

**GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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No. 29/2018/ND-CP

*Hanoi, March 5, 2018*

## **DECREE**

### **PRESCRIBING PROCESSES AND PROCEDURES FOR ESTABLISHING ALL-PEOPLE OWNERSHIP OF PROPERTY AND DISPOSAL OF PROPERTY UNDER ESTABLISHED ALL-PEOPLE OWNERSHIP**

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

*Pursuant to the Civil Code dated November 24, 2015;*

*Pursuant to the Law on Management and Use of Public Property dated June 21, 2017;*

*Pursuant to the Law on Handling of Administrative Violations dated June 20, 2012;*

*Upon the request of the Minister of Finance,*

*The Government hereby promulgates the Decree regulating the processes, procedures for establishing the all-people ownership of property and disposal of property eligible for the established all-people ownership.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope**

1. This Decree shall elaborate on:

a) Authority to make decisions, processes and procedures for establishing the all-people ownership of property, stipulated in clauses 2, 3, 4 and 5 of Article 106 in the Law on Management and Use of Public Property.

b) Disposal of property eligible for the established all-people ownership.

2. Property buried, concealed or sunk outside the territorial waters under the sovereignty and jurisdiction of the countries which are discovered or found by Vietnamese organizations and individuals shall be subject to clauses of international treaties on disposal of buried, hidden and sunken properties to which Vietnam is a signatory; in

cases where an international treaty to which Vietnam is a signatory does not prescribe the disposal of buried or hidden or sunken property, this Decree shall apply.

3. This Decree shall not cover the management and disposal of the following property:

a) Property that is real property managed and distributed for use by the State in the process of implementing housing and land management policies and socialist society renovation policies before July 1, 1991 under the scope of application of the Resolution No. 23/2003/QH11 dated November 26, 2003 of the 11<sup>th</sup> National Assembly and the Resolution No. 755/2005/QH11 dated April 2, 2005 of the 11<sup>th</sup> National Assembly's Standing Committee.

b) Property that is sunk on the inland waterway routes and inside of seaport water areas and territorial waters of Vietnam within the scope of application of the Government's Decree No. 05/2017/ND-CP dated January 16, 2017.

c) Property that is aircraft abandoned in Vietnam within the scope of application of the Government's Decree No. 02/2012/ND-CP dated January 11, 2012.

## **Article 2. Subjects of application**

1. Entities and persons accorded authority to make decisions to establish the all-people ownership of property.

2. Entities, organizations and agencies assigned the tasks of managing and disposing of property eligible for the established all-people ownership.

3. Other organizations and individuals concerned.

## **Article 3. Property eligible to be under the established all-people ownership**

1. Property confiscated in accordance with laws, including:

a) Material objects or equipment used for commission of administrative violations.

b) Exhibits in legal cases and other property confiscated under criminal laws and legislation on criminal procedures.

2. Unpossessed property; property of which owners are not known or identified; property dropped or left; buried, hidden or sunken properties already found; uninherited property belonging to the State under the provisions of the Civil Code; goods abandoned within the customs areas in accordance with the law on customs, including:

a) Unpossessed real property or real property with unknown owners that is eligible to be put under the established all-people ownership (hereinafter referred to as ownerless real property).

b) Dropped or negligently left property of which owners are not identified or which is not claimed by owners, eligible for being put under the established all-people ownership (hereinafter referred to as negligently left or dropped property).

c) Buried, concealed, sunken property which is found or discovered on the mainland, island and in territorial waters under the sovereign rights, sovereignty and jurisdiction of the Socialist Republic of Vietnam but, at the time of being found or discovered, has no owners or unidentified owners under laws (hereinafter referred to as buried, concealed or sunken property).

d) Property that is an estate without a testamentary heir or an heir-at-law or with an heir who is not vested with the right to inherit the estate, refuses to accept the estate, or an estate without a possessor after the statute of limitations for requesting a division of the estate from the time of opening of the inheritance expires according to civil law (hereinafter referred to as unheired estate).

dd) Property that is stagnant goods kept and stored at ports, warehouses and yards within the customs territory under laws on customs (hereinafter referred to stagnant goods).

3. Property of social funds and charity funds into liquidation that is not received after transfer by other funds having the same operational purposes, or into liquidation due to operations violating prohibited clauses of laws or in breach of social morals, under the State ownership in accordance with the Civil Code (hereinafter referred to as property of dissolved funds).

4. Property given as donation, gift, present, grant or aid by domestic and foreign organizations and individuals, but not yet accounted for by the state budget and transferred in other form to the State (hereinafter referred to as the property of which owners voluntarily transfer ownership to the State).

5. Property transferred by foreign-invested enterprises without reimbursement required to the State under commitments after termination of its operations.

6. Property created in the form of public-private partnership, which is transferred to the State under a project contract.

#### **Article 4. Principles of establishment of the all-people ownership of property, management and disposal of property eligible for the established all-people ownership**

1. The establishment of the all-people ownership of property must be documented; must strictly conform to the processes and procedures prescribed by law on the basis of protecting the interests of the State, respecting the legitimate rights and benefits of organizations and individuals concerned.

2. The state management of property under the all-people ownership shall be carried out uniformly and shall adhere to the principles of clearly assigning tasks and decentralizing authority and responsibilities to specific entities.

3. The valuation and handling of property qualified for the established all-people ownership shall be subject to the market mechanism.

4. The establishment of the all-people ownership of property and disposal of property qualified for the established all-people ownership must be publicly disclosed and must ensure transparency; any violation must be handled on time and strictly in accordance with laws in force.

#### **Article 5. Entities presiding over management of property qualified for the established all-people ownership**

Entities, organizations and units assigned to preside over the management and disposal of property qualified for the established all-people ownership shall be subject to the following provisions:

1. Material objects or equipment committing administrative violations that are confiscated:

a) The agency submitting the competent authority to issue a confiscation decision shall be the entity presiding over the asset management in case the Chairperson of the People's Committee of the province or centrally-affiliated city (hereinafter called the provincial-level jurisdiction) or the Chairperson of the People's Committee of the district or town or provincially-controlled city (hereinafter referred to as the district-level jurisdiction) issues the confiscation decision.

b) The host entity of the person making the confiscation decision is the unit presiding over management of property in the remaining cases.

2. As for exhibits in legal cases and property of the persons who are subject to the court's confiscation judgements in accordance with criminal law, criminal proceedings and have obtained law enforcement decisions from competent authorities, the Departments of Finance are the entities presiding over the management of property transferred by the provincial-level law enforcement authorities and those at the military zone level; the Finance and Planning Divisions of the district-level People's Committees (hereinafter referred to as the Finance and Planning Division) are the entities in charge of management of property transferred by the district-level enforcement authorities.

3. As for material objects in legal cases received according to confiscation decisions of Investigation agencies and People's Procuracies, the entities issuing confiscation decisions are those presiding over management of property.

4. As for ownerless real property, dropped, negligently left property and unheired estates, the Department of Finance shall be the entity presiding over management of real property, historic and cultural relics; the Finance and Planning Department shall be the entity presiding over management of movable property; if a case involves different property (including real property or historic - cultural relics and movable property), the Department of Finance shall be the entity presiding over management of such property.

5. As for buried, concealed or sunken property, the Department of Finance shall be the entity presiding over management of this property.

6. Property of dissolved funds:

a) Departments of Finance shall be the entities presiding over management of property of social funds or charity funds closed under the decisions of the Chairpersons of the provincial-level People's Committees or the district-level People's Committees mandated to grant such decisions.

b) Entities appealing to the Minister of Home Affairs to issue the dissolution decision shall be those units presiding over management of property under the ownership of social funds or charity funds dissolved under the decision of the Minister of Home Affairs.

7. As for stagnant goods within customs areas, the Customs Department shall be the entities presiding over management of property.

8. As for property of which ownership is voluntarily transferred from individuals and organizations to the State, if entities, units or organizations entitled to receive, manage and use such property are specifically identified upon transfer, they shall be the entities presiding over management of such property.

9. As for property of which ownership is voluntarily transferred from individuals and organizations to the State, if entities, units or organizations entitled to receive, manage and use such property are not specified upon transfer, competent regulatory authorities shall assign responsibilities for management of such property according to the following provisions:

a) If property in projects implemented by foreign experts, contractors and consultants by using official development assistance funds and non-refundable capital is transferred to the State, project management units shall be accorded with authority to preside over management of property; in case where a project management unit is dissolved, a host entity of a project shall act as the entity presiding over management of such property.

b) As for special property and specialized property in the national defence sector, the Ministry of National Defense or an entity whose authority is accorded by the Ministry of National Defense shall be recognized as the entity presiding over management of such property.

c) As for special property and specialized property in the security sector, the Ministry of National Defense or an entity whose authority is accorded by the Ministry of National Defense shall act as the entity presiding over management of such property.

d) If property not falling into the scope specified in point a, b and c of this clause is transferred to the Government, the Ministry of Finance or the entity whose authority is accorded by the Ministry of Finance shall act as the entity presiding over management of such property.

dd) If property not falling into the scope specified in point a, b and c of this clause is transferred to local governments, the Department of Finance shall act as the entity presiding over management of such property.

10. As for property transferred by foreign-invested enterprises without reimbursement required to the State under commitments after termination of their business, the Department of Finance shall act as the entity presiding over management of such property.

11. As for property formed by public-private partnership investments, which is transferred to the State under project contracts, the entity signing the public-private partnership contract shall be accorded as the entity presiding over management of such property.

#### **Article 6. Responsibilities of entities presiding over management of property eligible for the established all-people ownership**

1. Collaborating with relevant entities in keeping custody of property from the date of receipt of the property to the date of completion of disposal of the property according to plans approved by competent entities and persons, unless otherwise prescribed by law.

2. Preparing documents for submission to entities and persons having competence in issuing decisions on establishment of the all-people ownership of property, except in case property is prescribed in clause 1 of Article 106 in the Law on Management and Use of Public Property.

3. Preparing or reporting to the entities prescribed in clause 1 of Article 18 herein to request them to prepare plans for disposal of property for submission to competent entities or persons to seek their approval.

4. Presiding over and collaborating with relevant entities in undertaking the implementation of plans for disposal of property already approved by competent entities or persons.

5. Paying associated costs, including costs incurred from the portions of value of property (if any) for which organizations or persons are liable as per law.

6. Performing other duties stipulated herein and other relevant laws.

## **Chapter II**

### **AUTHORITY, PROCESSES AND PROCEDURES FOR ESTABLISHING ALL-PEOPLE OWNERSHIP OF PROPERTY**

#### **Article 7. Authority to establish the all-people ownership of property**

1. The Minister of Finance shall decide to establish the all-people ownership with respect to:

a) property of which ownership is transferred by organizations and persons to the State if entities, organizations or units receiving such property for use are not specifically defined, except for those property specified in clause 2 and clause 3 in this Article.

b) property subject to ownership transfer from organizations or persons to the State, maybe including real property, motor vehicles and property other than real property and motor vehicles, that is worth at least 500 million dong per a unit transferred to entities or organizations under the central government's management upon the requests of ministries and central agencies; except those property stipulated in clause 2 and 3 in this Article.

