

THE GOVERNMENT

No.: 82/2017/ND-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

Hanoi, July 17, 2017

DECREE

PROVIDING FOR CALCULATION METHOD AND CHARGE FOR GRANTING WATER RIGHT

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Law on Water Resources dated June 21, 2012;

At the request of Minister of Natural Resources and Environment;

The Government promulgates a Decree providing for calculation method and charge for granting water right.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Decree deals with the calculation method and charge for granting water right.

Article 2. Regulated entities

This Decree applies to:

1. Regulatory authorities that perform the work of calculation, collection and transfer of charge for granting water right.
2. Organizations and individuals involved in the work of calculation, collection and transfer of charge for granting water right.

Article 3. Compulsory payment of charge for granting water right

Organizations or individuals that are granted license to exploit and use surface water or underground water (hereinafter referred to as the “license holder“) must pay charge for granting water right in the following cases:

1. Exploitation of surface water:

- a) Exploit surface water for producing electricity;
- b) Exploit surface water to serve business activities, service provision or non-agricultural production, including water for cooling machinery and equipment, or generating steam.

2. Exploitation of underground water:

- a) Exploit underground water to serve business activities, service provision or non-agricultural production, including water for cooling machinery and equipment, or generating steam;
- b) Exploit underground water (excluding brackish water and saltwater) for aquaculture, cattle breeding, watering coffee, rubber, cashew or pepper plants and other perennial industrial crops with a scale of 20 m³/24 hours or more.

Article 4. Grounds for calculation of charge for granting water right

Charge for granting water right shall be calculated based on the following elements:

1. Water uses, including:

- a) Exploit water for hydroelectric power generation;
- b) Exploit water to serve business activities and service provision;
- c) Exploit water to serve non-agricultural production, including water for cooling machinery and equipment, or generating steam;
- d) Exploit underground water to water coffee, rubber, cashew, tea or pepper plants and other perennial industrial crops;
- dd) Exploit underground water for aquaculture or cattle breeding.

2. The water quality which is determined according to water zoning or water function zoning in the water resources planning; In case the water resource planning is unavailable or the planning does not include water zoning contents, the actual quality of water source as prescribed in the national technical regulation on quality of surface water and underground water shall be considered.

3. Type of water source to be exploited, including: Surface water or underground water.

4. Conditions of exploitation:

- a) With regard to surface water, conditions at the location of surface water source shall be considered;
- b) With regard to underground water, the depth of the aquifer of underground water source to be exploited shall be considered.

5. Exploitation scale:

a) The scale of exploitation of water to serve hydroelectric power plants shall be determined according to design documents;

b) The scale of exploitation of water used for purposes other than that prescribed in point a of this Clause shall be determined according to the license to exploit and use water resources.

6. Duration of exploitation which is determined according to the duration specified in the license to exploit and use water resources.

Chapter II

COLLECTION RATE, CALCULATION METHOD OF CHARGE FOR GRANTING WATER RIGHT

Article 5. Collection rate of charge for granting water right (M)

The collection rate of charge for granting water right (M) is determined according to the purpose of exploitation, ranges from 0.1% to 2.0% and is detailed in the Appendix I enclosed herewith.

Article 6. Formula for calculation of charge for granting water right

1. Charge for granting water right with respect to water used for hydroelectric power generation shall be calculated by adopting the following formula:

$$T = W \times G \times M$$

Where:

T – Charge for granting water right; calculation unit: VND;

W – Volume of electrical production prescribed in Article 7 herein; calculation unit: kWh;

G – Price to calculate charge for granting water right as prescribed in Article 8 herein; calculation unit: VND/kWh;

M - Collection rate of charge for granting water right as regulated in Article 5 herein; calculation unit is percentage (%).

2. Charge for granting water right in cases other than that prescribed in Clause 1 of this Article shall be calculated by adopting the following formula:

$$T = W \times G \times K \times M$$

Where:

T – Charge for granting water right; calculation unit: VND;

W – Volume of exploited water to calculate charge for granting water right as prescribed in Article 7 herein; calculation unit: m³;

G – Price to calculate charge for granting water right as regulated in Article 8 herein; calculation unit: VND/m³;

K – Adjustment coefficient prescribed in Article 9 herein;

M - Collection rate of charge for granting water right as regulated in Article 5 herein; calculation unit is percentage (%).

