

THE MINISTRY OF NATURAL
RESOURCES AND ENVIRONMENT

**Circular No. 09/2013/TT-BTNMT of
May 28, 2013, on the management and
use of riparian alluvial land, coastal
alluvial land and coastal land with
water surface**

*Pursuant to the November 26, 2003 Land
Law;*

*Pursuant to the Government's Decree No.
181/2004/ND-CP of October 29, 2004, on the
implementation of the Land Law;*

*Pursuant to the Government's Decree No.
21/2013/ND-CP of March 4, 2013, defining
the functions, tasks, powers and organizational*

structure of the Ministry of Natural Resources and Environment;

At the proposals of the director of the General Department of Land Administration and the director of the Legal Department;

The Minister of Natural Resources and Environment promulgates the Circular prescribing the management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular prescribes the management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface used for agricultural production, forestry, aquaculture and salt-making.

Article 2. Subjects of application

This Circular applies to state management agencies; domestic organizations, households and individuals; overseas Vietnamese; and foreign organizations and individuals involved in the management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface used for agricultural production, forestry, aquaculture and salt-making.

Chapter II

SPECIFIC PROVISIONS

Article 3. Lease of unused riparian alluvial land, coastal alluvial land and coastal land with water surface

1. The lease of unused coastal alluvial land and coastal land with water surface for use for agricultural production, forestry, aquaculture and salt-making is provided as follows:

a/ Provincial-level People's Committees shall decide to lease land to economic organizations, overseas Vietnamese and foreign organizations and individuals for the implementation of investment projects; the land lease duration coincides with the investment project duration, but must not exceed fifty (50) years. Upon the expiration of the land lease duration, the State will consider extending the land use duration if land users need to further use land and strictly observe the land law in the course of land use which conforms with the approved land use master plans;

b/ People's Committees of urban districts, rural districts, towns and provincial cities (below referred to as district-level People's Committees) shall decide to lease land to households and individuals. The land lease duration for cultivation of annual crops, aquaculture or salt-making does not exceed twenty (20) years. The land lease duration for growing perennial trees and production forests does not exceed fifty (50) years.

2. The lease of unused riparian alluvial land for use for agricultural production, forestry, aquaculture and salt-making is provided as follows:

a/ If approved land use master plans and plans determine that unused riparian alluvial land belongs to agricultural land fund used for public-utility purposes of communes, wards and townships, People's Committees

of such communes, wards and townships (below referred to as commune-level People's Committees) may lease unused riparian alluvial land for use for agricultural production and aquaculture through auction for bids (below referred to as bidding) for a duration of up to five (5) years. Priority will be given to bidders being households and individuals directly engaged in agricultural production and aquaculture with their permanent residence registrations in commune-level administrative units where exists land to be auctioned, and not yet allocated or lacking agricultural production land;

b/ Unused riparian alluvial land not belonging to agricultural land fund used for public-utility purposes of communes, wards and townships may be leased for use for agricultural production, forestry, aquaculture and salt-making as prescribed at Points a and b, Clause 1 of this Article.

3. The land rent rate of riparian alluvial land, coastal alluvial land and coastal land with water surface for use for a certain purpose is the price of the category of land for such purpose.

Article 4. Riparian alluvial land, coastal alluvial land and coastal land with water surface put into use before the effective date of this Circular

1. Households and individuals allocated by the State riparian alluvial land, coastal alluvial land or coastal land with water surface for agricultural production, forestry, aquaculture and salt-making according to local land allocation plans under the Government's Decree No. 64/CP of September 27, 1993, promulgating the Regulation on allocation of agricultural land to

households and individuals for stable and long-term use for agricultural production; Decree No. 02/CP of January 15, 1994, promulgating the Regulation on allocation of forest land to organizations, households and individuals for stable and long-term use for forestry purpose; Decree No. 85/1999/ND-CP of August 28, 1999, amending and supplementing a number of articles of the Regulation on allocation of agricultural land to households and individuals for stable and long-term use for agricultural production and supplementing the allocation of salt-making land to households and individuals for stable and long-term use; Decree No. 163/1999/ND-CP of November 16, 1999, on the allocation and lease of forest land to organizations, households and individuals for stable and long-term use for forestry purpose; and Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law, may:

a/ Continue to use land for the remaining land allocation duration;

b/ Upon the expiration of the land allocation duration, if land users wish to continue to use land and strictly observe the land law in the course of land use which conforms with the approved land use master plans, district-level People's Committees shall allocate land without collecting land use levy within the prescribed land allocation limit and for the duration of twenty (20) years for land under annual crops, aquaculture land and salt-making land; or fifty (50) years for land under perennial trees and production forests.

