

# THE GOVERNMENT

## DECREE No.143/2003/ND-CP OF NOVEMBER 28, 2003 DETAILING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE ORDINANCE ON EXPLOITATION AND PROTECTION OF IRRIGATION WORKS

### THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;*

*Pursuant to the Water Resources Law of May 20, 1998;*

*Pursuant to the April 4, 2001 Ordinance on Exploitation and Protection of Irrigation Works;*

*At the proposal of the Minister of Agriculture and Rural Development,*

### DECREES:

#### *Chapter I*

### GENERAL PROVISIONS

#### **Article 1.-**

1. This Decree details the implementation of a number of articles of the Ordinance on Exploitation and Protection of Irrigation Works.

2. The sanctioning of administrative violations in the field of exploitation and protection of irrigation works; the bracket of charge rates for waste water

discharge into irrigation works; the functions, tasks, powers and organizational apparatus of the specialized irrigation work exploitation and protection inspectorate shall be governed by separate regulations of the Government.

#### **Article 2.-**

1. The irrigation work-exploiting State enterprises conduct public-utility and production as well as business activities under the provisions of this Decree, the State Enterprise Law and other law provisions.

2. Water-using cooperative organizations exploit and protect irrigation works under the provisions of this Decree, the Civil Code, the Cooperative Law and other law provisions.

**Article 3.-** The exploitation and general use of irrigation works prescribed in Clause 5, Article 3 of the Ordinance on Exploitation and Protection of Irrigation Works are specified as follows:

1. The irrigation works are exploited and fully used in service of daily life, agricultural production, forestry, industry, mineral exploitation, electricity generation, communications and transport, aquaculture, salt production, sports, entertainment, tourism, convalescence, scientific research and for other purposes.

2. The exploitation and integrated use of irrigation works must comply with the plannings, plans, procedures, process, technical criteria, the provisions of this Decree and the provisions of relevant legislation;

3. Organizations and individuals wishing to provide services on exploitation and use of

irrigation works for the purposes mentioned in Clause 1 of this Article must sign contracts with organizations or individuals directly managing the irrigation works already decided by the competent State management agencies.

**Article 4.-** The criteria of irrigation works and systems of important national irrigation works comply with the provisions in Clause 7, Article 3 of the Ordinance on Exploitation and Protection of Irrigation Works, including:

1. Water reservoirs have the capacity of over 1,000,000,000 m<sup>3</sup> (one billion cubic meters) each.

2. Water reservoirs have the capacity of between 1,000,000 m<sup>3</sup> (one million cubic meters) and 1,000,000,000 m<sup>3</sup> (one billion cubic meters) but lie within concentrated population areas or regions where exist defense or security works.

The Minister of Agriculture and Rural Development shall prescribe the list of water reservoirs defined in Clause 2 of this Article.

**Article 5.-** The State prioritizes investment in, and support for, repair and upgrading of irrigation works in service of daily-life water supply, flooding and drought prevention and combat; scientific and technological, equipment renovation in service of the management of the exploitation and protection of irrigation works.

## **Chapter II**

### **EXPLOITATION OF IRRIGATION WORKS**

**Article 6.-** The assignment of irrigation works to water-using cooperative organizations or individuals under the provisions in Article 10 of the

Ordinance on Exploitation and Protection of Irrigation Works must comply with the following principles:

1. Determining accurately the value of the property at the time of assignment;

2. The exploitation and protection management must comply with the provisions in Article 3 of the Ordinance on Exploitation and Protection of Irrigation Works;

3. The persons in charge of technical matters must have certificates of irrigation operation, granted by training establishments of the agriculture and rural development service or the intermediate vocational training diploma (in water resource) or higher level;

4. In case of individuals, private enterprises must be set up for exploitation and protection of irrigation works.

Basing themselves on the practical conditions of their respective localities, the provincial/municipal People's Committees (hereinafter referred collectively to as the provincial-level People's Committees) shall specify the assignment of irrigation works to cooperative organizations using water or individuals for management, exploitation and protection.

**Article 7.-** The State enterprises which exploit irrigation works, apart from performing the tasks prescribed in Article 17 of the Ordinance on Exploitation and Protection of Irrigation Works, also have to perform the following tasks:

1. To register their business and conduct business strictly according to registered business lines; take responsibility before the State for their business activities and before the customers and

law for the products and services provided by the enterprises.

2. To efficiently use, preserve and develop capital assigned by the State, including capital invested in other enterprises (if any); to efficiently manage and use natural resources, land and other resources assigned to the enterprises by the State.

To use capital and resources assigned by the State for the attainment of business objectives and the performance of other tasks assigned by the State.

