

THE STATE PRESIDENT

ORDER No. 04/2008/L-CTN OF JUNE 12, 2008, ON THE PROMULGATION OF LAW

**THE PRESIDENT OF THE SOCIALIST
REPUBLIC OF VIETNAM**

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 50 of the Law on Promulgation of Legal Documents,

PROMULGATES:

the Law on Management and Use of State Property,

which was passed on June 3, 2008, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 3rd session.

*President of
the Socialist Republic of Vietnam*
NGUYEN MINH TRIET

**LAW ON MANAGEMENT AND USE OF
STATE PROPERTY**

(No. 09/2008/QH12)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Management and Use of State Property.

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

1. This Law provides for the management and use of state property at state agencies, people's armed force units, public non-business units, political organizations, socio-political organizations, socio-professional-political organizations, social organizations and socio-professional organizations (below collectively referred to as agencies, organizations and units), including working offices and other land-attached property; land use rights with regard to land for construction of working offices or non-business establishments of agencies, organizations or units; machinery, means of transport, working facilities and other kinds of property as defined by law.

2. The management and use of state property other than those specified in Clause 1 of this Article comply with the relevant provisions of law.

Article 2.- Principles for management and use of state property

1. All state property shall be assigned by the State to agencies, organizations or units for management and use.

2. The state management of state property shall be performed uniformly according to clearly assigned or decentralized powers and responsibilities of each state agency and responsibilities for coordination between state agencies.

3. State property must be invested, equipped and used for proper purposes, strictly according to the prescribed criteria, norms and regulations, ensuring equity, efficacy and economy.

4. State property must be fully accounted in kind and value in accordance with law. The determination of property value in purchase, sale, hire, lease, joint venture, cooperation and liquidation of property or in other transactions must comply with the market mechanism, unless otherwise prescribed by law.

5. State property shall be maintained, repaired and protected according to regulations.

6. The management and use of state property must be made public and transparent; all acts in violation of regulations on management and use of state property shall be handled promptly and strictly according to law.

Article 3.- Policies for management and use of state property

The State shall adopt policies for development investment, exploitation and protection of state property; modernization of the management of state property, and raising of the efficacy and effectiveness of management and use of state property.

Article 4.- Rights and obligations of agencies, organizations and units assigned to manage and use state property

1. Agencies, organizations and units assigned to manage and use state property have the following rights:

a/ To use state property for their operations according to their assigned functions and tasks;

b/ To decide on measures to protect, exploit and use efficiently the assigned state property;

c/ To have their lawful rights and interests protected by the State;

d/ To lodge complaints or initiate lawsuits in accordance with law.

2. Agencies, organizations and units assigned by the State to manage and use state property have the following obligations:

a/ To use state property for proper purposes, strictly according to the prescribed criteria, norms and regime, ensuring efficiency and economy;

b/ To maintain, repair and protect state property according to regulations;

c/ To compile and manage state property dossiers; account and keep records of state property; report on the management and use of the assigned state property according to this Law and the laws on accounting and statistics.

Article 5.- Rights and obligations of heads of agencies, organizations and units assigned to manage and use state property

1. Heads of agencies, organizations and units assigned to manage and use state property have the following rights:

a/ To direct the management and use of state

property at their agencies, organizations or units;

b/ To handle according to their competence or submit to competent authorities for handling violations of the law on management and use of state property.

2. Heads of agencies, organizations and units assigned to manage and use state property have the following obligations:

a/ To issue, and organize the implementation of, regulations on management and use of state property under their management according to their competence;

b/ To abide by the provisions of this Law and relevant laws, ensuring that state property is used for proper purposes, according to the prescribed criteria, norms and regimes and in an efficient and economical manner;

c/ To take responsibility before law for management and use of state property under their management.

Article 6.- Prohibited acts

1. Misusing or abusing one's positions or powers to appropriate state property in any form.

2. Deliberately acting in contravention of state regulations on management and use of state property.

3. Using state property for improper purposes, not according to the prescribed criteria, norms or regimes; using state property wastefully or causing waste by leaving the property unused; using state property for illegal commercial purposes.

4. Destroying or deliberately damaging state property; illegally appropriating or using state property.

5. Showing irresponsibility in management, leading to the occurrence of violations of the law on management and use of state property.

