

**THE MINISTRIES****THE MINISTRY OF CONSTRUCTION****Circular No. 09/2009/TT-BXD of May 21, 2009, detailing some provisions of the Government's Decree No. 88/2007/ND-CP of May 28, 2007, on urban and industrial-park water drainage**

*Pursuant to the Government's Decree No. 17/2008/ND-CP of February 4, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Construction;*

*Pursuant to the Government's Decree No. 88/2007/ND-CP of May 28, 2007, on urban and industrial-park water drainage;*

*The Ministry of Construction details some provisions of the Government's Decree No. 88/2007/ND-CP of May 28, 2007, on urban and industrial-park water drainage (below referred to as Decree No. 88/2007/ND-CP) as follows:*

**Article 1.** Application of wastewater standards under Clause 2, Article 6 of Decree No. 88/2007/ND-CP

Other wastewater (other than daily-life wastewater) discharged into water drainage systems must meet the standards of wastewater discharged into water drainage systems. In case of failure to meet standards, wastewater must be preliminarily treated up to standards before being discharged into water drainage systems. Pending the promulgation of standards on wastewater discharged into water drainage systems by the Ministry of Construction, column C of Vietnam's

1. Specialized science and technology inspectors on public duty may:

- a/ Serve caution;
- b/ Impose fines of up to VND 500,000;
- c/ Confiscate material evidences or means valued at up to VND 2,000,000 used in administrative violations;
- d/ Force the application of remedies specified in Clause 3, Article 3 of this Decree, except those mentioned at Points b and d.

2. Chief inspectors of provincial-level Science and Technology Services may:

- a/ Serve caution;
- b/ Impose fines of up to VND 30,000,000;
- c/ Deprive for a definite or indefinite duration of the right to use decisions, permits or practice certificates granted by competent agencies or organizations in the domain of standards, metrology and product and goods quality;
- d/ Confiscate material evidences or means used in administrative violations;
- e/ Force the application of remedies specified in Clause 3, Article 3 of this Decree, except forcible re-export.

3. The Chief Inspector of the Ministry of Science and Technology may:

- a/ Serve caution;
- b/ Impose fines of up to the maximum level specified in this Decree;
- c/ Deprive for a definite or indefinite duration of the right to use decisions, permits or practice certificates granted by competent agencies or organizations in the domain of standards, metrology and product and goods quality;
- d/ Confiscate material evidences or means used in administrative violations;

e/ Force the application of remedies specified in Clause 3, Article 3 of this Decree, except forcible re-export.

**Article 30.** Competence of presidents of People's Committees at all levels to handle administrative violations

1. Commune-level People's Committee presidents may sanction administrative violations in the domain of standards, metrology and product and goods quality, for acts specified in Article 6, Clause 1 of Article 7 and Clause 1 of Article 8, of this Decree, and force the application of remedies specified at Points a, c, f and g, Clause 3, Article 3 of this Decree.

2. District-level People's Committee presidents may:

- a/ Serve caution;
- b/ Impose fines of up to VND 30,000,000;
- c/ Confiscate material evidences or means used in administrative violations;
- d/ Force the application of remedies specified in Clause 3, Article 3 of this Decree, except forcible re-export.

2. Provincial-level People's Committee presidents may:

- a/ Serve caution;
- b/ Impose fines of up to the maximum level specified in this Decree;
- c/ Confiscate material evidences or means used in administrative violations;
- d/ Force the application of remedies specified in Clause 3, Article 3 of this Decree.

**Article 31.** Sanctioning competence of other agencies

If detecting administrative violations in the

standard TCVN 5945: 2005 on industrial wastewater - discharge standard promulgated by the Ministry of Natural Resources and Environment, shall temporarily apply.

**Article 2.** Identification and designation of investors of water drainage works under Article 22 of Decree No. 88/2007/ND-CP

1. Ongoing investment projects on the construction of water drainage works for which the designation of investors is incompliant with Article 22 of Decree No. 88/2007/ND-CP may be either further implemented until completion and hand over to their owners being People's Committees of urban centers or transferred to other investors under Article 22 of Decree No. 88/2007/ND-CP. Provincial-level People's Committees will decide on whether the projects will be transferred to other investors on the basis of the practical implementation of the projects and specific local conditions so as to ensure work construction schedule and quality.