Land areas in excess of the land allocation limit must be converted into land for lease for a duration equal to that for land areas allocated within the limit.

c/ Upon the expiration of the land allocation duration, if land users no longer wish to use land or do not apply for land use duration extension or are not permitted by competent state agencies to continue to use land, the State shall recover the land without any compensations for land and land-attached assets.

2. Households and individuals currently using riparian alluvial land, coastal alluvial land or coastal land with water surface with land use rights transferred, donated or inherited from those allocated land by the State in the cases specified in Clause 1 of this Article, may:

a/ Continue to use land for the remaining land use duration for areas within the limit of agricultural land use right transfer;

b/ Change to rent land under Point b, Clause 1, Article 3 of this Circular, for the land areas in excess of the limit of agricultural land use right transfer.

3. Economic organizations, households or individuals allocated or leased riparian alluvial land, coastal alluvial land or coastal land with water surface by competent agencies, and not falling into the cases prescribed in Clause 1 of this Article, may:

a/ Continue to use land for the remaining land allocation or lease duration, for riparian alluvial land.

Upon the expiration of the land allocation or lease duration, if land users wish to continue to use land and strictly observe the land law in the course of land use which conforms with the approved land use master plans, they may be considered for lease of the land for up to five (5) years. Upon the expiration of the land

lease duration, the land lease must comply with Clause 2, Article 3 of this Circular;

b/ Change to rent land from the effective date of this Circular, for coastal alluvial land and coastal land with water surface prescribed in Clause 1, Article 3 of this Circular, if they wish to continue to use land and strictly observe the land law in the course of land use which conforms with the approved land use master plans;

c/ Upon the expiration of the land allocation or lease duration prescribed at Points a and b of this Clause, if land users no longer wish to use land or are not leased by competent state agencies, the State shall recover such land without any compensations for land or land-attached assets;

d/ Change to rent the land under Clause 1, Article 3 of this Circular for the cases in which land has been allocated or leased ultra vires. The duration of change to land rent is counted from the effective date of this Circular.

4. Overseas Vietnamese and foreign organizations and individuals already leased riparian alluvial land, coastal alluvial land and coastal land with water surface, may:

a/ Continue to use riparian alluvial land for the remaining land lease duration.

Upon the expiration of the land lease duration, if land users wish to continue to use land and strictly observe the land law in the course of land use which conforms with the approved land use master plans, they may be considered for land lease for a duration of up to five (5) years. Upon the expiration of land lease duration, the land lease must comply with Clause 2, Article 3 of this Circular;

b/ Change to rent coastal alluvial land and coastal land with water surface under Clause 1, Article 3 of this Circular in case land users wish to continue to use land and strictly observe the land law in the course of land use which conforms with the approved land use master plans;

c/ Upon the expiration of the land lease duration prescribed at Points a and b of this Clause, if land users no longer wish to use land or are not leased by competent state agencies, the State shall recover such land without any compensations for land or land-attached assets;

d/ Change to rent land under Clause 1, Article 3 of this Circular in cases in which land has been leased *ultra vires*. The time of change to land rent is the effective date of this Circular.

5. Households and individuals currently using riparian alluvial land, coastal alluvial land and coastal land with water surface belonging to the agricultural land fund used for public-utility purposes of communes, wards and townships, may:

a/ Continue to use land for the remaining land allocation and lease duration;

b/ Upon the expiration of the land allocation or lease duration, if land users wish to continue to use land, commune-level People's Committees shall consider continuing to lease land to current users or lease land to others through bidding for a duration of up to five (5) years.

6. For economic organizations, households and individuals that currently use riparian alluvial land, coastal alluvial land and coastal land with water surface reclaimed by themselves, if they wish to continue to use land

and the land use conforms with the approved land use master plans, they must change to rent land for a duration of up to five (5) years from the effective date of this Circular. Upon the expiration of the land lease duration, they shall comply with Article 3 of this Circular.

