

THE MINISTRY OF FINANCE

**CIRCULAR No. 116/2004/TT-BTC OF
DECEMBER 7, 2004 GUIDING THE
IMPLEMENTATION OF THE GOVERNMENT'S
DECREE No. 197/2004/ND-CP OF DECEMBER
3, 2004 ON COMPENSATION, SUPPORT AND
RESETTLEMENT WHEN LAND IS
RECOVERED BY THE STATE**

Pursuant to the November 26, 2003 Land Law;

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

*Pursuant to the Government's Decree No. 197/
2004/ND-CP of December 3, 2004 on
compensation, support and resettlement when land
is recovered by the State,*

*The Finance Ministry hereby guides the,
compensation, support and resettlement when land
is recovered by the State as follows:*

Part I

GENERAL PROVISIONS

1. Scope of application

This Circular guides a number of contents of land compensation, property compensation, resettlement support and arrangement policies, and organization of the compensation, support and resettlement when land is recovered by the State for cases prescribed in the Government's Decree No. 197/2004/ND-CP of December 3, 2004 on compensation, support and resettlement when land is recovered by the State (hereinafter referred to as Decree No. 197/2004/ND-CP).

2. Subjects of application defined in Article 2 of Decree No. 197/2004/ND-CP are specified as follows:

Domestic organizations, population communities, religious establishments, households and individuals, overseas Vietnamese, foreign organizations and individuals that are using land to be recovered by the State (hereinafter collectively referred to as persons who have land recovered) and fully meet conditions for compensation for land and/or property shall receive compensations according to regulations; where they have no accommodation after their land is recovered, they shall be resettled.

Neither compensation shall be paid to nor resettlement shall be arranged for:

a/ Persons who rent or borrow the land of persons who have land recovered;

b/ Persons who have agreed to contribute capital to joint ventures or partnerships but not yet transferred their land use rights and/or property ownership rights to the joint-ventures or partnerships;

c/ Other subjects not assigned or leased land by the State.

The handling of compensation money and support money (if any) between the persons with lawful land use rights and the owners of property existing on the recovered land who are renters or borrowers of such land or are joint-venture or partnership capital contributors shall comply with regulations on civil relations and the signed economic contracts.

3. Payment of money for compensation, support and resettlement prescribed in Article 3 of Decree No. 197/2004/ND-CP is specified as follows:

3.1. For cases where land is recovered by the State for use for the purposes defined in Clause 1, Article 1 of Decree No. 197/2004/ND-CP, the State must organize the compensation, support and resettlement.

3.2. Persons who are assigned or leased land by the State for use for the purposes defined in Clause 1, Article 1 of Decree No. 197/2004/ND-CP shall be obliged to pay money for compensation, support and resettlement. Foreign organizations and individuals or overseas Vietnamese that invest in Vietnam and are assigned land by the State with the collection of land use levies or are leased land by the State shall not have to bear expenses for compensation, support and resettlement.

Where the persons who are assigned land or leased land by the State with the collection of land use levies or land rents respectively but have to pay money for compensation, support and resettlement to persons who have land recovered, such compensation, support and resettlement money shall be subtracted from the payable land use levies or land rents. The specific levels of

subtraction are prescribed in the Government's decree on the collection of land use levies or the Government's decree on the collection of land rents.

4. The resettlement prescribed in Article 4 of Decree No. 197/2004/ND-CP shall apply to only one of the following cases:

4.1. Households and individuals that must be relocated because all of their residential land is recovered or their remaining land area, after recovery, is smaller than the local limit for assignment of new residential land (except for cases where households and individuals have no resettlement requirements).

4.2. The remaining land areas after recovery are not suitable to the plans on building of dwelling houses of households or individuals.

4.3. Households and individuals using residential land located in the safety corridors when public works with safe protection corridors are built need to be relocated.

4.4. Other cases decided by the presidents of the People's Committees of provinces or centrally-run cities (hereinafter collectively referred to as provincial-level People's Committees) in accordance with current land legislation and the local realities.

Part II

COMPENSATION, SUPPORT FOR LAND

1. The compensation principles are laid down in Article 6 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

1.1. Clause 2 provides that persons who have land recovered shall be compensated in the form

of assignment of new land with the same use purpose; if no land is available for compensation, they shall receive compensations equal to the land use right value at the time of issuance of recovery decisions; following are some specific cases:

a/ Persons who are allowed to use agricultural land according to law provisions but arbitrarily use such land as non-agricultural land shall only receive compensations applicable to agricultural land;

b/ Persons who are allowed to use non-agricultural land (other than residential land) according to law provisions but arbitrarily use such land as residential land shall only receive compensations applicable to non-agricultural land (other than residential land).

