

Hanoi, 29 October 2004

DECREE PROVIDING FOR IMPLEMENTATION OF LAW ON LAND

The Government

- ❖ *Pursuant to the Law on the Organization of the Government dated 25 December 2001;*
- ❖ *Pursuant to the Law on Land dated 26 November 2003;*
- ❖ *On the proposal of the Minister of Natural Resources and Environment;*

Decrees:

CHAPTER I

General Provisions

Article 1: *Governing scope and applicable entities*

1. This Decree provides for implementation of the *Law on Land* passed by Legislature XI of the National Assembly at its 4th session on 26 November 2003.
2. Other Decrees of the Government shall regulate methods of determining land prices and price frameworks for each type of land; collection of land use fees and collection of land rent; compensation, financial assistance and resettlement when the State recovers land for use for objectives of national defence and security, public utility or economic development; inspection of land; and imposition of penalties for administrative breaches relating to land.
3. The applicable entities subject to this Decree shall comprise:

- (a) State bodies exercising rights and discharging responsibilities as representatives of the ownership of land by the entire people and carrying out the task of uniform State administration of land;
- (b) Land users stipulated in article 9 of the *Law on Land*;
- (c) Other entities involved in the management and use of land.

Article 2: *Persons responsible before the State for land use*

Persons responsible before the State for land use shall be regulated as follows:

1. Heads of organizations and foreign organizations shall be persons responsible before the State for land use by their organizations.
2. Chairmen of people's committees of communes, wards and townships shall be persons responsible before the State for use of agricultural land for public utility purposes; and non-agricultural land that has been allocated to such people's committees for use for the purpose of construction of their headquarters and of public facilities for cultural, educational, health, sports, recreation and entertainment activities, markets, cemeteries, graveyards and other local public facilities.
3. Representatives of communities of citizens shall be persons responsible before the State for use of land that has been allocated to such communities.
4. Heads of religious organizations shall be persons responsible before the State for use of land that has been allocated to such religious organizations.
5. Heads of family households shall be persons responsible before the State for use of land by such family households.
6. Individuals, Vietnamese residing overseas and foreign individuals shall be responsible before the State for use of their land.
7. Representatives of land users with common rights to use a parcel of land shall be persons responsible before the State for use of such land.

Article 3: *Persons responsible before the State for land allocated for management*

1. Heads of organizations shall be responsible before the State for management of land in the following cases:

(a) Organizations assigned to manage public facilities as stipulated in clause 3 of article 91 of this Decree;

(b) Economic organizations assigned to manage land areas to carry out investment projects in the form of build-transfer (BT) in accordance with clause 1 of article 87 of this Decree;

(c) Organizations assigned to manage land with water surfaces of large rivers and land with water surfaces for special use;

(d) Land fund development organizations which are assigned to manage land which is recovered pursuant to a decision of a competent State body.

2. Chairmen of people's committees of communes, wards and townships shall be responsible before the State for management of land used for public utility purposes and assigned to them to manage, land recovered in rural areas pursuant to clauses 2 to 12 inclusive of article 38 of the *Law on Land*, land that has not been allocated, and land that has not yet been leased in their locality.

3. Chairmen of people's committees of provinces and cities under central authority shall be responsible before the State for management of unused land on uninhabited islands in their locality.

4. Representatives of communities of citizens shall be responsible before the State for management of forestry land that has been allocated to such communities for protection and development of the forest pursuant to the *Law on Protection and Development of Forests*.

Article 4: Assurances to land users

1. The State shall not recognize any claim to take back land and shall not consider resolution of any complaint relating to a claim to take back land which the State allocated to others for their use in accordance with land policies prior to 15 October 1993 in the following circumstances:

(a) Land which was confiscated, requisitioned or compulsorily purchased in the course of implementation of the land renovation policy in the North, or pursuant to the policy on demolition of any vestige of private proprietorship of land and all forms of exploitation by the colonial and feudal system in the South;

(b) Land which was donated to the State, co-operatives, other organizations, family households or individuals;

(c) Land which was contributed to agricultural co-operatives in accordance with the Charter of Advanced Agricultural Cooperatives;

(d) Residential land which the State has allocated to others for use as residential land; residential land and garden land that users have returned to co-operatives in order to develop new land; land which has been recovered to be allocated or adjusted to others in the course of resolution of a land dispute;

(dd) Land which was divided amongst others in the course of the campaign to share land with persons having no land or insufficient land in the South after Re-Unification Day.

2. Resolution of any land dispute or complaint must be based on the law on land as at the date on which the land relationship giving rise to the dispute or complaint arose, including the following legal instruments relating to land:

(a) The *Law on Land Renovation* of the Democratic Republic of Vietnam promulgated on 4 December 1953;

(b) Circular 73-TTg of the Prime Minister of the Government of the Democratic Republic of Vietnam dated 7 July 1962 regarding management of land for lease of private individuals, of land without owners, and of deserted urban land;

(c) Charter of Advanced Agricultural Co-operatives promulgated on 1 May 1969;

(d) Resolution 125-CP of the Council of the Government of the Democratic Republic of Vietnam dated 28 June 1971 regarding enhancement of land management;

(dd) Decree 47-CP of the Council of the Government of the Democratic Republic of Vietnam dated 15 March 1972 promulgating the temporary charter on selection of project sites and management of construction land;

(e) Resolution 28-CP of the Council of the Government of the Democratic Republic of Vietnam dated 16 December 1973 regarding resettlement of residents for river bed clearance;

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(g) Decision 129-CP of the Council of the Government of the Democratic Republic of Vietnam dated 25 May 1974 regarding promulgation of policies applicable to co-operatives extending their land areas to develop agriculture and forestry in midland and mountainous regions;

(h) Decree 01-ND-75 of the Provisional Revolutionary Government of the Republic of South Vietnam dated 5 March 1975 regarding land policies;

(i) Directive 235-CT-TW of the Central Executive Board of the Labour Party of Vietnam dated 20 August 1976 regarding implementation of the Resolution of the Politburo regarding land issues in the South;

(k) Decision 188-CP of the Council of the Government of the Socialist Republic of Vietnam dated 25 September 1976 regarding the policy on demolition of any vestige of private proprietorship of land and of all forms of exploitation by the colonial and feudal system in the South;

(l) Decision 318-CP of the Council of the Government of the Socialist Republic of Vietnam dated 14 December 1978 regarding demolition of any form of capitalist exploitation of land and promotion of adjustments to rural land in the South;

(m) Decision 201-CP of the Council of the Government of the Socialist Republic of Vietnam dated 1 July 1980 regarding uniform land administration and enhancement of land administration nationwide;

(n) The 1987 *Law on Land* and Decree 30-HDBT of the Council of Ministers dated 23 March 1989 regarding implementation of the 1987 *Law on Land*;

(o) Decision 13-HDBT of the Council of Ministers of the Socialist Republic of Vietnam dated 1 February 1989 regarding resolution of a number of emergency land issues.

3. Resolution of residential land and of non-agricultural production and business land with buildings on such land which the State managed or arranged to be used during the course of implementation of land and housing administration policies and socialist improvement policies prior to 1 July 1991 shall be carried out in accordance with Resolution 23-2003-

QH11 of the National Assembly dated 26 November 2003 and the legal instruments guiding implementation of that Resolution.

Article 5: *Funding for work of State administration of land*

1. The State Budget shall guarantee funding for the work of State administration of land and shall invest in professional cadastral activities (comprising surveying, measuring, drawing up all types of land maps; assessing land classification; formulating, evaluating, proclaiming and amending land use zoning and planning; formulating cadastral files and issuing certificates of land use right; conducting land inventories, formulating land statistics and other professional cadastral activities) in accordance with law.

2. The Ministry of Natural Resources and Environment shall preside over coordination with other relevant ministries and bodies in formulating regimes, standards and eco-technical norms for professional cadastral activities to provide the basis for arranging and administering funding.

3. The Central State Budget shall guarantee that payments will be made for the work of State administration of land and for professional cadastral activities at the central level. Local State Budgets shall guarantee that payments will be made for the work of State administration of land and for professional cadastral activities at the local level in accordance with the regulations on delegation of administrative responsibility.

Article 6: *Classification of land*

1. The land type and the land use purpose of each parcel of land shall be determined on one of the following bases:

- (a) Decision of a competent State body on allocation or lease of land or permission for conversion of land use purpose;
- (b) Certificate of land use right issued to a person currently using land for which the State recognizes a land use right;
- (c) Registration for conversion of land use purpose in conformity with land use zoning and planning in the case where no application for permission for conversion of land use purpose is required;
- (d) Land is being used stably in conformity with land use zoning which has been approved by the competent State body;
- (dd) In the absence of any of the bases stipulated in sub-clauses (a) to (d) above, the people's committee of the district, town or provincial city shall determine the land type and the land use purpose on the basis of the current status of stable use.

2. In addition to the main land use purpose determined in accordance with clause 1 of this article, a land user shall be permitted to use land for other use purposes also provided that they do not adversely affect the main land use purpose and are not contrary to the law on land.

3. Land shall be classified into the following categories:

- (a) Agricultural land category;
- (b) Non-agricultural land category;
- (c) Unused land category.

4. Agricultural land shall be further classified into the following subcategories:

- (a) Land for agricultural production, comprising planting annual crops and planting perennial crops; Land for planting annual crops shall include land for rice cultivation, pastoral land for raising livestock and land for planting other annual crops;
- (b) Forest land, comprising forest land for production, protective forest land, and specialized use forest land;
- (c) Land for aquaculture;

(d) Land for salt production;

(dd) Other agricultural land;

Other agricultural land means land in rural areas used for construction of greenhouses and other types of houses for cultivation purposes, including in the forms of cultivation not directly in soil; for construction of sheds to breed cattle, poultry and other species of animals as permitted by law; for construction of stations and farms for forestry, agricultural and salt production and aquatic research and experiment; for construction of nurseries for seeds and seedlings; for construction of barns and buildings for family households and individuals to store agricultural produce, plant protection agents, fertiliser, machinery and other tools for agricultural production.

5. Non-agricultural land shall be further classified into the following subcategories:

(a) Residential land, comprising residential land in rural areas and residential land in urban areas;

(b) Land for construction of offices of bodies and construction of works of professional institutions; land used for national defence and security purposes; non-agricultural land used for production or business purposes; and land used for public purposes; Land used for public purposes shall include land used for the purpose of construction of road traffic systems, bridges, sewers, footpaths, waterway ports, ferry landings, vehicle and car parks, railway stations and airports; water supply and water discharge systems, irrigation systems, dyke embankments and dams; electricity transmission grids, communications networks and systems; systems for transmitting petroleum and gas; land used for kindergartens, schools, hospitals, markets, parks, gardens, children's entertainment centres, squares, sports grounds, convalescent homes, homes for the care of the elderly and for disadvantaged children, sports and physical education establishments, cultural facilities, post offices and cultural centres of communes, statues, monuments, clubs, theatres, museums, exhibition halls, cinemas, circuses, rehabilitation centres for the disabled, vocational training centres, drug rehabilitation centres, detention centres and reformatories; land containing historicalcultural sites and places of scenic beauty which have been classified or in respect of which the people's committee of a

province or city under central authority has made a protection decision; land for waste disposal, rubbish tips and waste treatment areas;

(c) Land containing rivers, canals, channels, ditches, streams and specialized water surfaces;

(d) Religious land, including land used by religious organizations and land on which there are communal houses, temples, shrines, pagodas, worship halls and family shrines;

(dd) Land used as cemeteries and for graves;

(e) Other non-agricultural land;

Other types of non-agricultural land shall include land with facilities of worship, houses used as museums, houses to preserve or display works of art, houses of cultural and artistic compositions and other private construction works which are not attached to residential land but are not for business purposes; land with holiday homes, tents or buildings for employees; urban land used for construction of greenhouses and other types of buildings servicing cultivation, including in the form of cultivation not directly on land, and for construction of sheds to breed cattle, poultry and other species of animals as permitted by law, and for construction of stations and farms for forestry, agricultural and salt production and aquatic research and experiment, for construction of nurseries for seeds and seedlings, and for construction of barns and buildings for family households and individuals to store agricultural produce, plant protection agents, fertiliser, machinery and other tools for agricultural production.

6. Unused land shall be further classified into the following sub-categories:

(a) Unused flat country;

(b) Unused hills and mountains;

(c) Rocky mountains without forest.

Article 7: Determining parcels of land

1. The following circumstances shall determine a parcel of land in respect of which there is a single land use purpose:

(a) The parcel of land has boundaries which were fixed during the course of use;

(b) The parcel of land has boundaries which were fixed when the State allocated or leased the land or recognized the land use right;

(c) The parcel of land has boundaries which were fixed when a number of parcels of land were consolidated into the single parcel of land (hereinafter referred to as *land consolidation*) or when a parcel of land was demerged into a number of parcels of land (hereinafter referred to as *land demerger*) due to administration requirements or at the request of the land user which request was consistent with the law on land.

2. The following circumstances shall determine a parcel of land in respect of which there are multiple land use purposes:

(a) Where the fixing of boundaries was divided between a number of land use purposes, the parcel of land was determined in accordance with each use purpose;

(b) Where there is a main use purpose and subsidiary use purposes which are utilized during the different seasons in a year or utilized at the same time on such land area, the parcel of land shall be determined in the same manner as in clause 1 of this article and the main use purpose and the subsidiary use purposes must be determined, except for the cases stipulated in clauses 2 and 3 of article 45 of this Decree.

CHAPTER II

System of Organization of Land Administration and Services of Land Management and Use

Article 8: *Bodies administering land*

1. An organizational system of bodies administering land shall be uniformly established from the central to the grass roots level, shall be attached to administration of natural resources and environment and shall have the following specific organizational structure:

(a) The State administrative body in respect of land at the central level shall be the Ministry of Natural Resources and Environment;

(b) The body administering land in provinces and cities under central authority shall be the Department of Natural Resources and Environment;

(c) The body administering land in districts, towns and provincial cities shall be the Division of Natural Resources and Environment.

2. Communes, wards and townships shall have cadastral officers.

3. The Ministry of Natural Resources and Environment shall preside over coordination with the Ministry of Internal Affairs in guiding in detail the organization of the staffing apparatus of Departments of Natural Resources and Environment and Divisions of Natural Resources and Environment, and in guiding the appointment and dismissal of cadastral officers in communes, wards and townships, and in regulating the standards for and duties of cadastral officers in communes, wards and townships.

4. People's committees of provinces and cities under central authority and people's committees of communes, wards and townships shall be responsible to construct the staffing apparatus of local bodies administering land, to arrange cadastral officers in communes, wards and townships, and to ensure such officers carry out their duties.

Article 9: *Land use right registration offices*

1. Land use right registration offices shall be public service offices with the function of organizing and conducting registration of land use rights, changes in land use, management of cadastral files, and providing assistance to bodies in charge of natural resources and environment in performance of administrative procedures regarding land management and use.

2. People's committees of provinces and cities under central authority shall make decisions on establishment of land use right registration offices under Departments of Natural Resources and Environment and on establishment of branches of such offices in necessary areas.

People's committees of communes, wards and townships shall, depending on the need for registration of land use rights in their areas, make decisions on establishment of land use right registration offices under Divisions of Natural Resources and Environment.

3. The Ministry of Natural Resources and Environment shall preside over coordination with the Ministry of Internal Affairs in guiding the organization and operation of land use right registration offices.

