

**THE MINISTRY OF NATURAL RESOURCES
AND ENVIRONMENT**

CIRCULAR No. 05/2007/TT-BTNMT OF MAY 30, 2007, PROVIDING GUIDANCE ON CASES ELIGIBLE FOR LAND USE INCENTIVES AND THE MANAGEMENT OF LAND USED BY EDUCATION AND TRAINING, HEALTH, CULTURAL, SPORTS AND PHYSICAL TRAINING, SCIENTIFIC AND TECHNOLOGICAL, ENVIRONMENTAL, SOCIAL, POPULATION, FAMILY, AND CHILDREN PROTECTION AND CARE ESTABLISHMENTS

Pursuant to the November 26, 2003 Land Law;

Pursuant to the November 29, 2005 Investment Law;

Pursuant to the November 29, 2005 Enterprise 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 upon land recovery by the State;

Pursuant to the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on collection of land use levies;

Pursuant to the Government's Decree No. 142/2005/ND-CP of November 14, 2005, on collection of land rents and water surface rents;

Pursuant to the Government's Resolution No. 05/2005/NQ-CP of April 18, 2005, on acceleration of socialization of education, healthcare, cultural, and sport and physical training activities;

Pursuant to the Government's Decree No. 17/2006/ND-CP of January 27, 2006, on amendments and supplements to a number of articles of decrees guiding the implementation of the Land Law and Decree No. 187/2004/ND-CP on conversion of state companies into joint-stock companies;

Pursuant to the Government's Decree No. 53/2006/ND-CP of May 25, 2006, on policies to encourage the development of non-public service-providing establishments;

Pursuant to the Government's Decree No. 91/2002/ND-CP of November 11, 2002, defining the functions, tasks, powers and organizational structure of the Ministry of Natural Resources and Environment,

The Ministry of Natural Resources and Environment provides guidance on cases eligible for land use incentives and the management of land used by education and training, health, cultural, sports and physical training, scientific and technological, environmental, social, population, family, and children protection and care establishments as follows:

I. SCOPE OF REGULATION AND SUBJECTS OF APPLICATION

1. Scope of regulation

This Circular provides guidance on cases of land use eligible for land use levy exemption under the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on collection of land use levies and for land rent exemption under the Government's Decree No. 142/2005/ND-CP of November 14, 2005, on collection of land rents and water surface rents (referred to as land use incentives); review of the actual land use status, handling of problems in land use, elaboration and adjustment of land use plans and plans, land allocation and lease, change of land use purposes, land use right transfer transactions, grant of land use certificates, supervision and inspection of

the land use by education and training, health, cultural, sports and physical training, scientific and technological, environmental, social, population, family, and children protection and care establishments (collectively referred to as public service-providing establishments).

2. Subjects of application

2.1. This Circular applies to:

a/ Ministries, ministerial-level agencies, government-attached agencies; People's Committees at all levels; provincial-level Natural Resources and Environment; district-level Natural Resources and Environment Sections; commune, ward and township cadastral officials; land use right registration offices; and tax offices at all levels;

b/ Religious organizations and establishments, households, individuals, overseas Vietnamese, foreign organizations and individuals currently using land or wishing to use land for public service-providing establishments in the public or non-public form.

2.2. For foreign organizations and individuals leased land by the State of Vietnam for use for public service-providing establishments under treaties which the Socialist Republic of Vietnam has signed or acceded to, if these treaties contain provisions different from those of this Circular, these treaties prevail.

II. DETERMINATION OF TYPES OF PUBLIC SERVICE-PROVIDING ESTABLISHMENTS FOR NON-COMMERCIAL AND COMMERCIAL PURPOSES

1. Land for construction of public service-providing establishments for non-commercial purposes

Land for construction of public service-providing establishments for non-commercial purposes is land allocated by the State to religious organizations or establishments, households, individuals, overseas

Vietnamese or leased by the State to foreign organizations and individuals for the construction of works in the education and training, health, cultural, sports and physical training, scientific and technological, environmental, social, population, family, and children protection and care for not-for-profit purposes, which is of the following types:

1.1. Land for the construction of education and training works, including nurseries, kindergartens, general education schools, professional secondary schools, colleges, universities, vocational training and teaching schools (including dormitories) in public and non-public forms for social relief purposes licensed by competent state agencies (excluding land areas used for business and service activities such as rest houses, restaurants and parking lots for charges).