Article 7. Volume to calculate charge for granting water right

1. The volume of water exploited for hydroelectric power generation shall be the annual average quantity of electricity which is defined in the Project's design documents (E_0 , unit: kWh), divided (/) by 365 days and multiplied (x) by the time period to calculate charge (days).

2. In cases other than the case prescribed in Clause 1 of this Article, the volume of exploited water shall be the highest exploitation output (unit: m³/24 hours) specified in the license multiplied (x) by the annual exploitation frequency and the time period to calculate charge (days).

3. The exploitation frequency in year is calculated by dividing (/) the number of exploitation days in year by 365 days. The exploitation frequency shall be 365/365 days if it is not prescribed in the license.

4. The time period to calculate charge shall be determined by days in accordance with the following provisions:

a) If the work is operated before the date of entry into force of this Decree without the license, the time period to calculate charge shall be determined from the effective date to the expiry date of the license;

b) If the work is not yet put into operation, the time period to calculate charge shall be determined from the date of commencement of its operation to the expiry date of the license.

Date of commencement of operation of the work is the date on which the construction is completed and the work is put into official operation as defined in the design documents or estimated by the investor or based on the actual status.

5. If the water is exploited to serve several purposes, the volume of exploited water to calculate charge shall be separately determined for each purpose in accordance with regulations herein. To be specific:

a) The license holder must determine and declare the volume of exploited water used for each exploitation purpose and give an explanation of grounds thereof. With respect to a certain volume of exploited water the purpose of which is not identified, the exploitation purpose with the highest collection rate of charge specified in the license shall be considered;

b) In case several water exploitation works are operated to supply water to the same concentrated water supply system, the volume of exploited water to calculate charge for granting water right for each purpose of each exploitation work shall be determined according to its percentage of volume of water supplied to the concentrated water supply system;

c) If the exploited water is used for daily activities at a business and production establishment or service provider, total volume of water used for daily activities shall be included in the volume of water used for business, production or service provision purpose. If the exploited water is used for daily activities of households outside the business and production establishment or service provider, such business and production establishment or service provider must not pay the charge for such volume of water which shall be charged as domestic water.

6. The license which is granted after the date of entry into force of this Decree must specify the permissible output of water exploited for each purpose to use as the basis for determining the volume of exploited water for calculation of charge for granting water right.

Article 8. Price to calculate charge for granting water right (G)

1. The price to calculate charge for granting water right with respect to water exploited for hydroelectric power generation shall be 70% of the electricity price to calculate the royalty on water resources for hydroelectric power generation.

2. The price to calculate charge for granting water right in cases other than that prescribed in Clause 1 of this Article shall be the price to calculate royalty on water resources announced by the People's Committee of province or central-affiliated city where the water exploitation work is located (hereinafter referred to as the Provincial-level People's Committee) in conformity with the bracket of prices to calculate royalty on water resources adopted by the Ministry of Finance.

3. In case where the price to calculate royalty on water resources is not available, the Provincial Department of Finance shall take charge and cooperate with the Provincial Department of Natural Resources and Environment and the Provincial Department of Taxation shall give advice to the People's Committee of province or city where the water exploitation work is located to promulgate the price to calculate royalty on water resources which is used for calculating charge for granting water right.

Article 9. Adjustment coefficient (K)

1. The adjustment coefficient prescribed in Article 6 herein is determined by adopting the following formula:

$$K = 1 + (K_1 + K_2 + K_3)$$

Where:

K_1 – Coefficient of quality of exploited water source;

K_2 – Coefficient of type of exploited water source;

K_3 – Coefficient of conditions of exploitation.

2. Coefficient of quality of exploited water source (K_1) is determined according to the quality of water source which is exploited by an organization or individual.

3. Coefficient of type of exploited water source (K_2) is determined according to type of water source which is exploited by an organization or individual, i.e. surface water or underground water.

4. Coefficient of conditions of exploitation (K_3) is determined according to specific conditions of exploitation of the water source which is exploited by an organization or individual.

5. Values of coefficients are provided for in the Appendix II enclosed herewith.

Article 10. Power to approve charges for granting water right

1. Ministry of Natural Resources and Environment and Provincial-level People's Committees shall approve charges for granting water right for cases where they grant license to exploit and use water resources.

2. Department of Water Resources Management affiliated to Ministry of Natural Resources and Environment shall receive and appraise applications for calculation or adjustment of charge for granting water right in cases where the exploitation of water resources is licensed by Ministry of Natural Resources and Environment.