Compensation shall take the form of assignment of new land with the same use purpose; if no land is available for compensation, compensation shall be paid in dwelling house or money as may be suitable to the local realities.

1.2. Clause 3 provides that land users who are entitled to compensation when their land is recovered by the State but have not yet fulfilled the land-related financial obligations according to law provisions shall have the money amounts payable for the fulfillment of their financial obligations subtracted from their compensation and/or support money for payment to the State budget. Financial obligations include: payable land use levies, land rents payable for land leased by the State; tax on incomes (if any) earned by the persons who have land recovered from the transfer of the rights to use other land plots, fines payable for violations of land legislation, money compensated to the State for damage caused in land management and use, charges and fees in land management and use.

Where the payable land-related financial obligation amounts are bigger than or equal to the

land compensation money amounts, the maximum to be subtracted amount shall be equal to the land compensation money amount.

1.3. Land areas to be compensated are land users' to be-recovered areas actually measured in the field.

2. Conditions for entitlement to compensations for land are defined in Article 8 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

2.1. Clause 2 provides for the issuance of land assignment decisions of competent State bodies prescribed by land legislation, which means that the bodies with land-assigning competence must be those prescribed by land legislation at the time of decision.

2.2. Some types of papers defined in Clause 3 are specified as follows:

a/ Point a providing for land use right papers issued before October 15, 1993 by competent bodies in the process of implementing the land policies of the State of the Democratic Republic of Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam or the State of the Socialist Republic of Vietnam shall be implemented under the guidance of the natural resources and environment agency;

b/ Point c provides for lawful papers on inheritance or donation of land use rights or property attached to land, papers on hand-over of gratitude houses attached to land, including:

- Inheritance papers as prescribed by law;
- Papers on donation of houses and land, notarized or certified by the commune-level People's Committees at the time of donation;
- Papers on hand-over of gratitude houses attached to land, issued by the house-handing

agencies or organizations and certified by the commune-level People's Committees.

c/ Point e providing for papers on dwelling-house liquidation or purchase of dwelling houses attached to residential land according to law provisions is guided as follows:

- Dwelling houses with papers on dwelling-house liquidation or purchase of dwelling houses attached to residential land must be State-owned ones;

- State-owned dwelling houses include: dwelling houses taken over from the former regime; derelict houses over which State ownership has been established; dwelling houses created with State budget capital; houses created with money originating from the State budget; dwelling houses created jointly by the State and people; other State-owned dwelling houses;

- Having papers on dwelling-house liquidation or purchase of dwelling houses attached to residential land under the State ownership, which were made before July 5, 1994;

- Having papers on purchase of State-owned dwelling houses from administrative, non-business agencies or units, people's armed force units, State-run mass organizations, State-owned enterprises or organizations specialized in dwelling house management as prescribed in the Government's Decree No. 61/CP of July 5, 1994 on dwelling house purchase, sale and dealing.

2.3. Clause 6 provides for households and individuals currently using land without any papers defined in Clauses 1, 2 and 3, Article 8 of Decree No. 197/2004/ND-CP while such land has been in stable use since before October 15, 1993, regardless of whether the land users have used such land since before October 15, 1993 or after October 15, 1993, if they now have certifications

of the commune-level People's Committees that such land, when recovered by the State, is dispute-free, they shall be entitled to compensation.

3. Land prices for calculation of compensations and remaining expenses invested in land are prescribed in Article 9 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

3.1. Clause 1 provides that the land price for compensation calculation must be that of the land with the same use purpose as the recovered land at the time of issuance of land recovery decisions, which is publicized by the provincial-level People's Committee on January 1 every year according to the Government's regulations; compensations shall be paid neither according to the price of the land to be used for another purpose after being recovered nor according to the price of the land which is in fact used for a purpose other than the purpose prescribed by law.

3.2. Clause 3 provides that remaining reasonable expenses invested in land are those actually invested by land users in their land for use for the permitted purposes and not yet recovered by the time such land is recovered by the State. The remaining expenses invested in land must be evidenced by sufficient dossiers, vouchers and facts. They shall be determined to be the total reasonable expenses, calculated in pecuniary terms, invested in land minus the money amount corresponding to the duration in which the land has been used. Remaining expenses invested in land include:

- Land use levy for the duration in which the land has not been used, for cases of assignment of land for definite terms, land rents already prepaid for the duration in which the land has not been used (with documents, invoices on the payment of such money).

