

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 40/2023/ND-CP

Hanoi, June 27, 2023

DECREE

**ON AMENDMENTS TO SEVERAL ARTICLES OF THE GOVERNMENT'S
DECREE NO. 67/2018/ND-CP DATED MAY 14, 2018 ELABORATING ON
SEVERAL ARTICLES OF THE LAW ON IRRIGATION**

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

Pursuant to the Law on Irrigation dated June 19, 2017;

Pursuant to the Law on Environmental Protection dated November 17, 2020;

*Pursuant to the Law on Promulgation of Legislative Documents dated June 22, 2015;
Law dated June 18, 2020 on Amendments to some Articles of the Law on Promulgation of
Legislative Documents;*

At the request of the Minister of Agriculture and Rural Development;

*The Government hereby promulgates a Decree on amendments to several Articles of the
Government's Decree No. 67/2018/ND-CP dated May 14, 2018 elaborating on several
Articles of the Law on Irrigation.*

**Article 1. Amendments to several Articles of the Government's Decree No.
67/2018/ND-CP dated May 14, 2018 elaborating on several Articles of the Law on
Irrigation (amended by the Government's Decree No. 08/2022/ND-CP dated
January 10, 2022 on elaboration of several Articles of the Law on Environmental
Protection)**

1. Article 4 is amended as follows:

“Article 4. Categorization of irrigation works

Irrigation works specified in clause 2 of Article 16 in the Law on Irrigation are
categorized specifically as follows:

1. Dams and reservoirs are categorized as prescribed in Article 3 of the Government's Decree No. 114/2018/ND-CP dated September 04, 2018 on dam and reservoir safety management.

2. Drainage pumping stations and dual-purpose pumping stations for irrigation and drainage:

a) A pumping station is classified as a large pumping station when it has the minimum total capacity of 72,000 m³/h or more;

b) A pumping station is classified as a medium pumping station when it has total capacity ranging from 3,600 m³/h to under 72,000 m³/h;

c) A pumping station is classified as a small pumping station when it has total capacity of less than 3,600 m³/h.

3. Irrigation pumping stations:

a) A pumping station is classified as a large pumping station when it has the minimum total capacity of 12,000 m³/h or more;

b) A pumping station is classified as a medium pumping station when it has total capacity ranging from 2,000 m³/h to less than 12,000 m³/h;

c) A pumping station is classified as a small pumping station when it has total capacity of less than 2,000 m³/h.

4. Culverts:

a) A culvert is categorized as a large one if its floodgate has total width of:

at least 20 m in the Mekong Delta;

at least 10 m in other regions.

b) A culvert is categorized as a medium one if its floodgate has total width ranging:

between 10 m and less than 30 m in the Mekong Delta;

between 1.5 m and less than 10 m in other regions.

c) A culvert is categorized as a small one if its floodgate has total width of:

less than 3 m in the Mekong Delta;

less than 1.5 m in other regions.

d) Dam culverts are categorized by type of dam or reservoir.

5. Drainage systems, irrigation systems, drainage and irrigation systems, including:

a) Any large irrigation canal, ditch, flume, watercourse, tunnel, siphon or canal bridge that has:

the minimum carrying capacity of at least 50 m³/s or the minimum bed width of at least 20 m in the Mekong Delta;

the minimum carrying capacity of at least 20 m³/s or the minimum bed width of at least 10 m in other regions.

b) Any medium irrigation canal, ditch, flume, watercourse, tunnel, siphon or canal bridge that has:

the minimum carrying capacity ranging from 3 m³/s to less than 50 m³/s or the minimum bed width ranging from 5 m to less than 20 m in the Mekong Delta;

the minimum carrying capacity ranging from 1.5 m³/s to less than 20 m³/s or the minimum bed width ranging from 3 m to less than 25 m in other regions.

c) Any small irrigation canal, ditch, flume, watercourse, tunnel, siphon or canal bridge that has:

the minimum carrying capacity of less than 3 m³/s or the minimum bed width of less than 5 m in the Mekong Delta;

the carrying capacity of less than 1.5 m³/s or the bed width of less than 3 m in other regions.

