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**THE GOVERNMENT**

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

*Pursuant to the Land Law of July 14, 1993 and the Law of December 2, 1998 amending and supplementing a number of articles of the Land Law:*

*At the proposals of the Minister of Agriculture and Rural Development, the Minister of Aquatic Products and the General Director of the General Land Administration,*

**DECREES:**

**Article 1.-** To amend and supplement a number of articles of the Regulation on the allocation of agricultural land to family households and individuals for stable and long-term use in agricultural production issued together with Decree No. 64/CP of September 27, 1993 of the Government and adding the allocation of salt-making land to family households and individuals for stable and long-term use.

**1. Article 1 is amended and supplemented as follows:**

“**Article 1.-** Family households and individuals who directly work in agriculture, aquaculture, and salt making and whose main source of living is the income from these production activities as certified by the People’s Committees of the commune, ward or township shall be allocated land by the State within the set quota for stable and long-term use in agriculture, aquaculture and salt making without having to pay for the land use right.

Family households and individuals that have been allocated agricultural land under Decree No. 64/CP of September 27, 1993 of the Government are allowed to continue its stable and long-term use and shall be issued with certificates of land use right.

All agricultural land and salt-making land which have not yet been allocated shall be allocated to family households and individuals for stable and long-term use in agricultural production, aquaculture and salt making, except the land which has been allocated to organizations and land used for public utility needs of the commune.”

**2. Article 2 is amended and supplemented as follows:**

“**Article 2.-** Agricultural land allocated to family households and individuals for use in agricultural production comprises: agricultural land planted with annual trees, agricultural land planted with perennial trees, and aquacultural land. These also include the land formerly used for the family economy, garden land, private encroachments on public land, land on

**DECREE No. 85/1999/ND-CP OF AUGUST 28, 1999 AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE REGULATION ON THE ALLOCATION OF AGRICULTURAL LAND TO FAMILY HOUSEHOLDS AND INDIVIDUALS FOR STABLE AND LONG-TERM USE IN AGRICULTURAL PRODUCTION AND ADDING THE ALLOCATION OF SALT-MAKING LAND TO FAMILY HOUSEHOLDS AND INDIVIDUALS FOR STABLE AND LONG-TERM USE**

hilly slopes used by sedentarises, denuded land and bare hills, waste land set to agricultural production and aquaculture.

Salt-making land allocated to family households and individuals, for use in salt production comprises: land in salt marshes and land that has been planned for salt production.

If they cannot be allocated to family households and individuals such kinds of land shall be leased to organizations, family households and individuals that need them for use in agricultural production, aquaculture and salt making ”.

**3. Article 4 is amended and supplemented as follows:**

**“Article 4.-**

1. The term of allocation of agricultural land for the planting of annual trees, aquaculture and salt making is 20 years; that for the planting of perennial trees is 50 years.

On expiry of the term of land allocation, if the family households and individuals still need to continue its use and in the process of use have strictly abidden by the land legislation, the State shall allocate that land to them for continued use.

2. The term of land allocation is calculated as follows:

a/ For the land that has been allocated to family households and individuals prior to October 15, 1993, the beginning of the term of allocation is uniformly set at October 15, 1993.

b/ For the land allocated to family households and individuals after October 15, 1993, the term shall begin on the date of the allocation.”

**4. Article 5 is amended and supplemented as follows:**

**“Article 5.-** The standard quota of land allocation to each family household in each locality is set as follows:

1. For the agricultural land for the planting of annual trees, aquaculture and salt making:

a/ The provinces of Ca Mau, Bac Lieu, Kien Giang, Soc Trang, Can Tho, An Giang, Vinh Long, Tra Vinh, Dong Thap, Tien Giang, Long An, Ben Tre, Tay Ninh, Binh Duong, Binh Phuoc, Dong Nai, Ba Ria-Vung Tau and Ho Chi Minh City, not more than 3 ha for each kind of land;

b/ Other provinces and cities directly under the Central Government, not more than 2 ha for each kind of land.

2. For agricultural land for the planting of

perennial trees:

a/ The communes in the plains: not more than 10 ha;

b/ The communes in the midlands and mountain regions: not more than 30 ha;

3. For denuded land, bare hills, tidal land, water surface in bays and tidal pools and reclaimed land on the seashore, the People’s Committees of the provinces and centrally-run cities shall decide on the land quota for use by households and individuals on the basis of the land fund of the locality and their production capacity, with a view to ensuring the implementation of the policy of encouragement, creating favorable conditions for using these kinds of land in agricultural production, aquaculture and salt making.

4. In case of family households using many kinds of land to plant annual and perennial trees, practice aquaculture and produce salt or using denuded land and bare hills, tidal land and water surface in bays and tidal pools and reclaimed land on the seashore, the quota for use of land shall be determined separately for each kind of land according to the stipulations in Points 1, 2 and 3 of this Clause”.

