

DECREE ON THE ENACTMENT OF REGULATIONS ON THE ALLOCATION OF FORESTRY LAND TO ORGANIZATIONS, HOUSEHOLDS AND INDIVIDUALS FOR STABLE AND LONG TERM USE FOR FORESTRY PURPOSES

THE GOVERNMENT

Pursuant to the Law on Organization of the Government dated 30 September 1992;

Pursuant to Law on forest Protection and Development dated 19 August 1991;

Pursuant to the Law on Land dated 14 July 1993;

Pursuant to Law on Taxation on the Use of Agricultural Land dated 10 July 1993;

Upon the proposal of the Minister of forestry, the Minister of Agriculture and food Industry, the Minister of Aquaculture, the chairman of the Ethnic and Mountain Region's Committee and the head of the General Department of Land Administration

DECREES

Article 1:

This Decree is issued with the Regulations on the allocation of forestry land to organizations, households and individuals for stable and long term use for forestry purposes.

Article 2:

The Ministers, the heads of bodies at ministerial level and bodies of the government, the president of the people's committee of the provinces and cities under central authority shall be responsible for the implementation of this Decree.

Article 3:

This Decree shall be of full force and effect as from the date it is duly signed. All previous provisions inconsistent with this Decree are hereby repealed.

for The Government Deputy Prime Minister

PHAN VAN KHAI (Signed)

REGULATIONS ON THE ALLOCATION OF FORESTRY LAND TO ORGANIZATIONS, HOUSEHOLDS AND INDIVIDUALS FOR STABLE AND LONG TERM USE FOR FORESTRY PURPOSES

(issued with Decree No. 02-CP dated 15 January 1994 of the Government)

Article 1

forestry land allocated by the State to the organizations, households and individuals for stable and long term use as referred to in these regulations shall consist of:

land with natural forests and land under afforestation;

land without forests but which have been zoned for the purpose of afforestation, forest nurture and forest protection.

Article 2

Protective forests are mainly used for the purpose of protecting water resources and land, preventing erosion, limiting natural calamities, regulating the climate and contributing in the protection of the ecological environment.

Specialized forests are mainly used for the purpose of protecting nature, plants, animals and the ecosystem of the nation; scientific experimentation; maintaining the historical and cultural relics; sight-seeing and tourism.

Production forests are mainly used for the purpose of producing timber, forest products and specialties and protecting the ecological environment.

Article 6

- 1. The duration of forestry land allocation for stable and long term use for forestry purposes shall be regulated as follows:
 - (a) in respect of the State organizations, the duration shall be as stipulated by the State zoning and planning;
 - (b) in respect of other organizations, households and individuals, the duration shall be of fifty (50) years. If at the end of the stipulated time limit, the relevant organizations, households and individuals are still in demand for the land for the same correct purpose then the State shall consider the matter of reallocation of land.

In the case where the organizations, households and individuals plant forest trees with a life cycle of over fifty (50) years then after fifty (50) years the State shall reallocate the land to them until the fruits of the trees are collected.

- 2. The duration of forestry land allocation shall be calculated as follows:
 - (a) in respect of organizations and households which, and individuals who were allocated with land prior to and on 14 October 1993, the duration of land allocation shall be calculated as from 15 October 1993;
 - (b) in respect of organizations and households which, and individuals who were allocated with land on 15 October 1993 and after, the duration of land allocation

shall be calculated as from the date of allocation.

Article 7

- 1. forestry land which is marked as protective forests shall consist of:
 - (a) forests for the protection of resources;
 - (b) forests for the blocking of wind and fluttering sands;
 - (c) forests for the blocking of waves and sea-grabbing forests;
 - (d) forests for the protection of ecological environment.
- 2. The Board of Management of the protective forests established pursuant to a decision of the Prime Minister of the Government (or the President of the people's committee of the provinces and cities under central authority) shall be responsible for the administration of these forests in order to protect and develop the forests in accordance with the approved zoning and planning.
- 3. In respect of the areas of the protective forests which have already been allocated to organizations (economic organizations, agricultural organizations, forestry organizations, piscicultural organizations, people's armed forces units or other organizations), heads of these organizations shall be responsible for the organization on the management, protection and development of these areas in accordance with the zoning and planning approved by the competent State body.
- 4. In respect of small areas of the protective forests located within the region of a particular commune, village and mountain village which have not yet been allocated to a particular user, the President of the people's committee of the commune shall have the responsibility to organize for the management, protection and development of these areas in accordance with the guidance from the local State body in charge of the administration of the forests.
- 5. The State shall work together with the forestry, agricultural and pisciculture production businesses of the following regions in the allocation of land to organizations, households and individuals for the purpose of developing protective forests:
 - (a) regions for the protection of insignificant resources;
 - (b) regions for the blocking of wind and fluttering sands;
 - (c) regions for the blocking of waves and stable sea-grabbing regions;
 - (d) regions for the protection of ecological environment.

Article 8

- 1. forestry land which are marked as specialized forests shall consist of:
 - (a) the national garden;
 - (b) forests for the protection of nature;
 - (c) forests for the purpose of maintaining cultural and historical relics and forests

which are reserved for sight-seeing and scientific experimentation.

- 2. The Board of Administration of the national garden and forests for the protection of nature which were established pursuant to a decision of the Prime Minister of the Government shall be responsible for the administration and protection of the above forests.

The administration and protection of these forests shall be as follows:

- (a) in respect of fully protected areas where the moving of all residents out of such areas has not taken place, the Board of Administration of the specialized forests responsible for the allocation of land to the households shall be responsible for the protection of the land in accordance with the land allocation contract;
 - (b) in respect of areas for the restoration of the ecology, the Board of Administration of the specialized forests responsible for the allocation of land to the households shall be responsible for the protection and afforestation of the land in accordance with the allocation of land contract;
 - (c) in respect of land for planting annual trees in the area as referred to in paragraph (b) of point 2 of this article, the Board of Administration of the forests shall have the right to reallocate the land to the households to use for the purpose of agricultural production in accordance with the provisions of the law.
- 3. In respect of forests for the purpose of maintaining cultural and historical relics and forests which are reserved for sight-seeing and scientific experiments and which have been established by the competent State body in charge of land administration, the Board of Administration of these projects shall be responsible for the protection of the forests in accordance with the provisions of the law.

In cases where there are people living in these forests and annual trees are planted, the allocation of land shall be implemented in accordance with the provisions of paragraphs (b) and (c) of point 2 of this article.

Article 9

In respect of forestry land which is within the zone of 'production forests':

- 1. The area of the production forests allocated to the organizations, households and individuals of all economic sectors shall be subject to the provisions of point 1 of article 3 and point [?] of article 4[?] of these Regulations.
- 2. The State shall encourage the organizations, households and individuals to plant forests and carry out agricultural, forestry and piscicultural production on unoccupied land and bare hilly land. The State shall have policies assisting the organizations, households and individuals in afforestation; agricultural, forestry and piscicultural production and manufacturing and in the marketing of finished products and the building of infrastructures.

Article 10

Organizations and households which, and individuals who are legally managing or using forestry land which were previously allocated to them by a competent State body shall be considered for a continuation of the right to use the land and shall be required to have all the documents and to

comply with the procedures as stipulated by article 13 of these Regulations.

Article 11

The authority to determine the establishment of the forest regions and the allocation of forestry land for stable and long term use for forestry purposes shall be subject to the provisions of article 8 of Decree No. HDBT dated 17 [?] 1992 which provides for the implementation of the Law on forest Protection and Development.

The State body which has the authority to allocate forestry land is also the State body which has the power to approve the feasibility study, the administration project and the investment proposal on the protection and development of the forest.

Article 12

- 1. In respect of forestry land which is unoccupied or bare hilly land, the organizations, households and individuals allocated with land shall be issued with the certificate of the right to use land on stable and long term basis and shall be entitled to the enjoyment of the investment policies, appropriate assistance and the exemption from and reduction of taxes in accordance with the provisions of the law.
- 2. In respect of forestry land which have natural forests, is under afforestation or which have floristic compositions in need of protection, the households and individuals allocated with land shall be responsible for the forestry land and the floristic compositions which were allocated to them in accordance with the State contract.
- 3. In respect of households and individuals who are living within the vicinity of protective and specialized forests and on the afforestation yards, the farms and the national fishing place or on farms, stations and enterprises which are similar to the national forestry, the receiving of land shall be implemented by the signing of a contract with the administration bodies or with their organizations and such contract shall be registered at the local people's committee.