1.2. Land for the construction of hospitals, clinics, maternity homes, health rehabilitation establishments, functional rehabilitation establishments, convalescent homes, treatment establishments for people living with HIV/AIDS, and other health establishments in public and non-public forms for social relief purposes licensed by competent state agencies (excluding land areas used for business and service activities such as clinics providing high-quality medical examination and treatment at patients' request, drugstores, rest houses, restaurants and parking lots for charges).

1.3. Land for the construction of cultural works, including offices of news agencies, the press, radio stations, television stations, parks, flower gardens, recreational centers, clubs, cultural houses, museums, exhibition halls, libraries, cinemas, circuses, theaters, literature composition establishments, art composition establishments, galleries, offices of art troupes in public forms; land for the erection of monuments and memorial steles permitted by competent state agencies.

1.4. Land with historical and cultural relics and famous landscapes already classified or protected under decisions of provincial-level People's Committees (excluding land areas used for ticket sale,

hotels, rest houses, restaurants, souvenir shops, parking lots for charges, other facilities for sightseeing, tourist and recreational activities for charges).

1.5. Land for the construction of sport and physical training works, including stadiums, sport and physical training and competition facilities in public and non-public forms for social welfare purposes licensed by competent state agencies (excluding land areas used for ticket sale, souvenir shops, sport and physical training instrument shops, hotels, rest houses, restaurants and parking lots for charges)

1.6. Land for the construction of scientific and technological research establishments in the public form.

1.7. Land for use as waste and garbage dumping areas, waste treatment zones, garbage treatment zones for communities.

1.8. Land for the construction of establishments for nurturing and caring for the elderly, the disabled, disadvantaged children; educational institutions, reformatories, drug detoxification centers in public and non-public forms and funeral homes in the public form.

2. Land for the construction of public service-providing establishments for commercial purposes

Land for the construction of public service-providing establishments for commercial purposes is land allocated by the State to organizations, households, individuals, overseas Vietnamese, or foreign organizations and individuals in accordance with the land law for the construction of works in the education and training, health, cultural, sports and physical training, scientific and technological, environmental, social, population, family, and children protection and care domains for profit purposes and not falling into the cases specified in Clause 1 of this Section.

III. CASES ELIGIBLE FOR LAND USE INCENTIVES FOR THE CONSTRUCTION OF PUBLIC SERVICE-PROVIDING ESTABLISHMENTS IN THE

NON-PUBLIC FORM

1. Land use incentives are provided for the following types of land for the construction of public service-providing establishments in the non-public form:

1.1. Land for the construction of education and training establishments:

a/ Nurseries, kindergartens, general education schools and other general education establishments and preschools licensed by the State;

b/ Professional secondary schools, colleges, universities, vocational training and teaching schools and other vocational training and teaching establishments;

c/ Dormitories.

1.2. Land for the construction of healthcare establishments:

a/ Hospitals and clinics;

b/ Maternity homes;

c/ Functional rehabilitation establishments for the disabled;

d/ Convalescent homes, sanatoria, establishments for medical examination, treatment of and care for employees of industrial production establishments.

1.3. Land for the construction of cultural works:

a/ Cultural houses, places for traditional cultural activities;

b/ Theaters, circuses, cinemas, national traditional art performance places;

c/ Offices of national traditional song, dance and music troupes;

d/ Libraries, reading rooms;

e/ Museums for exhibition, preservation and promotion of national cultural values;

f/ Literature and art composition establishments;

g/ Flower gardens, parks and children's recreational places;

1.4. Land for the construction of physical training and sports facilities, including stadiums; physical training and sports training and competition facilities for the disabled;

1.5. Land for the construction of scientific and technological research establishments;

1.6. Land for the construction of wastewater and solid waste treatment facilities in service of production activities, which are located outside the fences of industrial parks and outside the fences of industrial production and service establishments;

1.7. Land for the construction of social service establishments:

a/ Establishments providing counseling on family planning, mother and child care and protection;

b/ Establishments for nurturing and caring for lonely old people and the disabled;

c/ Establishments for raising and caring for orphaned and supportless children;

d/ Drug detoxification establishments.