- Expenses for ground fill-up, for land improvement based on the actual state of land when it is assigned or leased and suitable to the use purpose of such land. For cases where non-agricultural or residential land is recovered and compensation has been paid therefor according to the non-agricultural or residential land price, no compensation shall be paid for ground fill-up and/or land improvement expenses.

- Other related expenses.

The provincial-level People's Committees shall prescribe the identification of remaining expenses invested in land at the proposals of the provincial/municipal Finance Services to suit the local realities. No compensation shall be paid for expenses without sufficient evidencing dossiers, vouchers or facts.

4. Compensation and support for agricultural land of households and individuals are prescribed in Article 10 of Decree No. 197/2004/ND-CP; some contents of this Article are specified as follows:

4.1. Agricultural land defined in Article 10 includes: land planted with annual crops (land under rice cultivation, pasture land for husbandry, land planted with other annual crops), land planted with perennial trees; forestry land (land under production forests, protective forests or special-use forests); land under aquaculture; land under salt making, other categories of agricultural land defined in Clause 4, Article 6 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004 (hereinafter referred to as Decree No. 181/2004/ND-CP).

4.2. Clauses 1 and 3 provide for the case of compensation in the form of assignment of new land with the same use purpose. Depending on the actual local land funds, the new land area to

be assigned to each household must not exceed the recovered land area as well as the local limit for assignment of agricultural land. If no land is available for compensation, compensation shall be paid in cash according to the local price of agricultural land of the same category.

a/ In case of compensation in the form of assignment of new land with a price lower than that of the recovered land, persons who have land recovered shall not only be assigned new land but also receive compensation money equal to the value difference; if the recovered area is larger than the newly assigned land area, compensation money shall be paid for the land area difference (larger);

b/ In case of compensation in the form of assignment of new land with a price higher than that of the recovered land, land of an area equivalent to the land use right value of the recovered land shall be assigned as compensation, depending on the local actual land funds.

4.3. Clause 2 provides for the compensation for agricultural land lying intermixedly with population areas, garden or pond land adjacent to residential land in population areas, in addition to compensation paid according to the price of agricultural land of the same category, support money shall be also provided. The land price for support money calculation shall be equal to between 20% and 50% of the price of adjacent residential land, specifically guided as follows:

- Agricultural land lying intermixedly with population areas must be land plots situated within population areas;
- Garden or pond land adjacent to residential and in population areas is a land plot with at least one side adjacent to residential land in population areas;
- The specific support levels within the range of

between 20% and 50% shall be decided by the provincial-level People's Committees at the proposals of the provincial/municipal Finance Services after consulting the concerned branches to suit the local realities.

4.4. Clause 5 provides for the compensation for the recovery of agricultural land assigned on a contractual basis by State-owned agricultural or forestry farms to households or individuals, which is specified as follows:

Such households or individuals directly engaged in agricultural production as their major source of livelihood must be farmers' households and, when their land is recovered by the State, they shall receive only compensations for remaining expenses invested in land together with supports, not compensations for land.

4.5. For forestry land already zoned off for forests for production and business purposes and already assigned by the State to households and individuals for long-term, stable use, when it is recovered by the State, compensation shall be paid for land. Where such land has not been assigned for long-term, stable use, when it is recovered by the State, compensation shall be paid only for expenses invested in such land, not for land.

For forestry land already zoned off for protective forests, special-use forests or land under protective forests or special-use forests assigned by the State to agricultural or forestry farms, People's Committees at all levels or protective forest or special-use forest management boards for management and then assigned by such agricultural or forestry farms, People's Committees at all levels or protective forest or special-use forest management boards to organizations, households and individuals for forest regeneration, tending and protection or plantation with the State budget capital under contracts, when it is recovered by the State,

households and individuals shall receive compensations for trees planted on such land but not compensations for land. The compensation level shall be equal to the product sharing level prescribed in Joint Circular No. 80/2003/TTLT/BNN-BTC of September 3, 2003 of the Finance Ministry and the Agriculture and Rural Development Ministry guiding the implementation of the Prime Minister's Decision No. 178/2001/QĐ-TTg of November 12, 2001 on the interests and obligations of households and individuals assigned, leased or receiving on a contractual basis forests and forestry land.