6. Water supply and irrigation systems:

a) Any large irrigation canal, ditch, flume, watercourse, tunnel, siphon or canal bridge that has:

the minimum carrying capacity of at least 20 m³/s or the minimum bed width of at least 10 m in the Mekong Delta;

the minimum carrying capacity of at least 10 m³/s or the minimum bed width of at least 5 m in other regions.

b) Any medium irrigation canal, ditch, flume, watercourse, tunnel, siphon or canal bridge that has:

the minimum carrying capacity ranging from 1 m³/s to less than 20 m³/s or the minimum bed width ranging from 1 m to less than 10 m in the Mekong Delta;

the minimum carrying capacity ranging from 0.5 m³/s to less than 10 m³/s or the minimum bed width ranging from 0.5 m to less than 5 m in other regions.

c) Any small irrigation canal, ditch, flume, watercourse, tunnel, siphon or canal bridge that has:

the minimum carrying capacity of less than 1 m³/s or the minimum bed width of less than 1 m in the Mekong Delta;

the carrying capacity of less than 0.5 m³/s or the bed width of less than 0.5 m in other regions.

7. Pipelines:

a) A pipeline is classified as a large pipeline when it has the minimum carrying capacity of 1.5 m³/s or the minimum internal diameter of 1,000 mm;

b) A pipeline is classified as a medium pipeline when it has the carrying capacity ranging from 0.025 m³/s to less than 1.5 m³/s or the internal diameter ranging from 100 mm to less than 1,000 mm;

c) A pipeline is classified as a small pipeline when it has the carrying capacity of less than 0.025 m³/s or the internal diameter of less than 100 mm.

8. Irrigation embankments:

a) An embankment is classified as a large one if its flood protected area is at least 10,000 ha;

b) An embankment is classified as a medium one if its flood protected area ranges from 500 ha to less than 10,000 ha;

c) An embankment is classified as a small one if its flood protected area is less than 500 ha.

9. Irrigation systems:

a) Large irrigation system which is a system serving the function of watering arable land or draining or releasing irrigation water for land covering a minimum geographical area of at least 20,000 ha;

a) Medium irrigation system which is a system serving the function of watering arable land or draining or releasing irrigation water for land covering a minimum geographical area ranging from 2,000 ha to less than 20,000 ha;

c) Small irrigation system which is a system serving the function of watering arable land or draining or releasing irrigation water for land covering a minimum geographical area of less than 2,000 ha.”

2. Article 8 is amended as follows:

“Article 8. Minimum competence and qualification requirements of entities and persons operating dams and reservoirs

1. Each dam or reservoir of critical importance must be operated and managed by at least 07 engineers majoring in irrigation, including at least 02 of them gaining at least 05 years' experience in management and operation of dams or reservoirs and provided with training or refresher courses in dam or reservoir management and operation.

2. For large dams and reservoirs:

a) The dam or reservoir having the water carrying capacity of at least 50,000,000 m³ must be operated and managed by at least 05 engineers majoring in irrigation, including at least 02 of them gaining at least 05 years' experience in management and operation of dams or reservoirs and provided with training or refresher courses in dam or reservoir management and operation;

b) The dam or reservoir having the water carrying capacity ranging from 10,000,000 m³ to under 50,000,000 m³ must be operated and managed by at least 03 engineers majoring in irrigation, including at least 01 of them gaining at least 05 years' experience in management and operation of dams or reservoirs and provided with training or refresher courses in dam or reservoir management and operation;

c) The remaining large dams and reservoirs, except for the ones specified in points a and b of this clause must be operated and managed by 02 engineers majoring in irrigation and provided with training or refresher courses in dam or reservoir management and operation.

3. For medium dams and reservoirs:

a) The dam or reservoir having the water carrying capacity ranging from 1,000,000 m³ to less than 3,000,000 m³ must be operated and managed by at least 01 engineer majoring in irrigation and provided with training or refresher courses in dam or reservoir management and operation;

b) The remaining medium dams and reservoirs, except for the ones specified in point a of this clause must be operated and managed by at least 01 person obtaining a Level 5 of

VQF Advanced Diploma in irrigation and provided with training or refresher courses in dam or reservoir management and operation.

4. The small dam or reservoir must be operated and managed by at least 01 graduate from the high school education program or 01 worker graduating from certificate II or higher qualification who has been provided with training or refresher courses in dam or reservoir management.”