3. To use capital, funding and resources assigned by the State for the provision of products or public-utility services for subjects according to the price or charge brackets prescribed in Article 19 of this Decree;

4. To work out production and business plans compatible with the State-assigned tasks and market demands. The annual plans on public-utility activities must be approved by competent State agencies;

5. To fulfill obligations towards laborers as provided for by the Labor Code, ensuring the laborers' participation in the management of enterprises;

6. To observe the State's regulations on protection of natural resources, environment, national defense and security;

7. To observe the regime of statistical reports, periodical reports according to the State's regulations and extraordinary reports at the request of competent State management agencies; take responsibility for the accuracy of the reports;

8. To submit to the inspection by competent

State management agencies; to observe the inspection regulations of the finance bodies and competent State agencies according to law provisions;

9. To strictly observe the regimes and regulations on management of capital, assets and funds; on book-keeping, accounting, auditing and other regimes prescribed by the State; to be responsible for the truthfulness and legality of the enterprises' financial activities;

10. To publicize annual financial statements and information for correct and objective evaluation of the enterprises' operations.

11. In business operations, to fulfill the obligations to pay taxes and other State budget remittances as provided for by law.

12. In cases where public-utility enterprises conduct business activities, separate accounting must be conducted under the provisions of law.

**Article 8.-** The irrigation work- exploiting State enterprises, apart from the rights prescribed in Article 18 of the Ordinance on Exploitation and Protection of Water Works, shall also be entitled to enjoy the following rights:

1. For public-utility activities:

a) To organize their apparatuses suitable to the objectives and tasks assigned by the State;

b) To renovate technologies and equipment with capital sources brought about by business activities;

c) To open branches, representative offices at home and abroad according to law provisions;

d) To formulate and apply labor and supply

norms, wage unit price on product unit within the frameworks of norms and unit prices set by the State;

e) To recruit, hire seasonal laborers, to arrange, employ and train laborers, to select forms of payment of wages, bonuses and other interests by employers under the provisions of the Labor Code and other law provisions; to decide on levels of wages and bonuses for laborers on the basis of the wage unit price on product unit or service charges and efficiency of the enterprises' operations;

f) To use the assigned resources for organizing additional business activities under law provisions, but without affecting the fulfillment of principal objectives and the performance of main tasks of public-utility activities assigned to the enterprises *by the State*;

g) To make investment, enter into joint ventures or cooperation, to contribute stock capital under law provisions when so permitted by competent *State bodies*.

2. For business activities:

a) To exercise the rights prescribed at Points a, b, c, d and e, *Clause 1 of this Article*;

b) To engage in production and business lines compatible with the objectives and tasks assigned by the State; to expand business scale according to the enterprises' capability and market demands; to conduct additional business in other lines permitted by competent State bodies;

c) To make investment, to enter into joint ventures or cooperation, to contribute stock capital according to law provisions.

**Article 9.-** Water-using cooperative

organizations exercise the rights and perform the tasks, prescribed in Articles 17 and 18 of the Ordinance on Exploitation and Protection of Irrigation Works as well as other rights and obligations prescribed by this Decree, the Civil Code, the Cooperative Law and other law provisions.

**Article 10.-** Organizations and individuals that manage the exploitation and protection of irrigation works as prescribed in Clause 3, Article 9 of the Ordinance on Exploitation and Protection of Irrigation Works exercise the following rights and perform the following tasks:

1. To exercise the rights specified in Clauses 2, 5, 7 and 8, Article 18 of the Ordinance on Exploitation and Protection of Irrigation Works;

2. To perform the tasks defined in Article 17 of the Ordinance on Exploitation and Protection of Irrigation Works;

3. To exercise the rights and perform the obligations prescribed by the legislation on enterprises.

**Article 11.-** The subjects allocated funding under the provisions in Article 13 of the Ordinance on Exploitation and Protection of Irrigation Works shall apply only to the water work- exploiting State enterprises and water-using cooperative organizations, which manage, exploit and protect the irrigation works built with the State budget or sources originating from the State budget.

**Article 12.-**

The subjects and scope of application of the funding allocation prescribed in Clauses 1 and 2,

Article 13 of the Ordinance on Exploitation and Protection of Irrigation works are specified as follows:

1. Subjects entitled to funding allocation are irrigation work-exploiting State enterprises and water-using cooperative organizations which use mechanical pumps to conduct water irrigation and drainage in service of agricultural production.

