

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

No. 10/2023/ND-CP

Hanoi, April 3, 2023

DECREE

**AMENDMENTS AND SUPPLEMENTS TO SEVERAL ARTICLES OF DECREES
ON INSTRUCTIONS FOR IMPLEMENTATION OF THE LAW ON LAND**

Pursuant to the Law on Government Organization dated June 19, 2015; the Law on Amendments and Supplements to certain Articles of the Law on Government Organization and the Law on Local Government Organization dated November 22, 2019;

Pursuant to the Law on Land dated November 29, 2013;

Pursuant to the Law on Property Auctioning dated November 17, 2016;

Pursuant to the Law on Investment dated June 17, 2020;

Pursuant to the National Assembly’s Resolution No. 39/2021/QH15 dated November 13, 2021, regarding the land use planning during the 2021 – 2030 period with vision towards 2050; the 5-year Plan for use of national land from 2021 to 2025;

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

The Government herein promulgates the Decree on amendments and supplements to several Articles of Decrees on instructions for implementation of the Law on Land.

Article 1. Amendments and supplements to several Articles of the Decree No. 43/2014/ND-CP dated May 15, 2014, elaborating on the implementation of certain Articles of the Law on Land

1. Adding clause 4 to Article 15 as follows:

“4. The period during which the land use schedule of an investment project is affected by a force majeure event shall be excepted from the time length of default or lateness of use of land permitted for the 24 months’ grace as defined in point I of clause 1 of Article 64 in the Law on Land and Article 15b in this Decree.

Presidents of provincial People’s Committees shall consult regulations of law on force majeure situation and actual developments of investment projects to determine the period during which an investment project located in a province or centrally-affiliated city is affected by a force majeure event. For an investment project that is located in at least two

provinces or centrally-affiliated cities, after considering the proposals submitted by relevant provincial People's Committees, the Minister of Natural Resources and Environment shall issue his decision; where necessary, an opinion survey involving concerned Ministries and central authorities may be conducted."

2. Inserting Article 15b as follows:

“Article 15b. Land recovery requirements applied in case of terminating investment projects as prescribed in laws on investment

The following land recovery formalities shall be applied in case of terminating investment projects as per laws on investment, except as the State recovers land under clause 1 of Article 64 and clause 1 of Article 65 in the Law on Land:

1. If the State assigns land subject to land use levies, or lease out land for a lump-sum land rent paid for the entire lease period, land recovery formalities shall be taken as follows:

a) The investor is entitled to the 24 months' grace to continue to use the assigned or leased land from the day on which the investment project is terminated as defined in laws on investment;

b) Within the 24 months' grace from the day on which the investment project is terminated in accordance with law, an investor is entitled to transfer the land use right or sell legal land-attached property to another investor by operation of law.

After expiry of the 24 months' grace, if the investor fails to do so, the State may recover land without paying any compensation for such land or legal land-attached property, except as any force majeure event specified in clause 1 of Article 15 herein takes place.

2. If the State leases out land and collects land use levy on an annual basis, land recovery formalities shall be as follows:

a) The investor is entitled to the 24 months' grace to continue to use the leased land from the day on which the investment project is terminated as defined in laws on investment;

b) Within the 24 months' grace from the day on which the investment project is terminated as stipulated in law, the investor is entitled to sell legal land-attached property to another investor as prescribed in law. The State recovers land of the seller of property attached to the leased land to let it out to the buyer of such property.

After expiry of the 24 months' grace, if the investor fails to do so, the State may recover land without paying any compensation for such recovery of land or legal land-attached property, except as the force majeure event specified in clause 1 of Article 15 herein takes place.”

3. Inserting Article 17a as follows:

“Article 17a. Auctioning of rights to use the State’s assigned land subject to the land use levy, or the State’s leased land

1. In order to be eligible to attend an auction of land use right, an entity shall fully meet the following conditions:

a) They are categorized as one of the subjects of the State's assignment and lease of land as defined in Article 55 and 56 in the Law on Land. If a parcel of land, or a project sited at one or more parcels of land under cross ownership of two (02) or more companies as provided in laws on enterprises, is put up for auction, only one company is allowed to participate in that auction;

b) They have to meet the conditions specified in clause 3 of Article 58 in the Law on Land, clause 2 and clause 3 of Article 14 herein;

c) They have to pay a deposit which is 20% of total value calculated at the starting price of the parcel or the complex of parcels at auction before coming up for the auction of land use right;

d) They are not prohibited from attending the auction as prescribed in laws;

dd) They have to meet the conditions defined in laws on housing and laws on real estate business in order to attend the auction of the right to use land for execution of housing and other real estate business projects.