5. Compensation for non-agricultural land being residential land prescribed in Article 13 of Decree No. 197/2004/ND-CP is specified as follows:

5.1. For residential land determined under the provisions of Articles 50, 83, 84 and 87 of the 2003 Land Law and Articles 45, 46, 47, 48, 79 and 80 of Decree No. 181/2004/ND-CP, when it is recovered by the State, compensation money shall be paid according to the residential land price.

The determination of land as residential land for compensation applicable to residential land when such land is recovered by the State shall comply with the guidance of the natural resource and environment agency.

5.2. If the persons who have residential land recovered must be relocated, they shall be compensated in the form of assignment of new residential land, with dwelling houses for resettlement or with money calculated according to the land use right value at the time of issuance of recovery decisions.

6. The handling of some specific cases related to residential land prescribed in Article 14 of Decree No. 197/2004/ND-CP is specified as follows:

If the persons who have land recovered request the State to recover their remaining areas as guided

in Section 4, Part I of this Circular, such areas shall be compensated under the provisions of Decree No. 197/2004/ND-CP and the guidance in this Circular.

Where households or individuals having their residential land recovered but failing to meet all conditions for compensation and having no other accommodations after their land is recovered, the provincial-level People's Committees shall consider and assign new residential land to households or individuals in rural areas, consider and assign new residential land, sell or lease houses to households and individuals in urban areas, as may be suitable to the local realities.

7. Compensation for residential land to land use right co-holders prescribed in Clause 2, Article 15 of Decree No. 197/2004/ND-CP is specified as follows:

When land is recovered by the State, if, based on the land-related papers, it is impossible to determine that the land area falls under the exclusive use rights of any of the organizations or households, the provincial-level People's Committees shall guide the reception and division of land compensation money among these persons to ensure the principle that compensates directly receive compensation money and the total of compensation money amounts paid to each organization, household and individual co-holding the land use rights is equal to the total compensation money compensated for the whole land area under the common use rights.

8. Compensation for land within the safety corridors when works with safe protection corridors are built prescribed in Clause 2, Article 16 of Decree No. 197/2004/ND-CP is specified as follows:

8.1. Cases where the land use purpose is

caused to change:

a/ If the land use purpose is changed from residential land to non-agricultural land (other than residential land), from residential land to agricultural land, compensation equal to the difference between the residential land price and the non-agricultural land (other than residential land) price or between the residential land price and the agricultural land price shall be paid.

b/ If the land use purpose is changed from non-agricultural land (other than residential land) to agricultural land, compensation equal to the difference between the non-agricultural land (other than residential land) and the agricultural land price shall be paid.

8.2. Cases where the land use purpose is not changed (dwelling houses, works are eligible for existence within the safe protection corridors of works) but the land usability is restricted, compensation equal to the actual damage shall be paid. The compensation level shall be the land area with restricted usability multiplied by the difference between the land price before and the land price after the time of issuance of land recovery decisions. The specific levels shall be decided by the provincial-level People's Committees to suit the local realities.

8.3. When a work's safe protection corridor occupies over 70% of the land area being in use on which exists the dwelling house and/or work of a single land user, compensation shall also be paid for the remaining land area under the provisions of Point 8.1 or 8.2 of this Section.

9. Handling of cases where organizations have their land recovered but are not entitled to compensation prescribed in Article 17 of Decree No. 197/2004/ND-CP is specified as follows:

9.1. Organizations being the State's administrative and non-business agencies or units

and State enterprises which are assigned or leased land by the State but do not have to pay land use levies or have paid land use levies with money originating from the State budget shall not be entitled to compensation when their land is recovered by the State but shall receive compensation for remaining expenses invested in land under the guidance at Point 3.2, Section 3 of this Part (if such investment money does not originate from the State budget). Where they must be relocated, they shall receive support money for execution of investment projects approved by competent authorities; the maximum support level shall not exceed the level of compensation for recovered land paid by persons who are assigned or leased land by the State.

Organizations that have land recovered may use this support money for investment in their new places under projects approved by competent authorities. If this money is not used up for investment projects in new places, it must be remitted into the State budget in accordance with the provisions of the State Budget Law.

9.2. Organizations other than the subjects stated at Point 9.1 of this Section shall receive supports for relocation according to the plannings prescribed by the Prime Minister.