Article 13

Documents relating to the allocation of forestry land shall consist of:

- 1. An application for the allocation of forestry land.
- 2. In respect of organizations, the feasibility study, the administration project and the investment proposal approved by the competent level shall be required.

In respect of households and individuals, the administration project and the application of land proposal or the allocation of land contract approved by the competent State body shall be required.

- 3. The map or diagram with the scale from 1/5.000 to 1/25.000 of the allocated forestry land. In respect of the localities where there is no map with the above scale, the map with the scale of 1/50.000 may be enlarged for use and the actual details of the relevant field may be added on to the map.
- 4. The decision to allocate forestry land by the competent level.
- 5. The memorandum on the allocation and receiving of forestry land.

- 6. All documents relating to the allocation of forestry land shall be retained by the level which issued the decision to allocate forestry land and the local people's committee.

Article 14

The issuance of the certificate of the right to use forestry land shall be regulated as follows:

- 1. Requirements for the issuance of the certificate of the right to use land:
 - (a) the availability of a land map or a comprehensive land diagram;
 - (b) the land allocated must be zoned and marked on the map and its area must be calculable.
- 2. The State body in charge of forestry land administration shall, in conjunction with the land administration body of the same level, carry out the procedures for the allocation of forestry land to the organizations, households and individuals.
- 3. The local land administration body shall carry out all the procedures in order to enable the competent level to issue the certificate of the right to use land to organizations, households and individuals.
- 4. Expenses on the allocation of agricultural land shall be covered by the State budget.

The certificate of the right to use land shall be issued by the central land administration body.

Article 15

The user of forestry land shall have the following rights and obligations:

- 1. The rights:
 - (a) he/she shall be entitled to the issuance of the certificate of the right to use land;
 - (b) the State shall protect his/her legal rights in respect of the area of forestry land allocated to him/her;
 - (c) he/she shall be entitled to enjoy the fruits of his/her labor and the outcomes of any investments made on the allocated land in accordance with the feasibility study, the administration project, the investment proposal or pursuant to an agreement or a contract;
 - (d) he/she shall be entitled to enjoy the State's assistance policies in respect of forest protection and development;
 - (e) he/she shall be compensated or indemnified for the fruits of his/her labor and the outcomes of any investments made on the allocated land which were taken away from him/her pursuant to the provisions of the law. The compensation or indemnity shall be in accordance with the market price of the fruits of the labor and the investment outcomes and the actual state of the land allocated;
 - (f) he/she shall be entitled to pass on to his/her successors, assigns, mortgage and convert his/her right to use the forestry land allocated to him/her in accordance with the provisions of the law;
 - (g) he/she shall be entitled to the exemption from or the reduction of taxes in

cases of afforestation on unoccupied land and bare hilly land in accordance with the provisions of the law.

- 2. The obligations:
 - (a) he/she shall be responsible before the State in the implementation of the provisions of the law relating to the administration, protection and development of the forestry land allocated to him/her;
 - (b) he/she shall compensate or indemnify the owner of the forest for the loss incurred by the owner in respect of the allocation of land to him/her in accordance with the market price;
 - (c) he/she shall be liable for the payment of taxes in accordance with the provisions of the law.

Article 16

Rewards and dealing with breaches:

Organizations and households which, and individuals who contribute in the successful implementation of these Regulations shall be considered for rewards in accordance with the provisions of the law.

Organizations and households which, and individuals who breach these Regulations, shall depending upon the seriousness of the breach, be required to revert back parts or the whole of the area of forestry land allocated to them or be subject to administrative punishment or criminal prosecution in accordance with the provisions of the law.

Article 17

The Minister of forestry, the Minister of Agriculture and food Industry, the Minister of Aquaculture, the Minister of finance, other Ministers, chairmen, the State Planning Committee, the Ethnic and Mountain Region Committee, Head of the General Department of Land Administration and heads of related departments shall provide guidance and supervision on the implementation of these Regulations.

The Minister of forestry shall, in conjunction with the Minister of Justice issue standard agreement forms and contracts to be uniformly applied within the country.

The Minister of forestry, the Head of the General Department of Land Administration and the President of the people's committee of provinces and cities under central authority shall be responsible for the organization of the implementation of these Regulations.

Article 18

All previous provisions inconsistent with these Regulations are hereby repealed.

for The Government Deputy Prime Minister

PHAN VAN KHAI (Signed)