2. Establishments enjoying land use incentives stated in Clause 1 of this Section are not entitled to these incentives for their land areas used for sale of goods, hotels, rest houses and restaurants.

IV. LAND USE MANAGEMENT OF PUBLIC SERVICE-PROVIDING ESTABLISHMENTS

1. Review of the actual land use status

1.1. The People's Committees of provinces and centrally run cities (below referred to as provincial-level People's Committees) shall coordinate with the Ministry of Education and Training, the Ministry of Health, the Ministry of Culture and Information, the Physical Training and Sports Committee, the Ministry of Science and Technology, the Commission for Population, Family and Children and concerned ministries and branches in directing the review of the actual land use status at their

attached public service-providing establishments.

Religious organizations and establishments that are using land on which they run public service-providing establishments in the public or non-public form and for which they have not yet been granted a land use right certificate shall review the actual land use status and report the review result to the provincial-level People's Committees of the localities where the land exists.

Households and individuals that are using land on which they run public service-providing establishments and for which they have not yet been granted a land use right certificate shall review the actual land use status and report the review result to the People's Committees of the districts, towns or provincial cities where the land exists (referred to as district-level People's Committees).

1.2. The land use status review aims to:

a/ Serve the elaboration or adjustment of local land use plannings and plans, including arrangement of land funds for the development of public service-providing establishments;

b/ Facilitate the thorough settlement of land disputes, cases of illegal land occupation and encroachment, and cases of using land for improper purposes;

c/ Serve the consideration and grant of land use certificates to existing public service-providing establishments.

1.3. The land use status review identifies:

a/ Total land areas currently under management and in use, including areas currently used; areas currently leased or lent for use; illegally occupied and encroached areas; disputed areas; areas already allocated to households of working or retired cadres, employees or workers for residence; and areas not yet used or left unused;

b/ Land areas of the following origins: areas allocated by the State without collection of land use levy; areas allocated by the State with collection of

land use levy, areas leased by the State for which rents are paid in a lump sum, in installments or on an annual basis; areas received from transfer of land use rights;

c/ Assets attached to land currently in use, including types of works (offices, lecture halls, cultural houses, tenement houses, testing stations, etc.), construction areas of each type of work; kinds of forest trees or perennial trees and areas (if any);

d/ Areas needed for use in the existing land plots and area needed for expansion (if any); proposed solutions to handling illegally occupied or encroached areas, disputed areas, and areas already allocated to cadres and employees for residence.

1.4. Review results must be reported according to set forms. Each report must be made in two sets, one to be archived and the other to be sent to the provincial-level People's Committee (through the provincial-level Natural Resources and Environment Service), for land users that are religious organizations and establishments; to the district-level People's Committee (through the district-level Natural Resources and Environment Sections), for land users that are households and individuals.

District-level People's Committees shall sum up and report to provincial-level People's Committees on the results of the review of the actual land use status at public service-providing establishments run by households and individuals in their localities.

2. Handling of problems in land use

2.1. Provincial-level and district-level People's Committees shall direct and thoroughly settle cases of land disputes, illegal land occupation and encroachment, land lease, lending and use for improper purposes or allocated or leased land left unused at public service-providing establishments.