Part III

COMPENSATION, SUPPORT FOR PROPERTY

1. The principles for compensation for property are laid down in Article 18 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

1.1. Clause 1 provides for property attached to land, including houses, works built in separate units; houses, works built in systems within a land lot

(hereinafter referred to as houses, works), trees planted on land.

1.2. Clause 2 provides that no compensation shall be paid for property attached to land but created after the recovery decisions are publicized, including trees planted on land.

2. Compensation for houses, works built on land is prescribed in Article 19 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

2.1. Clause 2 provides for property being other houses, construction works (other than those defined in Clause 1), which is guided as follows:

a/ If the dismantlement of houses, construction works affects other works so that these works cannot be used according to their original designs and construction plans or must be dismantled, compensation therefor shall be paid;

b/ The determination of the percentage (%) of the remaining quality of damaged houses or works shall be undertaken by the agencies assigned with the compensation, support and resettlement work with the participation of specialized agencies. The percentage (%) of the remaining quality of houses or works shall be determined under the guidance of the Construction Ministry and the concerned ministries and branches;

c/ For technical infrastructures which are no longer or actually in use, no compensation shall be paid therefor when land is recovered by the State.

2.2. Clause 3 is guided as follows:

For the partially dismantled houses or construction works, if their remaining parts cannot be used; or if they affect other works on the same land lot so that such works, though still existing, cannot be used according to their original designs

and construction plans, compensation shall be paid for the entire works under the provisions of Article 19 of Decree No. 197/2004/ND-CP and the guidance in this Circular.

3. The handling of specific cases of compensation and support for houses, works is prescribed in Article 20 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

3.1. Clause 1 provides for other houses, works permitted to be built on land that meets all conditions for compensation, compensation shall be paid therefor under the provisions of Article 19 of Decree No. 197/2004/ND-CP and the guidance in this Circular.

3.2. Point a of Clause 2 provides for other houses, construction works built without permission on land that meets all conditions for compensation under the provisions of Article 8 of Decree No. 197/2004/ND-CP, if they are built before July 1, 2004, compensation shall be paid therefor under the provisions of Article 19 of Decree No. 197/2004/ND-CP and the guidance in Section 2 of this Part; if they are built from July 1, 2004 on and not for the law-prescribed land use purpose, no compensation shall be paid therefor. In special cases, the provincial-level People's Committees shall consider and provide supports on a case-by-case basis to suit the local realities.

4. Compensation for houses, works to current users of State-owned dwelling houses prescribed in Article 21 of Decree No. 197/2004/ND-CP is specified as follows:

4.1. Clause 1 provides for the areas of State-owned dwelling houses which are renovated, repaired or upgraded by the current users themselves, such areas shall be considered lawful when the renovation, repair or upgrading has been

permitted by the agencies issuing the house allocation decisions or the local agencies managing State-owned land and houses.

4.2. Clause 2 provides that current users of State-owned dwelling houses which are dismantled may rent houses in the resettlement places. In special cases where resettlement houses are not available for arrangement, such current users of State-owned dwelling houses shall receive support money to seek on their own for new accommodations; the support level shall be equal to 60% of the land value and 60% of the value of the currently rented houses. Where resettlement houses are available for arrangement but the current users of State-owned houses refuse to rent, they shall not be entitled to support money.

5. Compensation for planted trees and reared animals is prescribed in Article 24 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

5.1. Clause 1 provides that the level of compensation for annual crops shall be equal to the value of the harvested yield of a crop season; the value of the yield of a crop season shall be the highest productivity over the last three years of the local staple crop calculated according to the average local market price of the farm product of the same kind at the time of land recovery.

5.2. Clause 2 provides for compensation for perennial trees; perennial trees include industrial trees, fruit trees, trees for timber or leaves, and forest trees defined in Clause 1, Article 2 of the Government's Decree No. 74/GP of October 25, 1993 (detailing the implementation of the Law on Agricultural Land Use Tax. When the land is recovered by the State, compensation shall be paid according to the existing value of gardens, which, however, is exclusive of the land use right value.

The existing value of perennial gardens used for compensation calculation is determined as follows:

a/ For planted trees currently in the investment cycle or capital construction time, the existing value of a garden shall be the whole of initial investment expenses and tending expenses made up to the time of land recovery, calculated in pecuniary terms at the current local market prices;

b/ For perennial trees of a one-off harvest kind (trees for timber) currently in the harvest period, the existing value of a garden used for compensation calculation shall be equal to (=) the quantity of trees of each kind multiplied by (x) the selling price of one tree of the same kind, age and size or productive capability on the local market at the time of compensation minus (-) the recovered value (if any);

c/ For perennial trees of multiple-harvest kind (fruit trees, trees for oil, sap, etc.) currently in the harvest period, the existing value of a garden used for compensation calculation shall be the selling price of such garden on the local market at the time compensation minus (-) the recovered value (if any);

d/ For perennial trees already due for liquidation, compensation shall be paid only for the felling expenses incurred by garden owners.