2. Conditions for eligibility of family households and individuals to attend auctions of land use rights:

a) They are categorized as one of the subjects of the State's assignment or lease of land according to the regulatory provisions of Article 55 and 56 in the Law on Land, and meet the conditions specified in point c and point d of clause 1 of this Article;

b) If a family household or individual attends an auction of the right to use land for execution of an investment project, the conditions specified in point a of this clause, point b and point dd of clause 1 of this Article.

3. Conditions of land put up for an auction, including:

a) The land at auction has to meet all requirements set out in clause 1 of Article 119 in the Law on Land;

b) The starting price at which the right to use such land is auctioned is decided by a competent state authority;

c) The process of auctioning of land use right is applicable to a single parcel;

d) The cadastral map in 1:500 scale of the parcel used for execution of a housing construction project has been available with approval from a competent authority.

4. When the winner of an auction is announced, an advance payment and interest (if any) are converted into a deposit that secures financial obligations that such auction winner must take on in the role of a land user.

If that auction winner does not pay or underpays the successful bid as stated in point d of clause 5 of Article 68 herein, the auction winner shall not be entitled to their deposit refund. If the auction winner overpays the required deposit, they shall be entitled to the refund of the overpayment in accordance with regulations.”

4. Adding clause 5 to Article 32 as follows:

“5. For construction projects developed to serve travel accommodation purposes as prescribed in laws on tourism on commercial or service land, if any of them satisfies the conditions set forth in laws on land, construction and real estate business, the ownership of that construction project attached to land is certified according to the commercial or service purposes of land as prescribed in clause 3 of Article 126, and clause 1 of Article 128 in the Law on Land. Owners of these construction projects shall be held legally responsible for strict compliance with the conditions prescribed in law on construction and law on real estate business.

Certification of ownership of the construction project specified in this clause shall be subject to clause 1, 2, 3 and 4 of this Article. That Certificate of ownership shall include particulars, right purposes and use term of a parcel in accordance with laws.”

5. Amending and supplementing Article 37 as follows:

“Article 37. Grant of Certificates of land use right, ownership of house and land-attached property (hereinafter referred to as Certificate(s)) as per clause 4 of Article 95 and clause 3 of Article 105 in the Law on Land

1. For administrative subdivisions where Land Registration Offices have set up in accordance with clause 1 of Article 5 herein, Certificates or endorsement of changes in the existing Certificates may be granted, subject to the following regulations:

a) Land Registration Offices are authorized to deal with applications for Certificates or endorsement of changes in Certificates submitted by religious organizations and institutions; overseas Vietnamese executing investment projects; foreign entities and persons; foreign-invested enterprises;

b) Branches of Land Registration Offices or Land Registration Offices are authorized to deal with applications for Certificates or endorsement of changes in Certificates

submitted by family households, individuals, residential community and overseas Vietnamese permitted to own houses attached to land use rights in Vietnam;

c) Land Registration Offices and Branches of Land Registration Offices are authorized to use their own seals affixed to grant Certificates or endorsement of changes in the existing Certificates.

2. For administrative subdivisions where Land Registration Offices have not yet been set up as prescribed in clause 1 of Article 5 herein:

a) Provincial Departments of Natural Resources and Environment are authorized to deal with applications for Certificates or endorsement of changes in Certificates submitted by religious organizations and institutions; overseas Vietnamese executing investment projects; foreign entities and persons; foreign-invested enterprises.

b) District People's Committees are authorized to deal with applications for Certificates or endorsement of changes in Certificates submitted by family households, individuals, residential community and overseas Vietnamese permitted to own houses attached to land use rights in Vietnam.

3. If provincial People's Committees mandate Departments of Natural Resources and Environment to grant the Certificates as specified in clause 1 of Article 105 in the Law on Land, the use of the seals of Departments of Natural Resources and Environment is permitted.