Based on the reports on the results of the review of the actual land use status at public service-providing establishments, provincial-level Natural Resources and Environment Services shall conduct field verification and submit to provincial-level

People's Committees for handling dossiers of cases of land-law violations committed by organizations and religious establishments; district-level Natural Resources and Environment Sections shall conduct field verification and submit to district-level People's Committees for handling dossiers of cases of land-law violations committed by households and individuals;

2.2. Land-law violations committed by public service-providing establishments shall be handled under Articles 51 and 55 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on implementation of the Land Law (Decree No. 181/2004/ND-CP), Decree No. 182/2004/ND-CP of October 29, 2004, on sanctioning administrative violations in the land domain, and Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the Decrees guiding the implementation of the Land Law, and Decree No. 187/2004/ND-CP on conversion of state companies into joint-stock companies.

3. Elaboration and adjustment of land use plannings and plans

3.1. People's Committees at all levels shall organize and direct the elaboration or adjustment of local land use plannings and plans in order to ensure sufficient land areas for the development of public service-providing establishments in localities.

3.2. Specialized agencies that assist provincial-level and district-level People's Committees in performing the state management of branches and sectors in which public services are provided (referred to as line agencies) and commune-level People's Committee officials in charge of these domains shall identify and report to the People's Committees of the same level on the land use needs for the development of public service-providing establishments in localities under the following guidance:

a/ They shall identify land use needs for the development of public service-providing establishments on the basis of the local actual land use status

and plannings and plans on the development of public service-providing establishments;

b/ They shall identify land use needs for the development of public service-providing establishments specifically for each work in their respective domain, sum up and report these needs to the People's Committees of the same level (through the Natural Resources and Environment agencies) and their immediate superior line agencies.

3.3. The content and process of elaboration or adjustment of a land use planning or plan in order to reserve land areas for the development of public service-providing establishments as part of the content and process of elaboration or adjustment of the land use planning or plan in a locality under the guidance of the Natural Resources and Environment Ministry's Circular No. 30/2004/TT-BTNMT of November 1, 2004, guiding the elaboration, adjustment and evaluation of land use plannings and plans.

4. Land allocation, land lease

4.1. Forms of land allocation or land lease (referred to as form of land use) include:

a/ Allocation of land by the State without collection of land use levy to organizations, households, individuals or overseas Vietnamese for the construction of public service-providing establishments for non-commercial purposes as defined in Clause 6, Article 33 of the Land Law;

b/ Lease of land by the State to foreign organizations and individuals that are entitled to land use incentives for the construction of public service-providing establishments for non-commercial purposes;

c/ Allocation of land by the State with collection of land use levy to organizations, households and individuals and overseas Vietnamese for the construction of public service-providing establishments for commercial purposes under Clause 5 and Clause 7, Article 34 of the Land Law;

d/ Lease of land by the State to organizations, households and individuals, overseas Vietnamese

and foreign organizations and individuals that pay land rents on an annual basis for the construction of public service-providing establishments for commercial purposes under Point e and Point f, Clause 1, Article 35 of the Land Law;

e/ Lease of land by the State to overseas Vietnamese and foreign organizations and individuals that pay land rents in a lump sum for the construction of public service-providing establishments for commercial purposes under Point a, Clause 2, Article 35 of the Land Law.

4.2. Term of land allocation or land lease:

a/ The land allocation term applicable to organizations, households, individuals and overseas Vietnamese for the construction of public service-providing establishments for non-commercial purposes is stable and permanent;

b/ The land lease term applicable to foreign organizations and individuals for the construction of public service-providing establishments for non-commercial purposes; and the land allocation or lease term applicable to organizations, households and individuals, overseas Vietnamese, and foreign organizations and individuals for the construction of public service-providing establishments for commercial purposes shall be considered and decided on the basis of investment projects under Clause 3, Article 67 of the Land Law.

4.3. The order and procedures for land allocation and lease and grant of land use right certificates to organizations, overseas Vietnamese, and foreign organizations and individuals comply with the provisions of Article 125 and Article 126 of Decree No. 181/2004/ND-CP.

The order and procedures for land allocation and lease and grant of land use right certificates to households and individuals are as the same as the procedures and order for allocation of land to households and individuals for the construction of houses defined in Article 124 of Decree No. 181/2004/ND-CP.