7. Afforested coastal alluvial land and coastal land with water surface are allocated to protective forest or special-use forest management organizations or to households or individuals for use under Clauses 1, 3 and 5 of this Article.

8. For the cases of lease of riparian alluvial land, coastal alluvial land and coastal land with water surface with the land lease duration not in accordance with Point b, Clause 1; Point a, Clause 3; Point a, Clause 4; and Point b, Clause 5 of this Article, or cases of change to rent land prescribed at Point b, Clause 1 and Point b, Clause 2 of this Article, land lease contracts must be re-signed for a duration prescribed in this Circular.

Article 5. Land use regime

1. Riparian alluvial land, coastal alluvial land and coastal land with water surface allocated and leased for use for a certain purpose are subject to regulations on land use regime applicable to categories of land for the same purpose, except the cases specified in Clause 2 of this Article.

2. Riparian alluvial land, coastal alluvial land and coastal land with water surface specified at Point a, Clause 2, Article 3 and Clause 5, Article 4, of this Circular may be used under regulations on regime of agricultural land use for public-utility purposes of communes, wards and townships.

Article 6. Order and procedures for land allocation and land lease

1. Order and procedures for further land allocation to households and individuals after the expiration of allocation of riparian alluvial land prescribed in Clause 1 and at Point a, Clause 2, Article 4 of this Circular are as follows:

a/ Six months before the expiration of the land allocation duration, a land user wishing to further use land shall submit an application, made according to Form 1 promulgated together with this Circular, to the commune-level People's Committee. The commune-level People's Committee shall consider and certify conditions on further land allocation prescribed at Point b, Clause 1, Article 4 of this Circular, and submit the application to the district-level People's Committee;

b/ The district-level land use rights registry office shall make an excerpt of the cadastral map or the cadastral survey of the land plot where no cadastral map is available, a copy of the cadastral dossier, and print the certificate of land use rights, ownership of house and land-attached assets (below referred to as certificate) and send them to the district-level Division of Natural Resources and Environment;

c/ The district-level Division of Natural Resources and Environment shall verify cases eligible for further land allocation involving land areas within the limit of agricultural land allocation; land lease involving land areas beyond the limit of agricultural land allocation; conduct the field verification when necessary, and propose the district-level

People's Committee to decide on land allocation or land lease, and grant the certificate; and sign land lease contracts for cases eligible for land rent.

2. Order and procedures for economic organizations, overseas Vietnamese, foreign organizations and individuals to rent riparian alluvial land, coastal alluvial land and coastal land with water surface and use land under investment projects specified in Clause 1, Article 3 and Clauses 3, 4 and 6, Article 4, of this Circular are as follows:

a/ Organizing bidding in accordance with law;

b/ The provincial-level Department of Natural Resources and Environment shall sign land lease contracts based on the document on recognition of bidding results of the competent state agency and written certification of full land-rent payment by bid winners.

3. Order and procedures for households and individuals to rent riparian alluvial land, coastal alluvial land and coastal land with water surface specified in Clause 1, Article 3 and Clauses 3, 4 and 6 Article 4, of this Circular are as follows:

a/ Households or individuals shall submit a written request for land lease to the commune-level People's Committee of the locality having land, specifying land areas required for use.

In case of request for land lease for aquaculture, there must be a plan or project on aquaculture appraised by the district-level fisheries management agency and a written commitment on environmental protection or

report on environmental impact assessment in accordance with the environment law;

b/ The commune-level People's Committee shall verify and write certifying opinions in the written request for land lease on the land use demand of eligible households and individuals, and send it to the district-level Division of Natural Resources and Environment;

c/ The district-level land use rights registry office shall make an excerpt of the cadastral map or the cadastral survey of the land plot where no cadastral map is available, a copy of the cadastral dossier, and send them to the district-level Division of Natural Resources and Environment;

d/ The district-level Division of Natural Resources and Environment shall conduct field verification when necessary and propose the district-level People's Committee to decide on land lease, and sign land lease contracts.

4. Riparian alluvial land, coastal alluvial land and coastal land with water surface belonging to the agricultural land fund use for the public-utility purpose of communes, wards and townships may be leased by the commune-level People's Committees through bidding and signing land lease contracts according to Form 2 promulgated together with this Circular.