Article 10: *Land fund development organizations*

1. Land fund development organizations shall operate in the form of revenue-receiving professional organizations or of State owned enterprises conducting public utility activities, for which the people's committee of a province or city under central authority made the establishment decision, in order to pay compensation and conduct site clearance in cases of land recovery after land use zoning and planning has been proclaimed but there is as yet no investment project; to receive assignments of land use rights in areas for which zoning provides that the land must be recovered and where land users have had to relocate to other places before the State issued a decision on land recovery; to manage the land fund in respect of land already recovered; and to organize auctions of land use rights pursuant to a decision of a competent State body in respect of land allocated by the State for management.
2. The Ministry of Natural Resources and Environment shall preside over coordination with the Ministry of Internal Affairs in guiding the organization and operation of land fund development organizations.

Article 11: *Organizations providing land management and use services*

1. Revenue-receiving professional organizations or enterprises from all economic sectors which satisfy the conditions stipulated in clause 3 of this article may be issued with an operating licence or shall be permitted to register for provision of land management and use services.
2. Operational sectors in land management and use services shall comprise:
 - (a) Consultancy on land prices;
 - (b) Consultancy on formulation of land use zoning and planning;
 - (c) Services of land measurement and formulation of cadastral maps;
 - (d) Services of information relating to land.
3. The responsibility to regulate the conditions and procedures for issuance of operating licences for or for registration of provision of land management and use services shall be as follows:

(a) The Ministry of Finance shall regulate the conditions and procedures for issuance of operating licences for or for registration of consultancy on land prices;

(b) The Ministry of Natural Resources and Environment shall regulate the conditions and procedures for issuance of operating licences for or for registration of consultancy on formulation of land use zoning and planning, and services of information relating to land; and the conditions and procedures for issuance of operating licences for or for registration of provision of services of land measurement and formulation of cadastral maps.

CHAPTER III

Land Use Zoning and Planning

Article 12: *Contents of land use zoning*

1. Investigations, research, analysis and compilation of the natural, social and economic conditions in the area being zoned.

2. Assessment of the status quo and changes in land use in the previous zoning period pursuant to use purposes, comprising land for rice cultivation, land for planting other annual crops, land for planting perennial crops, forest land for production, protective forest land, specialized use forest land, land for aquaculture, land for salt production, other agricultural land; residential land in rural areas and residential land in urban areas; land for construction of headquarters of bodies and for professional facilities; land for use for objectives of national defence and security; land for non-agricultural production and business purposes; land for use for public utility purposes; land containing rivers, canals, channels, ditches, streams and specialized water surfaces; religious land; land used as cemeteries and for graves; unused flat country, unused hills and mountains, and rocky mountains without forest.

3. Assessment of the land potential, of the consistency of the status quo of land use with the land potential, and of a comparison with the direction of socio-economic development and science and technology in accordance with the following provisions:

(a) With respect to land currently being used, an assessment of whether the current land use is consistent with the land potential, the overall strategy, zoning and planning for socio-

economic development and the ability to apply progressive science and technology in land use;

(b) With respect to land not yet being used, an assessment of the ability to commission use and for what purposes.

4. Assessment of the results of implementation of the criteria for land use zoning which were decided and approved in the previous zoning period.

5. Determination of the orientation and objectives of land use in the periodic cycle for zoning and in the next zoning period, consistent with the overall strategy, zoning and planning for socio-economic development of the whole country, of the branch and of the locality.

6. Formulation of plans for distribution of areas of all types of land for the requirements of socio-economic development and for national defence and security in the zoning period shall be implemented as follows:

(a) Highlighting of the following on maps of land currently being used: the zones for use of agricultural land for land use purposes, the types of land which require permission from a competent State body for conversion of land use purpose; the zones for use of nonagricultural land for the function of residential land in rural areas, residential land in urban areas, administrative areas, industrial zones, high-tech zones, economic zones, services zones, land containing historical-cultural sites and places of scenic beauty, land used for objectives of national defence and security, and other construction works and projects which use land on a large scale; and the zones containing land not yet being used; Land zones shall be highlighted as they appear on land use zoning maps;

(b) Ascertaining the areas of land having a use purpose which may not be changed; and the areas of land having a use purpose which must be converted, including the areas forecast to be recovered for implementation of construction works and projects.

7. Analysis of the economic, social and environmental consequences of each plan for distribution of areas of the land fund in accordance with the following provisions:

(a) Analysis of the economic consequences shall include a forecast of revenue from land allocation, from land lease, from conversion of land use and from all types of land taxes; and

a forecast of expenses for paying compensation, conducting site clearance and resettling residents;

(b) Analysis of the social impact shall include a forecast of the number of households which will have to relocate and the number of job losses due to land recovery, and the number of new jobs which will be created on conversion of land use structure;

(c) Analysis of the environmental impact of land use in respect of new use purposes in the plan for distribution of the land fund.

8. Selection of an appropriate plan for distribution of the land fund, based on the results of the analysis of the economic, social and environmental consequences as stipulated in clause 7 of this article.

9. Recording the selected plan for land use zoning on the land use zoning maps.

10. Fixing the measures for using, protecting and improving land and for protection of the environment which are required to be applied to each type of land, consistent with the area being zoned.

11. Fixing the solutions for organizing implementation of land use zoning, consistent with the special features of the area being zoned.

Article 13: *Contents of land use planning*

1. Analysis and assessment of the results of implementation of land use planning of the previous period, comprising:

(a) Results of implementation of the criteria for land use applicable to each type of land;

(b) Results of implementation of the criteria for conversion as between each type of land;

(c) Results of reclamation or extension of land areas for use for various purposes;

(d) Quality of implementation of the criteria stipulated in land use planning; Subscription 56 (2/2004-2005) 30 June 2005

(dd) Collection of revenue from land allocation, from land lease, from conversion of land use and from all types of land taxes; and payment of expenses for compensation, conducting site clearance and resettling residents;

(e) Reasons for any deficiencies and shortcomings in implementation of land use planning.

2. Formulation of a plan for recovery of all types of land for distribution for the requirements for construction of infrastructure; for industrial and services development; for development of urban areas and rural residential zones; and for national defence and security. With respect to construction works and projects which already have an investor, a list should be formulated for attachment to the scale of use of the land, the address and forecast schedule for implementation, and forecast schedule for recovery of the land.

3. Formulation of a plan for conversion of specialized land areas from wet rice cultivation and forest to other land use objectives, and fixing areas for conversion of the agricultural land use structure as follows:

(a) Fix the location, area and schedule for conversion of wet rice cultivation land, protective forest land, specialized use forest land and forest land for production to other land use objectives;

(b) Fix the land zone to be registered for conversion of land use structure of all types of land in the agricultural land category.

4. Formulation of a plan for commissioning use of land not yet being used, including fixing the location, area and schedule for commissioning land not yet being used to be used for agricultural and non-agricultural purposes.

5. Detailing distribution of areas to each type of land in the land use planning into planning for each year.

6. Forecasting revenue from land allocation, from land lease, from conversion of land use and from all types of land taxes; and forecasting expenses for paying compensation, conducting site clearance and resettling residents.

7. Fixing solutions for organizing implementation of land use planning in order to ensure timely implementation.

Article 1: Contents of detailed land use zoning and of detailed land use planning of communes, wards and townships and of high-tech zones and economic zones

1. Detailed land use zoning shall comprise the contents stipulated in article 12 of this Decree; the selected plan for land use zoning must be recorded on cadastral maps; and if the detailed land use zoning for construction of urban areas and if the zoning for construction of rural residential areas have been approved, they also must be recorded on cadastral maps.

2. Detailed land use planning shall comprise the contents stipulated in article 13 of this Decree and shall be attached to parcels of land.

Article 15: Responsibility to formulate land use zoning and land use planning

1. The Ministry of Natural Resources and Environment shall be responsible for assisting the Government to organize and carry out formulation of land use zoning and land use planning for the whole country. Ministries, ministerial equivalent bodies, Government bodies and people's committees of provinces and cities under central authority shall be responsible to co-ordinate with the Ministry of Natural Resources and Environment in determining the requirements for land use of ministries, branches and localities.

2. The Ministry of Defence shall be responsible to organize and carry out formulation of land use zoning and land use planning for purposes of national defence. The Ministry of Defence shall be responsible to co-ordinate with people's committees of provinces and cities under central authority in determining the requirements for land use for purposes of national defence in localities.

3. The Ministry of Police shall be responsible to organize and carry out formulation of land use zoning and land use planning for security purposes. The Ministry of Police shall be responsible to co-ordinate with people's committees of provinces and cities under central authority in determining the requirements for land use for security purposes within localities.

4. People's committees of provinces and cities under central authority shall organize and carry out formulation of land use zoning and land use planning for their respective provinces and cities, and Departments of Natural Resources and Environment shall be responsible for assisting such people's committees to do so. Departments and divisions of provinces and

cities under central authority and people's committees of districts, towns and provincial cities shall be responsible to co-ordinate with the Department of Natural Resources and Environment in determining the requirements for land use by branches and localities.

5. People's committees of districts, towns and provincial cities shall be responsible to organize and carry out formulation of land use zoning and land use planning for their respective localities and formulation of detailed land use zoning and detailed land use planning for the communes, wards and townships within the areas zoned for urban development. Divisions of Natural Resources and Environment shall be responsible for assisting the people's committee at the same level to organize and carry out formulation of land use zoning and land use planning. Offices and divisions of districts, towns and provincial cities and people's committees of communes, wards and townships within areas zoned for urban development shall be responsible to co-ordinate with Divisions of Natural Resources and Environment in determining the requirements for land use of branches and localities.

6. People's committees of communes outside areas zoned for urban development shall be responsible to organize formulation of detailed land use zoning and detailed land use planning for their wards.

7. Management committees of high-tech zones shall be responsible to organize formulation of detailed land use zoning and detailed land use planning for the whole of their respective high-tech zones.

8. Management committees of economic zones shall be responsible to organize formulation of detailed land use zoning and detailed land use planning for the land areas allocated to the management committee of the economic zone in the land use zoning of the province or city under central authority; formulation of land use zoning and land use planning for the remaining land set out in the land use zoning and land use planning of the district, town or provincial city and in the detailed land use zoning and detailed land use planning of the ward, commune or township.

9. Any organization or body with the duty to formulate land use zoning, land use planning, detailed land use zoning and detailed land use planning shall be permitted to hire an

organization authorized to operate in the sector of formulation of land use zoning and land use planning to provide consultancy on formulation of such zoning and planning. 10. It shall not be necessary to formulate land use zoning and land use planning for districts, towns and provincial cities or detailed land use zoning and detailed land use planning for communes, wards and townships if land use in the next period of use zoning will not change; if there will be a change of use purpose between land types within the same category below ten (10) per cent compared to the previous zoning period, the only requirement is a decision on amending the land area having a use purpose which must be converted. Detailed land use zoning for a high-tech zone shall be formulated on one occasion for the whole high-tech zone; if the requirements for land use change, an amended detailed land use zoning shall be formulated.

Article 16: *Formulation and amendment of land use zoning for the whole country*

1. When land use zoning for the whole country is formulated, it shall be based on the grounds stipulated in clause 1 of article 22 of the *Law on Land*.

2. Prior to the end of each eighteen (18) month land use zoning period, ministries, ministerial equivalent bodies, Government bodies and people's committees of provinces and cities under central authority shall be responsible to forward to the Ministry of Natural Resources and Environment a written proposal on the requirements for land use of their respective branches and localities for the next zoning period.

3. Within five months from the date of receipt of requirements for land use of respective branches and localities, the Ministry of Natural Resources and Environment shall be responsible to formulate land use zoning for the whole country in compliance with the following provisions:

(a) Verifying the requirements for land use of branches and localities for the next zoning period;

(b) Formulating plans for distribution of land funds for the next zoning period, ensuring implementation of overall strategies, zoning, socio-economic development plans and plans for national defence and security of the whole country; (c) Forwarding a draft report explaining the land use zoning for the whole country to ministries, ministerial equivalent

bodies, Government bodies and people's committees of provinces and cities under central authority, and obtaining opinions on the drafts from such bodies.

4. Within thirty (30) working days from the date of receipt of the above draft report, ministries, ministerial equivalent bodies, Government bodies and people's committees of provinces and cities under central authority shall be responsible to send their written opinions thereon to the Ministry of Natural Resources and Environment.

5. Within two months from the date of receipt of the above opinions, the Ministry of Natural Resources and Environment shall be responsible to collate such opinions, finalize the draft report explaining the land use zoning for the whole country and submit same to the Government.

6. The file on land use zoning for the whole country shall comprise:

(a) Submission on the land use zoning for the whole country to the Government from the Ministry of Natural Resources and Environment;

(b) Report explaining the land use zoning for the whole country;

(c) Current land use map for the whole country;

(d) Land use zoning map for the whole country.

7. Land use zoning for the whole country shall be amended when there is an amendment to the plan for or objectives of socio-economic development, national defence and security or an amendment to regional construction or urban construction zoning and such amendment changes the land use structure; or where a natural disaster or war changes the land use structure. The Ministry of Natural Resources and Environment shall be responsible to formulate a file on the amended land use zoning for the whole country for submission to the Government and shall obtain opinions from any ministry, ministerial equivalent body, Government body or people's committee of a province or city under central authority with land in the category of land to be amended.

The file on amendments to land use zoning for the whole country shall comprise:

- (a) Submission on amendments to land use zoning for the whole country to the Government from the Ministry of Natural Resources and Environment;
- (b) Report explaining the amendments to land use zoning for the whole country;
- (c) Map of amended land use zoning for the whole country.

Article 17: *Formulation and amendment of land use planning for the whole country*

1. When land use planning for the whole country is formulated, it shall be based on the grounds stipulated in clause 2 of article 22 of the *Law on Land*.

2. Land use planning for the whole country shall be formulated for the first five years of a land use zoning period (referred to as *land use planning for the beginning of a zoning period*) and at the same time as formulation of land use zoning for the whole country as provided for in article 16 of this Decree. The file on land use planning for the beginning of a zoning period shall be prepared at the same time as formulation of the file on land use zoning. The contents of land use planning shall be the schedule for implementing the contents of land use zoning for the first five years of a zoning period together with a detailed schedule for each year, ensuring implementation of the five-year and annual socio-economic development plans of the State.

3. Land use planning for the whole country shall be formulated for the last five years of a land use zoning period (referred to as *land use planning for the end of a zoning period*) in compliance with the following provisions:

(a) Twelve (12) months prior to the commencement of land use planning for the end of a zoning period, the Ministry of Natural Resources and Environment shall rely on the land use zoning for the whole country and the provisions in clause 1 of this article to formulate plans for distribution of land funds for the land use planning for the end of the zoning period, ensuring implementation of the five-year and annual socio-economic development plans of the State; and the Ministry shall formulate a draft report explaining the land use planning and forward same to ministries, ministerial equivalent bodies, Government bodies and people's committees of provinces and cities under central authority for their opinions.

(b) Within thirty (30) working days from the date of receipt of the above draft report, ministries, ministerial equivalent bodies, Government bodies and people's committees of provinces and cities under central authority shall be responsible to send their written opinions thereon to the Ministry of Natural Resources and Environment.

(c) Within two months from the date of receipt of the above opinions, the Ministry of Natural Resources and Environment shall be responsible to collate such opinions, finalize the draft report explaining the land use planning and submit same to the Government.

4. The file on land use planning for the end of a zoning period shall comprise:

(a) Submission on land use planning for the whole country to the Government from the Ministry of Natural Resources and Environment;

(b) Report explaining the land use planning for the whole country;

(c) Current land use map for the whole country.

5. Land use planning for the whole country shall be amended when there is an amendment of land use zoning for the whole country, or of the plan on socio-economic development, or of regional construction or urban construction zoning, or a change in ability to implement land use zoning. The Ministry of Natural Resources and Environment shall be responsible to formulate a file on the amended land use planning for the whole country for submission to the Government, and shall obtain opinions from any ministry, ministerial equivalent body, Government body or people's committee of a province or city under central authority with land in the category of land to be amended. The file on amendments to land use planning for the whole country shall comprise:

(a) Submission on amendments to land use planning for the whole country to the Government from the Ministry of Natural Resources and Environment;

(b) Report explaining the amendments to land use planning for the whole country.

Article 18: *Organization of soliciting opinions from citizens on detailed land use zoning*

1. Soliciting opinions of the citizens during the process of formulation of detailed land use zoning of communes, wards and townships as provided for in clause 5 of article 25 of the *Law on Land* shall be implemented as follows:

(a) By introducing draft detailed land use zoning to every urban group, village, hamlet and other residential group, and at the same time displaying publicly such draft detailed land use zoning at the headquarters of the people's committee of each commune, ward or township;

(b) By organizing the soliciting of opinions directly from the citizens or from the representatives of residential groups, the Vietnam Fatherland Front and local mass organizations; and by obtaining the opinions of standing committees of people's councils of communes, wards and townships.

2. The time-limit for soliciting opinions of the citizens as provided for in clause 1 of this article shall be thirty (30) days.

3. Bodies which formulate detailed land use zoning of communes, wards and townships shall be responsible to receive and collate opinions of the citizens in order to finalize the draft detailed land use zoning.

Article 19: Approval of land use zoning or land use planning of provinces and cities under central authority

1. The file for approval of land use zoning or land use planning of a province or city under central authority shall be prepared in fifteen (15) sets and submitted to the Ministry of Natural Resources and Environment for evaluation, and the file shall comprise:

(a) Submission to the Government from the people's committee of the province or city under central authority seeking approval of land use zoning or land use planning;

(b) Report with an overall explanation of the land use zoning or land use planning;

(c) Current land use map;

(d) Land use zoning map in the case of approval of land use zoning.

2. The order for consideration and approval of land use zoning or land use planning shall be as follows:

(a) Within three working days at the latest from the date of receipt of a complete and valid file, the Ministry of Natural Resources and Environment shall be responsible to send a copy of the file for approval of land use zoning or land use planning to the ministries and bodies concerned for their opinions. Within fifteen (15) working days at the latest from the date of receipt of the file, such ministries and bodies shall be responsible to send their written opinions thereon to the Ministry of Natural Resources and Environment. Within ten (10) working days at the latest from the date of receipt of opinions, the Ministry of Natural Resources and Environment shall be responsible to collate such evaluating opinions and send them to the people's committee of the province or city under central authority for the latter to finalize the file.

(b) The people's committee of the province or city under central authority shall finalize the file and submit it to the people's council at the same level to promulgate the land use zoning or land use planning; and shall send five copies of the file as promulgated by the people's council, together with the resolution of the people's council, to the Ministry of Natural Resources and Environment.

(c) Within ten (10) working days at the latest from the date of receipt of the file for approval of land use zoning or land use planning referred to in sub-clause (b) of this clause, the Ministry of Natural Resources and Environment shall submit it to the Government for approval.

Article 2: Approval of land use zoning and land use planning of districts, towns and provincial cities

1. The file for approval of land use zoning or land use planning for a district, town or provincial city shall be prepared in ten (10) sets and submitted to the Department of Natural Resources and Environment for evaluation, and the file shall comprise:

(a) Submission to the people's committee of the province or city under central authority from the people's committee of the district, town or provincial city seeking approval of land use zoning or land use planning;

- (b) Report with an overall explanation of the land use zoning or land use planning;
- (c) Current land use map;
- (d) Land use zoning map in the case of approval of land use zoning.

2. The order for consideration and approval of land use zoning or land use planning shall be as follows:

(a) Within three working days at the latest from the date of receipt of a complete and valid file, the Department of Natural Resources and Environment shall be responsible to send a copy of the file for approval of land use zoning or land use planning to the bodies concerned for their opinions. Within fifteen (15) working days at the latest from the date of receipt of the file, such bodies shall be responsible to send their written opinions thereon to the Department of Natural Resources and Environment. Within ten (10) working days at the latest from the date of receipt of opinions, the Department of Natural Resources and Environment shall be responsible to collate such evaluating opinions and send them to the people's committee of the district, town or provincial city for the latter to finalize the file.

(b) The people's committee of the district, town or provincial city shall finalize the file and submit it to the people's council at the same level to promulgate the land use zoning or land use planning; and shall send three copies of the file as promulgated by the people's council, together with the resolution of the people's council, to the Department of Natural Resources and Environment.

(c) Within ten (10) working days at the latest from the date of receipt of the file for approval of land use zoning or land use planning referred to in sub-clause (b) of this clause, the Department of Natural Resources and Environment shall submit it to the people's committee of the province or city under central authority for approval.

Article 21: Approval of detailed land use zoning and detailed land use planning of communes, wards and townships within areas zoned for urban development

1. The file for approval of detailed land use zoning or detailed land use planning of a commune, ward or township within an area zoned for urban development shall be prepared in

ten (10) sets and submitted to the Department of Natural Resources and Environment for evaluation, and the file shall comprise:

(a) Submission to the people's committee of the province or city under central authority from the people's committee of the district, town or provincial city seeking approval of detailed land use zoning or detailed land use planning;

(b) Report with an overall explanation of the detailed land use zoning or detailed land use planning;

(c) Current land use map;

(d) Detailed land use zoning map in the case of approval of detailed land use zoning.

2. The order for consideration and approval of detailed land use zoning or detailed land use planning shall be as follows:

(a) Within three working days at the latest from the date of receipt of a complete and valid file, the Department of Natural Resources and Environment shall be responsible to send a copy of the file for approval of detailed land use zoning or detailed land use planning to the bodies concerned for their opinions. Within fifteen (15) working days at the latest from the date of receipt of the file, such bodies shall be responsible to send their written opinions thereon to the Department of Natural Resources and Environment. Within ten (10) working days at the latest from the date of receipt of opinions, the Department of Natural Resources and Environment shall be responsible to collate such evaluating opinions and send them to the people's committee of the district, town or provincial city for the latter to finalize the file.

(b) The people's committee of the district, town or provincial city shall finalize the file and submit it to the people's council at the same level to promulgate the detailed land use zoning or detailed land use planning; and shall send four copies of the file as promulgated by the people's council, together with the resolution of the people's council, to the Department of Natural Resources and Environment.

(c) Within ten (10) working days at the latest from the date of receipt of the file for approval of land use zoning or land use planning referred to in sub-clause (b) of this clause, the

Department of Natural Resources and Environment shall submit it to the people's committee of the province or city under central authority for approval.

3. The file for approval of detailed land use zoning or detailed land use planning of a commune, ward or township within an area zoned for urban development shall be submitted at the same time as the file for approval of land use zoning or land use planning of a district, town or provincial city referred to in article 20 of this Decree or, if submitted later, must be approved in the final year of the previous zoning period.

Article 22: Approval of detailed land use zoning and detailed land use planning of communes outside areas zoned for urban development

1. The file for approval of detailed land use zoning or detailed land use planning of a commune outside an area zoned for urban development shall be prepared in ten (10) sets and submitted to the Division of Natural Resources and Environment for evaluation, and the file shall comprise:

(a) Submission to the people's committee of the district, town or provincial city from the people's committee of the commune seeking approval of detailed land use zoning or detailed land use planning;

(b) Report with an overall explanation of the detailed land use zoning or detailed land use planning;

(c) Current land use map;

(d) Land use zoning map in the case of approval of detailed land use zoning.

2. The order for consideration and approval of detailed land use zoning or detailed land use planning shall be as follows:

(a) Within three working days at the latest from the date of receipt of a complete and valid file, the Division of Natural Resources and Environment shall be responsible to send a copy of the file for approval of detailed land use zoning or detailed land use planning to the bodies concerned for their opinions. Within fifteen (15) working days at the latest from the date of receipt of the file, such bodies shall be responsible to send their written opinions thereon to

the Division of Natural Resources and Environment. Within ten (10) working days at the latest from the date of receipt of opinions, the Division of Natural Resources and Environment shall be responsible to collate such evaluating opinions and send them to the people's committee of the commune for the latter to finalize the file.

(b) The people's committee of the commune shall finalize the file and submit it to the people's council of the commune to promulgate the detailed land use zoning or detailed land use planning; and shall send three copies of the file as promulgated by the people's council, together with the resolution of the people's council, to the Division of Natural Resources and Environment.

(c) Within ten (10) working days at the latest from the date of receipt of the file for approval of detailed land use zoning or detailed land use planning referred to in sub-clause (b) of this clause, the Division of Natural Resources and Environment shall submit it to the people's committee of the district, town or provincial city for approval.

Article 23: Approval of detailed land use zoning and detailed land use planning of high-tech zones and economic zones

1. The file for approval of detailed land use zoning or detailed land use planning of a high-tech zone or of an economic zone shall be prepared in ten (10) sets and submitted to the Department of Natural Resources and Environment for evaluation, and the file shall comprise:

(a) Submission to the people's committee of the province or city under central authority from the management committee of the high-tech zone or economic zone seeking approval of detailed land use zoning or detailed land use planning;

(b) Report with an overall explanation of the detailed land use zoning or detailed land use planning;

(c) Current land use map;

(d) Detailed land use zoning map in the case of approval of detailed land use zoning.

2. The order for consideration and approval of detailed land use zoning or detailed land use planning shall be as follows:

(a) Within three working days at the latest from the date of receipt of a complete and valid file, the Department of Natural Resources and Environment shall be responsible to send a copy of the file for approval of detailed land use zoning or detailed land use planning to the bodies concerned for their opinions. Within fifteen (15) working days at the latest from the date of receipt of the file, such bodies shall be responsible to send their written opinions thereon to the Department of Natural Resources and Environment. Within ten (10) working days at the latest from the date of receipt of opinions, the Department of Natural Resources and Environment shall be responsible to collate such evaluating opinions and send them to the management committee of the high-tech zone or economic zone for the latter to finalize the file.

(b) The management committee of the high-tech zone or economic zone shall finalize the file and send four copies to the Department of Natural Resources and Environment.

(c) Within ten (10) working days at the latest from the date of receipt of the file as finalized, the Department of Natural Resources and Environment shall submit it to the people's committee of the province or city under central authority for approval.

Article 24: Land use zoning and land use planning for objectives of national defence and security

1. Periods of land use zoning and land use planning for objectives of national defence and security shall be provided for as follows:

(a) Period of land use zoning for objectives of national defence and security shall be ten (10) years, in conformity with the period of land use zoning of localities and of the whole country;

(b) Period of land use planning for objectives of national defence and security shall be five years, in conformity with the period of land use planning of localities and of the whole country.

2. Contents of land use zoning for objectives of national defence and security shall comprise:

(a) Assessment of the status of management and use of land for the objectives of national defence and security;

(b) Determination of the requirements for land use for the objectives of national defence and security in periods of land use zoning, in conformity with overall planning for socio-economic development, national defence and security and the plan for socio-economic development of the State;

(c) Determination of locations and areas of land used for objectives of national defence and security which are to be re-allocated to localities for use for purposes of socio-economic development;

(d) Measures to organize and carry out land use zoning for objectives of national defence and security.

3. Contents of land use planning for objectives of national defence and security shall comprise:

(a) Assessment of the status of management and use of land for the objectives of national defence and security during the previous zoning period;

(b) Determination of specific locations and areas to be used for the objectives of national defence and security during the five year period, with details for each year;

(c) Determination of specific locations and areas of land used for national defence and security which are to be re-allocated to localities for their management during the five year period;

(d) Measures to organize and carry out land use planning for objectives of national defence and security.

Article 25: Approval of land use zoning and land use planning for objectives of national defence and security

1. The file for consideration and approval of land use zoning and land use planning for objectives of national defence and security shall be prepared in fifteen (15) sets and submitted to the Ministry of Natural Resources and Environment for evaluation, and the file shall comprise:

(a) Submission from the Ministry of Defence or the Ministry of Police to the Government for its consideration and approval of land use zoning and land use planning for objectives of national defence and security;

(b) Opinions in writing from people's committees of provinces and cities under central authority on the local requirements for land use for the objectives of national defence and security;

(c) General explanatory report on land use zoning and land use planning for objectives of national defence and security.

2. The order for consideration and approval of land use zoning and land use planning for objectives of national defence and security shall be as follows:

(a) Within three working days at the latest from the date of receipt of a complete and valid file, the Ministry of Natural Resources and Environment shall be responsible to send a copy of the file for consideration and approval of land use zoning and land use planning for objectives of national defence and security to the ministries and bodies concerned for their opinions. Within fifteen (15) working days at the latest from the date of receipt of the file, such ministries and bodies shall be responsible to send their written opinions thereon to the Ministry of Natural Resources and Environment. Within ten (10) working days at the latest from the date of receipt of opinions, the Ministry of Natural Resources and Environment shall be responsible to collate such evaluating opinions and to send them to the Ministry of Defence or the Ministry of Police for such ministries to finalize the file.

(b) The Ministry of Defence or the Ministry of Police shall finalize the file and shall send five copies of it to the Ministry of Natural Resources and Environment.

(c) Within ten (10) working days at the latest from the date of receipt of the finalized file, the Ministry of Natural Resources and Environment shall submit it to the Government for approval.

Article 26: Amendment of land use zoning, land use planning, detailed land use zoning and detailed land use planning

1. Contents of amendments of land use zoning, land use planning, detailed land use zoning and detailed land use planning shall comprise:

(a) Addition, amendment or rescission of projects and project works during the zoning or planning period;

(b) Changes to structure of all types of land in the agricultural land group; changes to position and area of land zones which have been highlighted for functional purposes in the non-agricultural land group; changes to the criteria for bringing unused land into use;

(c) Changes to the schedule for implementation of approved land use planning and approved detailed land use planning, being three or more years faster or slower than the originally approved schedule;

(d) Solutions for implementation of amended land use zoning and amended land use planning.

2. Amendments shall be made to land use zoning, land use planning, detailed land use zoning and detailed land use planning when there is an amendment to the plan for or objectives of socio-economic development, national defence and security or an amendment to regional construction or urban construction zoning and such amendment changes the land use structure; or where a natural disaster or war changes the land use structure.

3. The file for consideration and approval of amendments to land use zoning and land use planning of provinces and cities under central authority shall be prepared in fifteen (15) sets and submitted to the Ministry of Natural Resources and Environment for evaluation; and such file for districts, towns and provincial cities shall be prepared in ten (10) sets and submitted to the Department of Natural Resources and Environment for evaluation; and such file for communes outside an area zoned for urban development shall be prepared in ten (10) sets and submitted to the Division of Natural Resources and Environment for evaluation; and the file shall comprise:

(a) Submission from the people's committee at the level which formulated the land use zoning and land use planning or detailed land use zoning and detailed land use planning as submitted to the competent State body for its consideration and approval;

(b) General explanatory report on the amended land use zoning and land use planning or amended detailed land use zoning and detailed land use planning;

(c) Land use zoning map of the area which needs to be amended in the case of amendment to land use zoning or detailed land use zoning.

4. The file for consideration and approval of amendments to detailed land use zoning or detailed land use planning of a high-tech zone or economic zone shall be prepared in ten (10) sets and submitted to the Department of Natural Resources and Environment for evaluation; and the file shall comprise:

(a) Submission from the management committee of the high-tech zone or economic zone to the people's committee of the province or city under central authority for consideration and approval of the amended detailed land use zoning or detailed land use planning;

(b) General explanatory report on the amended detailed land use zoning or detailed land use planning;

(c) Land use zoning map of the area which requires to be amended in the case of amendment to detailed land use zoning.

5. The file for consideration and approval of amendments to land use zoning or land use planning of land for objectives of national defence and security shall be prepared in fifteen (15) sets and submitted to the Ministry of Natural Resources and Environment for evaluation; and the file shall comprise:

(a) Submission from the Ministry of Defence or the Ministry of Police to the Government for its consideration and approval of amendments to land use zoning and land use planning for objectives of national defence and security;

(b) Opinions in writing from people's committees of provinces and cities under central authority on their amended local requirements for land use for the objectives of national defence and security;

(c) General explanatory report on amendments to land use zoning and land use planning for objectives of national defence and security.

6. The order for consideration and approval of amendments to land use zoning and land use planning and to detailed land use zoning and detailed land use planning shall be as follows:

(a) The order for consideration and approval of amendments to land use zoning and land use planning of provinces and cities under central authority shall be as stipulated in clause 2 of article 19 of this Decree;

(b) The order for consideration and approval of amendments to land use zoning and land use planning of districts, towns and provincial cities shall be as stipulated in clause 2 of article 20 of this Decree;

(c) The order for consideration and approval of amendments to detailed land use zoning and detailed land use planning of wards and townships and of communes within an area zoned for urban development shall be as stipulated in clause 2 of article 21 of this Decree;

(d) The order for consideration and approval of amendments to detailed land use zoning and detailed land use planning of communes outside an area zoned for urban development shall be as stipulated in clause 2 of article 22 of this Decree;

(dd) The order for consideration and approval of amendments to detailed land use zoning and detailed land use planning of hightech zones and economic zones shall be as stipulated in clause 2 of article 23 of this Decree;

(e) The order for consideration and approval of amendments to land use zoning and land use planning of land for objectives of national defence and security shall be as stipulated in clause 2 of article 25 of this Decree;

(g) In the case of amendments to land use zoning and land use planning and amendments to detailed land use zoning and detailed land use planning, evaluating opinions shall only be obtained from the bodies concerned regarding the areas of all types of land to be amended.

Article 27: Proclamation of land use zoning and land use planning

1. The Ministry of Natural Resources and Environment shall be responsible to display publicly all data on land use zoning and land use planning for the whole country which has been decided by the National Assembly at the headquarters of the Ministry during the whole duration of such zoning and planning periods; and to publish such data in the Official

Gazette, on the State administration information network of the Government, and to publish extracts of such data in central newspapers.

2. Departments of Natural Resources and Environment and Divisions of Natural Resources and Environment shall be responsible to display publicly all data on approved land use zoning and land use planning for their respective localities at the headquarters of such body during the whole duration of such zoning and planning periods; and to publish such data on the State administration information network of the province or city under central authority and to publish extracts of such data in local newspapers.

3. People's committees of communes, wards and townships shall be responsible to display publicly all data on approved detailed land use zoning and detailed land use planning and on approved investment projects and project works at the headquarters of such people's committee during the whole duration of such zoning and planning periods.

4. Management committees of high-tech zones and of economic zones shall be responsible to display publicly all data on approved detailed land use zoning and detailed land use planning at the headquarters of the committee during the whole duration of such zoning and planning periods; and to publish such data on the electronic information network of such high-tech zone or economic zone, and to publish extracts of such data in an industry newspaper and in a local newspaper.

5. All of the data on approved amendments to land use zoning, land use planning, detailed land use zoning and detailed land use planning shall be displayed publicly as stipulated in clauses 1 to 4 inclusive of this article.

6. Files on land use zoning and planning and on amended land use zoning and planning of land for the objectives of national defence and security shall be managed in accordance with the regime on secrecy.

Article 28: Administration of land use zoning and land use planning

1. People's committees of provinces and cities under central authority, and people's committees of districts, towns and provincial cities shall be responsible to allocate or lease land, to recover land, or to convert land use correctly in accordance with approved land use

zoning and planning. Chairmen of people's committees of provinces and cities under central authority and of people's committees of districts, towns and provincial cities shall be responsible to detect and deal with any breach of approved land use zoning and planning within their respective localities in a timely manner.

2. People's committees of communes, wards and townships shall be responsible to monitor implementation of land use zoning and planning within their respective localities. Upon discovery of a case of improper land use which is not in accordance with the proclaimed land use zoning and planning, the people's committee shall resolve a case within its authority or propose that the competent State body do so. Chairmen of people's committees of communes, wards and townships shall bear the major responsibility for any failure to prevent or deal with any breach of approved land use zoning and planning within their respective localities in a timely manner.

3. Departments of Natural Resources and Environment, Divisions of Natural Resources and Environment, and cadastral officers of communes, wards and townships shall organize inspections of implementation of land use zoning and planning within their respective localities; and shall detect and deal with any breach of land use zoning and planning within their respective authority or propose that the competent State body do so. In the case of any breach of land use zoning and planning of land for the objectives of national defence and security, the Department of Natural Resources and Environment shall provide written notification to the Ministry of Defence or the Ministry of Police to deal with the breach. If any real requirement for an amendment to land use zoning and planning is identified, the Department of Natural Resources and Environment shall provide written notification of such requirement to the people's committee at the same level.

4. Annually, people's committees at all levels shall be responsible to report the results on implementation of land use zoning within their respective localities until 31 December, and the time-limits for submission of reports shall be as follows:

(a) The people's committee of a commune, ward or township shall report to the people's committee of the district, town or provincial city prior to 15 January of the following year;

(b) The people's committee of a district, town or provincial city shall report to the people's committee of the province or city under central authority prior to 31 January of the following year;

(c) The people's committee of a province or city under central authority shall report to the Ministry of Natural Resources and Environment prior to 15 February of the following year.

5. The Minister of Defence and the Minister of Police shall be responsible to direct inspection of implementation of land use zoning of land for objectives of national defence and security throughout the whole country; and shall annually report to the Government on the results of implementation of such land use zoning and planning up to 31 December, with a copy to the Ministry of Natural Resources and Environment, prior to 31 January of the following year.

6. The Ministry of Natural Resources and Environment shall be responsible to provide an overall report to the Government on the results of implementation of land use planning throughout the whole country, prior to 15 March of the following year.

7. In the case of the annual report on the results of implementation of land use planning in the last year of the first planning period, there must also be a general report on implementation of land use planning for the whole of the planning period. In the case of the annual report on the results of implementation of land use planning in the last year of a zoning period, there must also be a general report on implementation of land use planning for the last planning period and for the whole zoning period.

Article 29: Resolution of land areas identified in proclaimed land use zoning for recovery or conversion to other use purposes where land has still not been recovered or converted after three years

1. With respect to land areas identified in proclaimed land use zoning for recovery or conversion to other use purposes, where this has still not occurred after three years, the State body competent to consider and approve land use zoning and planning shall be permitted to amend the following land areas in the zoning for the current or next zoning period:

(a) Land areas zoned for investment projects and works for purposes of national defence and security, the national benefit or public benefit, where there were insufficient funds to perform such projects;

(b) There has been a determination of an investor in the last year of the time-limit of three years regarding a land area zoned for investment projects and works for purposes of economic development, otherwise an announcement of amendment or cancellation of land use zoning shall be required pursuant to clause 3 of article 29 of the *Law on Land*.

2. In cases not falling within clause 1 of this article, the State body competent to consider and approve land use zoning and planning must announce a cancellation of land use zoning applicable to the land areas identified in such zoning for recovery or conversion to other use purposes.

CHAPTER IV

Allocation of Land, Lease of Land, Conversion of Land Use

Purpose, Land Recovery and Land Requisition

Article 30: *Grounds for allocation of land, lease of land or conversion of land use purpose*

The grounds for a decision on allocation of land, lease of land or conversion of land use purpose shall comprise:

1. The requirements for land use as expressed in the following documents:

(a) An investment project of an organization funded by the State Budget and approved by the competent State body, or a foreign investment project which has been issued with an investment licence by the competent State body;

(b) A written evaluation on the requirement for land use of any investment project of an economic organization not funded by the State Budget or of a project which is not a foreign investment project. The Department of Natural Resources and Environment shall preside over co-ordination with the relevant departments and divisions to evaluate the requirements for

land use on the basis of a consideration of the file on the investment project in accordance with the law on investment;

(c) A project for construction of a religious establishment as approved by the people's committee of a province or city under central authority;

(d) Applicable to an application for allocation of agricultural land within the quota on allocation or for allocation of residential housing, an application for allocation of land or for conversion of land use purpose from a family household or individual certified as to the requirements for land use by the people's committee of the ward, commune or township where the land is situated;

(dd) An application for allocation of land from a community of citizens certified as to the requirements for land use by the people's committee of the ward, commune or township where the land is situated.

2. Proper compliance with the law on land by the applicant for allocation or lease of land where the State has previously allocated or leased land to such applicant in order to implement an investment project for production, business or services. On the basis of a declaration which the applicant shall itself make regarding the current use status of all land areas which the State previously allocated or leased to such applicant together with the observations of the applicant on its own compliance with the law on land, the Department of Natural Resources and Environment where the land is situated and which is conducting the procedures for allocation or lease of land shall be responsible to contact the Department of Natural Resources and Environment where the land previously allocated or leased is situated in order to ascertain the level of compliance with the law on land by the applicant during implementation of the project.

3. The following as approved by the competent State body: detailed land use zoning, or detailed land use planning, or urban construction zoning, or rural residential construction zoning. Reliance shall be placed on land use zoning or planning as approved by the competent State body in cases where there is as yet no detailed land use zoning or detailed land use planning.

Article 31: Authority to allocate land, to lease land, to permit conversion of land use purpose or to recover land

1. Authority to allocate land, to lease land or to permit conversion of land use purpose shall be implemented in accordance with article 37 of the *Law on Land*.

People's committees of provinces and cities under central authority shall allocate land to land fund development organizations to manage.

2. Authority to recover land shall be implemented in accordance with article 44 of the *Law on Land*. In the case of recovery of land in order to allocate or lease it to an organization or a religious organization, to a Vietnamese residing overseas or to a foreign organization or foreign individual, where a family household or individual is currently using the land to be recovered, or an organization together with a family household or individual is currently using the land to be recovered, the people's committee of the province or city under central authority shall make a decision on recovery of the whole area of land and, on the basis of that decision, the people's committee of the district, town or provincial city shall make a decision on recovery of the specific area of land of each family household or individual.

3. In the case where a Vietnamese residing overseas or a foreign organization or foreign individual uses land to carry out an investment project but it is necessary to convert the land use purpose because of an amendment to the investment project as approved by the competent State body, the people's committee of the province or city under central authority shall permit the conversion of land use purpose.

Article 3: Authority to amend decisions on allocation or lease of land where the land was allocated or leased prior to the effective date of the Law on Land

The State body authorized under article 37 of the *Law on Land* to allocate or lease land shall also have authority to make a decision on amendment in the case of a land user which obtained a decision on allocation or lease of land prior to the effective date of the Law on Land (1 July 2004).

Article 33: Term of use of land allocated or leased by the State

1. The term of use of land allocated or leased by the State shall be calculated as from the date of the decision on allocation or lease by the competent State body. If land was allocated or leased prior to 15 October 1993 and if the decision on allocation or the land lease contract does not clearly specify the duration of allocation or the term of the lease, the duration of allocation or the term of the lease shall be implemented in accordance with clauses 2 and 3 of article 68, article 71, article 78, clause 5 of article 84, clause 3 of article 86 and clause 1 of article 87 of this Decree and shall be calculated as from 15 October 1993.

2. Land users shall be permitted to continue to use land for the remaining duration of the period prescribed in the decision on allocation or for the remaining duration of the term prescribed in the land lease contract.

Article 34: *Continued allocation or lease of agricultural land; extension of land use term or recovery of land upon expiry of term*

1. Upon expiry of a land use term, any family household or individual directly engaged in agricultural, forestry, aquaculture or salt production and using agricultural land which the State allocated or leased or in respect of which the State has recognized the land use right or in respect of which an assignment of land use right has been received shall be permitted to continue to use the land with the land use term stipulated in clause 1 of article 67 of the *Law on Land*, unless the State issues a decision on recovery of the land in the cases stipulated in clauses 1, 4, 7, 8 or 11 of article 38 of the *Law on Land*.

2. Extension of a land use term applicable to types of land which are used for a definite term and outside the categories stipulated in clause 1 of this article shall be implemented as follows:

(a) If a land user has a requirement to continue to use the land, six months prior to the expiry of the land use term, the land user shall send an application to the State body competent to allocate or lease land for its consideration and resolution pursuant to clauses 1, 3 and 4 of article 67 of the *Law on Land*.

(b) In respect of family households and individuals leasing agricultural land, any extension of land use term shall be as stipulated in clause 1 of article 67 of the *Law on Land*.

(c) In respect of the following cases, any extension of land use term shall be in accordance with the supplemented project as approved

by the competent State body but not in excess of the term for which the State has already allocated or leased land: economic organizations using land for the purposes of agriculture, forestry, aquaculture and salt production; economic organizations, family households and individuals using land surfaces for construction of production and business establishments; economic organizations using land to carry out investment projects; and Vietnamese residing overseas, foreign organizations and foreign individuals using land to carry out investment projects in Vietnam.

3. If a land user does not have a requirement to continue to use land or to extend the land use pursuant to clause 2 of this article, or if the competent State body refuses permission to extend the land use, the State shall recover the land pursuant to clause 10 of article 38 of the Law on Land.

4. Every year, people's committees at the level authorized to recover land shall instruct their bodies in charge of natural resources and environment to check land use terms in order to issue decisions on land recovery in the cases stipulated in clause 3 of this article.

Article 35: Resolution of land use fees, land rent and assets invested on land in cases of land recovery stipulated in clauses 2, 3, 5, 8, 9, 11 and 12 of article 38 of the Law on Land

1. People's committees at the level authorized to recover land shall establish an evaluation committee to fix the residual value of land use fees, land rent and assets invested on land in cases where such land use fees, land rent and monies invested on land are not funded by the State Budget; and such residual value shall belong to the person having land recovered. Where land which has been allocated by the State without collection of land use fees, or leased by the State with annual rent payment, or allocated by the State with collection of land use fees, or leased by the State with rent paid for the whole term or for a number of years, and the land use fees or rent actually paid was funded by the State Budget, only the residual value

of the investment on the land which was not funded by the State Budget shall belong to the person having land recovered.

2. The residual value of land use fees, land rent and assets invested on land and belonging to the person having land recovered shall be resolved as follows:

(a) Where recovered land is situated in an urban area or within an area zoned for urban development and allocated to a land fund development organization, such organization shall be responsible to make payment to the person having land recovered; in respect of localities where such organization is not in existence, the State Budget of the level which will be authorized to manage the recovered land shall be used to make payment to the person having land recovered;

(b) Where recovered land is in a rural area and allocated to a people's committee of a commune or township to manage or to supplement a public utility fund, the people's committee of the commune or township shall be responsible to make payment to the person having land recovered;

(c) Where the State allocates or leases recovered land to another person, the person to which the land is next allocated or next leased shall be responsible to make payment to the person having land recovered.

3. Where recovered land is in the category of non-agricultural land participating in the real estate market, the people's committee at the level authorized to recover land shall apply the form of auction of land use right and assets that have been invested on such land and shall resolve the residual value of land use fees, land rent and assets invested on land and belonging to the person having land recovered as follows:

(a) If proceeds gained from the auction after deduction of costs of holding the auction are less than the residual value belonging to the person having land recovered, such person shall receive the whole of the proceeds;

(b) If proceeds gained from the auction after deduction of costs of holding the auction are more than or equal to the residual value belonging to the person having land recovered, such

person shall receive the residual value belonging to him and the difference shall be paid into the State Budget.

4. Where recovered land was formed as the result of receipt of an assignment of the land use right, the money for the receipt of an assignment together with the residual value of assets invested on land shall be resolved in the same manner as the case of land recovery as the result of allocation by the State with collection of land use fees stipulated in clauses 1, 2 and 3 of this article.

5. Where land is recovered but the person having the land recovered has already leased, mortgaged, guaranteed or contributed capital using the land use right, the interests of the lessee, mortgagee, guarantee or recipient of the capital contribution shall be resolved in accordance with article 65 of this Decree.

Article 36: Land recovery and management of recovered land fund

1. The State shall recover land in order to use it for the objectives of national defence and security, national interest or public utility in the following cases:

- (a) Use of land for objectives of national defence and security;
- (b) Use of land for construction of headquarters of bodies or for professional facilities for which the State has allocated land without collection of land use fees;
- (c) Use of land for construction of headquarters of foreign diplomatic organizations;
- (d) Use of land for construction of public facilities not for business purposes;
- (dd) Use of land for the improvement and development of urban areas and rural residential areas;
- (e) Use of land for the development of protective forest land and specialized use forest land;
- (g) Use of land for religious establishments;
- (h) Use of land for cemeteries and graveyards.

2. The State shall recover land in order to use it for the purposes of economic development in the following cases:

(a) Use of land for investment and construction in an industrial zone as stipulated in article 90 of the *Law on Land*, in a high-tech zone as stipulated in article 91 of the *Law on Land*, or in an economic zone as stipulated in article 92 of the *Law on Land*;

(b) Use of land in order to implement a Group A investment project for production, business, services or tourism in accordance with the law on investment, which project has already been approved by the competent State body or in respect of which permission has been granted for such investment in an industrial zone, high-tech zone or economic zone but the project is unable to be so invested;

(c) Use of land in order to implement an investment project funded by Official Development Aid (ODA);

(d) Use of land in order to implement an one hundred (100) per cent foreign invested project which has been approved by the competent State body or in respect of which permission has been granted for such investment in an industrial zone, high-tech zone or economic zone but the project is unable to be so invested.

3. All cases of land recovery stipulated in clauses 1 and 2 of this article must be based on the detailed land use zoning and planning; the detailed zoning for urban construction or the zoning for rural residential construction which has been approved by the competent State body.

4. Areas of recovered land as stipulated in clauses 1(d), 1(dd) and 2 of this article shall, in the case where, after land use zoning and planning has been proclaimed, there is as yet no investment project, be allocated to the land fund development organization for management; in the case where there is an investment project, they shall be allocated or leased to the investor, and the investor must use the land for the correct purpose for which it is allocated or leased.

5. The State shall recover land in any of the cases stipulated in clauses 2 to 12 inclusive of article 38 of the *Law on Land* and, in the case where the recovered land is in a rural area, shall allocate such land to the people's committee of the commune for management and, in the case where the recovered land is situated in an urban area and within an area zoned for urban

development, shall allocate such land to the land fund development organization for management.

6. The State shall not recover land for economic development in the case of projects outside the categories stipulated in clause 2 of this article or where the investor receives an assignment of or leases a land use right or receives a land use right as a capital contribution from the land user. Where there is receipt of an assignment of a land use right or receipt of a land use right as a capital contribution in order to use the land use right for production or business purposes which necessitate a change of the use purpose, the transferee must be permitted to convert the land use purpose in accordance with clause 1 of article 36 of the *Law on Land* or shall register conversion of land use purpose in accordance with clause 2 of article 36 of the *Law on Land*. If land is leased from a current land user, the lessee shall not be permitted to convert the land use purpose.

7. Conversion of land use purpose to construction for business in residential housing shall not be permitted in cases where land was allocated for use for purposes of national defence and security, national interest, public utility, construction of an industrial zone or provision of a surface for nonagricultural production and business.

8. Resolution of any complaint relating to land recovery in the cases stipulated in clauses 1 and 2 of this article shall be implemented in accordance with articles 162, 163 and 164 of this Decree.

Resolution of any dispute relating to land use right in the cases stipulated in clause 6 of this article shall be implemented in accordance with civil law.

Article 37: *Land requisition for specified term*

1. Where the State declares a state of emergency in accordance with the law on state of emergency or in an emergency case, such as war, natural disaster, fire or other emergency which seriously threatens the assets of the State and organizations and the life and assets of the citizens, and it is necessary to use land, the Government, people's committees of provinces

and cities under central authority and people's committees of districts, towns and provincial cities shall have authority to requisition land. Decisions on requisition of land must clearly state the purpose of such requisition and the term of such requisition.

2. Where the duration of a requisition of land expires without completion of the purpose of the requisition, the State body which requisitioned the land shall issue a decision on extension of the duration of the term of such requisition. The period of extension may not exceed the original duration of the term of requisition.

3. Upon completion of the purpose of the requisition or upon expiry of the term of the requisition, the State body which requisitioned the land shall be responsible to return the land and to pay compensation for any loss caused to the person having had land requisitioned. Compensation must be paid no later than six months from the date of expiry of the term of the requisition. In the case where a requisition of land adversely affects income which ensures the living conditions of the person having had land requisitioned, compensation for loss caused by such requisition of land must be made at least once every three months.

CHAPTER V
Registration of Land Use Rights, Formulation and Management
of Cadastral Files, Issuance of Certificates of Land Use Right,
and Land Statistics and Land Inventories

Article 38: *Registration of land use rights*

1. Registration of land use rights shall comprise registration of a land use right for the initial time and registration of any changes in a land use right.

2. Registration of a land use right for the initial time shall be carried out in the following cases:

(a) When the State allocates or leases land for use;

(b) When a person is currently using a parcel of land in respect of which a certificate of land use right has not yet been issued.

3. Registration of any changes in a land use right shall be carried out when a person using a parcel of land has been issued with a certificate of land use right but there are changes in the land use in the following cases:

- (a) The land user exercises its right to exchange, assign, lease, sublease, bequeath or donate the land use right, or to mortgage, guarantee and contribute capital using a land use right;
- (b) The land user is permitted to change its name;
- (c) There are changes in the shape, dimensions or area of the parcel of land;
- (d) The land use purpose is converted;
- (dd) The land use term is changed;
- (e) There is conversion from the form of land lease by the State to the form of land allocation by the State with collection of land use fees;
- (g) There are changes to the restrictions on the rights of the land user;
- (h) The State recovers the land.

Article 39: *Persons responsible to register land use rights*

1. The persons responsible to register land use rights shall be the persons responsible before the State for land use as stipulated in article 2 of this Decree. With respect to any unit of the people's armed forces which uses land, the person responsible to register the land use right shall be the leader of such unit as determined to be the land user in accordance with clause 2 of article 83 of this Decree.

2. Any person responsible to register land use rights as stipulated in clause 1 of this article may authorize another person to conduct registration in accordance with civil law.

Article 40: *Cadastral files*

1. Cadastral files shall be formulated in detail in respect of each parcel of land under administrative units of communes, wards and townships. Each parcel of land must have its own unique number sign which is different from the number sign of any other parcel of land throughout the country.

2. The contents of cadastral files must be expressed fully, accurately and promptly, and files must be regularly revised in order to record any changes during the course of land use in accordance with law.

3. Cadastral files shall be made in one original set and three copies of such original set; the original file shall be archived in the land use right registration office under the Department of Natural Resources and Environment, one copy file shall be archived in the land use right registration office under the Division of Natural Resources and Environment, and one copy file shall be archived with the people's committee of the ward, commune or township. An original cadastral file must be promptly amended in order to record any changes regarding land use, and the copy files must also be amended for consistency with the original.

4. Cadastral maps shall be formulated in accordance with the following provisions:

(a) Cadastral maps shall be formulated in accordance with uniform technical standards of the State system of map co-ordinates;

(b) The contents of cadastral maps shall indicate the parcel of land; the hydro-graphic and irrigation systems; any traffic routes; boundary markers and administrative boundaries at all levels, and boundary markers of safety corridors surrounding construction works; cadastral co-ordinates; and place names and explanatory notes;

(c) The boundaries of parcels of land must be accurately indicated, and the peaks of parcels of land must have accurate co-ordinates. Each parcel of land must have information on its number sign, its area, and its land type symbol;

(d) Cadastral maps must be formulated by units which have been issued with a practising certificate as map surveyors or by units which have registered to practise as map surveyors.

5. Cadastral maps shall be archived and managed in paper form, and there shall be a gradual conversion to a digital system in order that cadastral files will be managed by computer. People's committees of provinces and cities under central authority shall be responsible to invest in computerization of their system of cadastral files.

6. The Ministry of Natural Resources and Environment shall issue the procedures, technical standards and economic norms applicable to the formulation of cadastral files in paper form

and to a digital system of cadastral files; shall provide guidance on formulation, revision and management of cadastral files in both of the above forms; and shall issue the schedule for replacement of cadastral maps in paper form by a digital computerized system.

Article 41: *Certificates of land use right*

1. The Ministry of Natural Resources and Environment shall issue certificates of land use right using a sample form which is uniform throughout the whole country applicable to all types of land. All land users, except for the cases stipulated in clause 2 of this article, shall be issued with a certificate of land use right.

2. The State shall not issue certificates of land use right in the following cases:

(a) Land allocated by the State for management as stipulated in article 3 of this Decree;

(b) Agricultural land in the public utility land fund which is managed and used by the people's committee of a ward, commune or township;

(c) Where land users have leased or sub-leased land from another person, and such lease or sub-lease is not in an industrial zone as stipulated in clause 5(d) of this article;

(d) Persons currently using the land fail to satisfy the conditions for issuance of a certificate of land use right pursuant to articles 50 and 51 of the *Law on Land*.

(dd) Persons receive land under contract on a collective farm or forest plantation.

3. One certificate of land use right shall be issued for each parcel of land in two copies, with one copy to be issued to the land user and one copy to be filed at the land use right registration office. Clauses 2, 3, 4 and 5 of article 46 of this Decree shall apply to issuance of certificates of land use right in respect of land on which there is an apartment complex.

4. The following changes during the course of land use must be recorded on the certificate of land use right:

(a) When the land user conducts a conversion or assignment of or bequeaths or donates the land use right, or makes a capital contribution using the land use right and thereby creates a new legal entity applicable to the whole parcel of land; or when the land user leases or sub-leases the land use right (except for a lease or sub-lease of a land use right in an industrial

zone as stipulated in clause 5(d) of this article) or mortgages, provides a guarantee or contributes capital using the land use right without forming a new legal entity applicable to the whole or a part of the parcel of land;

(b) Changes to the whole parcel of land upon implementation of results of conciliation of a dispute recognized by the people's committee at the competent level; upon implementation of a decision of a competent body or organization on demerger or merger of an organization; upon implementation of a legal instrument on demerger or merger of an economic organization in accordance with law; upon restructuring of debts in accordance with a contract of mortgage or guarantee; upon implementation of an administrative decision resolving a complaint or denunciation relating to land; upon implementation of a judgment or decision of a people's court or a decision on enforcement of a judgment enforcement body; upon implementation of a legal document recognizing the results of auction of a land use right in accordance with law; or upon division of the land use right pursuant to a legal instrument in accordance with law in respect of family households or a group of individuals with a common land use right;

(c) A land user is permitted to change its name;

(d) There is a reduction in land area due to a natural landslide;

(dd) There is an increase or reduction in land area due to a mistake during land survey;

(e) There is a change of information relating to the land number sign or the name of the administrative unit in the place where the land is situated;

(g) There is a conversion of land use purpose;

(h) There is a change to the land use term;

(i) There is conversion from the form of land lease by the State to the form of land allocation by the State with collection of land use fees;

(k) There is a change to the restrictions on the rights of the land user;

(l) There is a change to the financial obligations which the land user must discharge.

5. During the course of land use, a new certificate of land use right must be issued in the following cases:

(a) A new parcel of land is created as a result of allocation or lease of land by the State;

(b) A new parcel of land is created as a result of consolidation of a number of parcels;

(c) A new parcel of land is created in the case of assignment of the land use right to one part of a parcel of land, conversion of land use purpose of one part of a parcel of land, the State recovers one part of a parcel of land, the land user requests separation of a parcel of land into a number of parcels and the law permits this;

(d) When a land user leases out or sub-leases out a land use right in an industrial zone; leases or sub-leases a land use right for land on which is already constructed a high-tech factory or services establishment for production and business in high-tech products in a high-tech zone, or leases or sub-leases the land use right in order to construct such a building; leases or sub-leases a land use right in a duty free zone, industrial zone, special entertainment zone, or tourism area in the duty zone of an economic zone (referred to as lease or sub-lease of a land use right in an industrial zone);

(dd) When the boundaries of a parcel of land are changed upon implementation of results of conciliation of a dispute recognized by the people's committee at the competent level; upon implementation of a decision of a competent body or organization on demerger or merger of an organization; upon implementation of a legal instrument on demerger or merger of an economic organization in accordance with law; upon restructuring of debts in accordance with a contract of mortgage or guarantee; upon implementation of an administrative decision resolving a complaint or denunciation relating to land; upon implementation of a judgment or decision of a people's court or a decision on enforcement of a judgment enforcement body; upon implementation of a legal document recognizing the results of auction of a land use right in accordance with law; or upon division of the land use right pursuant to a legal instrument in accordance with law in respect of family households or a group of individuals with a common land use right;

(e) Where the certificate of land use right of a land user is discoloured, smudged, torn, damaged or lost.

6. Certificates of land use right which were issued in accordance with the 1987 *Law on Land* or the 1993 *Law on Land*; and certificates of residential house ownership and residential land use right pursuant to Decree 60-CP of the Government dated 5 July 1994 on ownership of residential houses and the right to use residential land in urban areas shall have the same legal validity as certificates of land use right issued in accordance with the *Law on Land*, and they shall be referred to collectively as certificates of land use right. When any changes in land use occur as stipulated in clause 5 of this article, the natural resources and environment body under the people's committee authorized to issue certificates of land use right shall be responsible to recover the issued certificate of land use right and to conduct procedures for issuance of a new certificate of land use right to the land user in accordance with the *Law on Land*.

7. Where a certificate relating to land use right was issued prior to the date of effectiveness of this Decree and does not belong to the categories in clause 6 of this article, the land user must conduct procedures for application for issuance of a certificate of land use right pursuant to articles 135 to 140 inclusive of this Decree.

8. When a land user is issued with a certificate of land use right and is permitted to delay the discharge of its financial obligations in accordance with law, the outstanding financial obligations must be recorded on the certificate of land use right and on the cadastral file.

Article 42: *Correction and retrieval of certificates of land use right*

1. If an error in the contents of a certificate of land use right is discovered, the Department of Natural Resources and Environment shall correct the error in the case of a certificate of land use right issued by a people's committee of a province or city under central authority, and a Division of Natural Resources and Environment shall correct the error in the case of a certificate of land use right issued by a people's committee of a district, town or provincial city.

2. Certificates of land use right shall be retrieved in accordance with the following provisions:

(a) When a changed certificate of land use right is issued; when there is a natural landslide of the whole parcel of land; or when there is a change in boundaries necessitating issuance of a new certificate of land use right;

(b) When land is recovered in accordance with article 38 of the *Law on Land*;

(c) When a certificate of land use right is unable to be retrieved, notice must be provided to the land use right registration office and to the people's committee of the ward, commune or township where the land is situated;

(d) In the cases stipulated in sub-clauses (a) and (b) above, the Department of Natural Resources and Environment shall be responsible to retrieve a certificate of land use right within the issuing authority of the people's committee of a province or city under central authority; and the Division of Natural Resources and Environment shall be responsible to retrieve a certificate of land use right within the issuing authority of the people's committee of a district, town or provincial city.

3. Where a certificate of land use right has been issued to a person using land stably and having a land use right which has been recognized by the State, such certificate of land use right shall only be retrieved if there is a judgment or decision of a people's court which has been enforced, except for the cases stipulated in clause 2 of this article.

Article 43: *Recording names of persons using land on certificates of land use right*

1. In the case of a land user being an organization or a foreign organization, the name to be recorded shall be the name of the organization in the decision on establishment, in the business registration certificate or in the investment licence. In the case of a land user being a unit of the people's armed forces using land for objectives of national defence and security, the name to be recorded shall comply with clause 3 of article 83 of this Decree.

2. In the case of a land user being a religious organization, the name to be recorded shall be the name of such religious organization.

3. In the case of a land user being a family household or an individual:

(a) Where the family household or individual is using agricultural land as allocated by the State without collection of land use fees, or where the land use right is a common asset of

husband and wife, both the full name of the husband and the full name of the wife shall be recorded; and if the family household requests that only the full name of the husband or wife be recorded, there must be written agreement from both husband and wife certified by the people's committee of the commune, ward or township;

(b) Where the family household is using land which is a common asset of the entire household, outside the case stipulated in sub-clause (a) above, the full name of the head of the household shall be recorded;

(c) Where the family household which is using land includes a husband or a wife who is a foreigner or a Vietnamese residing overseas falling outside the categories stipulated in article 121 of the *Law on Land*, only the full name of the husband or the wife who is the domestic individual shall be recorded; Where the family household which is using land includes a husband or a wife who is a Vietnamese residing overseas falling within the categories stipulated in article 121 of the *Law on Land*, sub-clauses (a) and (b) above shall apply to recording the name or names on the certificate of land use right.

4. In the case of the land user being a community of citizens, the name to be recorded shall be the name of such community of citizens.

5. In the case of a land user being an individual, a Vietnamese residing overseas or a foreign individual, the name to be recorded shall be the full name of such individual.

6. In the case of multiple land users with a common land use right, the names to be recorded shall be the names of all such persons, except in the case of apartment complexes. In the case of apartment complexes, article 46 of this Decree shall apply to recording the name or names on the certificate of land use right.

7. If a land user was issued with a certificate of land use right prior to 1 July 2004 and if the recording of the name on the certificate of land use right is inconsistent with clauses 1 to 6 inclusive of this article, if there is a requirement, procedures shall be conducted to adjust the name on the already issued certificate of land use right.

Article 44: *Certificates of land use right in case of assets attached to land*

1. Where residential housing or other buildings, forest trees or perennial crops are attached to land, such assets shall be recorded on the certificate of land use right and on the cadastral file. Registration of ownership of assets attached to land shall be conducted in accordance with the law on registration of real estate.

2. Where land used for objectives of national defence and security has buildings erected on it, only the boundary lines of the parcel of land shall be surveyed and shown on the certificate of land use right.

Article 45: Issuance of certificates of residential land use right to family households and individuals where the parcel of residential land contains garden or pond

1. Residential land in respect of which a family household or individual was issued a certificate of land use right prior to the date of effectiveness of this Decree shall be determined as follows:

(a) The area of residential land shall be the area recorded in the issued certificate of land use right;

(b) If a land user requires to convert the land use purpose from land containing a garden or pond to residential land, the area of residential land shall be re-determined pursuant to clauses 2, 3 and 4 of article 87 of the *Law on Land* and clauses 2 and 3 of article 80 of this Decree; family households and individuals shall not be required to pay land use fees on the area being the difference between the residential land as re-determined and the residential land recorded in the certificate of land use right;

(c) If the State recovers land to use for the objectives of national defence and security, national interest or public utility, or economic development, the area of residential land shall be re-determined pursuant to sub-clause (b) above and the person having land recovered shall be paid compensation at residential land prices applicable to the re-determined area of residential land.

2. If there is residential housing on a parcel of land containing a garden or pond and the land is situated in a residential zone and was in use prior to 18 December 1980 and the boundaries of the parcel of residential land (or land tenure) are clearly specified in the cadastral file or in

a type of documentation of land use right as stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, all of such area of land shall be determined to be residential land pursuant to clause 2 of article 87 of the *Law on Land*; but if the boundaries of the parcel of land are not specified in the cadastral file or in a type of documentation of land use right as stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, the area of residential land shall be determined to be not in excess of five times the quota on land allocation promulgated by provinces and cities under central authority as stipulated in clause 2 of article 83 and clause 5 of article 84 of the *Law on Land* and the total area shall not exceed the land area currently being used by the family household or individual; and the residual area of land after determination of the parcel of residential land shall be determined in accordance with the land use status quo.

3. If there is residential housing on a parcel of land containing a garden or pond and the land is situated in a residential zone and was in use from 18 December 1980 until 30 June 2004, the parcel of residential land shall be determined in accordance with clauses 3, 4 and 5 of article 87 of the *Law on Land*.

Article 4: Issuance of certificates of land use right for land for construction of apartment complexes or collective housing

1. Land for construction of an apartment complex and of other engineering works directly servicing the apartment complex shall belong to the regime of common use right of owners of apartments in the complex; if an apartment complex and other engineering works directly servicing the apartment complex are leased out, the land use right shall belong to the owner of the apartment complex.

2. Certificates of land use right for an apartment complex shall be issued in accordance with the following provisions:

(a) An investor using land to implement a business project for construction of an apartment complex shall be issued with a certificate of land use right;

(b) If the entire apartment complex belongs to one owner or a group of owners being economic organizations, family households or individuals, Vietnamese residing overseas and

foreign organizations or foreign individuals, a new or revised certificate of land use right shall be issued to the owner or group of owners of the apartment complex;

(c) If the investor or owner of an apartment complex sells an apartment, the purchaser shall be issued with a certificate of land use right in the form of common land use right; and the certificate of land use right already issued to the investor or owner of the apartment complex shall be revised for consistency with the form of land use right being common land use right.

3. Certificates of land use right which are issued for land for the construction of engineering works directly servicing an apartment complex or a number of apartment complexes shall only be issued to the owner of the project works or to the organization managing the project works; and if there is no such owner of the project works nor organization managing the project works, the certificate of land use right shall be issued to the people's committee of the ward, commune or township where the land is situated in order for such people's committee to manage the area of land containing the project works.

4. Certificates of land use right for land for construction of collective housing shall be issued in accordance with the following provisions:

(a) Land for construction of collective housing means land for the construction of collective housing, land for yards and gardens, and land for the construction of engineering works directly servicing the living conditions of collective housing residents;

(b) If the collective housing belongs to an economic organization for the purpose of it providing housing for employees, or belongs to an organization conducting training or research for the purpose of it providing housing for students, the certificate of land use right shall be issued to such organization;

(c) If the collective housing is civil service housing of a body or organization of the Party or State for the purpose of the Party or State providing housing for staff, the certificate of land use right shall be issued to such body or organization.

5. A certificate of land use right shall not be issued for land used for public yards and gardens, public places of entertainment, or other public works servicing a number of apartment complexes, collective housing or civil service housing; but such land shall be

allocated to the people's committee of the ward, commune or township where the land is situated in order for the people's committee to manage such land.

Article 47: Issuance of certificates of land use right to persons with residential housing under common ownership

1. In the case of residential housing under common ownership where the owners agree voluntarily to divide the entire area of land into individually used parcels of land, a certificate of land use right shall be issued for each such parcel of land.

2. In the case of residential housing under common ownership where the owners agree voluntarily to divide the land into individually used sections and a section of land used in common, a certificate of land use right shall be issued to each owner and the certificate must describe the individually used sections and the section of land used in common.

3. In the case of residential housing under common ownership where the owners do not agree voluntarily to divide the land into individually used sections, a certificate of land use right shall be issued to each owner and the certificate must describe that the land area is commonly used.

Article 48: Issuance of certificates of land use right to family households and individuals currently using land

Consideration shall be given to issuance of certificates of land use right to family households and individuals currently using land in accordance with the following provisions:

1. Where a family household or individual is currently using land and the entire or one part of the parcel of land has one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, and where there is no dispute, a certificate of land use right shall be issued for the area of land in respect of which there is documentation, unless the land is zoned for recovery and there is a decision on recovery from the competent State body.

2. Where a family household or individual is currently using land and the entire or one part of the parcel of land does not have one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, a certificate of land use right shall be

issued for the area of land in respect of which there is no documentation when the following conditions are satisfied:

(a) The land is not subject to dispute;

(b) The land was in use prior to the time of approval of land use zoning and planning, of detailed urban construction zoning or of rural residential construction zoning; and if the land was in use after the time of approval of the above zoning and planning, the land must conform with such zoning and planning. The people's committee of the commune, ward or township where the land is situated shall verify the periods when the land was in use;

(c) If the land was in use from 15 October 1993 until prior to 1 July 2004, the land use fees must be paid in accordance with regulations of the Government on collection of land use fees.

3. Where a family household or individual is currently using land which was previously the subject of a State decision on management during the process of implementation of the State policy on land, but in fact the State did not manage such land, the family household or individual shall be permitted to continue to use the land, a certificate of land use right shall be issued to such family household or individual, and land use fees shall not be required to be paid.

Article 49: Issuance of certificates of land use right to professional organizations and State owned enterprises currently using agricultural land

1. Professional organizations and State owned enterprises (referred to collectively as *organizations* in this article) shall themselves review and declare land usage and report to the people's committee of the province or city under central authority where the land is situated and also to the higher level body being a ministry, ministerial equivalent body,

Government body or State corporation.

2. Organizations shall be responsible to formulate detailed land use zoning based on the results of the review of the land use status quo, the plans for restructuring and developing State owned enterprises, approved local land use zoning and planning, and master plans for the development of branches. The contents of such detailed land use zoning must include the

area of each type of land in respect of which the current use shall be maintained, land use plans, terms of land use, and areas of land to be handed over to localities.

3. The people's committee of a province or city under central authority shall consider and approve the detailed land use zoning formulated by any organization using land in the locality.

4. Based on the approved detailed land use zoning, the people's committee of the province or city under central authority shall allocate or lease land in accordance with the law on land applicable to that area of land for which an organization is permitted to maintain the current use.

5. If there has been an invasion or trespass on land, or if land is subject to dispute, the people's committee of the province or city under central authority shall make the final resolution on the matter in order to determine the land user.

6. People's committees of provinces and cities under central authority shall be responsible to direct the ascertaining of specific land use boundaries and boundary markers, the surveying and drawing up cadastral maps, and the issuance of certificates of land use right to organizations using land.

7. Agricultural land being used by organizations which is not within detailed land use zoning and agricultural land of an organization which has been dissolved shall be dealt with in accordance with regulations of the Government.

Article 50: *Issuance of certificates of land use right for land used for farm businesses*

1. People's committees of communes, wards and townships shall review the status quo of land used for farm businesses in respect of which a certificate of land use right has not yet been issued, and shall report to the people's committee of the district, town or provincial city on the following matters:

(a) The status quo of land use as compared with the cadastral file and the approved detailed land use zoning;

(b) The results of investment in production and business and in services directly assisting agricultural, forestry, aquaculture or salt production on such farm business;

(c) What areas of land have been allocated or leased by the State; what areas of land have been received by way of assignment or inheritance from or donation or capital contribution by other family households or individuals; and what areas of land have been received under contract from an organization.

2. On the basis of the report from the people's committee of a commune, ward or township, and on the basis of the approved detailed land use zoning, the people's committee of the district, town or provincial city shall issue a decision on resolution of the matter and shall issue a certificate of land use right in accordance with the following provisions:

(a) Where a family household or individual is using agricultural land for a farm business contrary to the correct land use purpose and has arbitrarily constructed residential housing or project works used for non-agricultural business purposes or other buildings, all such buildings must be dismantled in order that the land shall be used for the correct stipulated purpose; and if the family household or individual fails to dismantle such buildings, the people's committee of the district, town or provincial city shall enforce same or recover the land;

(b) Where land was allocated by the State to a family household or individual being directly engaged in forestry, aquaculture, agricultural or salt production and using such land for a farm business, the family household or individual shall be entitled to continue using such land for the remaining term to the extent that the land area does not exceed the quota on allocation of land stipulated in article 70 of the *Law on Land*, and any land in excess of such quota shall be dealt with in accordance with article 67 of the *Law on Land*;

(c) Where land was allocated by the State to a family household or individual being not directly engaged in forestry, aquaculture, agricultural or salt production but using the land for a farm business, such family household or individual must convert to the land lease form and the land lease term shall be the remaining duration of the land allocation term;

(d) Where a family household or individual is using land for a farm business as a result of land lease by the State, or as a result of receipt under contract from an organization, or as a result of capital contribution by another family household or individual, such family

household or individual shall be entitled to continue to use such land pursuant to the signed contract;

(dd) Where a family household or individual is using land for a farm business as a result of receipt by way of assignment, inheritance or donation, the matter shall be dealt with in accordance with clause 3 of article 71 of the *Law on Land*.

3. A certificate of land use right shall be issued in respect of land stipulated in clauses 2(b), (c), (d) and (dd) of this article (except for the case of receipt under contract from an organization) where the people's committee of the commune, ward or township certifies that the land is not subject to dispute.

Article 51: Issuance of certificates of land use right for land for construction of headquarters of body or for construction of professional facilities

1. Where an organization is currently using land allocated by the State for construction of headquarters of a body or professional facilities in respect of which a certificate of land use right has not yet been issued, it shall review the current status quo of land use and declare and report to the people's committee of the province or city under central authority and also to the higher level body.

2. On the basis of the report from the organization, the people's committee of the province or city under central authority where the land is situated shall inspect the actual land use and issue a decision on resolution of the matter and shall also issue a certificate of land use right in the following specific cases:

(a) Land users shall be entitled to continue using land allocated by the State where the land is currently being used for the correct purpose, and such land users shall be issued with a certificate of land use right;

(b) The people's committee of the province or city under central authority shall issue a decision on recovery of the following areas of land: land which is not being used; land which is being used for an incorrect purpose; land which, as a result of a lack of responsibility, has been invaded, trespassed on, damaged or lost; land which has been leased or lent to another

organization, family household or individual to use; and land which has been contributed unlawfully to a joint or associated venture;

(c) Residential land shall be handed over to the people's committee of the commune, ward or township where the land is situated for management; and where the land user is using the land in conformity with the approved land use zoning and planning, such land user shall be issued with a certificate of land use right and must discharge financial obligations in accordance with regulations of the Government on collection of land use fees;

(d) For any area of land which has been invaded or trespassed on; which is currently subject to dispute, the people's committee of the province or city under central authority shall issue a final decision on resolution of the matter in order to determine the land user.

Article 52: Issuance of certificates of land use right for land currently being used by enterprises as surface for construction of production and business establishments

1. Where an enterprise is currently using land as surface for construction of a production and business establishment in respect of which a certificate of land use right has not yet been issued, it shall review and declare the land use and report to the people's committee of the province or city under central authority where the land is situated.

2. On the basis of the report from the enterprise, the people's committee of the province or city under central authority where the land is situated shall inspect the actual land use and issue a decision on resolution of the matter and shall also issue a certificate of land use right in the following specific cases:

(a) Land users shall be entitled to continue using land and they shall be issued with a certificate of land use right when the land was leased by the State or when the land was lawfully received on assignment from another person or allocated by the State with collection of land use fees and the fees for the assignment or the land use fees have been paid but not from State Budget funds;

(b) For land allocated by the State without collection of land use fees or land lawfully received on assignment from another person or allocated by the State with collection of land use fees and the fees for the assignment or the land use fees have been paid from State Budget

funds; if the land is being used for the correct purpose but has not yet been converted to the land lease form, the land must be converted to the land lease form; if the land user selects the form of land allocation by the State with collection of land use fees, the land use fees must be paid;

(c) The people's committee of the province or city under central authority shall issue a decision on recovery of the following areas of land: land which is not being used; land which is being used for an incorrect purpose; land which, as a result of a lack of responsibility, has been invaded, trespassed on, damaged or lost; land which has been leased or lent to another organization, family household or individual to use; and land which has been contributed unlawfully to a joint or associated venture;

(d) Residential land shall be handed over to the people's committee of the district, town or provincial city for management; and where the land user is using the land in conformity with the approved land use zoning and planning, such land user shall be issued with a certificate of land use right and must discharge financial obligations in accordance with regulations of the Government on collection of land use fees;

(dd) For any area of land which has been invaded or trespassed on; which is currently subject to dispute, the people's committee of the province or city under central authority shall make the final resolution on the matter in order to determine the land user.

3. In the case of land stipulated in clause 2(b) of this article, an enterprise shall formulate a production and business plan, including specific details of the land use purpose and the land use term, and shall submit the plan for approval to the people's committee of the province or city under central authority. After the plan has been approved, the enterprise shall be issued with a certificate of land use right.

Article 53: Issuance of certificates of land use right for land currently used by co-operatives

1. Where a co-operative is currently using land in respect of which a certificate of land use right has not yet been issued, it shall review and declare the land use and report to the people's committee of the province or city under central authority where the land is situated.

2. On the basis of the report from the co-operative, the people's committee of the province or city under central authority where the land is situated shall inspect the actual land use and issue a decision on resolution of the matter and shall also issue a certificate of land use right in the following specific cases:

(a) For land leased by the State or land lawfully received on assignment from another person or allocated by the State with collection of land use fees and the fees for the assignment or the land use fees have been paid but not from State Budget funds; for land which a member of the co-operative contributed to the cooperative and which is being used for the correct purpose, the land user shall be entitled to continue using land and such land user shall be issued with a certificate of land use right;

(b) For land allocated by the State without collection of land use fees or land which was lawfully received on assignment from another person or allocated by the State with collection of land use fees and the fees for the assignment or the land use fees have been paid from State Budget funds; if the land is being used for the correct purpose but has not yet been converted to the land lease form, the land must be converted to the land lease form; if the land user selects the form of land allocation by the State with collection of land use fees, the land use fees must be paid; The State shall allocate land without collection of land use fees in the case of land on which an agricultural co-operative has constructed its headquarters, drying yards, or establishments directly servicing agriculture, forestry, aquaculture and salt production;

(c) The people's committee of the province or city under central authority shall issue a decision on recovery of the following areas of land: land which is not being used; land which is being used for an incorrect purpose; land which, as a result of a lack of responsibility, has been invaded, trespassed on, damaged or lost; land which has been leased or lent to another organization, family household or individual to use; and land which has been contributed unlawfully to a joint or associated venture;

(d) Residential land shall be handed over to the people's committee of the district, town or provincial city for management; and where the land user is using the land in conformity with the approved land use zoning and planning, such land user shall be issued with a certificate of

land use right and must discharge financial obligations in accordance with regulations of the Government on collection of land use fees;

(dd) For any area of land which has been invaded or trespassed on; which is currently subject to dispute, the people's committee of the province or city under central authority shall make the final resolution on the matter in order to determine the land user.

3. In the case of land stipulated in clause 2(b) of this article, a co-operative shall formulate a land use plan and submit it to the Department of Natural Resources and Environment for evaluation, which Department shall submit the plan to the people's committee of the province or city under central authority to issue a decision on the land use purpose and the land use term, and on issuance of a certificate of land use right.

Article 54: Issuance of certificates of land use right for land containing historical-cultural sites and places of scenic beauty

Issuance of certificates of land use right for land containing historical-cultural sites and places of scenic beauty which have been classified or for which a people's committee of a province or city under central authority has made a protection decision shall be carried out as follows:

1. For land with independent historical-cultural sites and places of scenic beauty, a certificate of land use right shall be issued to the organization directly managing such site or place.
2. For land with privately owned historical-cultural sites, a certificate of land use right shall be issued to the private owner.
3. For land with historical-cultural sites of a community of citizens, a certificate of land use right shall be issued to the community of citizens.
4. If there is a very large area of land containing independent historical-cultural sites and places of scenic beauty but also containing other types of land intermingled with the above sites, a certificate of land use right shall not be issued for the whole area but shall be issued to each person using each type of land within the whole area. Land users must comply with regulations on protection of historical-cultural sites and places of scenic beauty.

Article 55: Issuance of certificates of land use right in respect of land currently used by religious organizations

1. Where a religious organization is currently using land containing a pagoda, temple, church, oratory, sanctuary, convent, religious training establishment, headquarters or other establishment of the religious organization which the State permits to operate but in respect of which a certificate of land use right has not yet been issued, it shall review and declare the land use and report to the people's committee of the province or city under central authority on the following matters:

- (a) The status quo being total area of land being used and boundaries of the parcel of land;
- (b) The area of land which the religious organization has leased or lent to another organization, family household or individual to use or to live in;
- (c) The area of land which the religious organization has received on loan or by way of donation from another organization, family household or individual;
- (d) Any area of land which has been invaded or trespassed on;
- (dd) Any area of land allocated to the religious organization by a competent State body for extension of the religious establishment;
- (e) Any area of land on which the religious organization has extended its establishments without permission from the competent State body.

2. The people's committee of the province or city under central authority where the land is situated shall conduct an on-site inspection of the land, determine the boundaries of the parcel of land, and issue a decision on resolution of the matter as follows:

- (a) For any area of land which an organization, family household or individual used stably prior to 15 October 1993, the resolution shall be based on the requirement for land use of the religious organization and of such organization, family household or individual, ensuring protection of the interests of all parties consistent with reality;
- (b) For any area of land which an organization, family household or individual has used from 15 October 1993 to prior to 1 July 2004, the resolution shall be in the same manner as resolution of cases where family households and individuals borrowed or leased land from other family households and individuals as stipulated in article 113 of this Decree;

(c) For any area of land on which the religious organization has extended its establishments without permission from the competent State body, or for any area of land which has been invaded or trespassed on or which is currently subject to dispute, the people's committee of the province or city under central authority shall make the final resolution on the matter in order to determine the land user.

3. After a resolution is made in respect of land of a religious organization pursuant to clause 2 of this article, if the conditions stipulated in clause 4 of article 51 of the *Law on Land* are satisfied, a certificate of land use right shall be issued to the religious organization for such area of land.

Article 56: Authority to issue certificates of land use right

People's committees of provinces and cities under central authority shall delegate Departments of Natural Resources and Environment to issue certificates of land use right to organizations, religious organizations, Vietnamese residing overseas, foreign organizations and foreign individuals in the following cases:

1. A land user has been issued with a decision on land allocation or land lease by the competent State body, but a certificate of land use right has not yet been issued; a land user has been issued with a decision on land reallocation by or has a land lease contract from the management committee of a high-tech zone or economic zone; a land user has a written document confirming its successful bid at an auction of a land use right in accordance with law, or a written instrument from a people's committee of a province or city under central authority confirming resolution of a land dispute conciliation, or a decision from a competent State body on merger or demerger of an organization or economic organization in accordance with law, or a written agreement on resolution of realization of a land use right which was mortgaged or used for guarantee in order to recover a debt in accordance with law, or an administrative decision on resolution of a land dispute or of a complaint or denunciation relating to land, or a judgment or decision of a people's court or a decision of a judgment enforcement body which has been enforced.

2. A land user conducts registration of changes in land use rights in the case of land consolidation and land sub-division as stipulated in clause 1(c) of article 7 of this Decree

where a certificate of land use right had been issued prior to the land consolidation or subdivision.

3. A land user is issued with a new or replacement certificate of land use right in the cases stipulated in clause 5(e) of article 41 of this Decree.

4. A land user is issued with a certificate of land use right to replace the former certificate issued in accordance with the law on land prior to 1 July 2004 in the cases stipulated in clause 6 of article 41 of this Decree.

Article 57: Authority to record land use changes on certificates of land use right

The authority to record land use changes in the cases stipulated in clause 4 of article 41 of this Decree on certificates of land use right shall be regulated as follows:

1. Departments of Natural Resources and Environment shall record land use changes on already issued certificates of land use right in the cases stipulated in clauses 4(b) to (l) inclusive of article 41 of this Decree when, after the change, the land user is an organization, religious organization, Vietnamese residing overseas, foreign organization or foreign individual.

2. Divisions of Natural Resources and Environment shall record land use changes on already issued certificates of land use right in the cases stipulated in clauses 4(b) to (l) inclusive of article 41 of this Decree when, after the change, the land user is a family household, individual, community of citizens, or Vietnamese residing overseas purchasing residential housing attached to the right to use residential land.

3. Land use right registration offices under Departments of Natural Resources and Environment shall record land use changes on already issued certificates of land use right in the cases stipulated in clause 4(a) of article 41 of this Decree when, after the change, the land user is an organization, religious organization, Vietnamese residing overseas, foreign organization or foreign individual.

4. Land use right registration offices under Divisions of Natural Resources and Environment shall record land use changes on already issued certificates of land use right in the cases stipulated in clause 4(a) of article 41 of this Decree when, after the change, the land user is a

family household, individual, community of citizens, or Vietnamese residing overseas purchasing residential housing attached to the right to use residential land.

Article 58: *Land statistics and land inventories*

1. All data on land statistics and land inventories shall be used for the following purposes:

(a) To evaluate the current status quo of land use, to provide the basis for formulation of land use zoning and planning and the basis for inspection of implementation of land use zoning and planning;

(b) To be used as the basic material for investigation of land resources and for formulation of overall strategies, zoning, socio-economic development plans and plans for national defence and security of the whole country, of branches and localities;

(c) To be used for announcement in the national statistical yearbook;

(d) To service the demand to use land data in scientific research, in training and other demands.

2. Land statistics and land inventories shall be carried out in accordance with clause 1 of article 53 of the *Law on Land*; and land statistics shall not be taken in the same year that a land inventory is carried out.

3. The Ministry of Natural Resources and Environment shall provide regulations on the work content of land statistics and land inventories, on the forms to be used for statistics and inventories, and on the content of maps of current land use status and on the land inventory data to be included on such maps.

4. Time-limits for carrying out land statistics and land inventories shall be regulated as follows:

(a) The time-limit for carrying out annual land statistics shall be 1 January of the following year;

(b) The time-limit for carrying out a land inventory shall be 1 January in the last year of the land zoning period.

5. Time-limits for completion and submission of reports on land statistical data shall be regulated as follows:

(a) People's committees of communes, wards and townships shall complete reports on results of land statistics in localities and submit such reports to the immediately superior people's committee prior to 15 January of the following year;

(b) People's committees of districts, towns and provincial cities shall complete reports on results of land statistics in localities and submit such reports to the immediately superior people's committee prior to 31 January of the following year;

(c) People's committees of provinces and cities under central authority shall complete reports on results of land statistics in localities and submit such reports to the Ministry of Natural Resources and Environment prior to 15 February of the following year;

(d) The Ministry of Natural Resources and Environment shall complete reports on results of land statistics for the whole country and submit such reports to the Government prior to 15 March of the following year.

6. Time-limits for completion and submission of reports on data on land inventories shall be regulated as follows:

(a) People's committees of communes, wards and townships shall complete reports on results of land inventories in localities and submit such reports to the immediately superior people's committee prior to 30 April;

(b) People's committees of districts, towns and provincial cities shall complete reports on results of land inventories in localities and submit such reports to the immediately superior people's committee prior to 30 June;

(c) People's committees of provinces and cities under central authority shall complete reports on results of land inventories in localities and submit such reports to the Ministry of Natural Resources and Environment prior to 15 August;

(d) The Ministry of Natural Resources and Environment shall complete reports on results of land inventories for the whole country and submit such reports to the Government prior to 31 October.

CHAPTER VI

Land Use Rights in Real Estate Market

Article 59: *Land permitted to participate in real estate market*

1. Land with assets attached thereto and land use rights permitted to participate in the real estate market shall comprise:

(a) Land for agricultural production and forest land for production other than natural forest as allocated by the State without collection of land use fees to family households and individuals;

(b) Agricultural land which family households and individuals are currently using stably for the purposes of agricultural, forestry, aquacultural and salt production with a land use right which has been recognized by the State;

(c) Agricultural land allocated by the State with collection of land use fees to economic organizations, Vietnamese residing overseas;

(d) Agricultural land leased by the State with one-off payment of rent for the whole term of the lease to Vietnamese residing overseas, foreign organizations or foreign individuals;

(dd) Residential land allocated by the State to family households and individuals for the purpose of residential housing; residential land allocated by the State to economic organizations and Vietnamese residing overseas for their investment in construction of and business in housing; residential land leased by the State with oneoff payment of rent for the whole term of the lease to Vietnamese residing overseas, foreign organizations or foreign individuals for investment in construction of and business in housing;

(e) Residential land which family households and individuals are currently using for the purpose of residential housing with a land use right which has been recognized by the State;

(g) Land for non-agricultural production and business and land used for public business purposes allocated by the State with collection of land use fees to economic organizations, family households and individuals and to Vietnamese residing overseas;

(h) Land for non-agricultural production and business, and land used for public business purposes leased by the State with one-off payment of rent for the whole term of the lease to Vietnamese residing overseas and to foreign organizations or foreign individuals;

(i) Land for non-agricultural production and business, and land used for public business purposes currently being used by family households and individuals and economic organizations with a land use right which has been recognized by the State.