3. Article 9 is amended as follows:

“Article 9. Minimum competence and qualification requirements of entities and persons operating stationary electrical pumping stations

1. Electrical drainage pumping stations and electrical dual-purpose pumping stations for irrigation and drainage:

a) Regarding an electrical pumping station fitted with pump units, each of which has the capacity of at least 11,000 m³/h, it must be run by at least 01 engineer majoring in irrigation and 01 majoring in mechanical and electrical engineering who have gained at least 03 years’ experience in pump management and operation;

b) Regarding an electrical pumping station fitted with pump units, each of which has the capacity ranging between 8,000 m³/h and less than 11,000 m³/h, it must be run by at least 01 engineer majoring in irrigation or mechanical and electrical engineering who has gained at least 02 years’ experience in pump management and operation;

c) Regarding an electrical pumping station fitted with pump units, each of which has the capacity ranging between 4,000 m³/h and less than 8,000 m³/h, it must be run by at least 01 engineer majoring in irrigation or mechanical and electrical engineering who has gained at least 01 year’s experience in pump management and operation.

2. Medium electrical dual-purpose pumping stations for irrigation and drainage:

a) Regarding an electrical pumping station fitted with pump units, each of which has the capacity of at least 11,000 m³/h, it must be run by at least 01 official obtaining a Level 5 of VQF Advanced Diploma in irrigation or mechanical and electrical engineering and gaining at least 03 years’ experience in pump management and operation;

b) Regarding an electrical pumping station fitted with pump units, each of which has the capacity ranging between 8,000 m³/h and less than 11,000 m³/h, it must be run by at least 02 persons obtaining a Level 4 of VQF Diploma in irrigation or mechanical and electrical engineering who has gained at least 03 years’ experience in pump management and operation;

c) Regarding an electrical pumping station fitted with pump units, each of which has the capacity ranging between 4,000 m³/h and less than 8,000 m³/h, it must be run by at least

02 persons obtaining a Level 4 of VQF Diploma in irrigation or mechanical and electrical engineering who has gained at least 03 years' experience in pump management and operation;

d) Regarding an electrical pumping station fitted with pump units, each of which has the capacity ranging between 1,000 m³/h and less than 4,000 m³/h, it must be run by at least 01 person obtaining a Level 4 of VQF Diploma in irrigation or mechanical and electrical engineering who has gained at least 03 years' experience in pump management and operation.

3. Small electrical dual-purpose pumping stations for irrigation and drainage:

a) Regarding an electrical pumping station fitted with pump units, each of which has the capacity ranging between 1,000 m³/h and less than 4,000 m³/h, it must be run by at least 01 worker majoring in irrigation or mechanical and electrical engineering who has gained at least 02 years' experience in pump management and operation;

b) Regarding an electrical pumping station fitted with pump units, each of which has the capacity ranging between 540 m³/h and less than 1,000 m³/h, it must be run by at least 01 person obtaining a junior high school diploma and gaining at least 01 year's experience in pump management and operation.

4. Irrigation pumping stations:

a) For large irrigation pumping stations having the minimum total capacity of 72,000 m³/h or more, clause 1 of this Article shall apply;

b) For large irrigation pumping stations having total capacity ranging from 12,000 m³/h to less than 72,000 m³/h and irrigation pumping stations having total capacity ranging from 3,600 m³/h to less than 12,000 m³/h, clause 2 of this Article shall apply;

c) For medium irrigation pumping stations having total capacity of less than 3,600 m³/h and small irrigation pumping stations, clause 3 of this Article shall apply.

5. In addition to the mandatory positions specified in clauses 1 to 4 of this Article, other positions for each pumping station shall be determined using the techno-economic norms approved by a competent authority.”

4. Article 11 is amended as follows:

“Article 11. Training in management and operation of irrigation works

1. Training institutions having appropriate functions, duties and expertise are permitted to provide training, re-training or refresher courses in improvement of knowledge, skills and competencies for individuals in charge of management and operation of irrigation works and management of dams.

2. The Ministry of Agriculture and Rural Development shall formulate and adopt plans and curriculums that training institutions and local authorities can use in training courses or programs in management and operation of irrigation works.”

5. Clause 3 of Article 12 is amended as follows:

“3. For organizations authorized to operate various types of headwork, their personnel in charge of management and operation is permitted to follow part-time working principle provided that they satisfy regulations on work and rest hours under labour law and fully comply with competence requirements for operation of assigned works.”

6. Article 14 is amended as follows:

“Article 14. Licensing principles

1. Ensure safety of irrigation works and licensed, protecting quality of water in irrigation works; avoid affecting functions of irrigation works, protect state interests, legitimate rights and benefits of related organizations and individuals; adhere to the principles of using multi-purpose works, using land, managing, exploiting and protecting water resources under regulations of Law on Irrigation, Law on Land, Law on Water Resources and other relevant regulations of law.