2. For investment projects on the construction of water drainage works for which investment preparation steps have been or are being taken the selection of construction contractors is not organized yet, investors will be re-identified according to Article 22 of Decree No. 88/2007/ND-CP.

3. In case international commitments made by Vietnam are different from Article 22 of Decree No. 88/2007/ND-CP, before making decision on the transfer of the projects to other investors, provincial-level People's Committees shall consult and reach agreement with international donors. If donors disagree with the transfer of the projects, the projects will be further implemented under international commitments until completion and hand over to their owners

being People's Committees of urban centers.

4. For centrally run cities, the People's Committees may authorize their attached specialized agencies to act as investors.

5. Organizations assigned to act as investors in commercially operating and developing infrastructure of new urban centers are investors of water drainage works in areas assigned to them for management. After projects are completed, these organizations shall transfer the ownership of water drainage works to People's Committees of urban centers.

**Article 3.** Seeking the Ministry of Construction's consent under Clause 3, Article 26 of Decree No. 88/2007/ND-CP

For investment projects on the construction of concentrated water drainage works which will basically solve the problems of rainwater drainage and wastewater collection and treatment of urban centers of grade 4 or higher, in the process of project appraisal, agencies in charge of project appraisal shall send an official letter, enclosed with project dossiers, to the Ministry of Construction to obtain its written consent before the projects are submitted to competent authorities for approval.

**Article 4.** Management and operation contracts under Article 28 of Decree No. 88/2007/ND-CP

1. People's Committees of urban centers shall take care of water drainage services for the community and are owners of water drainage systems. However, they do not directly manage and operate water drainage systems but assign these to capable specialized units under management and operation contracts. They shall only manage works according to set targets,

supervise and support the implementation and make payment to, management and operation contractors.

2. Owners of water drainage systems may hire consultancy organizations or assign their subordinate specialized agencies to coordinate with water drainage units in drafting management and operation contracts as a basis for negotiation between the two parties.

3. The principal details of a management and operation contract are specified in Article 28 of Decree No. 88/2007/ND-CP and guided in Appendix I to this Circular (*not printed herein*). Management and operation contracts shall be considered on a case-by-case basis, depending on the nature, characteristics and size of urban centers and the structure of the water drainage network and the availability or unavailability of a common system for both rainwater and wastewater or separate systems for rainwater and wastewater and a concentrated wastewater treatment station. On the basis of the guidance in Appendix 1 to this Circular, local administrations shall elaborate specific contracts suitable to their local conditions for application.

**Article 5.** Points for connection of households to water drainage systems under Article 41 of Decree No. 88/2007/ND-CP

1. When implementing an investment project on the construction of a new water drainage system or expansion of the service area of an existing system, People's Committees of urban centers shall issue a decision on the connection of water drainage households to the concentrated water drainage system under the project. The decision must specify the obligations and rights of involved parties, the connection service area and time for connection. It must be publicized

among the community in the area under the project.

2. Water drainage units shall supply written data on the positions, elevation and technical requirements of points for connection of water drainage households to water drainage systems.

3. The construction of connection points must be carried out by water drainage units or by contractors under the supervision of water drainage units according to set designs. After connection is completed, a written record on the take-over test of connection points is required.

**Article 6.** Exemption from connection of water drainage households to water drainage systems under Article 41 of Decree No. 88/2007/ND-CP

1. Water drainage households located in the service area of a concentrated water drainage system that wish to be exempt from connection to the water drainage system and discharge wastewater directly into the environment must send a written request to the local state management agency in charge of environmental protection.

2. The local state management agency in charge of environmental protection shall inspect the wastewater quality and discharging method, if considering that all requirements set by the environmental protection law are satisfied, it shall send its written approval to the water drainage household exempt from connection and the relevant water drainage unit.

3. Expenses for wastewater quality inspection are paid by water drainage households.

**Article 7.** Water drainage service contracts under Article 46 of Decree No. 88/2007/ND-CP

1. Water drainage service contracts are

documents concluded between water drainage units and water drainage households, excluding the following entities:

a/ Households using water from a concentrated water supply system and discharging only daily-life wastewater into a concentrated water drainage system.

b/ Other water drainage households using a concentrated water supply system and having the volume and quality of wastewater similar to family households.