4.4. Extension of the land use term for public service-providing establishments operating for commercial purposes shall be effected under the provisions of Clauses 2, 3 and 4, Article 34 of Decree No. 181/2004/ND-CP.

5. Change of land use purposes

5.1. Current users of agricultural land or non-agricultural land allocated by the State without collection of land use levy that are permitted by competent state agencies to change the land use purpose to construction of public service-providing establishments stated in Clause 1, Section III of this Circular are entitled to land use incentives for the amounts they are obliged to pay upon change of land use purpose.

If so wishing and having paid land use levies, economic organizations, households, individuals or overseas Vietnamese are allowed to exercise the rights and perform the obligations defined in Article 110 and Article 113 of the Land Law; if so wishing and having paid land rents, economic organizations, households, individuals, overseas Vietnamese, foreign individuals and organizations are allowed to exercise the rights and perform the obligations defined in Article 111, Article 114 and Article 119 of the Land Law.

5.2. When current users of non-agricultural land allocated by the State with collection of land use levy or leased land by the State and having paid land rents in a lump sum for the whole lease term register to change the land use purpose to construction of public service-providing establishments falling in the cases stated in Clause 1, Section III of this Circular without changing the form of land use are allowed to exercise the rights and perform the obligations as before the change.

5.3. When current users of non-agricultural land leased by the State and paying land rents on an annual basis register to change the land use purpose to execution of investment projects on construction of public service-providing establishments falling in

the cases stated in Clause 1, Section III of this Circular without changing the form of land use are entitled to land use incentives.

For economic organizations, households, individuals and overseas Vietnamese that are leased non-agricultural land by the State and pay land rents on an annual basis or in a lump sum and wish to switch to the form of land allocation with collection of land use levy, when they register to change the land use purpose to construction of public service-providing establishments falling in the cases stated in Clause 1, Section III of this Circular and have paid land use levies, they are allowed to exercise the rights and perform the obligations defined in Article 110 and Article 113 of the Land Law.

5.4. Procedures for change the land use purpose to construction of public service-providing establishments are as follows:

a/ For the change of the use purpose from agricultural land to construction of public service-providing establishments and from non-agricultural land allocated by the State without collection of land use levy to construction of public service-providing establishments for commercial purposes, the procedures shall be carried out under Article 134 of Decree No. 181/2004/ND-CP;

b/ For the change of the use purpose from non-agricultural land to construction of public service-providing establishments in the cases other than those stated at Item a of this Point, the procedures shall be carried out under Article 133 of Decree No. 181/2004/ND-CP.

5.5. The land use term after the change of the use purpose to construction of public service-providing establishments complies with the provisions of Point 4.2, Clause 4 of this Section.

For households and individuals changing the land use purpose from residence to construction of public service-providing establishments, the land use term is stable and permanent.

5.6. The form of land use after the change of the use purpose to construction of public service-providing establishments is as guided at Point 4.1, Clause 4 of this Section.

When a public service-providing establishment operating for non-commercial purposes switches to operate for commercial purposes, the form and term of land use shall be re-determined under the guidance at Items c, d and e, Point 4.1, and Item b, Point 4.2, Clause 4 of this Section.

When a public service-providing establishment operating for commercial purposes switches to operate for non-commercial purposes, the form and term of land use shall be re-determined under the guidance at Items a and b, Point 4.1, and Point 4.2, Clause 4 of this Section.

6. Receipt of transferred, bequeathed or donated land use rights, lease or sub-lease of land use rights, receipt of contributed capital in the form of land use rights

6.1. Organizations, households and individuals may receive transferred, bequeathed or donated land use rights, lease or sub-lease land use rights, or receive contributed capital in the form of land use rights for the execution of investment projects on construction of public service-providing establishments.

Overseas Vietnamese may lease or sub-lease land use rights of investors that build and commercially operate infrastructure in industrial parks, hi-tech parks or economic zones or receive contributed capital in the form of land use rights from economic organizations for the execution of investment projects on construction of public service-providing establishments.