6. Failing to perform or fully perform obligations towards the State in the management and use of state property.

Chapter II

STATE MANAGEMENT RESPONSIBILITIES FOR STATE PROPERTY

Article 7.- Responsibilities of the Government and the Prime Minister

1. The Government shall exercise the unified state management of state property, and:

a/ Promulgate according to its competence or submit to competent state agencies for promulgation, and organize the implementation of, legal documents on management and use of state property;

b/ Decentralize construction investment, procurement, hire, repair, maintenance, transfer, recovery, liquidation, sale, joint venture or cooperation, lease or destruction of state property;

c/ Report annually to the National Assembly on the situation of management and use of state property.

2. The Prime Minister shall prescribe criteria and norms for the use of working offices, cars and other property of high value and common use at agencies, organizations and units.

Article 8.- Responsibilities of the Ministry of Finance

The Ministry of Finance shall take responsibility before the Government for exercising the state management of state property, and:

1. Promulgate according to its competence or submit to competent state agencies for promulgation legal documents on management and use of state property.

2. Provide for the regime of management and use of working offices, cars and other property at agencies, organizations and units, except for property defined in Clause 1, Article 9 of this Law.

3. Prescribe criteria and norms on the use of state property, except for property defined in Clause 2 of Article 7 and Clause 1 of Article 9. of this Law.

4. Organize the management and use of state property.

5. Coordinate with other ministries, ministerial-level agencies and central agencies in promulgating criteria, norms and regimes for management and use of special-purpose property.

6. Decide on the transfer of state property between ministries, ministerial-level agencies, other central agencies, provinces and centrally run cities (below collectively referred to as provincial level); and the procurement, recovery, liquidation or sale of state property as decentralized by the Government.

7. Report annually to the Government on the situation of management and use of state property throughout the country.

8. Inspect, examine, settle complaints and denunciations, and handle violations of the law on management and use of state property according to its competence.

Article 9.- Responsibilities of ministries, ministerial-level agencies and other central agencies

Ministries, ministerial-level agencies and other central agencies shall exercise the state management of state property under their management, and:

1. Assume the prime responsibility for, and coordinate with the Ministry of Finance in, promulgating criteria, norms and regimes for management and use of special-purpose property at agencies, organizations and units under their management.

2. Decide on construction investment, procurement, hire, repair, maintenance, transfer, recovery, liquidation, sale, joint venture or cooperation, lease or destruction of state property under their management as decentralized by the Government.

3. Report annually to the Ministry of Finance on the situation of management and use of state property under their management.

4. Inspect, examine, settle complaints and denunciations, and handle violations of the law on management and use of state property under their management.

Article 10.- Responsibilities of provincial-level People's Councils

Based on the provisions of this Law and the Government's decentralization, provincial-level People's Councils shall:

1. Decide on undertakings and measures for management and use of state property at locally managed agencies, organizations and units.

2. Decide on decentralization of construction investment, procurement, hire, repair, maintenance, transfer, recovery, liquidation, sale, joint venture or cooperation, lease or destruction of state property at locally managed agencies, organizations and units.

3. Supervise the enforcement of the law on management and use of state property in localities.

Article 11.- Responsibilities of People's Committees at all levels

Based on the provisions of this Law, the Government's decentralization and decentralization by provincial-level People's Councils, People's Committees at all levels shall:

1. Formulate, and organize the implementation of, plans on management and use of locally managed state property.

2. Decide on construction investment, procurement, hire, repair, maintenance, transfer, recovery, liquidation, sale, joint venture or cooperation, lease or destruction of state property at locally managed agencies, organizations and units.

3. Report annually to the People's Councils of the same level and to the immediate superior People's Committees; provincial-level People's Committees shall report to the Ministry of Finance on the situation of management and use of locally managed state property.

4. Compile and manage dossiers on locally managed state property.

5. Inspect, examine, settle complaints and denunciations, and handle violations of the law on management and use of locally managed state property.

Chapter III

MANAGEMENT AND USE OF STATE PROPERTY AT STATE AGENCIES AND PEOPLE'S ARMED FORCE UNITS

Article 12.- Sources of state property at state agencies

1. Property assigned by the State in kind or land use rights.

2. Budget funds allocated by the State for the construction or procurement of property.

Article 13.- Investment in the construction of working offices

1. The State shall invest in the construction of working offices for state agencies by the following modes:

a/ Assigning functional organizations to invest in the construction of working offices;

b/ Allocating budget funds for the construction of working offices to agencies which will directly use such working offices.