2. The Minister of National Defense shall decide or decentralize authority to decide establishment of the all-people ownership of property with respect to special property and dedicated property in the national defence sector of which ownership is transferred by organizations or persons to the State.

3. The Minister of Public Security shall decide or decentralize authority to decide establishment of the all-people ownership of property with respect to special property and dedicated property in the security sector of which ownership is transferred by organizations or persons to the State.

4. The Minister of Home Affairs shall decide or decentralize authority to decide establishment of the all-people ownership of property with respect to property under the ownership of social funds or charity funds dissolved under the decision issued by the Minister of Home Affairs.

5. Ministers and Heads of central agencies shall decide and decentralize authority to decide establishment of the all-people ownership of property with respect to:

a) property of which ownership is transferred by organizations or individuals to the State, and is then transferred by the State to entities and organizations affiliated to ministries or central agencies, outside of the scope prescribed in clause 1, 2 and 3 in this Article.

b) property transferred to the State under terms and conditions of public-private partnership project contracts if entities signing these contracts under the control of the

central government are accorded such authority after receipt of consent from the Ministry of Finance.

6. Chairpersons of the provincial People's Committees or competent persons shall be accorded authority to decide establishment of the all-people ownership of property by provincial-level People's Councils with respect to:

a) buried, concealed or sunken property; ownerless real property; unheired real property; dropped or negligently left property which includes historical - cultural relics; property involved in cases specified in this clause, including either real property or historical – cultural relics and movable property.

b) property of which ownership is transferred by organizations or individuals to the State, and is then transferred by the State to entities and organizations affiliated to local jurisdictions, except for those prescribed in clause 2 and 3 in this Article.

c) property transferred by foreign-invested enterprises without reimbursement required to the State under commitments after termination of their business.

d) property under the ownership of social funds and charity funds dissolved under the decisions of the Chairpersons of provincial-level People's Committees or decisions of the Chairpersons of the district-level People's Committees who are authorized to issue these decisions.

dd) property transferred to the State under terms and conditions of public-private partnership project contracts if entities signing these contracts under the control of the central government accorded such authority are put under the control of local jurisdictions.

7. The Chairpersons of the district-level People's Committees shall be vested with authority to decide to establish the all-people ownership of property with respect to dropped, negligently left property and unheired estates outside of the scope specified in point a of clause 6 in this Article.

8. The Directors of Customs Departments shall be vested with authority to establish the all-people ownership of property with respect to stagnant goods stored within customs territories.

### **Article 8. Processes and procedures for establishing the all-people ownership of ownerless real property**

1. Within duration of 07 working days from the date of completion of procedures for determination of owners in accordance with civil laws, if determination of owners of such real property is failed, entities already receiving information about ownerless real property (commune-level People's Committees or local Police authorities) shall be

responsible for preparing 01 set of documents for submission to the Divisions of Finance and Planning.

Documents submitted to the Divisions of Finance and Planning shall include:

- a) Report on the process of determining the owner of real property, made from the date of discovery of the property: 01 original copy.
- b) Table of location, area and current status of real property: 01 original copy.
- c) Documents related to the process of determination of owner of real property (if any): 01 duplicate copy.

2. Within duration of 07 working days of receipt of all required documents specified in clause 1 of this Article, the Division of Finance and Planning shall be responsible for preparing a statement, enclosing these submitted documents, sent to the district-level People's Committee that sends it to the Department of Finance before the Department delivers it to the Chairperson of the provincial-level People's Committee or the competent person accorded authority to decide establishment of the all-people ownership of property by the provincial-level People's Council.

Within duration of 07 working days of receipt of all required documents submitted by the district-level People's Committee, the Department of Finance shall be responsible for submitting these documents to the provincial-level People's Committee or the competent person accorded authority to decide establishment of the all-people ownership of property by the provincial-level People's Council.

3. Within duration of 07 working days of receipt of all required documents from the Department of Finance, the provincial-level People's Committee or the competent person accorded authority to issue decisions on establishment of the all-people ownership of property by the provincial-level People's Council shall be responsible for issuing the decision on establishment of the all-people ownership of property by using the Form No. 01-QDXL given in an Appendix hereto.

### **Article 9. Processes and procedures for establishing the all-people ownership of dropped or negligently left property**

1. Within duration of 07 working days following completion of procedures for determination of the property owner in accordance with civil laws, entities already receiving information about dropped and negligently left property (commune-level People's Committees or local Police authorities) shall be responsible for preparing 01 set of documents for submission to the Divisions of Finance and Planning if such property is under the State ownership.

Documents submitted to the Divisions of Finance and Planning shall include:

a) Report on the process of determination of the owner from the date of discovery; collection of bases for determining the property is under the State ownership: 01 original copy.

b) Table of type, quantity, weight, value and current status of such property: 01 original copy.

c) Report on handing in property by the person picking up the property or the person finding the dropped or negligently left property: 01 duplicate copy.

d) Documents related to disposal of property (if any): 01 duplicate copy.

2. As for dropped or negligently left property under the authority to decide establishment of the all-people ownership of property granted to the Chairperson of the district-level People's Committee as provided in clause 7 of Article 7 herein, within duration of 07 working days of receipt of all required documents specified in clause 1 of this Article, the Division of Finance and Planning shall be responsible for preparing a statement, enclosing documents specified in clause 1 of this Article for submission to the Chairperson of the district-level People's Committee to seek his decision on establishment of the all-people ownership of such property.

3. As for dropped or negligently left property under the authority to decide establishment of the all-people ownership of property granted to the Chairperson of the provincial-level People's Committee as provided in point a of clause 6 of Article 7 herein, within duration of 07 working days of receipt of all required documents specified in clause 1 of this Article, the Division of Finance and Planning shall be responsible for preparing a statement, enclosing documents specified in clause 1 of this Article for submission to the Chairperson of the district-level People's Committee sending it to the Department of Finance to represent it to the Chairperson of the provincial-level People's Committee or the competent person accorded authority to make decisions on establishment of the all-people ownership of such property by the provincial-level People's Council.

Within duration of 07 working days of receipt of all required documents from the district-level People's Committee, the Department of Finance shall be responsible for seeking the approval decision from the Chairperson of the provincial-level People's Council or the competent person accorded authority to decide establishment of the all-people ownership of property by the provincial-level People's Council.

4. Within duration of 07 working days of receipt of all required documents stipulated in clause 2 and clause 3 in this Article, the Chairperson of the district-level People's Committee or the Chairperson of the provincial-level People's Committee or the competent person accorded authority to issue decisions on establishment of the all-people ownership of property by the provincial-level People's Council shall be responsible for issuing the decision on establishment of the all-people ownership of property by using the Form No. 01-QDXL given in an Appendix hereto.

**Article 10. Processes and procedures for establishing the all-people ownership of buried, concealed or sunken property**

1. Within duration of 07 working days after completion of procedures for determination of the property owner as provided in civil and other relevant laws, if the owner of buried, concealed or sunken property is not identified, the Department of Finance shall be responsible for preparing 01 set of documents for submission to the Chairperson of the provincial-level People's Committee or the competent person accorded authority to make decision on establishment of the all-people ownership of such property.

Documents submitted to apply for establishment of the all-people ownership of property shall comprise:

- a) Report on the process of determining the owner of the buried, concealed or sunken property, made from the date of discovery of such property: 01 original copy.
- b) Table of type, quantity, weight and current status of such property: 01 original copy.
- c) Documents related to the process of determination of the owner of such property (if any): 01 duplicate copy.

2. Within duration of 07 working days of receipt of all required documents specified in clause 1 of this Article, the Chairperson of the provincial-level People's Committee or the competent person accorded authority to issue decisions on establishment of the all-people ownership of property by the provincial-level People's Council shall be responsible for issuing the decision on establishment of the all-people ownership of such property by using the Form No. 01-QDXL given in an Appendix hereto.

**Article 11. Processes and procedures for establishing the all-people ownership of unheired estates**

1. Within duration of 07 working days of receipt of the written document stating refusal of the right to inherit the estate from the heir, or the Court's judgement or decision that proves that that person is not entitled to inherit the estate under civil laws, or from the date of expiration of the statute of limitations for requesting the division of the estate, if the estate has not yet been possessed by any person under the provisions of civil law, the public notary body or the Chairperson of the commune-level People's Committee at the locality where the opening of inheritance is carried out shall be responsible for preparing 01 set of documents for submission to the Division of Finance and Planning.

Documents submitted to the Divisions of Finance and Planning shall include:

- a) Report on the process of opening of inheritance of the estate: 01 original copy.
- b) Table of type, quantity, weight and current status of the estate: 01 original copy.

c) Documents related to the process of opening inheritance, the written document stating refusal of the right to inherit estate, the Court's judgement or decision stating a person does not have the right to inherit the estate (if any): 01 duplicate copy.

2. As for unheired property under the authority to decide establishment of the all-people ownership of property granted to the Chairperson of the district-level People's Committee as provided in clause 7 of Article 7 herein, within duration of 07 working days of receipt of all required documents specified in clause 1 of this Article, the Division of Finance and Planning shall be responsible for preparing a statement, enclosing documents specified in clause 1 of this Article, for submission to the Chairperson of the district-level People's Committee to seek his decision on establishment of the all-people ownership of such property.

3. As for unheired property under the authority to decide establishment of the all-people ownership of property granted to the Chairperson of the provincial-level People's Committee or the competent person by the provincial-level People's Council under point a of clause 6 of Article 7 herein, within duration of 07 working days of receipt of all required documents specified in clause 1 of this Article, the Division of Finance and Planning shall be responsible for preparing a statement, enclosing documents specified in clause 1 of this Article, for submission to the Chairperson of the district-level People's Committee sending it to the Department of Finance to represent it to the Chairperson of the provincial-level People's Committee or the competent person accorded authority to make decisions on establishment of the all-people ownership of such property by the provincial-level People's Council.

Within duration of 07 working days of receipt of all required documents from the district-level People's Committee, the Department of Finance shall be responsible for seeking the approval decision from the Chairperson of the provincial-level People's Council or the competent person accorded authority to decide establishment of the all-people ownership of property by the provincial-level People's Council.

4. Within duration of 07 working days of receipt of all required documents stipulated in clause 2 and clause 3 in this Article, the Chairperson of the district-level People's Committee or the Chairperson of the provincial-level People's Committee shall be responsible for issuing the decision on establishment of the all-people ownership of property by using the Form No. 01-QDXL given in an Appendix hereto.

## **Article 12. Processes and procedures for establishing the all-people ownership of stagnant goods**

1. Within duration of 07 working days after completion of procedures for determination of the property owner in accordance with laws on customs, if no one comes to claim these goods, the customs authority of the place where stagnant goods are stored shall be responsible for preparing 01 set of documents for submission to the Director of the directly managing Customs Department to seek its approval decision on establishment of the all-people ownership.