**5. Article 8 is amended and supplemented as follows:**

**“Article 8.-**

1. Basing itself on the local land fund, the People’s Committee of the commune, ward or township shall lease land to the following objects for agricultural production, aquaculture and salt making:

a/ Officials, State employees, workers, armymen and public security workers who have retired or stopped their public duty for health reasons and who are living in the locality;

b/ Family households and individuals who are peasants living in the locality and who have received their full quota of agricultural land and salt-making land,

c/ Family households and individuals who are not farmers and who are living in the locality;

d/ In case the objects stipulated in Points a, b and c of this Clause are not able to rent land, the land can be leased to organizations, family households and individuals in other localities for use in agricultural production, aquaculture and salt making.

2. The lease term of agricultural land for use in agricultural production, aquaculture and salt making is 20 years.

3. The land rent shall be collected yearly or for a number of years in advance but not more than five years. The rent must be remitted to the budget and can be used only to invest in infrastructural construction in the commune, ward or township.”

**6. Article 12 is amended and supplemented as follows:**

“**Article 12.-** Land allocation and issue of certificates of land use right:

1. With regard to agricultural and salt making land:

a/ If the People’s Committees of the provinces or cities centrally-run directly have issued documents to stipulate on and direct the allocation of land to family households and individuals for stable and long-term use in conformity with the regulation of the State at that point of time, certificates of land use right shall be issued to them;

b/ If the land has not been allocated to family households and individuals, the People’s Committee of the commune, ward or township shall draw up the plan and propose to the People’s Committee of the district, town or city under the province to allocate the land and issue certificates of land use right to them.

The area of agricultural and salt making land shall be decided by the People’s Committee of the districts, towns and cities under the province for allocation to family households and individuals on the basis of the average land allocation per head of the agricultural, fishery and salt making population after subtraction made of the land reserved for public utility needs.

2. In the localities where in the process of implementation of the land policy in the past the People’s Committees of various levels have guided and directed the farmers to negotiate among themselves to regulate the division of land and this situation has now stabilized, the People’s Committees of the districts, towns and cities under the province shall base themselves on the present situation to consider the land allocation and issue certificates of land use right to them.

With regard to the families which have more land than prescribed by the quota the stipulations in Clause 7, Article 1 of this Decree shall be complied with.”

**7. Article 13 is amended and supplemented as follows:**

“**Article 13.-** For the land exceeding the quota for a family household, the solution is as follows:

1. The family households using agricultural land and salt making land above the quota which are allocated or reclaimed land or otherwise assigned legally by others prior to January 1<sup>st</sup>, 1999 (effective date of the Law amending and supplementing a number of articles of the Land Law) shall be allowed to continue its use but must pay the supplementary tax for the above-quota land as prescribed by law.

The term for use of the area of the above-quota

land by a family household is equal to half of the term of land allocation for each kind of land as stipulated in Clause 3, Article 1 of this Decree. After this term, the household must change to renting land.

For the area of above-quota land which is acquired after January 1<sup>st</sup>, 1999, the family household and individual must change to renting it.

2. For the land exceeding the quota resulting from illegal occupation, depending on each case, the People’s Committee of the commune, ward, or township shall propose to the People’s Committee of the district, town or city directly under the province to consider for recovery or to change to land renting.

**8. Article 15 is amended and supplemented as follows:**

“**Article 15.-**

1. Land reserved for public utility needs of the commune, ward or township shall be managed and used by the People’s Committee of the commune, ward or township.

2. The management and use of the land reserved for public utility of the commune, ward or township is prescribed as follows:

a/ For building or compensating for the land used in the building of public utility works of the commune, ward or township with permission from the competent State agency, it must not be used for other purposes.

b/ In case the land is not yet used for the purposes stipulated in Point a of this Clause, the People’s Committee of the commune, ward or township shall lease it to family households or individuals for use in agricultural production, aquaculture and salt making. The rent thereof shall be remitted to the budget and can only be used for public utility needs of the commune, ward or township as prescribed by law.

3. The term for the lease of public utility land of the commune, ward or township prior to January 1<sup>st</sup>, 1999 shall comply with the signed land lease contract; in other cases happening after January 1<sup>st</sup>, 1999, the term of land lease shall not exceed 5 years.”

**Article 2.-** The Ministers, the heads of ministerial-level agencies, the heads of agencies attached to the Government and the President of the People’s Committees of the provinces and centrally-run cities directly shall have to implement this Decree.

**Article 3.-** This Decree takes effect 15 days after its signing. All the earlier provisions which are contrary to this Decree are now annulled.

*On behalf of the Government*  
*Prime Minister*  
**PHAN VAN KHAI**