2. Agencies competent to decide on investment in the construction of working offices shall decide on modes of investment defined in Clause 1 of this Article.

3. Investment in the construction of working offices must meet the following requirements:

a/ Conformity with the planning already approved by a competent state agency;

b/ Conformity with the functions, tasks and organizational apparatus already approved by a competent State agency, and the criteria and norms for use of working offices;

c/ Adherence to the provisions of law on

investment and construction.

4. The competence to decide on investment in the construction of working offices complies with the law on investment and construction, and relevant provisions of law.

Article 14.- Procurement of state property

1. The procurement of state property must conform to the prescribed criteria, norms and regimes for management and use of state property.

2. Funds for the procurement of state property shall be assured by the state budget according to the state budget law.

3. The procurement of state property shall be conducted publicly and according to the order and procedures provided for by the bidding law and relevant laws.

4. The competence to decide on the procurement of state property is provided for as follows:

a/ Ministers, heads of ministerial-level agencies and heads of other central agencies may decide or decentralize the decision on the procurement of state property at state agencies under their respective management;

b/ Provincial-level People's Councils may decentralize the decision on the procurement of state property at locally managed state agencies.

Article 15.- Hire of working offices and other property by state agencies for operation

1. State agencies may hire working offices or other property for their operation in the following cases:

a/ When they have no working offices or have not yet been allocated budget funds for construction

investment and procurement;

b/ The hire of working offices or other property is more efficient than construction investment and procurement.

2. The quantity and kinds of working offices and other property to be hired must conform to the prescribed criteria, norms and regimes; rent rates shall be based on the market mechanism.

3. The State shall assure funds for the hire of working offices and other kinds of property for the operation of state agencies in accordance with the state budget law.

4. The competence to decide on the hire of working offices and other property is provided for as follows:

a/ Ministers, heads of ministerial-level agencies and heads of other central agencies shall decide or decentralize the decision on the hire of working offices or other property for the operation of state agencies under their respective management;

b/ Provincial-level People's Councils shall decentralize the decision on the hire working offices or other property for locally managed state agencies.

Article 16.- Use of state property

1. State property at state agencies must be used for proper purposes, utilities, criteria, norms and regime, ensuring efficiency and economy.

2. State agencies may not use state property for personal purposes, lease or other business activities.

Article 17.- Maintenance and repair of state property

1. State property at state agencies must be

checked, maintained and repaired strictly according to the prescribed regimes, criteria and economic-technical norms.

2. Funds for the maintenance and repair of state property shall be assured by the state budget in accordance with the state budget law.

Article 18.- Compilation, management of state property dossiers

1. State agencies assigned to manage and use state property shall compile, manage and keep state property dossiers according to the laws on accounting and statistics and relevant provisions of law.

2. Finance agencies shall uniformly manage and keep state property dossiers under their management in accordance with law.

Article 19.- Accounting of state property

State property must be accounted promptly and fully in both kind and value according to the laws on accounting and statistics.

Article 20.- Recovery of state property

1. Recovery of state property means decision by competent state agencies to recover state property already assigned to state agencies for management and use.

2. State property shall be recovered in the following cases:

a/ It is unused;

b/ It is used for improper purposes, in excess of the prescribed criteria, norms or against the prescribed regimes.

3. Recovered property shall be transferred according to Article 21 of this Law or sold according

to Article 23 of this Law.

4. The competence to decide on the recovery of state property at state agencies complies with the Government's decentralization.

Article 21.- Transfer of state property

1. Transfer of state property means decision by competent state agencies to transfer state property between state agencies, people's armed forces units, public non-business units, political organizations or socio-political organizations, except for special cases decided by the Prime Minister.

2. State property shall be transferred in the following cases:

a/ From redundant to deficient places;

b/ In order to bring about higher use efficiency;

c/ Other cases prescribed by law.

3. The competence to decide on the transfer of state property at state agencies complies with the Government's decentralization.

Article 22.- Liquidation of state property

1. State property shall be liquidated in the following cases:

a/ Upon the expiration of its use duration;

b/ It is so seriously damaged that it can no longer be used or its repair is not cost-effective;

c/ The working offices or other land attached property must be dismantled under decisions of competent state agencies, and other cases prescribed by law.