4. Ministry of Natural Resources and Environment shall issue regulations on granting Certificates when registering changes in land or land-attached property, and the endorsement of changes in the existing Certificates.”

6. Adding clause 5 to Article 46 as follows:

“5. In case the State recovers land of an agriculture or forestry company getting a decision to assign or lease land according to the approved land use plan as prescribed in clause 1, 2 and 3 of this Article in order to use such land for the purposes specified in Article 61 and Article 62 in the Law on Land, adjustments to the land use plan shall not be made. Such land recovery shall be as defined in laws in force.”

7. Amending clause 6; adding clause 7 and clause 8 of Article 60 as follows:

“6. Implementation of online land-related administrative procedures

a) Based on specific conditions relating to land-related information technology infrastructure and land databases put under their management, agencies receiving and handling land-related applications specified in this Article shall be responsible for receiving and notifying decisions on land-related applications online according to the Government's regulations.

b) Online administrative procedures for registration and grant of Certificates shall be implemented as follows:

An agency receiving and notifying decisions on land-related applications shall be responsible for following land-related administrative processes and procedures prescribed in laws on land; when needing to verify land-related applications, or failing to issue decisions on land-related applications within the prescribed time limits for handling of land-related applications due to other causes, the agency receiving and handling land-related applications shall send applicants notifications issued in writing or via the Public Service Portal or SMS, clearly stating reasons for those actions.

Land users and land-attached property owners shall be responsible for meeting financial obligations pursuant to laws directly or online via the payment solution embedded into the Public Service Portal.

The application receiving agency or the application handling agency shall request the applicant to submit the original Certificate, enclosing other documents as legally required, after the land user has fulfilled financial obligations.

Decisions on applications for registration of land and other land-attached property; for issuance, replacement or reissuance of Certificates shall be issued at offices of land-related application receiving agencies or by public post, or to the given addresses of recipients.

7. Land users and land-attached property owners applying for land-related administrative decisions as referred to in this Article shall be held legally responsible for accuracy and truthfulness of declared information and enclosed documents.

Application receiving agencies shall be responsible for checking whether required documents included in applications are adequate; application handling agencies shall be responsible for handling applications under their jurisdiction and within the time limit prescribed in law without bearing any responsibility for information included in documents and papers that has been accepted, appraised, approved or handled before.

8. Online interagency data connection, sharing and interconnection for handling of administrative procedures and payment of financial obligations of applicants shall be subject to laws on implementation of online administrative procedures and laws on implementation of single-window or interconnected single-window mechanisms.”

8. Inserting Article 65a as follows:

“Article 65a. Land recovery processes and procedures applied in case of terminating investment projects as prescribed in laws on investment

1. The investment registration agency or investor sends the written notice of termination of the investment project using land as defined in laws on investment to the natural

resource and environment authority having jurisdiction over the project land, except as stipulated in point d of clause 2 of Article 48 in the Law on Investment.

2. Upon receipt of that written notification of termination of the investment project, the natural resource and environment authority shall have the duty to check and determine whether land of that investment project is recovered.

3. Land recovery and implementation of land recovery decisions shall be subject to Article 15b and clause 2, 3 and 4 of Article 66 in this Decree.”

9. Inserting Article 68a as follows:

“Article 68a. Conditions and criteria for grant of permission to repurpose rice, protection forest or special-use forest land with the aim of executing investment projects

1. These investment projects need to obtain approval of investment policies or certificates of investment registration pursuant to law on investment.

2. These investment projects have to conform to the district-level land use planning schemes, and be on the list of district-level annual land use plans that is approved in accordance with law.

3. There are compensatory afforestation plans or written notifications of discharge of obligations to pay for compensatory afforestation in accordance with forestry law in case of repurposing protection forest or special-use forest land; there are topsoil use plans and written documents on discharge of obligations to pay for protection and development of rice land in accordance with law on crop production in case of repurposing arable land dedicated to rice cultivation.

4. There is preliminary environmental impact assessment or environmental impact assessment conducted under law on environmental protection (if any).