3. Provincial Departments of Natural Resources and Environment shall receive and appraise applications for calculation or adjustment of charge for granting water right in cases where the exploitation of water resources is licensed by Provincial-level People's Committees.

Article 11. Procedures for calculating charge for granting water right

1. An application for calculating charge for granting water right, including Declaration on information for calculating charge for grant of water right made according to regulations in the Appendix III enclosed herewith, includes the following contents: Quality of water source; type of water source, conditions of exploitation, scale of exploitation, duration of exploitation, time period to calculate charge, the volume of exploited water for each purpose, price to calculate charge, collection rate of charge for each purpose; calculation of charge for each purpose, total amount of charges for granting water right, method of payment and written evidences.

2. Procedures for receiving, appraising and approving charge for granting water right:

- a) An application for calculating charge for granting water right shall be received and considered at the same time when an application for issuance, renewal, modification or re-issuance of water resources license is received.
- b) When submitting an application for license to exploit and use water resources, the application-receiving authority must also submit the draft decision on approval for charge for granting water right made according to regulations in the Appendix V enclosed herewith;
- c) Within 05 working days from the receipt of the decision on approval for charge for granting water right, the application-receiving authority shall send notice enclosed with such approval decision to the license holder and the Department of Taxation of province or city where the water exploitation work is located.

Article 12. Adjustment, collection and refund of charge for grant of water right

1. Charge for granting water right may be considered and adjusted in the following cases:

- a) There is change in the license to exploit and use water resources resulting in change in grounds for calculating charge for granting water right in accordance with regulations herein or change in the contents for which charge for granting water right has been approved;
- b) There is change in the date of commencement of operation of the water exploitation work which has been estimated when giving approval for charge for granting water right;
- c) There is change in the annual average quantity of electricity (E_0) which is defined in the design documents of the hydroelectric power work and approved in writing by the competent regulatory authority;
- d) The functions and storage capacity of the reservoir of the hydroelectric power work for preventing flood for downstream area is modified, except for cases prescribed in Point c of this Clause. The decrease level shall be calculated according to the percentage of storage capacity for preventing flood for downstream area which is adjusted in comparison with the existing useful storage capacity of the reservoir;
- dd) The water exploitation work is damaged and the exploitation must be suspended. The decrease level shall be calculated according to the time period in which the exploitation work is suspended;
- e) Only the remaining effective period of the license is adjusted. The adjustment level shall not increase more than 20% of the remaining amount payable as approved, except the case prescribed in Point b of this Clause.

2. Procedures for adjusting charge for granting water right:

- a) With regard to the case prescribed in Point a Clause 1 of this Article, the organization or individual must submit the Declaration on information for calculating charge for granting water

right made according to regulations in the Appendix III enclosed herewith. The application for adjusting charge for granting water right shall be received and considered at the same time when an application for modification or re-issuance of water resources license is received;

b) With regard to the cases prescribed in Points b, c, d and dd Clause 1 of this Article, the license holder shall submit a written request for adjustment enclosed with written evidences to the application-receiving authorities prescribed in Article 10 herein.

Within duration of 20 working days, the application-receiving authority shall verify and submit the application to the competent authorities prescribed in Article 10 herein for consideration;

c) The adjustment of charge for granting water right must be based on the current price to calculate charge for granting water right.

3. Additional charge for granting water right may be collected in the following cases:

a) The actual date of commencement of operation of the water exploitation work is sooner than the estimated one when granting the license and approving charge for granting water right;

b) The modification of the license is not yet approved by a competent authority when there are additional purposes of water exploitation which must be charged;

c) The scale or volume of exploitation is higher than those specified in the license;

d) Falsifying or providing false information in the Declaration for calculating charge for granting water right resulting in decrease in payable amount of charge.

4. The collected amount of charge for granting water right may be refunded in case the regulatory authority issues decision on revocation of the license because of national defense, security, national interests or public interests purposes, or the license holder returns the license to the licensing authority.

5. The authority competent to approve charge for granting water right shall make decision on adjustment of charge for granting water right, and send notice of amount of charge additionally collected or refunded, which specifies reasons thereof, to the license holder and the Department of Taxation of province or city where the water exploitation work is located.