2. The competence to decide on the liquidation of state property is provided as follows:

a/ Ministers, heads of ministerial-level agencies and heads of other central agencies may decide or

decentralize the decision on the liquidation of state property under their respective management;

b/ Provincial-level People's Councils may decentralize the decision on the liquidation of state property at locally managed state agencies.

3. The liquidation of state property in the form of sale shall be conducted publicly according to the market mechanism.

4. Proceeds from the liquidation of state property shall, after offsetting related reasonable expenses, be managed and used according to law.

Article 23.- Sale of state property

1. Sale of state property means transfer of the ownership right over that property to organizations or individuals for a corresponding sum of money.

2. State property shall be sold in the following cases:

a/ The property is no longer needed or its use is inefficient, except for cases in which the property must not be sold under law;

b/ Other cases prescribed by law.

3. The sale of state property shall be conducted publicly according to the market mechanism.

The sale of state property being working offices or other land-attached property must comply with this Law and relevant provisions of law.

4. The competence to decide on the sale of state property at state agencies complies with the Government's decentralization.

5. Proceeds from the sale of state property shall, after covering related reasonable expenses, be managed and used in accordance with law.

Article 24.- Destruction of state property

1. Destruction of state property means decision by competent state agencies to eliminate the existence of a state property.

2. State property shall be destroyed in accordance with the law on environmental protection and relevant provisions of law.

3. The competence to decide on the destruction of state property is prescribed as follows:

a/ Ministers, heads of ministerial-level agencies and heads of other central agencies may decide or decentralize the decision on the destruction of state property under their management;

b/ Provincial-level People's Councils may decentralize the decision on the destruction of locally managed state property;

c/ Other persons as prescribed by law.

4. Funds for the destruction of state property shall be assured by the state budget.

Article 25.- Inventory, report on state property

State agencies assigned to manage and use state property shall inventory and report on the quantity, value and situation of management and use of state property under their management in accordance with law.

Article 26.- Publicization of management and use of state property

1. State management agencies for state property shall publicize the implementation of regulations on management and use of state property.

2. State agencies assigned to manage and use state property shall publicize the procurement, investment in the construction and use of state

property under their management.

The Government shall specify contents and forms of publicization of the management and use of state property.

Article 27.- Management and use of state property by overseas Vietnamese state agencies

The management and use of state property by overseas Vietnamese state agencies must comply with this Law and accord with diplomatic regulations and laws of the host countries.

The Government shall specify the management and use of state property by overseas Vietnamese state agencies.

Article 28.- Management and use of state property at people's armed forces units

Based on the principles provided for in this Law, the Government shall specify the management and use of state property at people's armed forces units.

Chapter IV

MANAGEMENT AND USE OF STATE PROPERTY AT PUBLIC NON-BUSINESS UNITS WITH OR WITHOUT FINANCIAL AUTONOMY

Article 29.- Sources of state property at public non-business units

1. Property assigned by the State in kind or land use rights.
2. Budget funds allocated by the State for investment in the construction or procurement of property.
3. Property built with investment or procured with money originating from the state budget.

Article 30.- Management and use of state property at public non-business units with financial autonomy

1. Public non-business units with financial autonomy are units satisfying the Government-set conditions, whose property is valued and assigned by the State to them for management in accordance with the mechanism on allocation of capital to enterprises.

2. The competence to decide on the assignment of state property is provided for as follows:

a/ Ministers, heads of ministerial-level agencies and heads of other central agencies may decide or decentralize the decision on the assignment of state property to public non-business units with financial autonomy under their management;

b/ Presidents of provincial-level People's Committees may decide on the assignment of state property to public non-business units with financial autonomy under local management

Article 31.- Rights and obligations of public non-business units with financial autonomy in management and use of state property

Public non-business units with financial autonomy have the rights and obligations of agencies, organizations and units assigned to manage and use state property defined in Articles 4 and 5 of this Law, and the following rights and obligations:

1. To use state property for production, service provision, lease, joint venture or cooperation under Articles 32 and 33 of this Law.
2. To preserve and develop state capital and property assigned to them for management and use.