2. Water drainage service contracts must contain basic information on water drainage household and connection so as to serve the building of a customer database and facilitate management, specify the rights and obligations of two contracting parties and service quality conditions, water drainage charges and method of payment, conditions on the quality and volume of wastewater discharged into the water drainage system; and laws and regulations on water drainage related to the water drainage unit and water drainage households. Following the guidance in Appendix 2 to this Circular (*not printed herein*) and practical conditions, water drainage units shall elaborate model water drainage service contracts for application in their localities.

3. Organizations and individuals that are owners, managers and users of large-sized and complex works are encouraged to hire water drainage units to manage and operate their private-use rainwater drainage and wastewater treatment systems within areas under their management and supplement this content to water drainage service contracts.

**Article 8.** Differentiation between and application of water drainage charges under

Decree No. 88/2007/ND-CP and environmental protection charges for wastewater under the Government's Decree No. 67/2003/ND-CP on environmental protection charges for wastewater and Decree No. 04/2007/ND-CP amending and supplementing a number of articles of Decree No. 67/2007/ND-CP

1. Water drainage charges specified in Clause 1, Article 48 of Decree No. 88/2007/ND-CP are environmental protection charges for wastewater and applicable to households discharging wastewater into concentrated water drainage systems of urban centers or industrial parks. Other contents related to water drainage charges such as elaboration, adjustment, collection and use of water drainage charges comply with the provisions of Articles 48 thru 58 of Decree No. 88/2007/ND-CP.

2. Water drainage households that do not discharge wastewater into concentrated water drainage systems of urban centers or industrial parks but discharge wastewater directly into the environment shall pay environmental protection charges for wastewater under Decree No. 67/2003/ND-CP and Decree No. 04/2007/ND-CP.

3. Water drainage households paying water drainage charges under Decree No. 88/2007/ND-CP are not liable to environmental protection charges for wastewater under Decree No. 67/2003/ND-CP and Decree No. 04/2007/ND-CP.

**Article 9.** Elaboration and submission of water drainage charge schemes under in Clause 1, Article 55 of Decree No. 88/2007/ND-CP

1. Water drainage units shall formulate and submit water drainage charge schemes under Articles 49 thru 54 of Decree No. 88/2007/ND-CP.

2. Explanations on a water drainage charge scheme must cover:

a/ Assessment of the use of clean water and drainage of wastewater in the area:

- The use of clean water by group of customers;

- The prices of clean water and the price increase roadmap of clean water;

- The use of clean water from the concentrated water supply system and clean water not through this system.

- Assessment of wastewater drainage volumes by kind of wastewater and group of water drainage households.

b/ Assessment of needs and investment capacity for the development of the water drainage system in the area.

c/ Explanations about management and operation expenses in each period corresponding to investment in the development of water drainage and improvement of service quality.

d/ Estimated amounts of collected water drainage charges calculated at different percentages of clean water prices according to the following three levels of cost recovery:

- Recovery of management and operation costs;

- Recovery of management and operation costs and equipment costs paid with owners' capital;

- Recovery of all management and operation costs, equipment costs and construction costs paid with owners' capital.

e/ Evaluation of and forecasts about the socio-economic development, living standards and income levels of households in the water drainage area at present and in the next five years,

including forecasts about changes in living standards and inflation rates within a given period of time and payment capacity of people in each period. The assessment of people's payment capacity must be based on:

- The proportion of water drainage charge to monthly income, which should be between 2-3%;

- If the proportion of water drainage charge to monthly income is higher than 3% but it is approved by over 70% of the community, it may still apply.

f/ The balance between management and operation costs and costs for repayment of loans borrowed for investment (if any) and proceeds from water drainage charges and the owners' ability to pay additional funds, which will be used as a basis to propose specific charge rates and a roadmap for their gradual increase. To formulate a table of calculation of water drainage charges corresponding to the levels of cost recovery and additional funding need.

g/ The roadmap for adjustment of water drainage charges: On the basis of investment levels, possibility of improving service quality and practical conditions in each locality, water drainage charges will be reconsidered and adjusted at least once every two years.

#### Article 10. Effect

This Circular applies uniformly nationwide and takes effect on July 14, 2009. Any problems arising in the process of implementation should be reported to the Ministry of Construction for study and settlement.

*For the Minister of Construction*

Vice Minister

TRAN VAN SON