2. The allocation of funding for water pumping to prevent and combat flooding and the allocation of funding for water pumping against droughts in excess of the norms shall only apply to pumping stations built under planning or pumping stations built to add to the operation according to the process approved by competent State bodies and mobile pumping stations included in the plans on flooding and drought prevention and combat;

3. Funding provided for water pumping against flooding only aims to pay for electricity, petrol and oil for the operation of mechanical pumps to combat flooding;

Funding provided for water pumping against droughts only aims to pay for electricity, petrol and oil consumed in excess of norms for operation of mechanical pumps against droughts in excess of the use norms to pump irrigation water under normal conditions.

The Ministry of Agriculture and Rural Development shall guide the elaboration of electricity, petrol and oil norms for water pumping against droughts as prescribed in Clause 3 of this Article.

**Article 13.-**

1. Annually, the subjects eligible for funding

allocation as provided for in Clause 1, Article 12 of this Decree must elaborate plans on allocation of funding for flooding and drought prevention and combat, which are included in their production and business plans and submit them to the competent State bodies for approval as provided for in Article 17 of this Decree.

2. The elaboration of plans on flooding and drought prevention and combat must take into account the demands for installation of reserve mobile pumping stations which are permitted to operate only in case of emergency in flooding or droughts which go beyond the capacity of fixed pumping stations and the service scope and acreage as well as electricity, petrol and/or oil consumption norms of each pumping station must be clearly determined.

3. The Ministry of Agriculture and Rural Development assumes the prime responsibility and coordinates with the concerned ministries, branches and provincial-level People's Committees in summing up the funding estimates for flooding and drought prevention and combat, report them to the Prime Minister and send them to the concerned ministries and branches;

4. The Ministry of Finance assumes the prime responsibility and coordinates with the Ministry of Planning and Investment and the Ministry of Agriculture and Rural Development in considering and arranging funding for flooding and drought prevention and combat in the local budget reserves and the central budget and submit them to the Government for approval together with the annual budget estimates;

5. In case of natural disasters, if the expenses for electricity, petrol and oil for flooding and/or

drought prevention and combat exceed the annual normal levels and the irrigation service charges are under-collected due to the prescribed charge exemption or reduction for water-using households, the irrigation work-managing and/or exploiting units shall be subsidized from the provincial-level budget reserve sources, for locally-run units, or from the central budget reserve sources, for centrally-run units.

In cases where the local budgets, after the budget rearrangement, the use of reserve or financial reserve funds, are still insufficient, the provincial-level People's Committees shall report such to the Prime Minister for consideration and decision on the additional allocations from the central budget.

**Article 14.-** The management and operation of pumping stations eligible for funding allocation under the provisions in Clauses 1 and 2, Article 13 of the Ordinance on Exploitation and Protection of Irrigation Works must ensure:

1. The compliance with the process of operating the systems, the process of operating each work, making the fullest use of capability to take in water for drought combat and to drain flood water with self-flowing works;

2. The full recording in operation books according to technical process;

3. The installation of electricity meters at the pumping stations in service of water pumping against flooding and/or droughts separately from the additional charges in service of other purposes;

4. Machinery, equipment, stations and canals, water-conducting and-draining canals must be repaired, well maintained and ready for operation

with high efficiency.

**Article 15.-** The process of considering and allocating funding for flooding and drought prevention and combat under the provisions in Clauses 1 and 2, Article 13 of the Ordinance on Exploitation and Protection of Irrigation Works shall be effected as follows:

1. Basing themselves on the use demands for electricity, petrol and oil in the approved plans for flooding and/or drought prevention and combat, the irrigation work-exploiting State enterprises and water-using cooperative organizations shall elaborate funding advance estimates for each production harvest and submit them to the competent State bodies prescribed in Article 17 of this Decree for approval, and shall be advanced with 30% of the approved funding estimates at the beginning of each crop season;

2. At the end of each production harvest, the irrigation work- exploiting State enterprises and the water-using cooperative organization must make reports evaluating the situation of water pumping in service of flooding and drought prevention and combat and the electricity, petrol and oil volumes already consumed, and submit them to the competent State bodies prescribed in Article 17 of this Decree for approval, which shall serve as basis for settlement of the entire funding already used.

**Article 16.-** The allocation of funding for irrigation work- exploiting State enterprises and/ or water-using cooperative organizations to offset irrigation charge revenue/losses due to crop failures as provided for in Clause 4, Article 13 of the Ordinance on Exploitation and Protection of Irrigation Works is specified as follows:

1. In cases where natural disasters cause crop failure, productivity and output losses and the water users request irrigation charge exemption or reduction, the irrigation work-exploiting State enterprises and/or water-using cooperative organizations shall have to report thereon to the competent agencies prescribed in Article 17 of this Decree for setting up the field inspection teams with the participation of representatives of the local administrations, or water users, representatives of farming, statistical, planning and finance sectors.