Article 13. Time limit for issuing notice and paying charge for granting water right

1. Within 10 working days from the receipt of the written approval, approval for adjustment or notice of charge for granting water right, the Department of Taxation of province or city where the water exploitation work is located shall issue the notice of charge for granting water right according to the Appendix IV enclosed herewith and send it to the payer.

2. Relevant organization or individual must make payment of charge for granting water right according to the Notice issued by local Department of Taxation. The collection and transfer of

charges for granting water right shall be performed in accordance with regulations on collection and management of state budget revenues.

3. Upon the receipt of payment made to state budget, the payer must send one certified copy thereof to the Department of Water Resources Management if the license to exploit and use water resources is granted by the Ministry of Natural Resources and Environment, or to the Provincial Department of Natural Resources and Environment if the license to exploit and use water resources is granted by the Provincial-level People's Committee.

Article 14. Methods of collection, transfer, management and use of charges for granting water right

1. Charge for granting water right shall be annually paid according to the amount specified in the decision on approval for charge for granting water right. Each license holder shall, depending on its capacity, make monthly or quarterly or annual payment to the State Treasury at the province or city where the water exploitation work is located.

2. Collection, transfer and refund of charges for granting water right shall be performed in accordance with regulations of the Law on Tax Administration.

3. Management, use and refund of charges for granting water right shall be performed in accordance with regulations of the Law on State Budget; charges for granting water right shall be used for covering expenditures for water resources protection activities, setting up landmarks of water source protection corridor, supervising water exploitation activities and water pollution prevention and control but not exceed 15% of total amount of collected charges.

4. Charge for granting water right is considered a type of expense defined in the prime cost of the license holder.

Article 15. Responsibility of Ministries, Ministerial-level Agencies and Provincial-level People's Committees

1. Responsibility of Ministry of Natural Resources and Environment:

a) Give instructions to local governments on calculation method and collection rates of charges for granting water right;

b) Give approval, adjustment and notice of amount of charges for granting water right additionally collected or refunded in case the license to exploit and use water resources is granted by the Ministry of Natural Resources and Environment;

c) Inspect and handle violations against regulations on calculation, collection and transfer of charges for granting water right.

2. Responsibility of Ministry of Finance:

Instruct and inspect the collection, transfer, management and use of charges for granting water right.

3. Ministries and ministerial-level agencies shall, within the ambit of their assigned duties and powers, cooperate with Ministry of Natural Resources and Environment and Provincial-level People's Committees to perform the calculation, collection and transfer of charges for granting water permit.

4. Responsibility of Provincial-level People's Committees:

a) Give approval, adjustment and notice of amount of charges for granting water right additionally collected or refunded in case the license to exploit and use water resources is granted by Provincial-level People's Committees;

b) Announce prices to calculate royalty on natural resources in the province or city within the bracket of prices adopted by Ministry of Finance; announce prices to calculate charges for granting water right in case of unavailability of prices to calculate royalty on water resources as prescribed in Clause 3 Article 8 herein;

c) Inspect and handle violations against regulations on calculation, collection and transfer of charges for granting water right in local area.

Article 16. Responsibility of regulatory authorities involved in calculation and collection of charges for granting water right

1. Department of Water Resources Management shall:

a) Appraise applications for calculation or adjustment of charges for granting water right and submit them to Ministry of Natural Resources and Environment for approval in cases where the exploitation of water resources is licensed by Ministry of Natural Resources and Environment;

b) Send notice enclosed with decision on approval or adjustment of charge for granting water right to the license holder and the Department of Taxation of province or city where the water exploitation work is located;

c) Expedite and inspect calculation of charges for granting water right by local authorities;

d) Annually sum up and report the approval and collection of charges for granting water right nationwide to Ministry of Natural Resources and Environment.

2. Provincial Departments of Natural Resources and Environment shall:

a) Appraise applications for calculation or adjustment of charges for granting water right and submit them to Provincial-level People's Committees for approval in cases where the exploitation of water resources is licensed by Provincial-level People's Committees;

b) Send notice enclosed with decision on approval or adjustment of charge for granting water right to the license holder and local Department of Taxation in cases where the exploitation of water resources is licensed by the Provincial-level People's Committee;

c) Annually sum up and report the approval for charges for granting water right in local area to the Provincial-level People's Committee and Ministry of Natural Resources and Environment (via Department of Water Resources Management) before December 15.

3. General Department of Taxation shall:

Annually (before December 15) sum up and report the work of collecting charges for granting water right nationwide to Ministry of Finance and Ministry of Natural Resources and Environment (via Department of Water Resources Management) for consolidation.

4. Department of Taxation of province or city where the water exploitation work is located shall:

a) Issue notices of charges for granting water right, penalty and fines for late payment in accordance with regulations of the Law on Tax Administration if a license holder makes payment of charges after the time limit specified in the notice of charge for granting water right (if any), and send them to the license holder;

b) Sum up, record and report the amount of charges for granting water right in accordance with current regulations.

Article 17. Responsibility of payers of charges for granting water right

1. Pay charges for granting water right within the time limit stated in the notice of the tax authority.

2. If they need reduce or increase number of times of payment and the payable amounts of each time, they must have a written request to the local tax authority that has issued notice to them.

3. Cases of paying charges for granting water right into state budget later the set deadline, in addition to the payable charges stated in the notice, they must also face penalty and fines for late payment as prescribed by Law on Tax Administration.

4. In case of transferring the water right, the license holder must fulfill obligation of payment for charges for granting the water right up to the time of transfer.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 18. Transition provision

1. Applications for water resources license that have been received by competent authorities before the date of entry into force of this Decree shall be processed in accordance with the following regulations:

a) If an applicant for license wants to supplement the application for calculation of charge for granting water right, the authority that receives the application for license shall receive and appraise such application for charge calculation and the application for license at the same time;

b) If an applicant for license does not supplement the application for calculation of charge for granting water right, such application for license shall be processed as cases where license is granted before the date of entry into force of this Decree.

2. Time period to calculate charge for granting water right in cases where the license to exploit water resources is granted before the date of entry into force of this Decree shall be calculated by days in accordance with the following regulations:

a) If the water exploitation work is operating, the time period to calculate charge shall be the period from the effective date of this Decree to the expiry date of the license;

b) If the water exploitation work is not yet put into operation, the time period to calculate charge shall be determined in accordance with regulations in Point b Clause 4 Article 7 herein.

3. Time limit for submitting application for calculation of charge for granting water right in cases where the license to exploit water resources is granted before the date of entry into force of this Decree shall be performed in accordance with the following regulations:

a) Within duration of not exceeding 12 months from the date of entry into force of this Decree, organizations and individuals that are required to pay charges for granting water right must calculate and submit applications for calculation of charge for granting water right in accordance with applicable regulations;

b) Department of Water Resources Management shall request holders of licenses granted by Ministry of Natural Resources and Environment, and Provincial Departments of Natural Resources and Environment shall request holders of licenses granted by Provincial-level People's Committees to submit applications for calculation of charge for granting water right.

4. Procedures for calculating charges for granting water right in cases where the license to exploit water resources is granted before the date of entry into force of this Decree shall be performed in accordance with the following regulations:

a) The application for calculation of charge for granting water right includes: Declaration on information for calculating charge for granting water right made according to the Appendix III enclosed herewith; the copy of the license to exploit and use water resources;

b) The license holder shall, by post, by hand or electronically, send 02 sets of application to the application-receiving authority; the application-receiving authority shall consider the application.

If an application is rejected, within 02 working days, the application-receiving authority shall return such application to the applicant enclosed with a written explanation thereof;

c) Within 30 working days from the receipt of a valid application as prescribed in Point a of this Clause, the application-receiving authority shall organize an appraisal of such application and submit it to the regulatory authority for giving approval for charge for granting water right;

d) Within 05 working days from the receipt of the decision on approval for charge for granting water right made according to the Appendix V enclosed herewith, the application-receiving authority shall send notice enclosed with such approval decision to the license holder and the Department of Taxation of province or city where the water exploitation work is located.

5. The license which is granted before the date of entry into force of this Decree but does not include or includes the purpose of water exploitation inconsistently with regulations herein, the license holder shall, based on the actual exploitation and use of water of the work, make declaration for calculating charge for granting water right in accordance with regulations herein.

Article 19. Entry into force

1. This Decree shall come into force as from September 01, 2017.

2. Article 40, Clause 3 Article 47 of the Government's Decree No. 201/2013/ND-CP dated November 27, 2013 detailing certain articles of the Law on Water Resources shall be repealed.

Article 20. Implementation responsibility

1. Ministry of Natural Resources and Environment shall instruct and organize the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of the Government's affiliates, Chairpersons of people's committees of central-affiliated cities or provinces, and relevant organizations and individuals shall be responsible for implementing this Decree./.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc

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