Foreign organizations or individuals may lease or sub-lease land use rights of investors that build and commercially operate infrastructure in industrial parks, hi-tech parks or economic zones or receive contributed capital in the form of land use rights from economic organizations for the execution of investment projects on construction of public

service-providing establishments.

6.2. For economic organizations, households and individuals receiving transferred, bequeathed or donated land use rights, leasing or sub-leasing land use rights, or receiving contributed capital in the form of land use rights for the construction of public service-providing establishments in the cases stated in Clause 1, Section III of this Circular, the form of land use and the rights and obligations of land users upon change of land use purpose are as guided at Points 5.1, 5.2 and 5.3, Clause 5 of this Section.

6.3. When overseas Vietnamese receive contributed capital in the form of rights to use land for non-agricultural production and business from organizations, households or individuals or residential land from households or individuals and form new legal entities and when foreign organizations or individuals receive contributed capital in the form of rights to use land for non-agricultural production and business from domestic economic organizations or foreign organizations for the execution of investment projects on construction of public service-providing establishments and form new legal entities, these new legal entities have the rights and obligations defined in Article 107 of Decree No. 181/2004/ND-CP.

6.4. The procedures for transfer, inheritance, donation, lease and sub-lease of land use rights or contribution of capital in the form of land use rights shall be carried out under Article 122, 148, 149, 150, 151, 152, 155 and 156 of Decree No. 181/2004/ND-CP.

In case of transfer, inheritance, donation, lease or sub-lease of land use rights or contribution of capital in the form of rights to use agricultural land or non-agricultural land other than land used for public service-providing establishments for the execution of investment projects on construction of public service-providing establishments, the land use purpose change procedures shall be carried out as guided at Point 5.4, Clause 5 of this Section. Dossiers of land use purpose change shall be submitted

together with dossiers of transfer, inheritance, donation, lease or sub-lease of land use rights or contribution of capital in the form of land use rights. Land use right registration offices shall carry out procedures for transfer, inheritance, donation or contribution of capital in the form of land use rights with the formation of new legal entities before carrying out land use purpose change procedures; and shall carry out land use purpose change procedures before carrying out procedures for transfer, inheritance, donation or contribution of capital in the form of land use rights without formation of new legal entities.

6.5. The land use term in the cases of transfer, inheritance, donation, lease or sub-lease of land use rights or contribution of capital in the form of land use rights is as follows:

a/ In case of receiving transferred, bequeathed or donated land use rights of public service-providing establishments which are allowed to use land for a certain period, the land use term is the remaining duration of the land use term before the transfer of land use rights;

b/ In case of receiving transferred, bequeathed or donated rights to use land for a certain purpose and using this land for the construction of public service-providing establishments, the land use term shall be considered and decided on the basis of investment projects under the guidance at Point 4.2, Clause 4 of this Section.

When households or individuals receive transferred, bequeathed or donated rights to use residential land and change the land use purpose to construction of public service-providing establishments, the land use term is stable and permanent.

c/ In case of leasing or sub-leasing land use rights or receiving contributed capital in the form of land use rights for the construction of public service-providing establishments, the land use term shall be agreed upon and stated in land use right lease or sub-lease contracts or contracts on contribution of capital

in the form of land use rights but must not exceed the term stated at Item a and Item b of this Point.

6.6. In case of receiving transferred, bequeathed or donated rights to use agricultural land and changing the land use purpose to construction of public service-providing establishments, the form of land use after the purpose change is as guided at Point 4.1, Clause 4 of this Section.

7. Handling of cases of currently using land for public service-providing establishments

Cases of currently using land for public service-providing establishments falling in the cases stated in Clause 1 Section III of this Circular are handled as follows:

7.1. Current users of land allocated by the State with collection of land use levy or leased by the State and paying land rents for the whole lease term or received from the transfer of land use rights may continue using land for the remaining duration of the term of land allocation, lease or recognition of land use rights and have land user's rights and obligations defined in Article 110, Article 113, and Clause 3, Article 119 of the Land Law.

7.2. Current users of land allocated by the State without collection of land use levy or leased by the State and paying land rents on an annual basis may continue using land and enjoy land use incentives as prescribed by law for the remaining duration of the use term of land allocated or leased by the State.