The field inspection teams shall consider and evaluate the damage extents and make written reports thereon to the competent State bodies prescribed in Article 17 of this Decree for consideration and issuance of decisions on the allocation of funding to cases of irrigation charge revenue losses.

2. The irrigation work- exploiting State enterprises and/or water-using cooperatives shall compile dossiers of application for the granting of funding for the lost amounts of irrigation charge revenue and submit them to the competent State agencies defined in Article 17 of this Decree for approval.

The irrigation charges shall be exempt or reduced at the following levels:

- a) Reduction of 50% of the irrigation charges for loss of under 30% of the output;
- b) Reduction of 70% of the irrigation charges for loss of between 30% and 50% of the output;
- c) Exemption of the irrigation charges for loss of 50% of the output or higher.

3. Funding allocated to cases of irrigation charge revenue losses due to crop failure caused by natural disasters shall be taken from annual

budget for natural disaster prevention and combat, prescribed in Clause 5, Article 13 of this Decree for allocation to irrigation work-exploiting State enterprises and/or water-using cooperative organizations.

**Article 17.-** Competence to approve plans and settlement of funding for flooding and drought prevention and combat, the allocation of funding for cases of irrigation charge revenue losses due to crop failure caused by natural disasters is stipulated as follows:

1. The Ministry of Agriculture and Rural Development approves the plans and settlement of funding for the irrigation work-exploiting enterprises under the Ministry;

2. The provincial-level People's Committees approve the plans and settlement of funding for irrigation work-exploiting State enterprises run by provinces or districts.

In cases where irrigation work-exploiting State enterprises serve many provinces but do not belong to the Ministry of Agriculture and Rural Development, the provincial-level People's Committees which directly manage such enterprises are competent to approve the plans and funding settlement at the requests of the system-managing councils.

3. The district-level People's Committees approve plans and funding settlement for water-using cooperative organizations.

**Article 18.-** The allocation of funding for restoration of irrigation works destroyed by natural disasters under the provisions in Clause 5, Article 13 of the Ordinance on Exploitation and Protection

of Irrigation Works is stipulated as follows:

1. In cases where *force majeure* natural disasters damage works and work items in the system, the irrigation work-exploiting State enterprises and/or water-using cooperatives shall have to conduct inspection and surveys, fully determine the damage, make reports thereon, and at the same time draw up schemes on work repair and restoration according to the current order and procedures for management of investment and capital construction and submit them to the competent State bodies for approval according to law provisions;

2. The allocation and use of funding for restoration of works destroyed by natural disasters shall comply with the investment and capital construction management order and procedures and other law provisions.

**Article 19.-**

1. The irrigation charge and water-using levy bracket prescribed in Clause 4, Article 14 of the Ordinance on Exploitation and Protection of

Irrigation Works is specified as follows:

a) The irrigation charges are collected in Vietnam dong.

Localities meeting with exceptional socio-economic difficulties are exempt from irrigation charges.

Localities meeting with socio-economic difficulties enjoy the irrigation charge reduction of between 50% and 70%.

The determination of the above localities shall comply with the provisions in Clauses 8 and 9, Article 2 of the Law on Domestic Investment Promotion.

Basing themselves on the practical situation of their localities, the provincial-level People's Committees shall specify cases of exemption or reduction and arrange budget for the above cases.

b) The irrigation charge rate bracket for organizations and individuals using water for cultivation of rice, vegetables, subsidiary food crops, winter crops, short-term industrial plants:

- Irrigation charge rate bracket for land under rice:

Unit: VND 1,000/ha

No.	Regions and work measures	Winter-Spring rice	Summer-Autumn rice	Summer rice
I	Mountainous areas nationwide			
	- Irrigation and drainage by motors	320 - 650		260 - 600
	- Irrigation and drainage by gravity	270 - 600		220 - 560
	- Irrigation and drainage by gravity in combination with motors	300 - 630		250 - 500
II	Red River delta			

	- Irrigation and drainage by motors	500 – 750		450 - 700
	- Irrigation and drainage by gravity	450 – 700		400 – 650
	- Irrigation and drainage by gravity in combination with motors	480 - 730		420 - 680
<b>III</b>	Northern midlands and Northern Region IV			
	- Irrigation and drainage by motors	440 – 740	410 - 710	390 - 690
	- Irrigation and drainage by gravity	410 - 710	380 - 680	360 - 660
	- Irrigation and drainage by gravity in combination with motors	425 - 720	395 - 690	375 - 670
<b>IV</b>	Southern Region IV and central coast			
	- Irrigation and drainage by motors	400 - 710	430 - 740	390 - 650
	- Irrigation and drainage by gravity	370 - 680	400 - 710	300 - 600
	- Irrigation and drainage by gravity in combination with motors	358 - 690	415 - 720	325 - 620
<b>V</b>	Central Highlands			
	- Irrigation and drainage by motors	350 – 660		300 - 620
	- Irrigation and drainage by gravity	300 - 610		270 - 590
	- Irrigation and drainage by gravity in combination with motors	330 - 640		300 - 600
<b>VI</b>	Eastern South Vietnam			
	- Irrigation and drainage by motors	420 - 730	390 - 700	340 - 650
	- Irrigation and drainage by gravity	390 - 700	360 - 670	290 - 600
	- Irrigation and drainage by gravity in combination with motors	405 - 690	375 - 680	310 - 670
<b>VII</b>	Mekong River delta			
	- Irrigation and drainage by motors	500 - 750	470 - 720	400 - 690
	- Irrigation and drainage by gravity	350 - 700	470 - 650	300 - 600
	- Irrigation and drainage by gravity in combination with motors	400 - 720	350 - 680	320 - 630

For cases of partial self irrigation or drainage, the rate shall be equal to between 50% and 70% of the above rates.

For cases of creation of irrigation sources, drainage, the rates shall range between 40% and 60% of the above rates.

For cases of taking advantage of sea tide for irrigation or drainage, the rates shall be equal to 70% of the irrigation and drainage charge rates in regions not affected by sea tide.

- For areas under vegetables, subsidiary food

crops, short-term industrial plants, including winter crops, the minimum irrigation charge rates shall range between 30% and 50% of the collection level for rice irrigation.

c) The irrigation charge bracket applicable to salt production is calculated as being equal to 2% of the finished-product salt.

d) The water-using levy bracket for organizations and individuals that use water or provide services from irrigation works for purposes other than food production:

No.	Water-using subjects	Unit	Collection by work measures	
			Electric pumping	Reservoir dams, canals
1	Supply water for use in industrial and cottage-industrial production	VND/m <sup>3</sup>	500 ÷ 1,000	250 ÷ 500
2	Supply water for daily-life water plants, husbandry	VND/m <sup>3</sup>	300 ÷ 800	250 ÷ 500
3	Supply water for irrigation of long-term industrial plants fruit trees, flowers, pharmaceutical plants	VND/m <sup>3</sup>	350 ÷ 500	250 ÷ 450
4	Supply water for aquaculture	VND/m <sup>3</sup>	200 ÷ 500	150 ÷ 350
		VND/m <sup>2</sup> of open water surface	100 ÷ 800	
5	- Aquaculture in irrigation reservoirs - Cage-fish rearing	% of the output value		7% ÷ 10% 8% ÷ 10%
6	Transport through dry lock, sluice gate of irrigation systems: - Boats, barges - Assorted rafts	VND/ton/transportation VND/m <sup>2</sup> /transportation		2,000 ÷ 3,000 500 ÷ 1,000
7	Using water from irrigation works for electricity generation	% of value of commercial electricity output		8% ÷ 12%
8	Using irrigation work for tourist business, rest and creation, convalescence, entertainment (including business in golf courts, casino, restaurants)	Total turnover value		10 ÷ 15%

In cases where water is taken in volume, the water charge bracket shall be calculated from the water-receiving places of water-using organizations or individuals.

2. The irrigation charge bracket prescribed in Clause 1 of this Article is calculated from the starting positions of the canals of the water-using cooperative organizations. The irrigation charge rates within the service scope of the water-using cooperative organizations shall be agreed upon between such cooperatives and organizations or individuals directly using the water according to the rate bracket prescribed in Clause 3 of this Article.

3. The provincial-level People's Committees shall base themselves on the irrigation charge rate, water-using levy brackets prescribed in Clause 1 of this Article to prescribe the specific charge rates suitable to the practical conditions of the local works systems under the decentralization of management of works; to prescribe the irrigation charge rate and water-using levy within the service scope of the water-using cooperatives.

4. At places where conditions permit the irrigation charge rates and water-using levy shall be collected in cubic meters of used water.

The Ministry of Agriculture and Rural Development shall guide methods and procedures for collection and payment of irrigation charges and water levies by cubic meters.

#### **Article 20.-**

1. The Ministry of Agriculture and Rural Development and the provincial-level People's Committees shall have to organize and direct the renovation and regular maintenance of irrigation works under their respective management.

2. The State enterprises exploiting irrigation works

and cooperatives using water, which directly manage, exploit and protect irrigation works, have the responsibility to renovate and regularly maintain the irrigation works.

3. Funding for renovation and regular maintenance of irrigation works shall be taken from irrigation charges, water-using levies and reserve budget sources to offset the charge amounts lost due to crop failure caused by natural disasters as provided for in Clause 5, Article 13 of this Decree, and the irrigation charge and water levy amounts exempt or reduced for the localities meeting with economic difficulties and localities meeting with exceptional economic difficulties as provided for at Point a, Clause 1, Article 19 of this Decree.

4. Annually, the central budget and the local budgets shall arrange a portion to support irrigation work-exploiting enterprises in cases where the collected irrigation charge amounts are not enough to offset the expenses for repair and operation of irrigation works.

5. The renovation and maintenance of irrigation works may be performed by public laborers under the provisions of legislation on public labor obligations.

6. The Ministry of Agriculture and Rural Development shall coordinate with the Finance Ministry in guiding the spending regimes and levels for renovation and regular maintenance of irrigation works and arrange funding as provided for in Clause 4 of this Article.

#### **Article 21.-**

1. The modes and time of payment of irrigation charges and water levies by organizations and individuals benefiting from irrigation works as prescribed in Clause 1, Article 16 of the Ordinance

on Exploitation and Protection of Irrigation Works are specified as follows:

a) Irrigation work-exploiting enterprises and water-using cooperative organizations must sign irrigation and drainage contracts right at the beginning of production harvests with organizations or individuals providing services or using water and collect the irrigation charges under the signed contracts within no more than one month after the production harvests;

b) Basing themselves on the irrigation charge rates prescribed in Article 19 of this Decree and the irrigation and drainage contracts signed at the beginning of the harvests, the irrigation work-exploiting State enterprises and water-using cooperatives shall draw up irrigation charge collection plans and submit them to the competent State bodies defined in Article 17 of this Decree for approval;

c) The irrigation work- exploiting State enterprises, water-using cooperatives shall coordinate with commune/ward/township People's Committees in opening irrigation charge and water levy collection book for each water-using organization or individual, which shall serve as basis for signing water-using contracts and collecting, paying irrigation charges and water levies according to regulations;

d) Agricultural production households provided with irrigation and/or water drainage services must pay irrigation charges to irrigation work-exploiting State enterprises or water-using cooperatives within one month after the completion of harvests; if they delay the payment, they must bear the interests on late payment at the demand savings interest rates of Vietnam State Bank at the time of payment for the electricity business enterprises on the outstanding electricity charge amounts.

e) The People's Committees of all levels shall

have to examine, urge and organize the collection and payment of irrigation charge and water-using levies in their localities.

2. The payment of electricity charges between irrigation work-exploiting State enterprises or water-using cooperatives and the electricity business enterprises as provided for in Clause 2, Article 16 of the Ordinance on Exploitation and Protection of Irrigation Works shall be made once every six months.

In case of delayed payment, the irrigation work-exploiting State enterprises and the water-using cooperatives must bear the interests on the delayed payment at the demand savings interest rates of the State Bank of Vietnam at the time of payment to the electricity business enterprises on the outstanding electricity charge amounts.

The charges on electricity used for pumping to combat flooding or drought as provided for in Clauses 1 and 2, Article 13 of the Ordinance on Exploitation and Protection of Irrigation Works shall be paid immediately after the State budget allocation is made.

### ***Chapter III***

#### **PROTECTION OF IRRIGATION WORKS**

**Article 22.-** The change of use criteria, scale and purposes of existing irrigation works and the construction of new irrigation works for addition to the system of the existing irrigation works under the provisions in Article 24 of the Ordinance on Exploitation and Protection of Irrigation Works are stipulated as follows:

1. The State bodies competent to approve the investment projects for construction of any irrigation works shall be competent to decide on the change

of use criteria, scale and/or purposes of such irrigation works and to approve the construction of new irrigation works for addition to the system of existing irrigation works;

2. For irrigation works of grade I or higher with investment projects not being approved by the Ministry of Agriculture and Rural Development, the change of use criteria, scale and purposes of the existing irrigation works and the construction of new irrigation works for addition to the irrigation work systems must be agreed upon in writing by the Ministry of Agriculture and Rural Development.

**Article 23.-** The scope of protection of important national irrigation works as provided for in Clause 6, Article 25 of the Ordinance on Exploitation and Protection of Irrigation Works shall be:

1. The scope of the vicinities to the important national irrigation works under the provisions in Article 4 of this Decree, being prescribed as from the foot of the principal dam outward is 500 m;

2. Within the above-mentioned scope, the vicinity is divided into two parts: The part which must not be encroached upon shall be 150 m from the foot of the principal dam; the remaining part shall be used for activities which do not cause unsafety to the whole dam.

**Article 24.-** Within the scope of protection of irrigation works, activities must be given permits prescribed in Clause 3, Article 26 of the Ordinance on Exploitation and Protection of Irrigation Works, including:

1. Drilling, digging for geological prospection, survey, exploration, construction of underground water-exploiting works; drilling, digging for mineral exploration and/or exploitation; drilling, digging for exploration and/or exploitation of building materials;

2. Planting perennial trees;

3. Exploiting tourist, sport, scientific research activities as well as business and service activities;

4. Communications and transport activities of motorized vehicles, excluding two-wheelers, three-wheelers, motorcycles and motorized wheelchairs;

5. Building warehouses, loading and unloading wharves and yards; rallying raw materials, fuel, materials, supplies, means;

6. Building stables and farms for cattle ranching, aquaculture;

7. Burying discarded substances, wastes;

8. Mine exploding and other non-harmful exploding activities;

9. Building underground works, including oil pipelines, electric cables, communications cables, water supply or drainage pipe lines.

**Article 25.-** Within the scope of irrigation works protection, prescribed in Article 25 of the Ordinance on Exploitation and Protection of Irrigation Works and Article 23 of this Decree, houses and works constructed before the promulgation of this Decree must be all considered and handled according to the following regulations:

1. Houses and works already constructed within the vicinity areas which must not be encroached upon and works directly encroaching upon irrigation works must be dismantled, removed to other places, and the initial state must be restored, in order to ensure safety for the irrigation works according to their designs;

2. Houses and works constructed within the protection areas, except for cases prescribed in Clause 1 of this Article, depending on the extent of

their impact on the safety of irrigation works, must be dismantled, removed to other places or considered for continued use which, however, must satisfy the technical requirements and be agreed in writing by the Ministry of Agriculture and Rural Development.

**Article 26.-** Basing themselves on this Decree and relevant law provisions, the provincial-level People's Committees shall prescribe the conditions and consider and handle the dismantlement, removal or the continued use of the existing houses and works in the areas of irrigation work protection in localities; prescribe the decentralization of handling of the above cases and adopt policy for each specific case according to the current regulations.

#### **Chapter IV**

### **STATE MANAGEMENT OVER THE EXPLOITATION AND PROTECTION OF IRRIGATION WORKS**

**Article 27.-** The Ministry of Agriculture and Rural Development takes responsibility before the Government for performing the function of State management over the exploitation and protection of irrigation works, including:

1. Assuming the prime responsibility for, and coordinating with the concerned ministries, branches and provincial-level People's Committees in, formulating and directing the implementation of strategies, plannings, plans and policies on exploitation and protection of irrigation works;

2. Performing the uniform State management over the elaboration and implementation of investment projects on addition, perfection and/or upgrading of irrigation work systems throughout the

country;

3. Submitting to the Government for consideration and approval, and directing the implementation of, plannings, plans and investment projects on addition, perfection or upgrading of irrigation work systems related to many branches, many localities; considering and approving or agreeing in writing to let the provincial-level People's Committees consider and approve investment projects on addition, perfection or upgrading of works systems already decentralized under the current regulations on capital construction;

4. Elaborating and submitting to the Government for promulgation or promulgating according to its own competence legal documents, processes, procedures, criteria and norms on exploitation and protection of irrigation works;

5. Approving plans on protection of irrigation works under the Agriculture and Rural Development Ministry's management; deciding according to competence or submitting to the Prime Minister for decision the handling measures in cases where irrigation works are in danger of causing incidents; directing the regulation and distribution of water sources of irrigation works in case of droughts, with priority being given to daily-life water; synthesizing plans on flooding and drought prevention and combat nationwide;

6. Granting and withdrawing permits or authorizing the provincial-level People's Committees to grant and withdraw permits for discharging waste water into irrigation works and activities within the irrigation work protection scope;

7. Organizing the specialized inspection of the exploitation and protection of irrigation works; settling disputes, complaints and denunciations in the field of exploitation and protection of irrigation works;

8. Summing up and proposing the Government

to handle matters in international relations regarding the domain of exploitation and protection of irrigation works;

9. Suggesting and submitting to the Government the functions, tasks, powers and organizational system of agencies exercising the State management over exploitation and protection of irrigation works; organizing scientific research, the application of scientific and technological advances to the exploitation and protection of irrigation works; training personnel and propagating and disseminating legislation on exploitation and protection of irrigation works;

10. Exercising the right to represent the owner of the State capital portions at the irrigation work-exploiting State enterprises under the Ministry's management according to law provisions.

**Article 28.-** The ministries and branches shall, according to their respective functions and tasks, perform the State management over the exploitation and protection of irrigation works as follows:

1. The Industry Ministry shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development in formulating, or organizing the formulation of, the process of operation of irrigation works, ensuring the general effective and safe exploitation of irrigation works;

2. The Ministry of Communications and Transport shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development in drawing up, and organizing the implementation of, the planning on waterway communications networks within the irrigation work systems, or making full use of the existing irrigation works for communications purposes, ensuring the compatibility with the plannings on irrigation work systems, work safety and not obstructing the water

flows;

3. The Ministry of Construction shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development in drawing up, and organizing the implementation of, the plannings on water supply and drainage systems for urban centers, population quarters, industrial zones within the irrigation work systems, ensuring the compatibility with the plannings, process for operation of irrigation works and not polluting the water environment;

4. The Ministry of Natural Resources and Environment shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development in guiding the elaboration of schemes on use of land resources; the schemes on exploitation, use and protection of water resources;

5. The Ministry of Planning and Investment shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development as well as the concerned ministries, branches and provincial-level People's Committees in synthesizing plans on investment in projects for exploitation and protection of irrigation works, then submit them to the Prime Minister for consideration and decision;

6. The Ministry of Finance shall assume the prime responsibility and coordinate with the Ministry of Agriculture and Rural Development as well as the concerned ministries and branches in arranging funding for flooding and drought prevention and combat; formulating financial policies in the management of exploitation and protection of irrigation works and overcoming of consequences upon the occurrence of incidents to irrigation works;

7. The Ministry of Public Security, the Ministry of Defense and the people's armed forces shall coordinate with the Ministry of Agriculture and Rural Development in directing the prevention of acts of

sabotage, ensuring safety for irrigation works and overcoming consequences upon the occurrence of incidents to irrigation works.

**Article 29.-** The provincial-level People's Committees shall perform the State management over the exploitation and protection of irrigation works, covering:

1. The elaboration and direction of the implementation of plannings, plans on exploitation and protection of irrigation works in their respective localities;

2. The direction of the elaboration of plans on flooding and drought prevention and combat in their respective localities;

3. The elaboration, submission for approval, organization of the implementation of investment projects on addition, perfection or upgrading of irrigation work systems in their localities under the guidance of the Ministry of Agriculture and Rural Development;

4. The guidance for implementation of the regulations of the Government, ministries and branches on exploitation and protection of irrigation works in their respective localities;

5. The granting and withdrawal of permits for discharging waste water into irrigation works and permit-requiring activities within the irrigation work protection scope under the provisions of this Decree and the guidance of the Ministry of Agriculture and Rural Development;

6. Issuance of decisions according to competence on handling measures in cases of possible occurrence of incidents to irrigation works according to the provisions of this Decree and other law provisions; regulation and distribution of water sources of irrigation works in case of droughts, with priority being given to daily-life water; synthesis of

plans on flooding and drought prevention and combat in their respective localities; approval of schemes on protection of irrigation works under the guidance of the Ministry of Agriculture and Rural Development;

7. Organization of specialized inspection of the exploitation and protection of irrigation works; settlement or participation in the settlement of disputes over the exploitation and protection of irrigation works; handling of violations of the legislation on exploitation and protection of irrigation works in their respective localities according to the provisions of the Ordinance on Exploitation and Protection of Irrigation Works and other law provisions; the propagation and dissemination of the legislation on the exploitation and protection of irrigation works in their respective localities;

8. Implementation of international treaties in the field of exploitation and protection of irrigation works, which the Socialist Republic of Vietnam has signed or acceded to;

9. Exercise of the right to represent the owners of the State's capital portions at the irrigation work-exploiting State enterprises under the local management according to law provisions.

## **Chapter V**

### **IMPLEMENTATION PROVISIONS**

**Article 30.-** This Decree takes effect 15 days after its publication in the Official Gazette.

It replaces the Government's Decree No.98/CP of December 27, 1995 detailing the implementation of the Ordinance on Exploitation and Protection of Irrigation Works and Decree No. 112-HDBT of August 25, 1984 of the Council of Ministers (now the Government) on collection of irrigation charges.

All previous regulations contrary to this Decree

are hereby annulled.

**Article 31.-** The Minister of Agriculture and Rural Development, other ministers and heads of concerned branches shall have to guide the implementation of this Decree.

**Article 32.-** The ministers, the heads of the ministerial-level agencies, the heads of the Government-attached agencies and the presidents of the provincial/municipal People's Committees shall have to implement this Decree.

***On behalf of the Government***

***Prime Minister***

**PHAN VAN KHAI**