5. Agencies and persons having authority to appraise and approve policies on repurposing of protection forest land, special-use forest land or rice cultivation land shall bear responsibility for implementation of those specified in clause 2 and 3 of this Article; shall disclaim all responsibility for others appraised, approved, decided, approved or handled by competent agencies or persons before.”

10. Inserting Article 68b as follows:

“Article 68b. Processes and procedures for assigning or leasing out land as prescribed in clause 3 of Article 29 in the Law on Investment

With respect to the case in which an investor is approved of as prescribed in clause 3 of Article 29 in the 2020 Law on Investment, processes and procedures for assigning land

and leasing out land or granting permission to repurpose land that are specified in clause 3 of Article 68 in this Decree may be applied. Competent authorities carry out procedures for approval of an investor if that investor meets the conditions specified in relevant laws.

Agencies and persons having authority to deal with procedures for assigning land, leasing out land or repurposing land shall disclaim all responsibility for implementation of regulations concerning approval of investment policies and selection of investors prescribed in law on investment, housing and other relevant laws.”

11. Amending and supplementing Article 72 as follows:

“Article 72. Processes and procedures for registration and grant of Certificates to transferees of land use rights and buyers of residential houses or construction facilities of housing development projects and real estate business projects other than housing development projects

1. After completing the projects mentioned hereunder, investors shall be responsible for submitting the following documents to the Departments of Natural Resources and Environment:

a) For housing development projects:

The Certificate or the decision on land assignment or lease of a competent authority; the documentary evidence of the investor’s discharge of financial obligations. If there is any change in financial obligations, the documentary evidence of discharge of financial obligations arising from such change shall be needed (except when the investor is granted exemption from submission or permission for late submission prescribed in laws);

The layout plan of the house and land after construction, which is an as-built drawing or a floor plan containing information about measurements of sides of each sold apartment according to the actual condition of the construction work and the contract already in effect; the construction permit (if any); the notice that a specialized construction authority issues to permit the investor’s acceptance testing of the construction work or approve the results of the acceptance testing of the construction work under laws on construction; the list of apartments and construction works (including information about the apartment identity number, land area, construction area and area of common and private space of each apartment). For an apartment building project, the layout plan must describe the coverage (i.e. dimensions and area) of the land commonly used by apartment owners, the construction floor area of the entire building, and the floor plan of the entire building, the plan of each floor and each apartment unit.

b) For real estate business projects other than housing development projects:

The Certificate; the documentary evidence of the investor’s discharge of financial obligations. If there is any change in financial obligations, the documentary evidence of discharge of financial obligations arising from such change shall be needed (except when

the investor is granted exemption from submission or permission for late submission prescribed in laws);

The floor plan conformable to the actual construction condition and the contract already in effect; the notification that a specialized construction authority issues to grant the investor permission for acceptance testing of an item of work or a construction work, or approval of results of acceptance testing of an item of work or a construction work under laws on construction; the list of assets (e.g. items of work, construction works, parts of construction works), including information about their names, land area, common or private construction area of each asset.

2. Within 30 days of receipt of the valid application, the receiving Department of Natural Resources and Environment shall inspect the actual condition of land, residential house and non-residential construction work, and the investor's conformance to regulations on transfer of land use right and sale of the residential house or construction work.

After completing the inspection, that receiving Department of Natural Resources and Environment shall be responsible for notifying the investor of the inspection results; sending the notification, enclosing the layout plan of the inspected house, land and non-residential construction work to the Land Registration Office in order for it to complete the procedures for granting registration of the residential house, land and non-residential construction work in the name of the buyer if the application fully meets all of the legally prescribed conditions; publishing the inspection results on the website of the provincial People's Committee and/or the Department of Natural Resources and Environment having authority over the land in question.

3. Each housing project investor is required to submit 01 set of application documents for registration and grant of the Certificate on behalf of the transferee of land use right or the buyer of the residential house or non-residential construction work, or provide necessary documents for the buyer so that they can seek registration on their own. A set of application documents shall include the following:

- a) The written application form for registration of land and land-attached property and for grant of the Certificate;
- b) The contract on transfer of land use right, sale and purchase of the residential house or non-residential construction work as prescribed in laws;
- c) The record of handover of the residential house, land or the non-residential construction work.