8. Grant of land use right certificates and registration of changes in land use

8.1. For existing public service-providing establishments which have not yet been granted a land use right certificate, they shall be granted a land use right certificate as follows:

a/ The order and procedures for grant of certificates to public service-providing establishments of organizations, religious establishments, overseas Vietnamese, foreign organizations or individuals comply with the provisions of Article 137 of Decree

No. 181/2004/ND-CP.

The order and procedures for grant of certificates to public service-providing establishments of households or individuals comply with the provisions of Articles 135 and 136 of Decree No. 181/2004/ND-CP.

b/ On the basis of the reports on the review of the land use status at public service-providing establishments, the Natural Resources and Environment agencies shall conduct field verification and submit the dossiers of the cases to competent People's Committees for grant of land use certificates or grant land use right certificates as authorized for land areas currently used for proper purposes and dispute-free.

c/ Forms of land allocation or land lease and the land use term to be recorded in land use right certificates shall be determined under the guidance at Point 4.1 and Point 4.2, Clause 4 of this Section.

In case of using land for a given period, the land use term shall be calculated as follows:

- If land use right papers defined in Clauses 1, 2 and 5, Article 50 of the Land Law are available (referred to as land use right papers) and the land use term is clearly indicated in these papers in accordance with the land law, the land use term is as indicated in these papers;

- If land use right papers are available but no land use term is indicated in these papers or it is indicated but against the provisions of land law, the land use term shall be determined under Article 66 and Article 67 of the Land Law; the land use term is counted from October 15, 1993, for land used since before October 15, 1993, and counted from the date of issue of the land allocation or lease decision, for land used since October 15, 1993;

- If land use right papers are unavailable, the land use term shall be determined under Article 66 and Article 67 of the Land Law; the land use term is counted from October 15, 1993, for land used since

before October 15, 1993, and counted from the date of issue of the land allocation or lease decision, for land used since October 15, 1993.

8.2. For public service-providing establishments in the public form which have been granted a land use right certificate, if they are now converted into the non-public form, the following provisions must be observed:

a/ The order and procedures for registration of land use changes comply with the provisions of Article 143 of Decree No. 181/2004/ND-CP;

b/ For land used for public service-providing establishments which have been granted a land use right certificate but now switch to operate in the non-public form, current land users shall carry out procedures for registration of land use changes under Article 143 of Decree No. 181/2004/ND-CP in order to have the land user's name, land use origin and term modified in the land use right certificates in accordance with the Regulation issued together with Decision No. 08/2006/QĐ-BTNMT of June 21, 2006, of the Minister of Natural Resources and Environment.

8.3. After the transformation of a public service-providing establishment, the land use origin and term shall be re-determined in accordance with the land law according to the new land use purpose of the establishment.

9. Inspection and supervision of land use and management by public service-providing establishments

9.1. Provincial-level People's Committees shall direct the regular supervision and inspection of the implementation of land use plans and plans; land allocation and use; grant of land use right certificates and the land use status at public service-providing establishments in localities.

9.2. Provincial-level Natural Resources and Environment Services shall regularly supervise the implementation of land use plans and plans; land allocation and use; grant of land use right certificates to public service-providing establishments; coordinate with line agencies of the same level and district-level

and commune-level People's Committees in regularly inspecting the land use status at these establishments; and propose measures to handle land law violations and oversee and urge the handling.

V. ORGANIZATION OF IMPLEMENTATION

1. Ministries, ministerial-level agencies and government-attached agencies shall direct public service-providing establishments to comply with the provisions of this Circular.

2. Provincial-level People's Committees shall organize the dissemination and direct the implementation of this Circular in localities.

3. Directors of provincial-level Natural Resources and Environment Services shall assist provincial-level People's Committees in disseminating, and guiding the implementation of, this Circular.

4. This Circular takes effect fifteen (15) days after its publication in "CONG BAO."

*Minister of
Natural Resources and Environment
MAI AI TRUC*