in Part II (reserved for the State agency only) of the capital-contribution declaration form; where the capital contribution is not allowed, the dossier shall be returned to the applicant that shall be notified of the reasons therefor.
3. After obtaining the certification of eligibility for capital contribution with the land-use right value, the capital contributors shall complete the investment procedures as prescribed by law.

In cases where there appears a new land-using legal person, such legal person shall have to register the land use right and be granted a land-use right certificate.

In cases where no new land-using legal person appears, such land shall still belong to the capital contributor's use right. The capital contributor shall have to register capital contribution with the land-use right value at the People's Committee of the commune, ward or township where the land is located.

Article 38.- Order of capital contribution with the land-use right value for joint venture with foreign organizations and/or individuals

1. The capital contributor shall submit the dossier at the provincial/municipal Land Administration Service or Land Administration - Housing Service of the locality where the land is located.
2. Within 15 days after receiving a complete and valid dossier, the provincial/municipal Land Administration Service or Land Administration - Housing Service shall examine it and write the certification of eligibility for such case of capital contribution in Part II (reserved for the State agency only) of the capital-contribution declaration form.

For capital contribution with the land-use right value by a State enterprise which is leased land by the State and pays the land rental annually, the provincial/municipal Land Administration Service or Land Administration - Housing Service shall submit the dossier to the People's Committee of the province or centrally-run city so that the latter submits it to the Prime Minister.

3. After getting ratification and certification of the eligibility for capital contribution with the land-use right value from the competent State agency, the parties to the joint venture contract shall proceed with the investment procedures as prescribed by law.
4. After getting the investment license, the joint-venture enterprise shall have to register the land use right at the People's Committee of the commune, ward or township where the land is located and shall be granted a land-use right certificate.

**Section 3. TERMINATION OF CAPITAL
CONTRIBUTION WITH THE LAND-USE
RIGHT VALUE**

Article 39.- Termination of capital contribution with the land-use right value

The capital contribution with the land-use right value shall terminate in the following cases where:

1. The time-limit for capital contribution with the land-use right value expires;
2. It is so proposed by one or all parties; for joint-venture with foreign organizations and/or individuals, the approval by the competent State agency is required;
3. It is so decided by the competent State agency, due to serious violations of provisions of the land legislation;
4. The bankruptcy is declared;
5. It is due to the dissolution;
6. The individual who has concluded the capital-contribution contract has died; other legal persons or subjects terminate the capital-contribution contract, which must be carried out by such individuals, legal persons or subjects.

Article 40.- Handling of the land use right upon the termination of capital contribution with the land-use right value

The handling of the land use right upon the termination of capital contribution with the land-use right value shall be effected according to the following stipulations:

1. For cases stipulated in Clauses 1 and 2, Article 39 of this Decree, the capital in-land-use right value contribution shall be entitled to continue using that land for the remaining period of the land-use term.

Where the land-use term has expired, the State shall recover the land according to the provisions of the land legislation; if the land user still has a demand to continue using that land, the State shall consider and allow the use thereof in accordance with the provisions of law.

2. For cases stipulated in Clause 3, Article 39 of this Decree, the State shall recover the land.

3. In cases where the joint-venture enterprise goes bankrupt, the land-use right that has been used for capital contribution shall be dealt with according to the People's Court's decision declaring the bankruptcy of the enterprise.

If the receiver of the land use right and properties associated with that land is a domestic organization or individual, it/he/she shall be entitled to continue using that land for the right purposes for the remaining period of the land-assignment or land-lease term.

If the receiver of the land use right and properties associated with that land is a foreign organization or individual, it/he/she shall be leased with that land by the State and shall have to use the land for the right purposes as prescribed by law.

In cases where there's nobody to receive the land use right and properties associated with that land, the State shall recover the land.

4. In cases where the individual who has concluded the capital-contribution contract dies, the land use right used for capital contribution may be bequeathed in accordance with the provisions of law.

5. In case of dissolution, the land use right used for capital contribution shall be dealt with according to the agreement between the parties.

Chapter VIII

ORGANIZATION OF IMPLEMENTATION

Article 41.- Responsibilities of land users

Organizations, family households and individuals using land, when exercising the right to exchange, transfer, lease, sub-lease or inherit the land-use right as well as to mortgage and contribute capital with the land-use right value, shall have to comply with the provisions of this Decree and perform financial obligations as prescribed by law.

Article 42.- Responsibilities of the General Land Administration and the Ministry of Finance

The General Land Administration and the Ministry of Finance shall determine the land administration fee levels for the exchange, transfer, lease, sublease and inheritance of the land use right as well as for the mortgage of and capital contribution with the land use right value.

The General Land Administration shall provide guidance on the order and procedures of application for the assignment and leasing land to be used as capital contribution to joint venture with domestic and foreign organizations and/or individuals.

Article 43.- Handling of violations

1. Any person who commits act of cheating, falsifying papers, failing to strictly comply with the provisions of this Decree; failing to abide by the State's regulations on financial obligations when exercising the rights of the land user as stipulated in this Decree shall, depending on the seriousness of the violation, be subject to the administrative measures or examined for penal liability.

2. Any person who abuses his/her position or power or acts ultra vires, allowing the land-use right transfer contrary to the provisions of this Decree; causes difficulties or obstructs land users to exercise their rights; covers the violator (s) of the land legislation shall, depending on the seriousness of the violation, be disciplined or examined for penal liability.

3. Any person who violates the provisions of this Decree, thus causing damage to other persons shall not only be handled according to Clauses 1 and 2 of this Article, but also have to compensate the victims for the damage.

Article 44.- Implementation effect

This Decree takes effect 15 days after its signing. The earlier regulations contrary to this Decree are all now annulled.

Article 45.- Organization of implementation

The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall, within the ambit of their tasks and powers, have to organize the implementation of this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI