

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

Pursuant to the Government's Decree No. 84/2007/ND-CP of May 25, 2007, additionally prescribing the grant of land use right certificates, the land recovery, the exercise of land use rights, the order and procedures for land recovery compensation and the settlement of land-related complaints;

Pursuant to the Government's Decree No. 69/2009/ND-CP of August 13, 2009, additionally prescribing the land use planning, land price, land recovery, compensation, support and resettlement;

At the proposal of the Minister of Agriculture and Rural Development (Report No. 4347/TTr-BNN-KTHT of December 29, 2009),

DECIDES:

THE PRIME MINISTER

Decision No. 34/2010/QĐ-TTg of April 8, 2010, promulgating the Regulation on irrigation and hydropower project-related compensation, support and resettlement

THE PRIME MINISTER

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

Pursuant to the November 26, 2003 Land Law;

Article 1. To promulgate together with this Decision the Regulation on irrigation and hydropower project-related compensation, support and resettlement.

Article 2. This Decision takes effect on June 1, 2010.

Article 3. Ministers, heads of ministerial-level agencies, heads of government- attached agencies and chairpersons of provincial-level People's Committees shall implement this Decision.

Prime Minister
NGUYEN TAN DUNG

Regulation on irrigation and hydropower project-related compensation, support and resettlement

(Promulgated together with the Prime Minister's Decision No. 34/2010/QĐ-TTg of April 8, 2010)

Chapter I

GENERAL PROVISIONS

Article 1. Scope and subjects

1. Scope

a/ This Regulation applies to irrigation and hydropower project-related compensation, support and resettlement, except for projects funded with official development assistance (ODA);

b/ Apart from the provisions of this Regulation, the compensation, support and resettlement also comply with the Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement when the State recovers land (below referred to as Decree No. 197/2004/ND-CP); 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 transformation of state-run companies into joint-stock companies; Decree No. 84/2007/ND-CP of May 25, 2007, additionally prescribing the grant of land use right certificates, the land recovery, the exercise of land use rights, the compensation, support and resettlement order and procedures when the State recovers land and the settlement of land-related complaints (below referred to as Decree No. 84/2007/ND-CP); Decree No. 69/2009/ND-CP of August 13, 2009, additionally prescribing the land use planning,

land prices, land recovery, compensation, support and resettlement (below referred to as Decree No. 69/2009/ND-CP); and other current relevant provisions of law.

2. Subjects of application: Organizations, households, individuals and population communities whose land (in reservoir bed areas, sites for the construction of dams, key works and auxiliary facilities and places for the construction of resettlement quarters or spots) is recovered and whose assets attached to the recovered land are dismantled (collectively referred to as persons whose land is recovered) for the implementation of irrigation or hydropower projects.

Article 2. Interpretation of terms

1. Irrigation or hydropower project zones include submerged reservoir bed areas sites for the construction of dams, key works and auxiliary facilities and places for the construction of resettlement quarters.

2. Resettlement households means households (including households with a single member and households with two or more members) and organizations operating under Vietnamese law in irrigation or hydropower project zones that are directly affected and have to move to new places of residence.

3. Concentrated resettlement households means resettlement households planned to move to a new place that forms a new residential spot.

4. Mingled resettlement households means resettlement households planned for mingled resettlement with local inhabitants in a residential spot.

5. Voluntary resettlement households means resettlement households that move by themselves to new places of residence with local inhabitants

in a residential spot.

6. Resettlement spot means a residential spot built under planning for re-settlers.

7. Resettlement quarter means a place planned for two or more resettlement spots.

Article 3. General principles for compensation, support and resettlement

1. To ensure that resettlers have places of residence, stable life and conditions to develop production, raise incomes and incrementally complete infrastructure and that their material and spiritual lives become increasingly improved compared to their former places of residence and permanently stable, contributing to boosting local socio-economic development and security and defense.

2. To harmonize interests between resettlers and local inhabitants; to ensure democracy, publicity, fairness, transparency, proper purposes, proper persons and effectiveness in the process of implementation.

Chapter II

COMPENSATIONS FOR RECOVERED LAND

Article 4. Compensation principles

1. Land users whose land is recovered for the implementation of irrigation or hydropower projects are entitled to compensations under Articles 14 and 16 of Decree No. 69/2009/ND-CP.

2. To handle land value differences between places of departure and places of destination

a/ If the value of allocated residential and production land is lower than the value of recovered residential and production land,

resettlement households are entitled to the value difference;

b/ If the value of allocated residential and production land is higher than the value of recovered residential and production land, resettlement households are not required to pay the value difference.