3. To perform financial obligations towards the State in accordance with law.

Article 32.- Management and use of state property for production, service provision, lease, joint venture or cooperation at public non-business units with financial autonomy

The management and use of state property for production, service provision, lease, joint venture or cooperation must meet the following requirements:

1. Not affecting the performance of assigned functions and tasks.
2. Using the property for proper purposes of construction investment or procurement.
3. Promoting capacity and efficiency of the use of state property.
4. Following the market mechanism and complying with relevant provisions of law.

Article 33.- Management and use of proceeds from production, service provision, joint venture or cooperation, and lease of state property of public non-business units with financial autonomy

1. Proceeds from production, service provision, joint venture or cooperation activities must be fully accounted according to the laws on accounting and statistics, and be managed and used according to the financial mechanism applicable to enterprises.

2. Proceeds from the lease of the property must be accounted separately and may be used by units to develop their non-business activities after offsetting related reasonable expenses, paying taxes and fulfilling other financial obligations towards the State.

Article 34.- Management and use of state property at public non-business units without financial autonomy

The management and use of state property at public non-business units without financial autonomy must comply with regulations on management and use of state property at state agencies provided for in Chapter III of this Law.

Chapter V

MANAGEMENT AND USE OF STATE PROPERTY AT POLITICAL ORGANIZATIONS, SOCIO-POLITICAL ORGANIZATIONS, SOCIO-POLITICAL-PROFESSIONAL ORGANIZATIONS, SOCIAL ORGANIZATIONS AND SOCIO-PROFESSIONAL ORGANIZATIONS

Article 35.- Management and use of state property at political or socio-political organizations

1. The State shall assign property in kind or land use rights and allocate state budget funds for political or socio-political organizations to invest in construction or procure property according to their functions and tasks, and the criteria, norms and regimes of management and use of state property.

2. Property assigned by the State to political or socio-political organizations for management and use of state-allocated budget funds for construction investment or procurement come under the state ownership; the management and use of this property comply with this Law's Chapter III provisions on management and use of state property at state agencies.

Article 36.- Management and use of state

property at socio-political-professional organizations

1. Property being working offices or other land-attached property assigned by the State to socio-political-professional organizations for management and use come under the state ownership; the management and use of this property comply with this Law's Chapter III provisions on management and use of state property at state agencies. Socio-political-professional organizations assigned to manage and use state property shall protect state property according to law and maintain and repair such property with their own funds.

2. Property of those kinds not defined in Clause 1 of this Article assigned by the State to socio-political-professional organizations for management and use come under these organizations' ownership; the management and use of this property comply with the civil law, relevant laws and the charters of these organizations.

Article 37.- Management and use of state property at social organizations, socio-professional organizations

1. Social organizations and socio-professional organizations shall themselves assure funds for investment in the construction and procurement of their property; the State shall not assign property or provide budget supports for investment in the construction or procurement of property at these organizations.

2. Property being working offices or other land-attached property already assigned by the State to social organizations or socio-professional organizations for management and use come under the state ownership; the management and use of this property comply with this Law's Chapter III

provisions on management and use of state property at state agencies. Social organizations and socio-professional organizations assigned to manage and use state property shall protect the assigned state property according to law and maintain and repair such property with their own funds.

3. Property not defined in Clause 2 of this Article already assigned by the State to social organizations or socio-professional organizations for management and use come under these organizations' ownership; the management and use of this property comply with the civil law, relevant laws and the charters of these organizations.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 38.- Guidance for implementation

To assign the Government to perform the following tasks in order to ensure the enforcement of this Law:

1. To reorganize the management and use of state property for assignment purposes to ensure that state property which has not been used or used for improper purposes, in excess of the prescribed criteria or norms or against the prescribed regimes must be recovered before December 31, 2010;

2. To issue specific regulations on the switch of guest houses run by state agencies, political organizations or socio-political organizations to operate under mechanism applicable to public non-business units or enterprises.

3. To issue specific regulations on allowing the use of halls or means of transport of state agencies, political organizations or socio-political organizations

which have not been used at full capacity by agencies, organizations or units for proper purposes with the collection of a certain sum to offset expenses.

Article 39.- Implementation effect

This Law takes effect on January 1, 2009.

This law was passed on June 3, 2008, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 3rd session.

Chairman of the National Assembly
NGUYEN PHU TRONG