Initial investment expenses, tending expenses and felling expenses mentioned in this Section shall be calculated in pecuniary terms according to the average local expense levels specified by the provincial People's Committees for each kind of tree.

5.3. For subsidiary trees and forest products planted on forestry land assigned by the State to households and individuals for forest plantation, tending, protection and regeneration, if the land, when being assigned, was bare land, hills or mountains and the households and individuals have planted forests with their own capital, compensation shall be paid according to the local

selling prices of forest trees of the same kind felled at forest entrance at the time of issuance of land recovery decisions minus the recovered value (if any).

6. The handling of compensation money for State-owned property prescribed in Article 25 of Decree No. 197/2004/ND-CP is specified as follows:

If organizations which have their land recovered by the State suffer from damage caused to the property assigned by the State to them for management and use; and must be relocated, they may use the property compensation money for investment in their new establishments under investment projects approved by competent authorities. This property compensation money shall be paid by the persons assigned or leased land by the State; if this money is not used up, the remaining amount shall be remitted to the State budget.

Part IV

SUPPORT POLICIES

1. Supports for life and production stabilization prescribed in Clause 2, Article 28 of Decree No. 197/2004/ND-CP are specified as follows:

When economic organizations or registered production and business households have their land recovered by the State and, as a result, have to stop production and business, they shall receive supports equal to no more than 30% of one year's after-tax income, according to the average income of the last three years. After-tax income shall be determined on the basis of the financial statements accepted by tax offices; where financial statements have not yet been accepted by tax offices, after-tax income shall be after-tax income declared by

the units in their year-end financial statements or production and business result reports already sent to tax offices.

2. Supports for job change and job creation prescribed in Article 29 of Decree No. 197/2004/ND-CP are specified as follows:

a/ The job change support for working-age laborers of households that have their agricultural land recovered shall take the form of partial support for job training at local job-training establishments. The specific support levels shall be decided by the provincial-level People's Committees to suit the local realities.

b/ Where the localities are not yet able to organize training for job change and owners of projects using the recovered land cannot organize job training or persons eligible for job training supports refuse to attend job training, supports shall be given in money, the specific levels of support money shall be decided by the provincial-level People's Committees to suit the local realities.

3. Supports for current tenants of non-State-owned houses prescribed in Article 30 of Decree No. 197/2004/ND-CP are specified as follows:

If households and individuals having local permanent household registration and currently renting non-State-owned houses must be relocated when land is recovered by the State, they shall receive supports for relocation expenses at the levels prescribed in Article 27 of Decree No. 197/2004/ND-CP provided that they must have house-renting contracts.

4. Other supports prescribed in Article 32 of Decree No. 197/2004/ND-CP are specified as follows:

Apart from supports prescribed in Articles 27, 28, 29, 30 and 31 of Decree No. 197/2004/ND-CP,

on the basis of the local realities, the provincial-level People's Committee presidents shall decide on other supportive measures to stabilize the life and production of persons who have land recovered. Additional support money shall be paid by persons assigned or leased land by the State; for land recovered according to land use plans and plans but land use projects are not yet available, land fund-using organizations shall have to pay such supports.

Part V

RESETTLEMENT

1. The resettlement arrangement is prescribed in Article 34 of Decree No. 197/2004/ND-CP; a number of clauses of this Article are specified as follows:

1.1. To publicize the resettlement arrangement plans; create conditions for to be-resettled households to have a look at their resettlement places and publicly discuss the planned arrangement of households into the resettlement areas.

1.2. The acreage of new residential land in the resettlement areas to be assigned to each household or individual shall not exceed the limit for assignment of new residential land set by the localities.

1.3. The land price for calculation of land use levies in the resettlement areas shall be decided by the provincial-level People's Committees according to the Government's regulations on the method of determining land prices and price brackets of land categories. The selling price of houses for resettlement shall be decided by the provincial-level People's Committees on the basis of construction prices and the local realities. House

rents shall be decided by the provincial-level People's Committees to suit the local realities.

Households and individuals that are assigned land, purchase or rent houses in the residential areas must pay land use levies, money for house purchase or renting according to law provisions and shall have such money deducted from their compensation and/or support money; if there is any difference, they shall have to pay for it in cash according to regulations.

1.4. Organizations assigned to manage the residential areas and arrange resettlement shall have to collect land use levies and house purchase money from the resettled persons.

2. Measures to support production and life in resettlement areas defined in Clause 1, Article 36 of Decree No. 197/2004/ND-CP include supports for seeds for the first agricultural production crop, services on agricultural promotion, plant protection, cultivation and husbandry techniques and skills for production, business, industry and commerce; on the basis of the local realities, the provincial-level People's Committee presidents shall decide to provide such supports in cash or in supplies as appropriate.

Part VI

ORGANIZATION OF COMPENSATION AND SUPPORT PAYMENT AND RESETTLEMENT

1. Order of compensation and support payment and resettlement

Organizations assigned the compensation and support payment and resettlement tasks must distribute declaration forms to the subjects that have land recovered by the State, guide them to make declaration and collect the completed

declaration forms, serving as a basis for making compensation, support and resettlement plans.

1.1. Persons who have land recovered shall declare the land acreage, grade, category and position, quantity and quality of property currently existing on the to-be-recovered land, number of household members and laborers, etc., their resettlement requirements (if any) and send their declarations to the organizations assigned the compensation and support payment and resettlement tasks.

1.2. Organizations assigned the compensation and support payment and resettlement tasks shall check the completed declaration forms and conduct the survey and measurement to concretely determine the to-be-recovered land acreage and the damaged property with the participation of the representatives of the local administrations (commune-level People's Committees) and the certification of the persons who have land recovered and/or property damaged. After conducting the survey and measurement, they shall determine the bases for, and work out tentative compensation, support and resettlement plans (tentative plans), publicly post them up at their offices and the offices of the commune-level People's Committees of the places where exists land to be recovered for comments of persons who have land recovered as well as the concerned subjects; the to-be-posted up contents include:

a/ Full names and addresses of persons who have land recovered;

b/ Acreage, grade, category, position and origin of the recovered land, quantity or volume, remaining percentage of quality, etc., of damaged property;

c/ Bases for calculation of compensation and/or support money, such as land price for compensation calculation, house and construction work prices for

compensation calculation, number of household members, laborers of working age, persons entitled to social allowances, places registered for moving to, etc.

d/ Subjects entitled to supports and resettlement, of each household or individual.

1.3. Organizations assigned the compensation and support payment and resettlement tasks shall have to consider people's comments, respond to inquiries... finalize the compensation, support and resettlement plans and submit them to the district-level People's Committees for approval or to the provincial/municipal Finance Services (provincial-level expertising councils) for expertise before submission to the provincial-level People's Committees for approval (for land recovery projects approved by provincial-level People's Committees).

1.4. After the compensation, support and resettlement plans are approved by the People's Committees of competent levels, organizations assigned the compensation and support payment and resettlement tasks shall have to publicly post them up at their offices and the offices of the commune-level People's Committees of the places where exists land to be recovered, announce the plans and schedules for compensation payment, resettlement and ground clearance.

2. A compensation, support and resettlement plan shall compose two parts:

Part I: Determining the levels of compensation and/or support for each person who has land recovered.

Part II: Resettlement arrangement plans, the land price for land use levy calculation, selling prices and rents applicable to houses in the resettlement area; money amounts payable by persons who have land recovered to the State

budget to fulfill their land-related financial obligations according to land legislation; money amounts payable for land use, purchase of houses in the resettlement area, etc.

3. Compensation and support payment and resettlement

3.1. Upon payment of compensation money to the persons who have land recovered and/or property damaged, full payment documents must be made and signed by persons entitled to such compensation and/or support money. Where the persons entitled to compensation authorize others to receive compensation money, they must make authorization papers containing the certification of the commune-level People's Committees of the places where they reside.

3.2. All documents related to the compensation, support and resettlement must be archived and managed by the organizations assigned the compensation and support payment and resettlement tasks according to current regulations.

4. Decentralization of the competence to approve compensation, support and resettlement plans

On the basis of the local realities, the nature and size of projects, the provincial-level People's Committees shall decentralize the competence to approve compensation, support and resettlement plans to the district-level People's Committees, ensuring quick and efficient compensation, support and resettlement.

support and resettlement work, drawn up by organizations undertaking the compensation, support and resettlement, shall cover the following contents:

1.1. Expenses for the propaganda and dissemination of land recovery decisions, compensation policies and regimes when land is recovered by the State; mobilization of the concerned subjects to abide by land recovery decisions and survey and investigation on the socio-economic situation, the actual conditions of land and property within the scope of the projects.

1.2. Expenses for the survey and evaluation of prices of actually damaged land and property, including the distribution of declaration forms to damage-suffering persons and guidance on the completion of such forms; measurement of land areas; inventory in terms of quantity and value of houses, architectural objects, crops and other property to be damaged when the land is recovered by the State for each organization, household and individual; checking to compare the declaration forms with the inventory results in order to determine the damage caused to each specific subject having land recovered; calculation of the value of such damage, etc.

1.3. Expenses for the making of compensation, support and resettlement plans, including the making of compensation plans from the computing of compensation criteria, the approval of compensation plans, the public posting up of compensation, support and resettlement plans and so on.

1.4. Expenses for the expertise of compensation, support and resettlement plans (if any).

1.5. Checking and guiding the implementation of compensation policies, settling problems in the

Part VII

EXPENSES FOR ORGANIZING AND IMPLEMENTING WORK

1. Cost estimates for the compensation,

compensation work and organization of compensation payments; expenses for the coercive execution of compensation decisions (if any).

1.6. Renting working offices and equipment for the organizations in charge of compensation, support and resettlement and expertising agencies (if any).

1.7. Expenses for printing and stationery.

1.8. Other expenses directly related to the compensation, support and resettlement.

The total cost estimate for the compensation, support and resettlement work shall not exceed the level prescribed in Clause 2, Article 48 of Decree No. 197/2004/ND-CP.

2. Levels of expense for the compensation, support and resettlement work are as follows:

2.1. For expense items for which norms and criteria have been set by the State, such as working trip allowance, expenses for conferences, meetings, measurement and survey to determine land areas, damaged property, overtime work, etc., they shall comply with current regulations.

2.2. For expense items for which norms and criteria have not yet been set by the State, such as those for field investigation and survey, making of compensation, support and resettlement plans, evaluation and approval of compensation plans, etc., depending on the requirements of the actual work to be undertaken and the characteristics of each project, the provincial-level People's Committees shall decide on the specific levels of expenses for application to their respective localities to suit the contents of each job.

2.3. For salaries or part-time job allowances of staff involved in organizing the compensation, they shall comply with the regulations on salaries and allowances in non-business units with revenues.

2.4. Expenses for printing documents, stationery, petrol, service logistics, etc... shall be paid according to the actual needs of each project.

2.5. Where organizations undertaking the compensation, support and resettlement must rent and set up working offices, such rents for working offices, equipment, etc., must comply with the actual average local rates.

On the basis of the approved cost estimates and the actual requirements of the compensation, support and resettlement tasks to be performed, organizations assigned the compensation, support and resettlement tasks shall receive advance amounts in cash for spending on each concrete item actually arising. They must make full documents for such spending.

3. Within 30 days after the end of the compensation, support and resettlement work, organizations undertaking the compensation, support and resettlement must send reports on the settlement of expenses therefor to the finance offices. Such settlement reports must correctly reflect the contents specified in this Circular and other relevant documents.

4. Funds to ensure the compensation, support and resettlement shall be calculated and applied in a uniform way to all projects in the same locality.

Part III

ORGANIZATION OF IMPLEMENTATION

This Circular takes effect 15 days after its publication in the Official Gazette.

This Circular replaces the Finance Ministry's Circular No. 145/1998/TT-BTC of November 4, 1998 guiding the implementation of the Government's Decree No. 22/1998/ND-CP of April

24, 1998 on the compensation for damage when land is recovered by the State for the defense and security purposes, national and public interests; Joint Circular No. 106/2002/TTLT/BTC-BCN of November 22, 2002 of the Finance Ministry and Industry Ministry guiding the compensation and support for the building of high-voltage power grids and the Finance Ministry's Official Dispatch No. 4448/TC-QI CS of September 4, 1999 guiding the settlement of some problems in the compensation and ground clearance work.

All previous regulations contrary to this Circular are hereby annulled.

Any problems arising in the course of implementation of this Circular should be promptly reported by the provincial/municipal People's Committees to the Finance Ministry for study and settlement.

For the Finance Minister
Vice Minister
HUYNH THI NHAN