4. Land registration offices shall assume the following responsibilities:

- a) Check legal documents enclosed in the set of application documents; certify that an applicant is eligible or ineligible for the Certificate in the written application for registration;

- b) Send cadastral data and figures to a tax authority to determine financial obligations;
- c) Provide latest updates to the cadastral records and land database (if any);
- d) Grant the Certificate according to Article 37 in this Decree;
- dd) Request each project investor to submit the Certificate that they have been granted for adjustments to the cadastral records and land database;
- e) Confer the Certificate to the applicant.

5. Land registration offices shall receive applications, handle registration procedures for registration and grant of Certificates to transferees of land use right, buyers of houses and non-residential construction works in housing development projects and real estate business projects other than housing development projects if all required application documents prescribed in clause 3 of this Article are submitted.”

12. Amending and supplementing Article 101 as follows:

“Article 101. Authority to adjust decisions on recovery, assignment, lease and permitted repurposing of land before July 1, 2014

If an agency has authority to decide recovery, assignment, lease and permit repurposing of land pursuant to the 2013 Law on Land, then it shall have authority to decide adjustments to the decision on recovery, assignment, lease and permission for repurposing of land without recourse to authority to decide recovery, assignment, lease and permit repurposing of land that it had prior to July 1, 2014.”

Article 2. Amendments and supplements to several Articles of Decree No. 44/2014/ND-CP dated May 15, 2014, prescribing land prices, as follows:

1. Adding clause 4 to Article 16 as follows:

“4. In reference to application of land pricing methods specified in clause 1, 2, 3 and 4 of Article 4 in this Decree, provincial People’s Committees shall be responsible for issuing the decision on approval of a particular land price within 90 days from the day on which a competent state agency issues the decision on assignment, lease or repurposing of land; permission for conversion from land lease arrangement under which annual rent payments are made into land lease arrangement under which the lump-sum rent payment is made for the entire lease term; extension or adjustment of the land use term.”

2. Inserting Article 18a as follows:

“Article 18a. Commencement date from which land rents are calculated in case of extension or adjustment of the land use term

1. If a land user is entitled to extension of the land use term granted by a competent state authority upon expiry of the land use term, land rent calculation shall commence on the first date of the subsequent lease term.

2. If a land user receives a competent state authority's decision on adjustment of the land use term, the commencement date of land rent calculation shall be subject to the following regulations:

a) If they use land leased out by the State under a lump-sum rent payment arrangement for the entire lease term, such rent payment shall be calculated from the day on which the State decides the adjustment of land use term. Collecting, offsetting or refunding land rents shall be subject to laws on collection of land rents;

b) If they use land leased out by the State under an annual rent payment arrangement, calculation of the land rent in the first cycle of fixed land rent shall commence on the effective day of the State's decision to adjust the land use term as a basis for calculation of the annual land rent.”

Article 3. Amendments and supplements to the Government's Decree No. 148/2020/ND-CP dated December 18, 2020 on amendments and supplements to a number of Decrees elaborating on implementation of the Law on Land

1. Amending and supplementing clause 12 of Article 1 (originally, clause 2 of Article 14b in the Decree No. 43/2014/ND-CP) as follows:

“2. Use commercial type or service type land.”.

2. Amending and supplementing clause 21 of Article 1 (originally, point d of clause 5 of Article 68 in the Decree No. 43/2014/ND-CP) as follows:

“d) Within 05 working days from the day on which winners of land auctions discharge their financial obligations, natural resources and environment agencies shall seek approval from competent authorities to grant of Certificates and conclusion of land leases in case of land lease; organize the on-site handover of land and conferral of Certificates; take control of updating and revising the land database and cadastral records.

In case where any winner does not pay or underpays the successful bid for land use right within 120 days of receipt of the decision on recognition of the auction winner, the People's Committee having corresponding authority may make that decision null and void.”.

3. Amending and supplementing clause 1 and clause 5 of Article 4 as follows:

“1. With respect to land for industrial and commercial uses specified in Article 16 of the Decree No. 43/2014/ND-CP that includes the portion of land assigned by the State; is the agricultural land for public utility uses and maybe split into an independent project, if the

State has issued a decision to recover and assign or lease such land to another investor before the effective date of this Decree, the original investor may continue to use such land until the end of the land assignment or lease term. If the land assignment or lease decision is still pending from the day on which the land recovery decision is made available for use, the regulatory provisions of this Decree shall govern, except as prescribed in point b of clause 2 of Article 118 in the Law on Land.