5. Order and procedures for allocation of riparian alluvial land, coastal alluvial land and coastal land with water surface which have been afforested as prescribed in Clause 7, Article 4 of this Circular are as follows:

a/ Organizations shall submit applications for land allocation to provincial-level Departments of Natural Resources and

Environment; households and individuals shall submit applications for land lease to district-level Divisions of Natural Resources and Environment;

b/ Land use rights registry offices shall make an excerpt of the cadastral map or the cadastral survey of the land plot where no a cadastral map is available, a copy of the cadastral dossier, and print certificates, and send them to natural resources and environment agencies.

c/ Natural resources and environment agencies shall conduct field verification when necessary, and propose competent People's Committees to decide on land allocation and grant of certificates.

6. Provincial-level People's Committees shall specify the time limit for completion of procedures for land allocation and land lease specified in this Article, and subject it to local requirements of administrative reform but such time limit must not exceed the total time for completing procedures for land allocation and land lease specified in Article 1 of Decree No. 38/2011/ND-CP of May 26, 2011, amending and supplementing a number of articles regarding administrative procedures of Decree No. 181/2004/ND-CP of October 29, 2004, Decree No. 149/2004/ND-CP of July 27, 2004, and Decree No. 160/2005/ND-CP of December 27, 2005.

Article 7. Elaboration of management dossiers

1. In case riparian alluvial land, coastal alluvial land and coastal land with water surface are taken into statistics, inventoried, measured or put into management dossiers

(including land areas for which certificates have been granted) before the effective date of this Circular, district-level People's Committees shall make statistics on their sources for elaboration of management dossiers for users, made according to Form 3 promulgated together with this Circular.

2. In case riparian alluvial land, coastal alluvial land and coastal land with water surface not yet taken into statistics, inventoried, measured or put into management dossiers, district-level People's Committees shall conduct measurement and elaborate cadastral dossiers for management of riparian alluvial land; provincial-level Departments of Natural Resources and Environment shall conduct measurement and elaborate cadastral dossiers for management of coastal alluvial land and coastal land with water surface.

3. Commune-level People's Committees, organizations and individuals currently managing and using riparian alluvial land and coastal alluvial land shall coordinate with measuring agencies in completing the land measurement.

Commune-level People's Committees shall coordinate with organizations and units related to dike protection, waterway navigation, national defense and security in planting landmarks to serve as a basis for measurement and elaboration of cadastral dossiers.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 8. Effect

This Circular takes effect on July 15, 2013.

Article 9. Responsibilities of People's Committees at all levels and natural resources and environment agencies

1. The General Director of Land Administration shall guide, examine and urge the implementation of this Circular.

2. Responsibilities of provincial-level People's Committees:

a/ To carry out propaganda and dissemination of this Circular among levels, sectors and local people, and guide the implementation of this Circular in localities;

b/ To send in December every year reports on management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface to Ministry of Natural Resources and Environment.

3. Responsibilities of district-level People's Committees:

a/ To direct and urge commune-level People's Committees in regularly examining the management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface;

b/ To organize periodical examination of the management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface;

c/ To send in December every year reports on the management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface to provincial-level People's Committees.

4. Responsibilities of commune-level People's Committees:

a/ To carry out regular examination of the use of riparian alluvial land, coastal alluvial land and coastal land with water surface for prompt detection of illegal encroachment and improper use of land, or report to and propose district-level People's Committees to consider the handling of cases beyond their competence;

b/ To report to district-level Divisions of Natural Resources and Environment on cases in which commune-level People's Committees lease land immediately after the signing of land lease contracts;

c/ To send in December every year reports on the management and use of riparian alluvial land, coastal alluvial land and coastal land with water surface to district-level People's Committees.

5. Directors of provincial-level Departments of Natural Resources and Environment, heads of district-level Divisions of Natural Resources and Environment, and cadastral officers of communes, wards, and townships shall assist chairpersons of the same-level People's Committees in implementing this Circular.

6. Any problems arising in the course of implementation should be reported to the Ministry of Natural Resources and Environment for consideration of decision.-

*For the Minister of Natural Resources
and Environment*
Deputy Minister
NGUYEN MANH HIEN

** All the forms mentioned in this Circular
are not translated.*