2. Grant licenses or permits *intra vires*, to appropriate holders and according to the legally prescribed procedures and processes.

3. For multiple activities under the same project invested in by an organization or individual from the stage of construction of the work to the stage of operation under the licensing authority of the same authority, grant one license or permit only.

4. For a project on maintenance, repair, upgrade or modernization of or addition of item to an existing irrigation work whose investment guidelines are decided by the owner of such irrigation work, it is not required to apply for the license/permit.”

7. Article 15 is amended as follows:

“Article 15. Licensing basis

Granting licenses or permits for activities to be carried out within the safety perimeters of irrigation works shall be based on the followings:

1. Functions and current conditions of irrigation projects.

2. Irrigation planning approved by a competent authority. In the absence of the approved planning, rely on designs of irrigation works on condition that safety and normal operation of irrigation works are guaranteed.

3. Compliance with regulations in the issued licenses/permits by the applicants for license/permit renewal.”

8. Article 16 is amended as follows:

“Article 16. Authority to issue, reissue, renew, revise, suspend or revoke permits or licenses to carry out activities referred to in Article 13 herein

1. The Ministry of Agriculture and Rural Development shall be accorded authority to issue, reissue, renew, revise, suspend or revoke licenses or permits for the activities specified in clauses 1, 3, 9 and 10 of Article 13 herein within the safety perimeters of works under its management.

2. Provincial People’s Committee shall be accorded authority to issue, reissue, renew, revise, suspend or revoke licenses or permits for the activities specified in Article 13 herein within the safety perimeters of works within their provinces, except for the case mentioned in clause 1 of this Article.”

9. Article 22 is amended as follows:

“Article 22. Applications for licenses or permits to carry out the activities specified in clauses 1, 2, 3, 5, 6, 7, 8, 9 and 10 of Article 13 herein

The applicant for a license or permit submits a set of application directly or by post to the receiving agency as per Article 17 herein. The application package must include the following documents:

1. Written request form given in Form No. 01 in the Appendix III hereto.
2. Plan of the location where the proposed activity will take place.
3. A report on assessment of impacts of activities on operation and safety of the irrigation work.
4. Written comments of the organization or individual operating the work on impacts of activities on management, operation and safety of the irrigation work by such organization or individual.
5. A copy of the motor vehicle or inland waterway vehicle registration certificate for the activity specified in clause 7 Article 13 herein.
6. A copy of the license for blasting services for the activity specified in clause 9 Article 13 herein.
7. For an investment project executed within the safety perimeter of the irrigation work, the application package must also include the following documents:

- a) A copy of the establishment decision or copy of the enterprise registration certificate;
- b) Copies of the decisions on approval for planning, investment guidelines and investment project;
- c) A copy of the environmental impact assessment report or environmental protection plan approved by the competent authority under regulations of law on environmental protection;
- d) A copy of the notification of appraisal of fundamental design and design drawing of the project;
- dd) The approved construction drawing in the case specified in clauses 1, 2, 3 and 10 Article 13 of this Decree.”

10. Article 28 is amended as follows:

“Article 28. Applications for approval for renewal and revision of licenses or permits

The applicant for approval for renewal or revision of a license or permit submits a set of application directly or by post to the receiving agency as per Article 17 herein. The application package must include the following documents:

1. Written request form given in Form No. 02 in the Appendix III hereto.
2. Plan of the location where the proposed activity will take place.
3. A progress report on use of the issued license or permit by the organization or individual.
4. Written comments of the organization or individual operating the irrigation work on the use of the issued license or permit by such organization or individual.
5. For an investment project executed within the safety perimeter of the irrigation work, the application package must also include the following documents:
 - a) A copy of the establishment decision or copy of the enterprise registration certificate (newest revision);
 - b) In the case of change of scale, capacity or main specifications of the licensed activities: a copy of the decision on approval for revisions to the planning, investment guidelines or investment project; a copy of the environmental impact assessment report or environmental protection plan; a copy of the notification of appraisal of fundamental design or design drawing of the adjusted project.”