Documents submitted to apply for establishment of the all-people ownership of such goods shall comprise:

- a) Application form for establishment of the all-people ownership of such goods: 01 original copy.
- b) Table of types, quantity, weight and current status of such goods: 01 original copy.
- c) Documents related to the process of notification of property and other documents (if any): 01 duplicate copy.
- d) Written notification of abandonment of goods or evidencing document (if any): 01 duplicate copy.

2. Within duration of 07 working days of receipt of all required documents stipulated in clause 1 of this Article, the Director of the Customs Department shall be responsible for issuing the decision on establishment of the all-people ownership of property by using the Form No. 01-QDXL given in an Appendix hereto.

### **Article 13. Processes and procedures for establishing the all-people ownership of property of dissolved funds**

1. Within duration of 30 days of receipt of the decision on dissolution of the fund from a competent regulatory authority, the entity presiding over management of property according to clause 6 of Article 5 herein shall be responsible for preparing 01 set of documents for submission to the competent entity as provided in clause 4 and point d of clause 6 of Article 7 herein to seek its decision on establishment of the all-people ownership of property of the dissolved fund. The submitted documentation shall be comprised of the followings:

- a) Application form for establishment of the all-people ownership of such property: 01 original copy.
- b) Table of type, quantity (weight), value and current status of such property: 01 original copy.
- c) Decision on dissolution, issued by a competent regulatory authority: 01 duplicate copy.
- d) Other document evidencing property right (if any): 01 duplicate copy.

2. Within duration of 07 working days of receipt of all required documents stipulated in clause 1 of this Article, the entity and the competent person referred to in clause 4 of Article 7 and point d of clause 6 of Article 7 herein shall be responsible for issuing the decision on establishment of the all-people ownership of such property by using the Form No. 01-QDXL given in an Appendix hereto.

**Article 14. Processes and procedures for establishing the all-people ownership of property of which ownership is voluntarily transferred by organizations or individuals to the State**

1. As for property of which ownership is transferred by an organization or individual to the State as provided in point a of clause 1 of Article 7 herein, upon receipt of the request of this organization or individual for transfer of ownership of the property, the entity presiding over management of the property specified in clause 9 of Article 5 herein shall consult legislative regulations in force and specialized laws regarding the property to determine whether the receipt of transferred property conforms to these laws and shall bear responsibility for such determination.

2. As for property of which ownership is transferred by an organization or individual to the State, if the entity, organization or unit managing and using the property is specifically identified, upon receipt of the request from this organization or individual for transfer of ownership of that property, the entity presiding over management of the property as referred to in clause 8 of Article 5 herein shall consult legislative regulations in force and specialized laws regarding the property to determine whether the receipt of transferred property conforms to these laws and shall bear responsibility for such determination.

3. In case it is established that the transfer of property is conformable to laws, within duration of 07 working days of receipt of the transferred property, the entity presiding over management of the transferred property shall be responsible for submitting application documents to the superior supervisory entity (if any) to request the entity and competent person referred to in clause 1, 2, 3, 5 and 6 of Article 7 herein to issue the decision on the all-people ownership of such property.

Documents submitted to apply for establishment of the all-people ownership of such goods shall comprise:

a) Application form for establishment of the all-people ownership of property, including the plan for disposal of property prescribed in point c of clause 2 of Article 18 herein: 01 original copy.

b) Table of type, quantity, weight, value and current status of the transferred property: 01 original copy.

c) Contract for gifting and donation of property in case of transfer made in the form of gifting or donation and in case such contract is required by laws: 01 duplicate copy.

d) Documents evidencing the right to own and use the transferred property and form of transfer (if any): 01 duplicate copy.

4. Within duration of 07 working days of receipt of all required documents stipulated in clause 3 of this Article, the entity and the competent person referred to in clause 1, 2, 3, 5

and 6 of Article 7 herein shall be responsible for issuing the decision on establishment of the all-people ownership of the transferred property by using the Form No. 01-QDXL given in an Appendix hereto.

5. In case where it is confirmed that the transfer of property is not conformable to laws, the entity recommended for receipt of that property shall be obliged to refuse such receipt; in case of failure to do so, actions referred to in clause 3 and 4 in this Article shall be taken.

**Article 15. Processes and procedures for establishment of the all-people ownership of property transferred by foreign-invested enterprises without reimbursement required to the State under commitments after termination of their business**

1. Within the maximum duration of 30 days prior to end of the term of operation of a foreign-invested enterprise as specified in the investment registration certificate, the investment license or the investment certificate, the investment registry shall be responsible for informing the Department of Finance at the place where it is based of cases in which it transfers its property without reimbursement required to the State under commitments after expiration of the permissible period of its operations.

2. Within duration of 05 working days of receipt of the notification from the investment registry, the Department of Finance shall be responsible for appealing to the Chairperson of the provincial-level People's Committee to establish the Committee on property inventory checking and classification. The Committee shall be chaired by the leader of the Department of Finance and joined by representatives of the Department of Planning and Investment, the Department of Natural Resources and Environment, the Department of Construction and other relevant entities as commissioners.

The Committee on property inventory checking and classification shall assume the following responsibilities:

- a) Accepting the transfer of property from the foreign-invested enterprise.
- b) Carrying out the inventory checking and classification of property and making the detailed table of type, quantity, weight, value and current status of the transferred property.
- c) Keeping safe custody of property awaiting resolution.

3. Based on the results of inventory checking and classification obtained from the Committee, the Department of Finance shall be responsible for preparing 01 set of application documents for establishment of the all-people ownership of property with respect to property transferred without reimbursement required by the foreign-invested enterprise.

Documents submitted to apply for establishment of the all-people ownership of such property shall comprise:

- a) Application form for establishment of the all-people ownership of such property: 01 original copy.
- b) Table of type, quantity, weight, value and current status of such property: 01 original copy.
- c) Written document showing commitments on transfer of property without reimbursement required by the foreign-invested enterprise to the State under commitments after termination of its business: 01 duplicate copy.
- d) Documents pertaining to the transferred property (if any): 01 duplicate copy.

4. Within duration of 05 working days of receipt of all required documents specified in clause 3 of this Article and after expiration of the legally permissible period of operations, the Chairperson of the provincial-level People's Committee or the competent person accorded authority to issue decisions on establishment of the all-people ownership of property by the provincial-level People's Council shall be responsible for issuing the decision on establishment of the all-people ownership of such property by using the Form No. 01-QDXL given in an Appendix hereto.

#### **Article 16. Processes and procedures for establishing the all-people ownership of property transferred to the State under PPP project contracts**

1. Within the maximum duration of 01 year prior to transfer or within the period agreed upon in a project contract, the project enterprise shall be obliged to publish the transfer of its property, procedures and duration of contract discharge and repayment of debts on newspapers.
2. The project enterprise must ensure that the transferred property is not used as security for financial or other obligations of the project enterprise before the date of transfer, unless otherwise prescribed in the contract.
3. The state regulatory authority signing the project contract shall preside over and collaborate with regulatory authorities taking the specialized control of property, financial institutions and other relevant entities (if any) in:
  - a) undertaking the assessment of quality, value and current status of property under terms and conditions of the project contract.
  - b) compiling the list of transferred items.
  - c) making a report on determination of damage or loss of property (if any) in order to request the project enterprise to repair or maintain such property.

d) Accepting and signing on the report on the transfer of property;

The transfer and receipt of property must take place within the duration stated in the project contract.

4. Within duration of 07 working days from the date of signing on the report on transfer of property, the state regulatory authority signing the project contract shall be responsible for preparing 01 set of documents submitted to the competent entity prescribed in point b of clause 5 and point dd of clause 6 of Article 7 herein in order for that entity to consider granting the decision on establishment of the all-people ownership of property. The submitted documentation shall be comprised of the followings:

a) Application form for establishment of the all-people ownership of such property: 01 original copy.

b) Table of type, quantity (weight), value and current status of such property: 01 original copy.

c) Report on acceptance of the transfer of such property: 01 original copy.

d) Other document evidencing property right (if any): 01 duplicate copy.

5. Within duration of 07 working days of receipt of all required documents stipulated in clause 4 of this Article, the entity and the competent person referred to in point b of Article 5 and point dd of clause 6 of Article 7 herein shall be responsible for issuing the decision on establishment of the all-people ownership of such property by using the Form No. 01-QDXL given in an Appendix hereto.

6. Costs of the assessment of quality, value and current status of property and other expenses prescribed in relevant regulations (if any) for transfer and receipt of property shall be calculated in the state budget estimate of regular expenditures made by the entity signing the project contract. Spending rates shall be subject to provisions laid down in clause 1 and clause 2 of Article 30 herein.

### **Chapter III**

#### **DISPOSAL OF PROPERTY ELIGIBLE FOR THE ESTABLISHED ALL-PEOPLE OWNERSHIP, EXPLORATION, EXCAVATION AND SALVAGE OF BURIED, CONCEALED OR SUNKEN PROPERTY**

##### **Section 1. DISPOSAL OF PROPERTY ELIGIBLE FOR THE ESTABLISHED ALL-PEOPLE OWNERSHIP**

###### **Article 17. Safekeeping of property eligible for the established all-people ownership**

1. Property subject to decisions on seizure or decisions on establishment of the all-people ownership, issued by competent persons or entities, shall be kept in safe custody so that they are in good condition to serve the tasks of disposal thereof in accordance with laws.

2. Property handed over to authorities undertaking specialized state management for their storage and safekeeping shall include the followings:

a) National treasure, antiques and other objects of historical and cultural value.

b) Weapons, explosive materials, supporting gears, technical and dedicated equipment, specially-made equipment and other items related to national defence and security.

c) Vietnamese currency, foreign currency, valuable papers, gold, silver, jewels and precious metal.

d) Radioactive substances.

dd) Organs (specimens) of precious and rare forest animal species listed in group IB.

e) Precious and rare forest products not used for commercial purposes, except those property items prescribed in point dd of this clause.

Ministry of Finance shall preside over and collaborate with relevant ministries and entities in publishing the detailed list of specialized authorities receiving and keeping custody of the property specified in this clause.

3. Responsibilities for safekeeping of property shall be prescribed as follows:

a) The host entity of the person having jurisdiction to issue the decision on confiscation of property in accordance with laws, or the entity appealing to the competent person to issue the decision on confiscation of property in accordance with laws on handling of administrative violations, shall be responsible for storing and keeping custody of confiscated property.

b) The law enforcement entity shall be responsible for keeping safe custody of exhibits in legal cases or other property confiscated under criminal, criminal proceedings and civil judgement enforcement laws.

c) The entity presiding over management of property that is prescribed in Article 5 herein shall be responsible for presiding over and collaborating with other relevant entities in undertaking the safekeeping of property prescribed in clauses 2, 3, 4 and 5 of Article 106 in the Law on Management and Use of Public Property. The safekeeping and storage of property shall be subject to provisions laid down in clause 1 of Article 108 in the Law on Management and Use of Public Property.

## **Article 18. Processes and procedures for preparation and submission of plans for disposal of property qualified for the established all-people ownership**

1. Responsibilities for preparation of the plan for disposal of property eligible to be under the established all-people ownership shall be subject to the following provisions:

a) The entity presiding over management of property that is referred to in clause 1, 2 or 3 of Article 5 herein shall prepare the plan for disposal of the confiscated property in accordance with laws, except those property confiscated under point c of this clause.

b) The customs authority shall prepare the plan for disposal of property which is the stagnant good stored within a customs territory under the jurisdiction to grant approval by the Director of a Customs Department, except stagnant goods prescribed in point b of clause 3 of Article 19 herein.

c) The entity authorized to perform tasks of managing public property according to clause 1, 2 and 3 of Article 19 in the Law on Management and Use of Public Property shall prepare the plan for disposal of the following property:

- Property confiscated under laws shall be disposed of in the form of transfer to the entity or organization managing and using such property under the jurisdiction of the Minister of Finance, Minister or Director of a central agency and the Chairperson of the provincial-level People's Committee;

- Stagnant goods stored within a customs territory under the provisions of laws on customs according to the plan for disposal thereof approved by the Minister of Finance as provided in point b of clause 3 of Article 19 herein;

- The remainder of property qualified for being under the established all-people ownership.

2. A plan for disposal of property eligible for the established all-people ownership must contain the following main information:

a) Property information: The decision on establishment of the all-people ownership of property or the decision on confiscation of property (number, date (dd/mm/yyyy), issuing agency), type, quantity and quality of property, origin, year of manufacturing and country of manufacturing, etc.

b) Property value (if any).

Especially for property disposed of in a form of transfer to the entity or organization for use, the entity formulating the plan for disposal of property must establish the Valuation Committee in order to determine value of property inscribed in the plan for disposal of property. The Committee shall be chaired by the Head of the entity formulating the plan for disposal of property and shall be joined by representatives of: Financial institution

(which owns the property), the entity receiving the property (if any), specialized entity concerned.

c) Forms of disposal of specific items of property:

- Handing over the property to the specialized entity with respect to items of property specified in clause 2 of Article 108 in the Law on Management and Use of Public Property;

- Handing over or transferring the property to the entity or organization for the purpose of management and use thereof. Handing over or transferring property to the entity or organization managing and using such property must conform to permissible standards and norms for use of property, issued by the entity or competent person in accordance with laws. This regulation shall only be applicable to: Real property, motor vehicles, motorcycles, machinery, equipment and other property of which the remaining quality rate is 50% or higher;

- Handing over the property to an enterprise in a form of recording an increase in state capital invested in that enterprise;

- Selling (auctioning, appointing the buyer of and publicly posting the price of) property in accordance with laws on management and use of public property and other relevant legislation. Especially property that are perishable goods or articles (e.g. fresh and live food that is easily gone off, difficult to be preserved, flammable and explosive goods, processed food products of which shelf life is less than 30 days, dead wild animals of which elimination is not required by laws, etc); bulky and heavy goods aboard inland watercraft or sea-going vessels that incur a lot of transportation costs; raw materials or goods that are prohibited for import and subject to the forced re-export carried out by only one economic organization, the form of disposal of such property may be either appointing the buyer or publicly posting the price thereof;

- Destroying perishable goods or objects that cannot be disposed of in the form of sale; property unable to be used or property in the list of items prohibited for manufacturing, trading and circulation in accordance with laws, including: Toxic cultural products, drugs, counterfeit goods, objects harmful to human health, livestock, plants, dead wild animals and other property of the forced elimination is required. In special cases where other forms of disposal are needed to ensure cost efficiency and effectiveness, the entity presiding over management of property shall be responsible for reporting to the Ministry of Finance or reporting to the superior supervisory entity (if any) that will then consolidate a final report submitted to the Ministry of Finance to seek its decision on possible actions;

- Remitting Vietnamese currency or foreign currency sums to the state budget; surrendering gold, silver, jewels and precious metal. As regards valuable papers that may be liquidated, it shall be obliged to implement procedures for turning them into cash amounts paid in the state budget in accordance with laws. If these papers fail to meet

requirements for being turned into cash, it shall be obligatory to pay them in the State Treasury for its storage and safekeeping;

- Taking other actions according to the Prime Minister's decision.

d) Presiding entity and cooperating entity. The entity presiding over disposal of property is the entity presiding over management of property referred to in Article 5 herein.

dd) Disposal duration.

e) Disposal costs.

g) Management and use of proceeds from disposal of property.

h) Other information (if any).

3. Within duration of 10 days of receipt of the decision on confiscation of property or the decision on establishment of the all-people ownership of property, the competent entity prescribed in clause 1 of this Article shall be responsible for preparing and submitting the plan for disposal of property to the competent entity prescribed in Article 19 herein to seek its approval of that plan.

4. The Ministry of Finance shall provide specific guidance on this Article.

#### **Article 19. Authority to grant approval of plans for disposal of property eligible for the established all-people ownership**

1. Authority to grant approval of a plan for disposal of items of property which are exhibits or means committing administrative violations shall be subject to the following provisions:

a) Minister of Finance shall be authorized to issue the decision on the plan for disposal of:

- Real property, motor vehicles and other property worth at least 500 million dong per each, any of which is confiscated according to the confiscation decision issued by the central competent entity or person;

- Transferring property from the central government to the local government and in opposite direction, or between localities.

b) Minister and Head of a central agency shall issue and delegate authority to issue the approval decision on the plan for disposal of:

- The remainder of property under the confiscation decision of the centrally-affiliated competent entity and person that is outside of the scope prescribed in point a of this clause;

- Property handed over to the specialized entity specified in clause 2 of Article 108 in the Law on Management and Use of Public Property.

c) The Chairperson of the provincial-level People's Committee or the person authorized by the provincial-level People's Council to approve the plan for disposal of property shall be responsible for issuing the approval decision on the plan for disposal of the property confiscated under the decision of the entity or the competent person of the local entity.

2. Authority to grant approval of the plan for disposal of items of property which are exhibits in legal cases and property of the convicted subject to confiscation shall be as follows:

a) Prime Minister shall approve the plan for disposal of items of property that are of historical, cultural value, antiques or national treasure upon the request of the Minister of Finance, Minister of Culture, Sports and Tourism, the Chairperson of the provincial-level People's Committee concerned, unless otherwise provided by laws or ordinances.

b) Minister of Finance shall be authorized to approve the plan for disposal of property in the form of handover or transfer thereof to centrally-controlled entities or organizations with respect to real property, motor vehicles and other items worth at least 500 million dong per each, or the form of transfer between centrally-affiliated cities and provinces, except property prescribed in point a of this clause.

c) The Chairperson of the provincial-level People's Committee or the person authorized by the provincial-level People's Committee to approve the plan for disposal of property shall be responsible for issuing the approval decision on the plan for disposal of property falling outside of the scope specified in point a and b of this clause.

3. Authority to approve the plan for disposal of ownerless real property, property with unidentified owners, dropped or negligently left property, buried, concealed or sunken property already discovered, unheired estates or stagnant goods shall be regulated as follows:

a) Prime Minister shall approve the plan for disposal of historical - cultural relics, antiques or national treasure upon the request of the Chairperson of the provincial-level People's Committee of the place where they are present, the Minister of Finance or the Minister of Culture, Sports and Tourism, unless otherwise provided by laws or ordinances.

b) Minister of Finance shall be authorized to approve the plan for disposal of property in the form of handover or transfer thereof to centrally-controlled entities or organizations with respect to real property, motor vehicles and other items worth at least 500 million

done per each, or the form of transfer between centrally-affiliated cities and provinces, except property prescribed in point a of this clause.

c) The Chairperson of the provincial-level People's Committee or the person authorized by the provincial-level People's Committee to approve the plan for disposal of property shall be responsible for issuing the approval decision on the plan for disposal of property falling outside of the scope specified in point a, b and d of this clause.

d) The Director of a Customs Department shall be authorized to approve the plan for disposal of stagnant goods stored within a customs territory under laws on customs, except property under the authority to approve the plan for disposal of property delegated to the Prime Minister or the Minister of Finance as provided in point a and b of this clause.

4. As for property of dissolved funds, the entity having jurisdiction to decide establishment of the all-people ownership of property according to clause 4 and point d of clause 6 of Article 7 herein shall be authorized to approve the plan for disposal of such property.

5. As regards property of which ownership is voluntarily transferred by organizations or individuals to the state, the competent entity and person authorized to establish the all-people ownership of property prescribed in clause 1, 2, 3 and 5, and point b of clause 6 of Article 7 herein, shall be authorized to approve the plan for disposal of property.

6. As for property transferred by a foreign-invested enterprise without reimbursement required to the State under commitments, the entity and person authorized to issue the decision on establishment of the all-people ownership of property as provided in point c of clause 6 of Article 7 herein shall be authorized to approve the plan for disposal of such property.

7. As for property acquired in the PPP investment form that is transferred to the State under a PPP project contract, the entity and person authorized to issue the decision on establishment of the all-people ownership of property as provided in point b of clause 5 and point dd of clause 6 of Article 7 herein shall be authorized to approve the plan for disposal of such property.

8. In case property is disposed of in the form of recording an increase in state capital invested in an enterprise, the entity and person having jurisdiction to decide an increase in capital in accordance with laws on management and use of state capital investment in manufacturing and business activities in the enterprise and other relevant legislation shall be accorded authority to grant approval of the plan for disposal of such property.

**Article 20. Provisions on disposal of property eligible for the established all-people ownership**

1. Disposal of property in the form of handover of property to specialized regulatory authorities prescribed in clause 2 of Article 17 herein shall be carried out as follows:

a) Within duration of 05 working days of receipt of approval of the plan for disposal of property from the competent entity, the entity authorized to preside over disposal of property shall hand over property to the specialized regulatory authority.

b) Handover and receipt of property shall be made in writing by using the Form No. 02-BBBQ given in an Appendix hereto.

c) Handover documentation shall be comprised of the followings:

- Property delivery report prescribed in point b of this clause: 01 original copy;

- Confiscation decision or decision on establishment of the all-people ownership of property: 01 duplicate copy;

- Plan for disposal of property approved by the competent entity and person: 01 duplicate copy;

- Certificate of results of assessment of property (if the property assessment is required): 01 duplicate copy;

- Detailed list of items of property: 01 original copy;

- Other necessary documents relating to property (if any).

d) The specialized regulatory authority shall be responsible for safekeeping, managing and disposing of property in accordance with relevant laws.

2. Disposal of property in the form of handover or transfer of property to an entity or organization for management and usage purposes shall be carried out as follows:

a) Within duration of 05 working days of receipt of approval of the plan for disposal of property from the competent entity, the entity authorized to preside over disposal of property shall preside over and collaborate with the entity performing the task of managing public property at the same jurisdictional level in handing over property and related documents to the receiving entity or organization.

b) Handover and receipt of property shall be made in writing by using the Form No. 03-BBCG given in an Appendix hereto.

c) The receiving entity or organization shall record an asset increase in its accounting report and shall carry out the management and use of such property in accordance with laws on management and use of public property. In case of handover of property to an

enterprise, it shall be compulsory to record an increase in state capital invested in the enterprise in accordance with laws.

3. In case of disposing of property in the form of sale (auctioning, appointment of the buyer or public posting of prices) or elimination of property, the entity authorized to preside over such disposal shall perform the tasks of selling and destroying property in accordance with the Decree No. 151/2017/ND-CP dated December 26, 2017, elaborating on the Law on Management and Use of Public Property and other relevant laws.

4. Disposal of remains or antiques by auction in overseas countries shall be carried out as follows:

a) Prime Minister decides the auction of remains and antiques held abroad.

b) Ministry of Culture, Sports and Tourism grants the permit for export of remains or antiques to be auctioned abroad in accordance with laws.

c) Procedures for export of remains or antiques shall be subject to laws.

d) The entity authorized to preside over disposal of property recruits a Vietnamese or foreign auction organizer to entrust the property auction, submits the plan for disposal of property to the competent entity or person to seek its decision in conformity with the effectiveness and cost efficiency principles; the auction organizer that fully meets the following conditions shall be preferred:

- Have acquired international experience in conducting an auction of similar property;

- Have the plan to hold an auction effectively;

- Have the low rate of auctioneer commission;

- Have the feasible plan for disposal of property in the event that remains or antiques already exported abroad fail to be sold (i.e. making repurchase commitments or covering costs of shipping them back to Vietnam, etc.).

In case there are multiple auction organizers registering for provision of auction services, the selection of an auctioneer shall be in the form of bidding in accordance with laws.

dd) Contract for entrustment of auction:

The contract for entrustment of auction must be prepared in accordance with Vietnamese and international laws. If Vietnamese laws do not prescribe such contract or have regulations different from those of international laws, international laws shall prevail.

The contract must have specific and close commitments to bind parties involved to contractual liabilities and must contain dispute resolution clauses. Tasks to be entrusted shall comprise: Packaging and transporting property from Vietnam to foreign countries,

transporting property from storage areas to auction venues, purchasing insurance for objects to be at auction, storing property abroad, carrying out advertising, auction and disposal of property in case of failure to sell such property.

The entity tasked with signing the contract for entrustment of auction shall be responsible for contractual terms and conditions; where necessary, the Ministry of Culture, Sports and Tourism, the Ministry of Finance and the Ministry of Justice may be consulted before conclusion of the contract.

5. Disposal of Vietnamese currency, foreign currency, valuable papers, gold, silver, jewels and precious metal shall be carried out as follows:

a) Within duration of 05 working days of receipt of approval of the plan for disposal of property from the competent entity or person, the entity presiding over management of property shall hand over items of property which are Vietnamese currency, gold, silver, jewels and precious metal to the State Treasury. The State Treasury shall record them as entries payable to the state budget in accordance with laws on state budget. As for property which is foreign currency, the entity presiding over management of property paid into a foreign currency account of the State Treasury opened at a bank; the State Bank shall be responsible for buying all of foreign currency amounts converted into Vietnamese dong before remitting them to the state budget in accordance with regulations in force.

a) Within duration of 05 working days of receipt of approval of the plan for disposal of property from the competent entity or person, the entity presiding over management of property shall convert valuable papers convertible into cash and remit them to the State Treasury. The State Treasury shall record them as entries payable to the state budget in accordance with laws on state budget. In case where valuable papers are not eligible for being converted into cash, they shall be deposited with the State Treasury for its retention and safekeeping.

6. As for disposal of property in the form of recording an increase in state capital invested in an enterprise, such recording shall be subject to laws on management and use of state capital invested in manufacturing and business activities of enterprises and other relevant legislation.

7. The Ministry of Finance shall provide specific guidance on this Article.

## **Section 2. RECEIPT AND PROCESSING OF INFORMATION, EXPLORATION, EXCAVATION AND SALVAGE OF BURIED, CONCEALED AND SUNKEN PROPERTY**

### **Article 21. Receipt and processing of information about buried, concealed and sunken property**

1. Organizations or individuals discovering buried, concealed or sunken property shall be responsible for protecting and maintaining the status quo of the property, and providing full and timely information about the property for competent entities and persons mentioned hereunder:

a) Nearest military authorities if buried, concealed or sunken property is discovered within military zones.

b) Commune-level People's Committee or police authority of the place nearest to buried property discovered outside of military zones.

c) Maritime Administration or commune-level People's Committee or district-level People's Committee of the place nearest to the sunken property discovered outside of military zones.

Organizations or individuals discovering buried, concealed or sunken property shall be responsible for information that they have already provided.

2. The state regulatory authority receiving such information shall assume the following responsibilities:

a) Preparing a report bearing all signatures of the representative of the organization or individual providing information and the entity's representative receiving such information; the informing organization or individual shall keep a copy of that report as a basis for handling of rights and benefits in the future.

b) Verifying provided information.

c) Reporting in writing to the provincial-level People's Committee of the place where the state regulatory authority receiving such information is based.

d) Establishing the protective boundary to maintain the status quo of the site where the property is buried, concealed or sunk; in case the property is sunk offshore, the provincial-level People's Committee shall collaborate with entities under the control of national defence and security forces and maritime authorities in doing so.

As for property sunk within inland water areas or territorial waters, within 07 working days of receipt of the notification of the sunken property, the state regulatory authority receiving such notification shall be responsible for reporting to the Vietnam Maritime Administration or the provincial-level People's Committee to post such information 03 successive times via means of mass communication at the central or local level in order to find the owner of such property.

3. The provincial-level People's Committee shall assume the following responsibilities:

- a) Directing competent entities under its jurisdiction or liaising with relevant entities to build the protective boundary to maintain the status quo of the site where the property is buried, concealed or sunk.
- b) Reporting entities specified in clause 1, 2 and 3 of Article 22 herein to seek their decision on formulation of plans for exploration, excavation or salvage of the buried, concealed or sunken property.
- c) In case the buried, concealed or sunken property is not discovered within areas under its jurisdiction, it shall be responsible for informing the provincial-level People's Committee of the place where such property is discovered.

**Article 22. Authority to assign tasks, approve plans for exploration, excavation or salvage of the buried, concealed or sunken property**

Assigning an organization or individual to formulate the plan for exploration, excavation or salvage of property and approving such plan shall be subject to the decision issued by one of the following state regulatory authorities:

1. Ministry of Culture, Sports and Tourism shall be authorized to grant approval with respect to historical and cultural relics, national treasure, remains or antiques.
2. Ministry of National Defense shall be authorized to grant approval with respect to the buried, concealed or sunken property related to the national defence and security sector, or those discovered within military zones.
3. Ministry of Transport shall be authorized to grant approval with respect to sunken property that may hinder maritime activities and may endanger marine resources; may threaten human lives and health or may pollute environment. As for sunken property that poses danger to maritime activities, the Maritime Administration shall be responsible for drawing up the salvage plan for submission to the Vietnam Maritime Administration to seek its approval; if the sunken property posing danger to maritime activities is an underwater cultural relic or the one related to national defence and security, prior to receipt of approval of the salvage plan from the Vietnam Maritime Administration, the Ministry of Culture, Sports and Tourism or the Ministry of National Defence shall be consulted about such plan.
4. The provincial-level People's Committee of the place where the property is buried, concealed or sunk shall be authorized to grant approval with respect to the property not subject to provisions laid down in clause 1, 2 and 3 of this Article.

**Article 23. Contents of plans for exploration, excavation or salvage of the buried, concealed or sunken property**

1. The plan for exploration of the buried, concealed or sunken property must contain the following main information:

- a) Location of the buried, concealed or sunken property.
- b) Beginning and ending time.
- c) Means and method of exploration.
- d) Safety measures to be taken during the exploration process.
- dd) Handover of exploration results to the competent entity or person.
- e) Measures to prevent environmental pollution; fire fighting and prevention measures.
- g) Exploration cost estimate.
- h) Requirements for being selected as the excavation or salvage organization or individual (where necessary).

2. The plan for exploration or salvage of the buried, concealed or sunken property must contain the following main information:

- a) Bases for exploration and salvage.
- b) Results of implementation of the plan for exploration of the buried, concealed or sunken property (if any).
- c) Location of the buried, concealed or sunken property.
- d) Beginning and ending time.
- dd) Means and measures of exploration or salvage.
- e) Measures to ensure safety for the excavation or salvage process.
- g) Measures for safekeeping of the buried, concealed and sunken property discovered after excavation or salvage.
- h) Handover of the buried, concealed or sunken property already discovered to the competent entity or person.
- i) Measures to prevent environmental pollution; fire fighting and prevention measures.
- k) Insurance measures for organizations and individuals participation in the excavation and salvage process.
- l) Proposed results of excavation and salvage.

m) Excavation or salvage cost estimate.

h) Requirements for being selected as the excavation or salvage organization or individual (where necessary).

3. As the case may be, formulating and deciding the exploration plan; formulating and deciding the plan for excavation or salvage of the buried, concealed and sunken property shall be independent or closely combined together.

#### **Article 24. Exploration, excavation and salvage of the buried, concealed and sunken property**

1. Vietnamese organizations or individuals or the foreign ones shall be eligible to carry out the exploration, excavation or salvage of the buried, concealed or sunken property if they meet the following requirements:

a) Have the function of exploration, excavation or salvage of property in accordance with laws.

b) Have experience in property exploration, excavation or salvage activities.

c) Hire a staff of employees and equipment meeting requirements for exploration, excavation or salvage of property in line with the scale of the property exploration, excavation or salvage plan already approved by the competent entity or person.

2. In case of exploration, excavation or salvage of historical - cultural relics, national treasure, remains or antiques or property related to the national defence and security or property discovered within military zones, foreign organizations and individuals shall be allowed to participate in such activities, but must be put under the control of Vietnamese entities or organizations with respect to specific property exploration, excavation or salvage projects.

3. Entities or persons specified in Article 22 herein shall decide to assign organizations or individuals meeting requirements prescribed in clause 1 of this Article to undertake the exploration, excavation or salvage of the buried, concealed or sunken property through selection of contractors in accordance with laws on bidding; must prefer Vietnamese organizations or individuals to perform the tasks of salvaging sunken property within inland waters or territorial waters of Vietnam under the provisions of Article 280 in the 2015 Law on Maritime. In case of the plan for salvage of sunken property posing danger to maritime operations, approved by the Vietnam Maritime Administration, the maritime administration shall be entitled to undertake the salvage of property according to such plan.

4. The exploration, excavation or salvage of the buried, concealed or sunken property must conform to the plan already approved by the competent entity or person.

In case where it is necessary to adjust the approved plan during the process of exploration, excavation or salvage of the buried, concealed or sunken property, the competent entity or person already approving the plan shall make a decision on any adjustment.

**Article 25. Receipt, management and storage of the buried, concealed or sunken property already discovered**

1. Organizations or individuals randomly discovering the buried, concealed or sunken property, or those undertaking the excavation or salvage of the buried, concealed or sunken property, shall be responsible for managing and handing over the property discovered to state regulatory authorities defined in clause 2 and clause 3 of this Article in order to store them during the period of awaiting disposal under the decision of the competent entity or person.

2. In case where there are sufficient grounds for determination of the buried, concealed or sunken property, organizations or individuals stipulated in clause 1 of this Article shall carry out the handover of property to the following entities or organizations to receive and store such property:

a) Provincial-level museums shall receive and keep custody of the buried, concealed or sunken property already discovered, e.g. cultural - historical relics, national treasure, remains or antiques.

b) Provincial-level Command Headquarters shall receive and keep custody of the buried, concealed or sunken property already discovered in relation to the national defence and security and the property discovered within military zones.

c) The maritime administration closest to the buried, concealed or sunken property already discovered shall receive and keep custody of the property that may hinder or pose danger to maritime operations and marine resources; may threaten human lives and health or may cause environmental pollution.

d) Department of Finance shall receive and keep custody of the buried, concealed or sunken property already discovered which falls outside of the scope prescribed in points a, b and c of this clause.

3. In case where there is none of sufficient grounds for identifying the type of the buried, concealed or sunken property already discovered, the Department of Finance shall directly receive and keep custody of such property. If the buried, concealed or sunken property already discovered is sparse and has low value (about less than 01 billion dong), Department of Finance may authorize the district-level financial institution to receive and keep custody of such property.

4. Entities or units performing the tasks of receiving and keeping custody of property as provided in clause 2 and clause 3 of this Article shall store and safekeep such property as

per clause 1 and clause 2 of Article 108 in the Law on Management and Use of Public Property.

**Article 26. Determination of owners of buried, concealed or sunken property already discovered**

1. Department of Finance shall be responsible for making the list of items of property and quantity thereof classified by specific types of buried, concealed or sunken property already discovered; presiding over and collaborating with relevant entities in carrying out the assessment of property; determining owners of buried, concealed or sunken property already discovered in accordance with clause 2 of this Article.

2. The determination of owners of buried, concealed or sunken property already discovered shall be subject to provisions laid down in clause 1 of Article 229 in the Civil Code. Except special cases where there is any requirement for assurance of national security and state secret, the notification shall be subject to laws on protection of state secrets. In case of property without owners or with unidentified owners, such property shall be eligible for the established all-people ownership as provided in clause 2 of Article 229 in the Civil Code and provisions enshrined herein.

**Article 27. Plan for disposal of buried, concealed or sunken property already discovered**

Department of Finance shall prepare the plan for disposal of buried, concealed or sunken property already discovered for submission to the competent entity prescribed in Article 22 herein to seek its approval according to the following principles:

1. Returning such property to the owner if the legitimate owner is identified.
2. In case the legitimate owner is not identified or there is none of legitimate owners, returning such property to organizations or individuals discovering buried, concealed or sunken property already discovered if value of such property is less than or equal to ten times as much as the base pay rate regulated by the State (determined at the time of discovery and handover of such property). Organizations or individuals receiving the property shall be liable for costs incurred by finding owners, property transportation, storage and valuation costs.
3. In case where buried, concealed or sunken property already discovered has unidentified owners or the owner thereof has given up the ownership of such property or the owner fails to pay associated costs prescribed in clause 2 of Article 28 herein, or organizations or individuals defined in clause 2 of this Article do not come to claim back their property or fail to pay associated costs, the property shall be eligible for being put under the established all-people ownership in accordance with laws and shall be disposed of in accordance with provisions laid down herein.

## **Article 28. Return of buried, concealed or sunken property already discovered to legitimate owners**

1. In case the owner of the buried, concealed or sunken property already discovered is identified as per Article 26 herein, the entity or unit receiving and keeping custody of property prescribed in clause 2 and clause 3 of Article 25 herein shall return the property to the legitimate owner under the decision of approval of the plan for disposal of the buried, concealed or sunken property already discovered, issued by the competent entity or person.

2. Within duration of 30 days of receipt of the decision on approval of the plan for return of the buried, concealed or sunken property already discovered to the legitimate owner, issued by the competent entity or person, the entity or unit receiving and keeping custody of the property as per clause 2 and clause 3 of Article 25 herein shall be responsible for returning the property to the legitimate owner. The return of the property shall be documented; the property owner shall be liable for reasonable costs related to the prospecting, exploration, excavation, salvage, storage of and search for property owners.

## **Chapter IV**

### **FINANCIAL MANAGEMENT IN DISPOSAL OF PROPERTY ELIGIBLE TO BE UNDER THE ESTABLISHED ALL-PEOPLE OWNERSHIP**

#### **Article 29. Spending amounts associated with disposal of property eligible for the established all-people ownership**

1. Expenses related to the management and disposal of exhibits and means committing administrative violations that must be confiscated, and expenses related to criminal-case property subject to an administrative action taken in the form of confiscation, shall conform to regulations of the Ministry of Finance providing instructions on implementation of certain tasks of management and disposal of exhibits and means committing administrative violations that are temporarily seized or impounded according to administrative procedures.

2. Expenses related to the management and disposal of exhibits in legal cases, property of the convicted which is confiscated; property in legal proceedings against administrative violations moved to being subject to criminal procedures, which is confiscated; other property eligible for being put under the established all-people ownership (exclusive of expenses related to the exploration, excavation, salvage and disposal of the buried, concealed or sunken property), including:

a) Costs of transportation and storage of property; costs of testing, assessment and valuation of temporarily retained property; spending on payment of compensation for loss or damage occurring for objective reasons (if any), which are calculated until the date of receipt of the decision on approval of the plan for disposal of property from the competent entity or person. In case where the entity receiving and keeping custody of

property has been given the State's support for warehouses, storage facilities, means of transport or the State's subsidy for regular costs, it shall not be liable for costs related to the transportation and storage of such property.

b) Costs of delivery, receipt, loading, unloading, shipping and storage of property calculated from the date of grant of the decision on approval of the plan for disposal of property by the competent entity to the date of completion of disposal of property.

c) Costs arising from the process of disposal of property: Costs of determination of the starting bid; spending on hiring of property assessment and repair services in case the property needs to be repaired before sale of such property; spending on remedy for damage or loss of property due to objective causes; payment of charges for the auctioning service to the auction organizer and property auctioning costs.

d) Import duty, VAT, special consumption tax (if any) if the property that is temporarily imported and re-exported obtains permission for official import from the competent entity or person.

dd) Fees and charges (if any).

e) Costs incurred from care and rescue of wild animals before being handled under the decision of the competent entity or person.

g) Costs of elimination of property.

h) Spending on giving rewards to organizations or individuals spotting and handing in dropped or negligently left property, e.g. historical - cultural relics, national treasure, antiques or property related to the national defence and security sector.

i) Other associated spending amounts.

3. Spending amounts related to the exploration, excavation, salvage and disposal of the buried, concealed or sunken property and handling other property, shall comprise:

a) Costs of exploration, excavation, salvage and assessment of the buried, concealed or sunken property. If the cost of exploration, excavation, salvage and assessment of the buried, concealed or sunken property according to the approved plan is paid in kind by using the excavated or salvaged property, the competent entity or person approving the plan for excavation or salvage of the buried, concealed or sunken property shall make a decision on such payment in kind.

b) The cost of transportation and storage of the discovered property during the period of awaiting the decision on disposal of such property from the competent entity or person, and the cost of transportation and storage of the property, paid to organizations or individuals randomly spotting and handing in such property.

c) The cost of disposal of property (cost of notification of search for owners, cost of handover of property, cost of elimination of property and cost of valuation and auctioning of property).

d) Taxes, fees and charges (if any).

dd) Spending on payment of rewards to organizations or individuals spotting the property;

e) Cost of the overseas auction of relics or antiques. Auctioning cost (e.g. auctioneer commission) paid on a lump-sum basis at the percentage rate of total sum earned from the property auction, including:

- Cost of packaging, cost of transportation from Vietnam to a foreign country and cost of transportation from the storage facility to the auction venue;

- Cost of insurance for objects put up for auction;

- Cost of rental of facilities for storage of objects abroad;

- Taxes, fees, charges in Vietnam and abroad (if any);

- Cost of advertising and communication; cost incurred from conducting an auction;

- Cost of handling of disputes (if any); other costs related to the transportation and auction in a foreign country.

The percent rate of the auction cost shall be agreed upon between parties to the contract for entrustment of auction with reference to auctioning costs (inclusive of auctioneer commissions) in auctions already taking place.

g) Other associated rational costs.

4. Making the payment of the portion of value of property to the organization or individual spotting and handing in the buried, concealed or sunken property or the dropped or negligently left property.

### **Article 30. Spending amounts**

1. As for those spending amounts already specified in standards, norms or regulations adopted by the competent entity or person, these standards, norms and regulations shall be observed.

2. As for those spending amounts that have not yet been specified in standards, norms or regulations adopted by the competent entity or person, the Head of the entity authorized to preside over disposal of property shall decide and bear responsibility for his/her

decision on specific spending amounts provided that they are relevant to funding capability and actual conditions.

3. Expenses for buying information, reasonable and legitimate costs incurred from handling of violations against criminal laws arising from anti-smuggling, prevention of trade fraud and counterfeit goods shall be subject to regulations of the Ministry of Finance on the management and use of revenues gained from handling of law violations in the field of prevention and control of smuggling, trade fraud and counterfeit goods.

4. As for property in administrative cases moved to being subject to criminal sanctions or vice versa, costs of transportation and storage of property arising before handover of such property shall be charged into regular expenses of the entity keeping custody of property; other spending amounts shall be covered by funding sources intended for disposal of property as provided in Article 31 herein.

5. Rate or amount of reward paid to the organization or individual spotting and handing in the buried, concealed or sunken property or the dropped or negligently left property

a) Organization or individual shall be rewarded in the following cases:

- Randomly spotting and handing in the buried, concealed or sunken property or the dropped or negligently left property, including historical – cultural relics, national treasure, remains, antiques and property related to the national defence and security sector;

- Detecting and providing correct information about in the buried, concealed or sunken property or the dropped or negligently left property.

b) Rates of reward paid in specific cases shall be as follows:

- If the organization or individual randomly spots and hands in the buried, concealed or sunken property or the dropped or negligently left property, including historical – cultural relics, national treasure, remains, antiques and property related to the national defence and security sector, rates of reward shall be calculated according to the partially regressive method as follows:

+ As for part of value of property worth up to 10 million dong, the rate of reward shall be 30%;

+ As for part of value of property worth from above 10 million dong to 100 million dong, the rate of reward shall be 15%;

+ As for part of value of property worth from above 100 million dong to 1 billion dong, the rate of reward shall be 7%;

+ As for part of value of property worth from above 1 billion dong to 10 billion dong, the rate of reward shall be 1%;

+ As for part of value of property worth 10 billion dong or above, the rate of reward shall be 0.5%;

Value of property retained for payment of reward shall be determined after expenses specified in clause 3 of Article 29 herein have already been taken away.

- In case the organization or individual spots and provides correct information about the buried, concealed or sunken property or the dropped or negligently left property already discovered, which are cultural – historical relics, national treasure, remains, antiques or property related to the national defence and security sector, the rate of reward shall be equal to 50% of respective amounts of reward as provided in point a of this clause.

- In case the organization or individual spots and provides correct information about the buried, concealed or sunken property or the dropped or negligently left property already discovered, which are not cultural – historical relics, national treasure, remains, antiques or property related to the national defence and security sector, the rate of reward shall be equal to 30% of respective amounts of reward as provided in point a of this clause.

c) The specific rates of reward shall be decided by the Minister of Culture, Sports and Tourism (with respect to the property already discovered, which are historical – cultural relics, national treasure, remains and antiques), the Minister of National Defense (with respect to the property already discovered, which are related to the national defence and security sector), the Chairperson of the provincial People's Committee (with respect to the property already discovered, which are other than those mentioned above), and shall not exceed 200 million dong per each reward package.

d) If there are multiple organizations or individuals eligible to be rewarded and the discovered property has special value, the competent entity or person defined in point c of this clause shall appeal to the Prime Minister to seek his approval decision on rates of reward.

dd) Rewarding bases

- In case where the property is disposed of in the form of auction, the value of the property retained for grant of reward shall be the winning bid;

- In case where the property is disposed of in the form of handover thereof to the state regulatory authority having competence in keeping custody of and managing such property, the property value shall be the price determined by the Valuation Committee referred to in Article 34 herein. The value of property retained for payment of reward shall be the value of property determined by the Committee after expenses specified in clause 3 of Article 29 herein have already been taken away.

In case where it is impossible to determine the value of the buried, concealed or sunken property already discovered or the dropped or negligently left property, the competent entity or person regulated in point c of this clause shall be authorized to decide the amount of reward which is restricted to 200 million dong. In special cases, the Prime Minister shall grant his decision.

6. The amount of payment for the part of the property value to the organization or individual spotting and handing in the buried, concealed or sunken property in case of none of owners or unidentified owners shall be subject to laws.

a) If the organization or individual has accidentally found the buried, concealed or sunken property, which is not historical – cultural relics, national treasure, remains, antiques, or property related to the national defence and security sector, during their domestic or manufacturing activities, they shall be entitled to all or part of such property as provided in the following regulations:

- If the property value is less than or equal to ten times as much as the base pay rate regulated by the State (at the time of spotting and handing in of property) after being reduced by reasonable expenses involved (e.g. costs of searching for owners, costs of transportation, storage and valuation of property), then the property shall belong to the organization or individual discovering such property;

- If the property value is ten times greater than the base pay rate regulated by the State (at the time of spotting and handing in of property) after being reduced by rational expenses involved, the organization or individual discovering the property shall be entitled to the property value equaling ten times as much as the base pay rate regulated by the State and 50% of the value of the portion which is ten times greater than the base pay rate regulated by the State, and the residual value shall be owned by the State.

b) The competent entity or person specified in clause 2 of Article 27 herein shall decide the rate of enjoyment of the organization or individual randomly discovering the buried, concealed or sunken property.

c) In case where the organization or individual spotting or discovering the buried, concealed or sunken property fails to report or hand in the property to the competent entity or person in accordance with regulations in force, they shall not be entitled to gain the value of such property and shall be subject to administrative penalties or criminal prosecution as per law.

d) The organization or individual entitled to the property value as provided in clause 5 of this Article shall not be allowed to enjoy all or part of the value of property prescribed in clause 6 of this Article; the organization or individual entitled to all or part of the value of property specified in clause 6 of this Article shall not be allowed to enjoy the property value under the provisions of clause 5 of this Article.

7. Rates of payment of the property value to the organization or individual spotting and handing in the dropped or negligently left property

a) The organization or individual spotting and handing in the dropped or negligently left property which is neither the historical - cultural relic, national treasure or antique, nor the property related to the national defence and security, with its value ten times greater than the base pay rate regulated by the State (at the time of discovering and handing in such property) after storage costs have already been deducted, they shall be entitled to enjoy the property value equal to ten times as much as the base pay rate regulated by the State and 50% of the value of the portion ten times more than the base pay rate regulated by the State.

b) The entity having jurisdiction to approve the plan for disposal of property as per clause 3 of Article 19 herein shall decide the rate of the property value that the organization or individual spotting and handing in the dropped or negligently left property may be offered.

c) The organization or individual entitled to the property value as provided in clause 5 of this Article shall not be allowed to enjoy the part of the value of property prescribed in this clause; the organization or individual entitled to the part of the value of property specified in this clause shall not be allowed to enjoy the property value under the provisions of clause 5 of this Article.

### **Article 31. Funding**

1. As for the property disposed of in the form of sale, the funding for payments shall be derived from proceeds of sale of the property that have already been remitted to the escrow account the state regulatory authority (e.g. Ministry of Finance, Department of Finance, Division of Finance – Planning) has opened at the State Treasury. In case the proceeds of sale of the property are not sufficient to pay expenses and there is the balance in the escrow account of each entity or unit disposing of the property, such amount shall be used for paying these expenses and the state budget's subsidies must be granted in accordance with regulations in force in case of inadequacy of funding.

2. As for the property disposed of in another form (e.g. transfer or destruction), the funding for payments specified in Article 29 herein shall be distributed as follows:

a) The state budget expenditures in the annual estimate of the entity authorized to preside over management of property shall be used to ensure the adequate funding for disposal of property.

b) As for the property transferred to specialized regulatory authorities for their management, disposal or transfer to other entities or organizations for their management and use, the funding for payment of costs incurred prior to receipt of the decision on approval of the plan for disposal of property from the competent entity or person shall be subject to point a of this clause; costs incurred from the date of receipt of the decision on

approval of the plan for disposal from the competent entity or person to the date of completion of transfer of the property shall be covered by the entity or organization receiving the property.

3. The funding for payment of rewards and payments for the portion of value of the dropped or negligently left property discovered and handed in by organizations or individuals shall be subject to provisions laid down in clause 1 and 2 of this Article.

4. The funding for payment of rewards and the portion of value of the property to the organization or individual randomly discovering the property and costs related to the exploration, excavation and salvage for disposal of the buried, concealed or sunken property shall be subject to the following regulations:

a) If the buried, concealed or sunken property already discovered is returned to the legitimate owner, he/she shall be responsible for paying associated expenses specified in clause 3 of Article 29 herein.

b) If the buried, concealed or sunken property already discovered is transferred to the state regulatory authority having jurisdiction to store and manage the property, that authority shall be responsible for paying related expenses by using the state budget allocations or other legal revenues in accordance with law.

c) If the buried, concealed or sunken property already discovered is destroyed, the state budget shall cover these payments; the buried, concealed or sunken property already discovered is subject to disposal of an entity, that entity's budget shall cover these payments.

d) If the buried, concealed or sunken property already discovered is sold, payment amounts shall be derived from proceeds of sale thereof. In case where the proceeds obtained from sale of the buried, concealed or sunken property already discovered are not sufficient to offset expenses, the state budget shall pay the differential amount in accordance with laws on state budget in force.

dd) As for the sunken property causing danger to maritime activities, after being salvaged and put up for auction, if the proceeds are not enough to make up for expenses and the owner is unable to make payment or the owner of that property is not identified, maritime safety assurance charges shall be offset against that deficient amount; if costs of salvage of the sunken property exceed total amount of maritime safety assurance charges, the state budget shall give additional allocations.

e) If the buried, concealed or sunken property has not yet been excavated or salvaged owing to inconformity with requirements, the budget of the local government of the place where the property is located shall be responsible for ensuring the adequate funding for protection of such property.

## **Article 32. Processes and procedures for payment of costs of management and disposal of property eligible for being under the established all-people ownership**

1. Spending amounts qualified for being repaid must have appropriate and valid invoices in accordance with regulations in force. In case where amounts are spent by the competent entity or person (e.g. cost of assessment, cost of care and rescue of animals and other cost), receipts of that entity may be used as a basis for repayment.
2. Department of Finance in a province or centrally-affiliated city shall be authorized to approve expenses for disposal of the property of which the all-people ownership is established under the decision issued by the competent person under the management of a central entity and the competent person under the management of a provincial entity; Division of Finance – Planning at the district level shall be authorized to approve expenses for disposal of the property of which the all-people ownership is established under the decision issued by the competent person under the management of a district- or commune-level entity.
3. Payment of expenses shall be based on the actual rational and valid spending amount for each case or the lump-sum amount regulated by the competent entity or person.

In case of the regular property eligible for being under the established all-people ownership, based on the current conditions of management and disposal of that property, the Minister and Head of a central entity, the People's Committee of a province or centrally-affiliated city shall regulate the ratio (rate) of lump-sum payment of expenses for management and disposal of that property to (compared to) total proceeds from disposal of the property for the entity presiding over management and disposal of property under the management of the ministry, sectoral administration or locality for the uniform application of such ratio (amount). The rate of lump-sum payment shall not be allowed to exceed 40% of total proceeds from disposal of the property eligible for being under the established all-people ownership; the entity presiding over management of the property may, of its own accord, use lump-sum amounts for payment of expenses specified in regulations in force.

In case where, in the course of disposal of the property, the actual amount of expenses for disposal exceeds the lump-sum amount of payment and there are all required documents evidencing that payment for disposal of property is necessary and appropriate, the entity presiding over management and disposal of the property shall have to report to the financial entity having jurisdiction to approve spending amounts defined in clause 2 of this Article to seek its decision.

4. As for criminal cases or administrative cases shifted to criminal cases which are subject to suspension, within duration of 1 year from the date of issue of the decision on suspension, the entity presiding over management of property shall be responsible for paying costs associated with the management and disposal of confiscated exhibits involved in these cases by using the funding specified in Article 31 herein.

5. As regards the buried, concealed or sunken property, or the dropped or negligently left property, processes and procedures for payment of rewards to organizations or individuals discovering property shall be regulated as follows:

a) The organization or individual qualified for a reward sends the written request for such reward to the entity tasked with receiving and keeping custody of the property.

b) Within duration of 30 days of receipt of the written request from the organization or individual specified in point a of this clause, the entity tasked with receiving and keeping custody of the property shall be responsible for appealing to the competent entity or person to make a decision on the particular rate of reward. The decision on the rate of reward shall contain the following information:

- Legal bases for rewarding the organization or individual;
- Name of the organization or individual offered the reward;
- Rate of payment of reward to the organization or individual;
- Rewarding deadline;
- The entity responsible for granting the reward;
- Funding for the reward.

The rewarding decision shall be sent to the reward beneficiary, the entity responsible for granting the reward and the same-level financial entity.

c) In case where the funding for reward is financed by the state budget, legitimate revenues of the entity having jurisdiction to store and manage the property and maritime safety assurance charges, based on the decision on the rate of reward issued by the competent entity or person prescribed in point b of this clause, the entity assigned to pay for the reward shall be responsible for explaining the use of these funding sources to the competent entity or person or, within their jurisdiction, deciding such use for offer of rewards in accordance with law.

d) Within duration of 90 days of receipt of the decision on the rate of reward from the competent entity or person, the entity charged with paying for rewards shall make payment for rewards to organizations or individuals entitled to these rewards in accordance with regulations in force.

6. Processes and procedures for payment of the portion of value of the property to the organization or individual randomly discovering the buried, concealed or sunken property or the dropped or negligently left property of which owners are not identified.

a) Determining the property value used as a basis for payment.

- As for the property disposed of in the form of an auction, the property value used as a basis for calculation of payment shall be determined according to the winning bid;

- With respect to the property disposed of in other form, the property value shall be determined by the Valuation Committee referred to in Article 34 herein.

b) Making payment in case of discovering the property whose value is equal to ten months' minimum pay rate.

- If the property has value equaling ten months of minimum pay regulated by the State (at the time of spotting and handing in of the property), after being reduced by rational expenses involved, the property shall be paid in kind to the organization or individual randomly discovering such property;

- Upon receipt of the property, the organization or individual randomly discovering the property shall be responsible for paying rational expenses involved (e.g. cost of searching for owners, cost of transportation, storage and valuation of the property). In case where the organization or individual randomly discovering the property refuses to take the property or fails to pay rational expenses involved, that property shall belong to the State.

c) As for payment made in the event that the discovered property has value greater than ten months' minimum pay rate regulated by the State at the time of spotting and handing in of the property (after rational expenses involved have been taken away), the organization or individual randomly discovering the property shall be entitled to payment as follows:

- In case where the organization or individual randomly discovering and handing in the property wishes to be paid (in kind) by that property which cannot be divided, they shall be entitled to such in-kind payment and shall be responsible for paying rational expenses involved and the portion of value of the property belonging to the State;

- In case where the organization or individual randomly discovering and handing in the property wishes to be paid (in kind) by that property which can be divided, they shall be entitled to such in-kind payment equal to the portion of value of property to which they are entitled in accordance with regulations in force.

d) Payment processes and procedures.

- The organization or individual qualified for receiving payment of the portion of the property sends the written request for such payment to the entity tasked with receiving and keeping custody of the property;

- Within duration of 30 days of receipt of the written request, the entity tasked with receiving and keeping custody of the property shall be responsible for appealing to the competent entity or person to make a decision on the particular rate of payment to which that organization or individual is entitled. The decision on the rate of payment shall

contain the following information: Legal bases for payment of the portion of the property value to the organization or individual randomly discovering and handing in the property; name of the organization or individual entitled to the payment of the value of the property randomly discovered and handed in; the portion of the property value paid to the organization or individual randomly discovering and handing in the property; expenses that organization or individual has to repay (if any); form of payment (in kind or in cash); payment deadline; funding for payment (in case of cash payment); the entity charged with paying the portion of the property value to the organization or individual randomly discovering and handing in the property.

The decision shall be sent to the payee, the entity responsible for making payment and the same-level financial entity.

- In case where the funding for payment is financed by the state budget, legitimate revenues of the entity having jurisdiction to store and manage the property and maritime safety assurance charges, based on the decision on payment of the portion of the property value issued by the competent entity or person to the entity or person randomly discovering and handing in the property, the entity assigned to make payment shall be responsible for appealing to the entity or person having competence in issuing decisions on or, within their jurisdiction, deciding the use of these funding sources for making payment in accordance with law.

- Within duration of 90 days of receipt of the decision on the rate of payment to which the organization or individual randomly discovering and handing in the property is entitled from the competent entity or person, the entity held responsible for making payment shall make payment to the organization or individual eligible for such payment in accordance with regulations in force;

- In case where the organization or individual randomly discovering and handing in the property wishes to be paid the portion of the property value in cash, they shall be entitled to such cash payment of the portion of the property value to which they are entitled in accordance with regulations in force. The in-kind or cash payment of the portion of the property value to the organization or individual randomly discovering the property shall be subject to the decision issued by the competent entity or person referred to herein.

### **Article 33. Management of proceeds from disposal of property**

1. All proceeds from disposal of property shall be remitted to the escrow account at the state treasury of which the holder is the entity assigned to perform the task of managing public property according to the instructions of the Ministry of Finance. After spending amounts prescribed in Article 29 herein have been taken away, the residual amount shall be remitted to the state budget in accordance with laws on state budget.

2. If the property is disposed of by the centrally-affiliated entity, the proceeds from the disposal of the property shall be remitted to the central government's budget; if the

property is disposed of by the locally-affiliated entity, the proceeds from the disposal of the property shall be remitted to the local government's budget.

**Article 34. Valuation of the buried, concealed or sunken property and the dropped or negligently left property as a basis for offering rewards or making payment of the portion of the property value to make up for related expenses to the organization or individual randomly discovering the property**

1. The entity or person having jurisdiction to approve the plan for disposal of the buried, concealed or sunken property shall make a decision on establishment of the Valuation Committee to determine the value of such property (hereinafter referred to as Valuation Committee).

2. The Valuation Committee shall be joined by:

a) Head of the entity issuing the decision on establishment of the Committee or the authorized person who holds the office of the Committee's Chair.

b) Representative of the financial entity (e.g. Ministry of Finance, with respect to the buried, concealed or sunken property disposed of under the approval decision on the disposal plan issued by the central-level competent entity or person; Department of Finance, with respect to the buried, concealed or sunken property disposed of under the approval decision on the disposal plan issued by the local-level competent entity or person).

c) Representative of the entity assigned to receive and keep custody of the property.

d) Representative of the technical entity or experts on property.

dd) Other relevant members.

3. The minimum number of the Valuation Committee's members shall be 05 persons.

Representative of the organization or individual randomly discovering or contributing to discovering and providing information about the buried, concealed or sunken property shall be entitled to participate in the Valuation Committee's meetings and may express their opinions, but shall have no right to vote.

4. Operational rules of the Valuation Committee

a) The Valuation Committee shall work according to the collective rules. The Valuation Committee's meetings must be attended by at least 2/3 of total members. In order to be passed, the Valuation Committee's decision must be voted for by more than half of the Committee's members and shall be made in writing. In case assenting and dissenting votes are equal, the voting side of the Committee's Chair shall prevail.

b) The Valuation Committee shall prepare a report on valuation of the property. The report on valuation of the property must fully describe the valuation process in a timely, sufficient and truthful manner.

c) The valuation report shall contain the following main information: Full name of the Valuation Committee's Chair and members; full name of persons participating in valuation meetings; valuation time and venue; results of survey of the property value; opinions of the Valuation Committee's members and participants in valuation meetings; results of the vote on value of the property in the Valuation Committee; valuation completion time and venue; signatures of the Committee's members.

The valuation report must be stored in property valuation documentation.

5. The Valuation Committee shall be responsible for valuing the buried, concealed or sunken property in accordance with laws on valuation principles, methods and norms. Where necessary, the Valuation Committee may hire a body qualified to determine the value of the buried, concealed or sunken property to seek its advisory opinions before making decision.

6. The value of the property determined by the Valuation Committee shall be used as a basis for:

a) Offering rewards to organizations or individuals under the provisions of this Decree.

b) Making payment of the portion of the property value to the organization or individual randomly discovering the property, except in case such property is put up for auction.

c) Paying costs of exploration, excavation or salvage of the property in the event that the competent entity or person decides to make the in-kind payment which is confirmed after completion of the excavation or salvage.

d) Setting the starting bid in an auction.

7. Overheads of the Valuation Committee and costs of hiring of a qualified valuation body (if any) shall be all charged into total costs of disposal of the property and shall be repaid under the provisions of this Decree.

8. In special cases where it is unlikely that the value of the property is determined, the Valuation Committee shall send the competent entity or person a written notification of such situation in order to seek its decision on the rate of reward in accordance with regulations in force.

## **Chapter V**

### **REPORTING REGIME AND DATABASE OF PROPERTY UNDER THE ESTABLISHED ALL-PEOPLE OWNERSHIP**

### **Article 35. Regime for reporting of property under the established all-people ownership**

1. After being put under the established all-people ownership, all property must be reported to specialized regulatory authorities or entities tasked with managing public property, and shall be input into the national database of public property for the uniform management purpose.
2. Within duration of 07 working days of receipt of the confiscation decision or the decision on establishment of the all-people ownership of property from the competent entity or person, the entity presiding over management of property shall prepare an informative report and given an update on such property so that all latest information about the property are input into the national database of public property.
3. Within duration of 07 working days after completion of disposal of property according to the disposal plan approved by the competent entity or person, the entity presiding over management of property shall update the national database of public property with results of disposal of such property.
4. The entity tasked with management of public property shall be responsible for reporting on the property under the established all-people ownership upon the request of the competent entity or person in accordance with law.

### **Article 36. Database of property under the established all-people ownership**

1. Management of and access to the database of property under the established all-people ownership:
  - a) Database of property under the established all-people ownership is a component of the National Database of public property, is built and subject to the uniform management nationwide.
  - b) Electronic information in the database of property under the established all-people ownership that is provided by competent authorities has the same legal value as documentary information.
  - c) The database of public property under the established all-people ownership is the public property and must be strictly secured and protected; any act of all illegal access to the database, destruction of the database and falsification of information in the database shall be strictly prohibited.
  - d) Access to and use of information and data about construction projects must observe regulations in force; the deliberate use or access to data and information not permitted by state regulatory authorities shall be strictly banned.

dd) Contents, structure and method of input of data in and access to the database of property under the established all-people ownership shall be subject to the regulations promulgated by the Ministry of Finance.

2. Responsibility for building the database of property under the established all-people ownership

a) Ministry of Finance shall be responsible for undertaking the building, management and operation of the database of property under the established all-people ownership.

b) Other ministries, central agencies, provincial-level People's Committees shall take charge of preparing the informative report, updating information and ensuring connection and integration with the database of property under the established all-people ownership.

## **Chapter VI**

### **IMPLEMENTATION PROVISIONS**

#### **Article 37. Entry into force and implementation**

1. This Decree shall enter into force from the signature date.

2. This Decree shall replace the Government's Decree No. 29/2014/ND-CP dated April 10, 2014, prescribing authority and procedures for establishment of the State ownership of property and management or disposal of property under the established all-people ownership, and the Government's Decree No. 96/2009/ND-CP dated October 30, 2009 on disposal of buried, concealed or sunken property spotted or discovered on the mainland, islands and waters of Vietnam.

3. As for the property of which the all-people ownership is established before the entry into force of this Decree, but which has not obtained the approval decision on the disposal plan from the competent entity or person, the management and disposal of such property shall be subject to provisions laid down herein. In case where the property has obtained the approval decision on the disposal plan before the entry into force of this Decree, but the disposal has not been completed, disposal and management activities, and use of proceeds from disposal of such property, shall be continued under the provisions of this Decree.

4. Ministers, Heads of Ministry-level agencies, Heads of Governmental bodies, Chairpersons of People's Committees of centrally-affiliated cities and provinces, and Heads of other entities concerned, shall be responsible for implementing this Decree./.

**PP. GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

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