If an investor that has obtained a written consent from a provincial People's Committee to acquire agricultural land use right through the transfer, capital contribution or leasing process to execute a non-agricultural investment project according to the land use plan and schedule approved by a competent authority before the effective date of this Decree has not reached an agreement with the user of such land within 36 months after the signature date of that written consent, they shall be required to re-apply for the written consent from the provincial People's Committee as prescribed in this Decree.

5. If a competent authority has designated an investor that is entitled to assigned or leased land without needing to go through the process of auction of land use right as defined in point b of clause 2 of Article 118 in the Law on Land to execute an investment project defined in law on investment before the effective date of this Decree, procedures for assigning or leasing out land without needing to go through the process of auction of land use right may be continued."

Article 4. Grandfather clauses

1. If Certificates that have been signed by competent authorities before the effective date of this Decree have not yet been issued to land users or owners of land-attached property, Certificate-related procedures shall be continued in accordance with regulations in force before the effective date of this Decree.

2. If application dossiers for participation in land use right auctions have been received before the effective date of this Decree, relevant laws remaining in force on the date of receipt of these dossiers shall continue to govern.

3. If dossiers on adjustment of the decision on recovery, assignment, lease or permitted repurposing of land that the Prime Minister issued before July 1, 2004 have been received, regulations in force before the effective date of this Decree shall continue to govern.

Article 5. Implementation clauses

1. This Decree is coming into effect as of May 20, 2023.

2. Replacing the phrase "place of permanent residence registration in the family record" with the phrase "place of permanent residence registration" in Article 3a of the Government's Decree No. 43/2014/ND-CP dated May 15, 2014 (inserted according to clause 2 of Article 2 in the Government's Decree No. 01/2017/ND-CP dated January 6,

2017, amending and supplementing a number of Decrees elaborating on implementation of the Law on Land).

3. Replacing the phrase "issuing certificates of land use right, ownership of house and other land-attached property in case of being authorized to do so according to regulations" in clause 4 of Article 2 in the Decree No. 01/2017/ND -CP with the phrase "issuing and confirming change of certificates of land use right, ownership of house and other land-attached property according to regulations".

4. Replacing the phrases in the Appendix to Decree No. 148/2020/ND-CP dated December 18, 2020, amending and supplementing a number of Decrees elaborating on implementation of the Law on Land as follows:

a) Replacing the phrase "ID card" with the phrase "ID card/citizen identification card/personal identification number" in Form No. 01;

b) Replacing the phrase "ID card, citizen identification card" with the phrase "ID card/citizen identification card/personal identification number" in Form No. 02;

c) Replacing the phrase "address of permanent residence registration in the family record, ID card number" with the phrase "address of permanent residence registration, ID card/citizen identification card/personal identification number" in Form No. 05.

5. The following regulations shall be abolished:

a) Clause 4 and 5 of Article 5b in the Government's Decree No. 43/2014/ND-CP dated May 15, 2014 (inserted according to the regulatory provisions of clause 6 of Article 2 in the Government's Decree No. 01/2017/ND-CP dated January 6, 2017, amending and supplementing a number of Decrees elaborating on implementation of the Law on Land);

b) Clause 14, 23, 45 and 62 of Article 2 and Clause 6 of Article 3 in the Government's Decree No. 01/2017/ND-CP dated January 6, 2017, amending and supplementing a number of Decrees elaborating on implementation of the Law on Land;

c) Clause 6 and 7 of Article 1 in the Government's Decree No. 148/2020/ND-CP dated December 18, 2017, amending and supplementing a number of Decrees elaborating on implementation of the Law on Land.

Article 6. Implementation responsibilities

Ministers, Heads of Ministry-level agencies, Heads of Governmental bodies, Presidents of People's Committees at all levels, other organizations and individuals involved shall be responsible for implementing this Decree./.

**ON BEHALF OF THE GOVERNMENT
FOR THE PRIME MINISTER
DEPUTY PRIME MINISTER**

Tran Hong Ha

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