11. Clause 3 of Article 29 is amended as follows:

“a) With respect to the activities specified in clauses 1, 2, 3 and 10 Article 13 of this Decree:

Within 15 working days of receipt of the valid application, the agency having competence in issuing the license or permit must verify the application and, if all required conditions are satisfied, must decide to grant the renewed or revised license or permit; if all conditions are not fully satisfied, must inform the applicant about reasons for refusal.

b) With respect to the activities specified in clauses 5 and 7 Article 13 of this Decree:

Within 05 working days of receipt of the valid application, the agency having competence in issuing the license or permit must verify the application and, if all required conditions are satisfied, must decide to grant the renewed or revised license or permit; if all conditions are not fully satisfied, must inform the applicant about reasons for refusal.

c) With respect to the activities specified in clauses 6, 8 and 9 Article 13 of this Decree:

Within 10 working days of receipt of the valid application, the agency having competence in issuing the license or permit must verify the application and, if all required conditions are satisfied, must decide to grant the renewed or revised license or permit; if all conditions are not fully satisfied, must inform the applicant about reasons for refusal.”

12. Article 30 is amended as follows:

“Article 30. Reissuance of licenses or permits

1. A license or permit may be re-issued in the following cases:

- a) It has gone missing; is ruined or damaged;
- b) Name of the holder of the license that is changed due to business transfer, merger, split-up, split-off or restructuring.

2. Application for re-issuance:

- a) Where the situation specified in point a clause 1 of this Article occurs, the applicant shall submit a written request form given in Form No. 03 in the Appendix III hereto;
- b) In the case specified in point b clause 1 of this Article, the applicant shall submit a written request form given in Form No. 03 in the Appendix III hereto; a copy of the enterprise registration certificate; copies of the decisions issued by competent authorities on the change of enterprise’s name due to business transfer, merger, split-up, split-off or restructuring.

3. Procedures for re-issuance:

- a) Where the situation specified in clause 1 of this Article occurs, the applicant for a license or permit submits a set of application directly or by post to the receiving agency as per Article 17 herein.
 - b) Within 03 working days of receipt of the valid application, the agency having competence in issuing the license or permit must verify the application and, if all required conditions are satisfied, must decide to grant the license or permit; if all conditions are not fully satisfied, must inform the applicant about reasons for refusal.
4. The validity period of the reissued license or permit is equal to days left to the expiry date of the preexisting license or permit.”

Article 2. Supplementing, replacing and repealing several regulations of the Government’s Decree No. 67/2018/ND-CP dated May 14, 2018 elaborating on several Articles of the Law on Irrigation

1. The phrase “cống dưới đê” in clause 1 of Article 10 is replaced with “cống qua đê”; the phrase “cống ngăn sông lớn” in clause 1 of Article 10 is replaced with “cống lớn ngăn sông”; the phrase “Tổng cục Thủy lợi” (“Directorate of Water Resources”) in clause 1 of Article 17 is replaced with “Cục Thủy lợi” (“Department of Water Resources”).
2. The phrase “và có chứng nhận bồi dưỡng nghiệp vụ về quản lý, khai thác công trình thủy lợi” (“and obtain certificates of completion of training courses in irrigation work operation and management”) is removed from clause 2 of Article 10.
3. Article 24; Article 25; Article 26; Article 27 are repealed.
4. Form No. 03 Written request for re-issuance of license/permit to operate within safety perimeter of irrigation work in the Appendix to this Decree is added after Form No. 02 in the Appendix III to the Decree No. 67/2018/ND-CP.

Article 3. Responsibility for implementation

Ministers, heads of ministerial agencies, heads of Governmental agencies, Chairpersons of People’s Committees at all levels, organizations and individuals concerned are responsible for the implementation of this Decree.

Article 4. Implementation clause

1. This Decree comes into force from August 15, 2023.
2. Grandfather clause

a) If any application for issuance, re-issuance, extension or revision of the license or permit binding upon activities to be carried out within safety perimeters of irrigation works is submitted before the entry into force of this Decree, it may be considered and processed as prescribed in the Government's Decree No. 67/2018/ND-CP dated May 14, 2018 (amended by the Government's Decree No. 08/2022/ND-CP dated January 10, 2022).

b) The Ministry of Agriculture and Rural Development and provincial People's Committees shall arrange and strengthen the entities operating irrigation works in accordance with regulations of the Law on Irrigation no later than 05 years after the entry into force of this Decree.

**ON BEHALF OF THE
GOVERNMENT
PP. THE PRIME MINISTER
THE DEPUTY PRIME MINISTER**

Tran Luu Quang

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