3. Other cases

a/ For semi-submerged land: Semi-submerged land in reservoir beds which is formed after the creation of reservoirs and belongs to common land funds will be allocated to communes for management and use according to current law;

b/ In case resettlement households with production land located above the submerged reservoir bed level that move to places of residence far from their former places of production, their production land in the former places of residence will be recovered and they are entitled to compensations under Clause 1 of this Article.

Recovered production land areas shall be allocated to local administrations for management and use according to current regulations.

c/ In case protection or special-use forest land which has been allocated by the State to organizations for management which have then subcontracted such land to other organizations, households and individuals for forest regeneration, tending and protection or forestation with state budget funds under package contracts, is recovered by the State, those households and individuals are entitled to compensations for plants on such land but not for the land. Compensation levels will be equivalent to product-sharing levels provided in Joint Circular No. 80/2003/TTLT/BNN-BTC of

September 3, 2003, of the Ministry of Finance and the Ministry of Agriculture and Rural Development, guiding the implementation of the Prime Minister's Decision No. 178/2001/QĐ-TTg of November 12, 2001, on interests and obligations of households and individuals allocated, leased or contracted forests and forest land.

Provincial-level People's Committees shall base themselves on the practical situation to issue specific regulations.

Article 5. Land areas used for compensation calculation

1. In case persons whose land is recovered possess valid papers showing their land areas and meet conditions for compensations for recovered land, they are entitled to compensations calculated based on recovered land areas.

2. In case persons whose land is recovered meet conditions for compensations for recovered land but their papers fail to clearly show their land areas, land areas used for compensation calculation shall be determined according to written certifications signed by the commune administration, chairman of the Ground Clearance and Compensation Council and land user concerned.

Land areas used for compensation calculation shall be prescribed by provincial-level People's Committees on the basis of local land allocation plans and quotas.

Chapter III

COMPENSATIONS FOR PROPERTY
DAMAGE

Article 6. Compensations for houses and works constructed on land together with houses

1. Resettlement households defined in Clause 2, Article 1 of this Regulation are entitled to compensations for loss of houses, auxiliary works and architectural objects attached to houses under Article 24 of Decree No. 69/2009/ND-CP.

2. Households and individuals that have received forests (excluding special-use forests) under protection or regeneration contracts and built huts or sheds on the contracted land with written consent of contractors and registered them with local commune People's Committees are entitled to compensations therefor. Areas eligible for compensation must not exceed 200 m² of flooring area.

Article 7. Compensations for public work damage

1. Public works built with state budget funds which are to be dismantled and need not to be built in new places according to planning are not entitled to compensation; if they have been built with people's labor, materials and money, provincial-level People's Committees shall decide on specific compensation levels.

2. Public works built with funds contributed by collectives or people will be compensated for damage. Compensation levels comply with Clause 1, Article 6 of this Regulation.

3. Localities which have their infrastructure facilities kept intact or partially or wholly relocated or damaged are entitled to have their infrastructure facilities renovated, upgraded or constructed by investors according to planning to serve their production and daily life.

Article 8. Compensations for crops and raised animals

1. Compensation levels for annual crops comply with Clause 1, Article 24 of Decree No.

197/2004/ND-CP.

2. Compensations for perennial trees:

a/ For trees which have not yet been harvested and can be moved to places of resettlement, transport and re-planting expenses will be compensated. The maximum compensation level must not exceed the costs of investment in new garden tree planting.

b/ For perennial trees with many years of garden construction and annual harvest in subsequent years (production and business period), compensations shall be paid as follows:

- Tree gardens currently in the period of construction: Compensations shall be paid for the costs of construction investment determined based on the actual investment value (including planting and tending costs) by the time of compensation;

- Tree gardens currently in the production and business period: Compensations shall be paid for earnings from tree gardens, calculated as equal to the average revenue of the three latest years from the tree gardens (in the production and business period) multiplied by the number of years of the (remaining) production and business period of the tree gardens.

After receiving compensations, households may continue harvesting products until the project land is officially recovered for use.

c/ Provincial-level People's Committees shall specify compensation levels specified in Clause 2 of this Article.

3. Compensations for forest plantations

a/ Households that are allocated land and plant forests with their own money: Compensation levels for their planted forests will be calculated as equal to the planted forest area multiplied by (x) the forestation unit price and added with (+)

the costs of forest tending and protection from the time of forestation to the time of approval of the compensation scheme;

b/ Households who plant and tend forests for organizations under contracts shall be compensated under Point c, Clause 3, Article 4 of this Regulation;

c/ For production and business forests reaching the time of harvest, forest owners may exploit them and are not entitled to any compensations.

4. For animals raised on land with water surface, compensations shall be paid under Clause 5, Article 24 of Decree No. 197/2004/ND-CP.

Chapter IV

SUPPORT POLICIES

Article 9. Supports for the construction of houses

Concentrated resettlement households, mingled resettlement households and local households whose land is recovered for the construction of resettlement quarters will, apart from receiving compensations for their houses, auxiliary works and architectural objects affixed to houses in their former places of residence as provided for in Article 6 of this Regulation, be entitled to pecuniary supports for building new houses. The support level per lawful household member is equivalent to the cost of construction of 5 m² of flooring area. The house structure used for calculating the support level is that of a grade-IV house (under the criteria set by the Ministry of Construction).

Specific support levels shall be prescribed by provincial-level People's Committees.

Article 10. Supports for life stabilization

1. Food support

a/ A lawful member of a household with residential and production land wholly recovered which has to move to a new place of residence will be provided with food support for 48 months.

b/ Households with 30% to 70% of lawfully used (allocated or contracted), agricultural production land recovered will be provided with food support for 24 months; households with over 70% of their agricultural production land (assigned or contracted) recovered will be provided with food support for 36 months.

c/ The per-head support level defined at Points a and b of this Clause is equivalent to 30 kg of rice/household member/month, The rice price will be the average local price at the time of support provision.

2. Medical support

Each lawful member of a resettlement household will be provided with medical support once at new places. The support level will be VND 30,000/household member. In case of fluctuations in medicine prices, provincial-level People's Committees will prescribe specific support levels.

3. Educational support

Children of resettlement households who are following general education at all levels will each be provided with a pecuniary support equivalent to the price of a set of textbooks; be exempt from school fee in the first school year at the new places of residence and exempt from contributions to school construction for 3 consecutive school years from the time they start their schooling in the new places of residence.

4. Lighting support

Each lawful member of a resettlement household will be provided with lighting support in the first year (from the date of moving to new place of residence). The support level is equivalent to 1.5 liters of kerosene/member/month.

5. Fuel support

Each lawful member of a resettlement household will be provided with fuel support in the first year (from the date of moving to new place of residence). The support level is equivalent to 3 liters of kerosene/member/month.

6. Provincial-level People's Committees shall prescribe specific support levels stated in this Article.

Article 11. Production support

1. Cultivation support

a/ For annual crops, a support of 100% of funds for purchasing new strains, inorganic fertilizers and insecticides in two harvests will be provided. The support level will be calculated based on the acreage of allocated production land and kinds of crop under planning;

b/ For perennial and industrial trees a support of 20-50% of investment costs, including: strains, planting labor, tending labor, inorganic fertilizers and insecticides. The support level must not exceed 1 ha/household and will depend on the technical process applied to each kind of trees under planning.

2. Husbandry support: A resettlement household will be provided a lump-sum pecuniary support for purchasing 2 ordinary breed porkers of 10 kg/head and one 10 month-old beef calf of local breed;

3. Production forest planting support: In addition to the support levels defined in the Prime

Minister's Decision No. 147/2007/QĐ-TTg of September 10, 2007, on a number of policies for development of production forests in the 2007-2015 period, resettlement households will be provided with a support of 50% of a forestation investment portion (calculated for a hybrid acacia production cycle of between 5 and 7 years). The support level must not exceed 2 ha/household;

4. Resettlement households will be provided with training, technical guidance and support in building cultivation and husbandry models according to approved production schemes. The support levels comply with Joint Circular No. 102/2007/TTLT/BTC-BLDTBXH of August 20, 2007, of the Ministry of Finance and the Ministry of Labor, War Invalids and Social Affairs;

5. Provincial-level People's Committees shall prescribe specific support levels mentioned in this Article.

Article 12. Other supports

1. Resettlement households will be provided with supports for visits to resettlement spots, including travel fares, meals and accommodation during the visits.

2. Funding support for carrying out procedures to move from their old houses and receive their new houses: The support level will be VND 300,000/household (lump-sum support).

3. Encouragement of ahead-of-time relocation: Households that move according to plans and schedules notified by the Compensation Councils will receive a lump-sum pecuniary reward not exceeding VND 5,000,000/household.

4. Support for policy households: Households with members currently enjoying the State's social relief regime under the Government's

Decree No. 07/2000/ND-CP of March 9, 2000, and relevant regulations will be provided with a lump-sum support of VND 2,000,000/beneficiary.

5. For ethnic minority people who are not accustomed to grave removal will be provided with a lump-sum support for holding traditional spiritual ceremonies. The specific support level will be prescribed by provincial-level People's Committees.

Chapter V

RESETTLEMENT

Article 13. Resettlement planning

1. For a population relocation and resettlement compensation project to be executed in two or more districts or involving 300 or more resettlement households (both at places of departure and destination), a master plan on population relocation and resettlement shall be formulated before a detailed plan is drawn up.

2. For a population relocation and resettlement compensation project to be executed in one district or involving under 300 resettlement households, only a detailed plan on resettlement spots is required to be made.

3. The master and detailed plans on population relocation and resettlement must satisfy the following requirements:

a/ Conforming to the master plans on socio-economic development and sectoral development of each region and locality;

b/ Ensuring adequate production land for resettlement households with revenues coming largely from agricultural production, calculated based on the minimum production land acreage specified in Clause 1, Article 2 of Decision No.

134/2004/QĐ-TTg of July 20, 2004, and Points b and c, Article 3 of Decision No. 198/2007/QĐ-TTg of December 31, 2007, of the Prime Minister;

c/ Having adequate water sources for production and daily life and ensuring environmental sanitation of resettlement quarters and spots;

d/ Population spot planning and construction conform to the objectives of building a new countryside under the Prime Minister's Decision No. 491/QĐ-TTg of April 16, 2009, promulgating a set of national criteria for a new countryside, and to customs and practices of each ethnic group.

Article 14. Formulation and execution of resettlement projects

1. Based on master plans and detailed plans on population relocation and resettlement and land use plannings and plans approved by competent authorities, resettlement project investors shall formulate and organize the execution of resettlement projects.

2. The formulation of investment projects on the construction of resettlement quarters and spots must comply with current regulations on investment and construction management and relevant regulations.

3. Households shall be relocated to population spots after the complete construction of essential infrastructure facilities, ensuring adequate production land and water for production and daily life of resettlement households.

Article 15. Allocation of land to resettlement households

1. Residential land

a/ Households resettled in concentrated rural resettlement spots shall be allocated land for the construction of houses suitable to local conditions and practices. Specific residential land allocation levels shall be decided by provincial-level People's Committees;

b/ Households resettled in a urban resettlement spot will be allocated a residential land plot at the resettlement spot; provincial-level People's Committees shall specify residential land areas allocated to resettlement households. If an urban resettlement spot is planned for the construction of condominiums, resettlement households will be arranged to live in condominiums.

2. Production land

a/ Resettlement households will be allocated production land and the allocated land acreage will depend on the land fund of each resettlement spot but must at least satisfy the requirements at Point b, Clause 3, Article 13 of this Regulation.

b/ For resettlement spots with adequate funds of production land reclaimable for a higher acreage allocated to resettlement households, relocation and resettlement project investors shall allocate them to resettlement households for reclamation and restoration of production land under approved projects.

3. Resettlement households will be granted certificates of land use rights and house and other land-affixed asset ownership rights, and they may exercise other rights and perform other obligations as provided for by law.

4. Expenses for land measurement and cadastral record compilation to serve the compensation, land recovery, land allocation and grant of certificates of land use rights and house and other land-affixed asset ownership rights to

resettlement households comply with current provisions of the land law. Funds for the performance of these tasks will be included in the projects' total investments.

Article 16. Construction of rural resettlement quarters and spots

1. Households that receive compensations in cash for their houses and land-affixed works shall themselves dismantle, install and build houses on the allocated land plots under the detailed resettlement plannings approved by competent authorities. For households that do not receive compensations in cash but demand investors build houses for them, investors shall build houses and works according to the approved designs in resettlement projects; these designs must be commented by resettlement households before they are approved.

2. Infrastructure and public facilities in resettlement quarters and spots shall be constructed according to construction standards set by ministries and sectors for the building of a new countryside.

Article 17. Construction of urban resettlement spots

Houses for resettlement households, infrastructure and public facilities in concentrated resettlement quarters in urban centers and offices of organizations shall be constructed in accordance with general urban plannings and detailed plannings on urban resettlement spots approved by competent authorities.

Article 18. Management and handover of resettlement quarters and spots

All infrastructure and public facilities, after being constructed in resettlement quarters or spots will be handed over to organizations and

localities for management and use according to current regulations.

Chapter VI

ORGANIZATION OF IMPLEMENTATION

Article 19. Responsibilities of provincial-level People's Committees

1. To act under assignment as investors of compensation, population relocation and resettlement compensation projects under investment projects to construct irrigation or hydropower works in their respective provinces. To base themselves on the size of each specific project to directly act as investors or decentralize such to provincial specialized departments or districts.

2. Based on the provisions of this Regulation and local conditions, to specify the contents falling within their respective jurisdiction and take responsibility for their decisions.

3. To guide and organize the payment of compensations and supports and construction of resettlement quarters under irrigation or hydropower projects in accordance with this Regulation.

4. To formulate population relocation and resettlement planning and plans under irrigation and hydropower projects in their respective provinces.

5. To direct sectors and local administrations of different levels in their provinces to perform the tasks mentioned in Articles 43, 44 and 45 of Decree No. 197/2004/ND-CP.

6. To organize propagation and mobilization of people to strictly observe the policies defined in this Regulation with a view to ensuring the schedules of investment projects to construct

irrigation or hydropower works.

7. To direct and incorporate existing programs and projects in their localities to invest in socio-economic development in resettlement quarters and spots.

8. To closely coordinate with irrigation and hydropower project investors in organizing payment of compensation, population relocation and resettlement.

Article 20. Responsibilities of ministries and central branches

1. The Ministry of Agriculture and Rural Development shall:

a/ Act as the state management body taking the prime responsibility for population relocation and resettlement related to irrigation or hydropower projects nationwide; to coordinate with concerned ministries and branches in guiding provincial-level People's Committees in:

- Formulating master and detailed plans on population relocation and resettlement and submit them to competent authorities for approval.

- Organizing the development of agricultural, forestry and fishery production in association with product processing and consumption in resettlement zones.

b/ Summarize proposals of ministries, branches and localities in the course of implementation of this Regulation; to study, adjust and supplement regulations to suit the practical conditions and submit them to the Prime Minister for consideration and decision;

c/ Inspect and supervise the payment of compensation and supports and resettlement in localities.

2. The Ministry of Planning and Investment

shall:

a/ Assume the prime responsibility for, and coordinate with the Ministry of Finance and the Ministry of Agriculture and Rural Development in, allocating state budget funds for population relocation and resettlement projects funded by the state budget under annual plans;

b/ Guide, inspect, supervise and evaluate investment in the course of implementation of population relocation and resettlement projects in localities.

3. The Ministry of Finance shall:

a/ Coordinate with the Ministry of Planning and Investment in allocating state budget capital for population relocation and resettlement projects funded by the state budget under annual plans;

b/ Guide the transfer of compensation, population relocation and resettlement funds managed by irrigation or hydropower project investors to compensation, population relocation and resettlement project investors for management and use;

c/ Guide and inspect the management and use of population relocation and resettlement funds, ensuring the allocation and settlement of funding sources according to current regulations.

4. The Ministry of Industry and Trade shall guide and inspect the formulation of plans for the development of industries, cottage industries and handicrafts in association with the production and processing of agricultural and forestry projects in resettlement zones.

5. The Ministry of Construction shall guide and inspect the realization of plans on the construction of rural and urban resettlement spot, plans on the construction of houses and building of a new countryside; on standards, norms and

cost estimates for the construction of works in resettlement quarters and spots.

6. The Ethnic Minorities Committee shall coordinate with ministries, branches and localities in propagating and mobilizing people of various ethnic groups to strictly observe the policies of the Party and the State, and inspect the implementation of nationality policies in resettlement zones.

7. The Ministry of Natural Resources and Environment shall guide and inspect the compilation of cadastral records, the land recovery, land allocation and grant of certificates of land use rights and house and other land-affixed asset ownership rights to resettlement households in conformity with the characteristics and conditions of irrigation or hydropower project resettlement zones.

8. Irrigation and hydropower work investors shall closely coordinate with provincial-level People's Committees of localities in which such works exist in organizing the effective execution of projects; and fully and promptly supply funds for compensation payment, support provision and resettlement of projects in localities.

Article 21. Responsibilities of organizations, households and individuals whose land is recovered

Organizations, households and individuals that are subjects of irrigation or hydropower project-related compensation, population relocation and resettlement shall strictly abide by this Regulation and relevant current regulations, and participate in inspecting and supervising the compensation payment, support provision and resettlement.-

Prime Minister
NGUYEN TAN DUNG