2. Land with assets attached thereto leased by the State with annual rent payment and permitted to participate in the real estate market shall comprise:

(a) Land for planting perennial crops with an orchard, forest land for production with a forest, land for salt production and land for aquaculture in which investment has been made in infrastructure;

(b) Land for non-agricultural production and business, and land used for public business purposes in which investment has been made in infrastructure or which has buildings attached thereto.

3. The State shall continue to lease land for the remainder of the term in the signed contract of lease to the recipient of assets attached to land in the cases stipulated in clause 2 of this article.

4. Upon expiry of a land use term, where any person to which the State has allocated or leased land or having a land use right which has been recognized, or any person receiving from another person a land use right stipulated in clause 1 of this article or receiving from another person assets attached to land leased by the State as stipulated in clause 2 of this article has a requirement to extend the land use, an extension shall be considered in accordance with clause 2 of article 34 of this Decree.

Article 60: *Operational contents of land use rights market in the real estate market*

The operational contents of land use rights market in the real estate market shall comprise:

1. Agricultural land allocated by the State without collection of land use fees to family households and individuals.

2. Land allocated by the State with collection of land use fees, or leased by way of an auction or at a price stipulated by the State.
3. Land use rights exchanged, assigned, leased, sub-leased, bequeathed or donated; or land use rights used for mortgage, guarantee or capital contribution by family households and individuals.
4. Land use rights assigned, leased or sub-leased; or land use rights used for mortgage, guarantee or capital contribution by economic organizations and Vietnamese residing overseas.
5. Land use rights leased or sub-leased; or land use rights used for mortgage, guarantee or capital contribution by foreign organizations and foreign individuals.
6. Construction of and business in residential housing, construction of production and business establishments, or construction of infrastructure invested in by economic organizations, Vietnamese residing overseas, foreign organizations and foreign individuals.
7. Assets attached to land sold, leased or donated; or assets attached to land used for mortgage, guarantee or capital contribution by family households and individuals, economic organizations and Vietnamese residing overseas, and foreign organizations and foreign individuals; assets attached to land bequeathed by individuals, Vietnamese residing overseas and foreign individuals.
8. Vietnamese residing overseas stipulated in clause 1 of article 121 of the *Law on Land* shall be entitled to purchase residential housing attached to the right to use residential land; and to donate or inherit the land use right and assets attached to land.
9. Professional organizations and economic organizations shall be entitled to conduct services assisting the real estate market with respect to registration of land use rights, registration of security transactions, and surveying and drawing up cadastral maps; provision of services of information relating to land; introduction of investment sites; evaluation of land and valuation of land and real estate; receipt of mortgages and guarantees using land use rights and real estate; organizing a land use rights and real estate trading floor; auctioning land use rights and real estate, tendering for projects using land; real estate securities.

Article 61: Cases of auction of land use right and cases where auction is not required

1. Auction of land use right shall apply when the State allocates land with collection of land use fees, or to lease of land, or when a judgment is enforced or a debt recovered relating to a land use right, except in the cases stipulated in clause 2 of this article.

2. Auction of land use right shall not apply when the State allocates land with collection of land use fees, or to lease of land, or when a judgment is enforced or a debt recovered relating to a land use right in the following circumstances:

(a) Land use in the cases stipulated in clause 1 of article 60 of the *Law on Land*;

(b) Where an economic organization converts from land lease to land allocation with collection of land use fees;

(c) Where the competent State body permits the land user to convert the land use purpose;

(d) Where land is put up for auction but no-one participates in the auction or the auction is unsuccessful.

Article 62: Auction of land use right and tendering for projects using land in the case of use of land funds to create capital for investment in and construction of infrastructure

1. Use of land funds to create capital for investment in and construction of infrastructure shall be carried out in two forms as follows:

(a) Auction of land use right to form a cash source for investment in and construction of infrastructure;

(b) Tendering for construction of project works and auction of land use right to create capital for construction of such project works within the one tender package.

2. The form of an auction of land use right to form cash to use directly for investment in and construction of infrastructure shall be carried out on the following principles:

(a) The auction of land use right and the tendering for construction of the project works shall be held independently;

(b) When land is put up for auction, the people's committee of the province or city under central authority must verify clearly the land use purpose and structure.

3. The form of tendering for construction of project works and auction of land use right to create capital for construction of such project works within the one tender package shall be carried out on the following principles:

(a) A scale of points shall be formulated to mark tenders for construction of project works and a separate scale of points shall be formulated for the auction of land use right;

(b) When land is put up for auction, the people's committee of the province or city under central authority must verify clearly the land use purpose and structure;

(c) When using land won at auction, the successful bidder must formulate a project and the project must be considered and approved by the people's committees of the province or city under central authority.

4. The Prime Minister of the Government shall promulgate regulations on the order and procedures for auctions of land use rights and tendering for construction works using land.

5. Annually, people's committees of provinces and cities under central authority shall formulate a list, and submit it to people's councils at the same level for adoption, of investment projects for construction of infrastructure using land from land funds in order to create capital and land areas to be used to create capital for implementation of such projects.

Article 63: Land use rights of State owned enterprises after equitization

1. Land use rights of a State owned enterprise which have been allocated or leased by the State or which have been received are State assets in the enterprise which must be included in the valuation of the enterprise upon equitization.

2. The value of land use rights which is fixed for inclusion in the valuation of assets of an enterprise upon equitization must be close to the actual market prices for assignment of land use rights but not less than the land price regulated by the people's committee of the province or city under central authority at the date of equitization.

3. Upon equitization of a State owned enterprise, the people's committee of the province or city under central authority shall be responsible to check the land fund which such enterprise is currently using and to deal with and issue a certificate of land use right pursuant to articles 49 and 52 of this Decree.

Article 64: *Registration of security transactions using land use rights*

1. Registration of security transactions using land use rights shall comprise the following cases:

(a) Registration of a mortgage or guarantee using a land use right;

(b) Registration of changes in contents of a registered mortgage or guarantee using a land use right;

(c) Registration of corrections to errors in contents of a registered mortgage or guarantee using a land use right;

(d) Registration of cancellation or deletion of results of registration of a mortgage or guarantee using a land use right;

(dd) Registration of results of realization of assets mortgaged or guaranteed using a land use right.

2. Persons requesting registration shall be one of the following entities:

(a) The mortgagor or mortgagee of a land use right;

(b) The guarantor or beneficiary of a guarantee using a land use right;

(c) The new mortgagor or new mortgagee if one of the parties stipulated in sub-clause (a) above is changed;

(d) The new guarantor or new beneficiary of the guarantee if one of the parties stipulated in sub-clause (b) above is changed;

(dd) Persons authorized by one of the parties to a mortgage or guarantee agreement in accordance with civil law.

3. The body carrying out registration of security transactions using land use rights shall be the land use right registration office.

4. Principles for registration of security transactions using land use rights shall be regulated as follows:

(a) Registration of security transactions using land use rights shall be carried out in accordance with the contents of the application and the mortgage or guarantee agreement; Parties to a mortgage or guarantee agreement shall be liable for the registered contents;

(b) The body carrying out registration must register items accurately in accordance with the contents set out in the application and the mortgage or guarantee agreement;

(c) Registration of security transactions using land use rights shall be recorded in cadastral files and on certificates of land use right without issuance of any further certificate of registration of the security transaction;

(d) Information relating to registration of security transactions using land use rights shall be provided at the request of all organizations and individuals;

(dd) Registration of security transactions using land use rights shall be legally valid in accordance with civil law.

5. The value of a land use right in a security transaction shall be determined in accordance with the following provisions:

(a) The value of a land use right in the case of agricultural land allocated by the State without collection of land use fees to a family household or individual shall be fixed in accordance with the land price stipulated by the people's committee of the province or city under central authority but not excluding the value of the land use right for the period already used;

(b) The value of a land use right in cases other than those covered by clause 1 of this article shall be as agreed between the parties to the security transaction.

6. An applicant for registration of a security transaction using land use rights and a person requesting information relating to registration of a security transaction using land use rights must pay fees and charges in accordance with law.

Article 65: Dealing with land use rights upon recovery by the State of land currently being leased, mortgaged, guaranteed, or used as capital contribution

1. Where, pursuant to clause 1 of article 38 of the *Law on Land*, the State recovers land which is currently being leased, mortgaged or used for guarantee or which was used as capital contribution, the contract of lease, mortgage, guarantee or capital contribution shall be terminated and the person having land recovered must pay compensation for loss to the lessee, mortgagee, beneficiary of the guarantee or recipient of the capital contribution in accordance with civil law.

2. Where land which is currently being leased or which was used as capital contribution without creating a new legal entity is recovered pursuant to clauses 3, 4, 9, 11 or 12 of article 38 of the *Law on Land*, the contract of lease or capital contribution using a land use right shall be terminated and the land shall be recovered as follows:

(a) If the lessor or capital contributor using land use right has breached the law on land, the State shall recover the land, and such lessor or capital contributor must pay compensation for loss to the lessee or recipient of the capital contribution in accordance with civil law;

(b) If the lessee or recipient of the capital contribution using land use right has breached the law on land, the State shall not recover the land but shall recover the value of the land use right. The lessee or recipient of the capital contribution using land use right shall pay the State an amount being the equivalent value of the land use right calculated at the land price stipulated by the people's committee of the province or city under central authority at the time of payment, and such lessee or recipient of the capital contribution must pay compensation for loss to the lessor or capital contributor in accordance with civil law.

3. Where land which is currently mortgaged or used for guarantee is recovered pursuant to clauses 3, 4, 9, 11 or 12 of article 38 of the *Law on Land*, the State shall recover the land, and the contract of mortgage or guarantee using land use right shall be terminated and the loan shall be repaid as follows:

(a) The mortgagor shall repay the loan to the mortgagee in accordance with civil law;

(b) The person guaranteed shall repay the loan to the beneficiary of the guarantee in accordance with the signed contract of guarantee or, if the person guaranteed is unable to do

so, the guarantor must repay the loan to the beneficiary of the guarantee in accordance with civil law.

4. Where a land user is an individual who is a lessor, mortgagor, guarantor or capital contributor using land use right without creating a new legal entity and such individual dies without leaving heirs, the State shall recover the land, and the contract of lease or contract of mortgage, guarantee or capital contribution using land use right shall be terminated and the land use right shall be resolved as follows:

(a) In the case of a lease, the State shall lease the land to the lessee for the residual term of the signed contract of lease;

(b) In the case of capital contribution using land use right, the recipient of the capital contribution shall be permitted to continue to use the land for the residual term of the signed contract of capital contribution;

(c) In the case of a mortgage using land use right, the people's committee which issued the certificate of land use right shall hold an auction of the land use right in order to recover the loan for the mortgagee under the signed contract of mortgage and, if the auction results in the value of the land use right being less than the loan, the mortgagee shall only be entitled to receive the amount being the equivalent value of the mortgaged land use right;

(d) In the case of a guarantee using land use right, the person guaranteed shall repay the loan to the beneficiary of the guarantee in accordance with the signed credit contract or, if the person guaranteed is unable to do so, the people's committee which issued the certificate of land use right shall hold an auction of the land use right in order to recover the loan for the beneficiary of the guarantee under the signed contract of guarantee and, if the auction results in the value of the land use right being less than the loan, the beneficiary of the guarantee shall only be entitled to receive the amount being the equivalent value of the guaranteed land use right.

Article 66: *Offices for trading of land use rights and assets attached to land*

1. Offices for trading of land use rights and assets attached to land shall be places for carrying out the following activities:

- (a) To introduce persons wishing to assign and receive assignment of land use rights or of assets attached to land;
 - (b) To introduce persons wishing to lease, lease out or sub-lease out land use rights or assets attached to land; and persons wishing to mortgage land use rights or assets attached to land, or to provide guarantees secured by land use rights or assets attached to land, or to contribute capital by way of land use rights or assets attached to land;
 - (c) To introduce investment sites, provide information relating to land use zoning or planning, land prices, legal status of land use rights and assets attached to land, other information relevant to land and assets attached to land;
 - (d) To organize trading sessions of land use rights or assets attached to land;
 - (dd) To organize auctions of land use rights or assets attached to land as requested.
2. Enterprises from all economic sectors with business registration in the real estate sector, for land management consultancy services or land use consultancy services, or for real estate auction services shall be entitled to organize offices for trading of land use rights and assets attached to land.

Article 67: Administration of provision of services on land information

1. Land information shall comprise information relating to parcels of land, relating to land use rights, relating to assets attached to land and relating to the status quo of exercise of rights by land users, which information shall be publicly available to persons at request.
2. Land use right registration offices shall be the sole bodies permitted to supply information which is legally valid relating to parcels of land to land users.
3. The Ministry of Natural Resources and Environment shall provide guidelines on administration of provision of services on land information.

CHAPTER VII

Regime for Use of Agricultural Land

Article 68: Regime for use of other agricultural land

1. Other agricultural land as stipulated in clause 4(dd) of article 6 of this Decree shall be leased by the State to family households and individuals; shall be allocated by the State without collection of land use fees to family households and individuals directly engaged in agricultural production in the ward, commune or township where the land is situated; shall be allocated by the State with collection of land use fees or leased to economic organizations engaged in agricultural production. A user of land for planting annual crops which is not land for rice cultivation, land for planting perennial crops or forest land for production shall be permitted to register conversion of use purpose to other agricultural land, enclosing a plan for production on such other agricultural land. There must be permission from the competent State body in the case of conversion from rice cultivation use purpose to other agricultural land.

2. The duration of allocation or lease of other agricultural land shall be regulated as follows:

(a) The duration of allocation of land to family households and individuals shall be fifty (50) years;

(b) The duration of lease of land to family households and individuals shall not exceed fifty (50) years;

(c) The duration of allocation or lease of land to economic organizations shall be the duration fixed for the project but not to exceed the duration stipulated in clause 3 of article 67 of the *Law on Land*.

3. The duration of use of other agricultural land in the case of conversion of use purpose from land for planting annual crops, land for planting perennial crops or forest land for production shall be the land use duration of the land type prior to conversion.

4. The quota on allocation of other agricultural land to family households and individuals shall be included in the quota on allocation of land stipulated in clause 4 of article 70 of the *Law on Land* and article 69 of this Decree.

Article 69: *Quota on allocation of agricultural land*

1. The quota on allocation to each family household or individual of land for planting annual trees, land for aquaculture and land for salt production shall be no more than three hectares of

each type of land applicable to the provinces and cities under central authority in South East Vietnam and in the Mekong Delta; and no more than two hectares of each type of land applicable to other provinces and cities under central authority.

2. The quota on allocation to each family household or individual of agricultural land being land for planting annual trees, land for planting perennial crops, land for planting forest, land for aquaculture and land for salt production in buffer zones of specialized use forest land shall be as stipulated in article 70 of the *Law on Land* and clause 1 of this article.

3. Family households or individuals currently using agricultural land situated outside the communes, wards or townships in which their permanent residences are registered shall be entitled to continue using such land and, if it is land allocated without collection of land use fees, it shall be included in the quota on allocation of agricultural land to each family household or individual. The Division of Natural Resources and Environment in the place where agricultural land has been allocated to family households and individuals without collection of land use fees shall notify the people's committee of the commune, ward or township in which the permanent residence of the family household or individual is registered for the purpose of inclusion in the quota on allocation of agricultural land.

4. People's committees of provinces and cities under central authority shall make decisions on the quota on allocation to family households and individuals of wasteland, bare hills and water surfaces in the category of unused land to bring into use in accordance with zoning, but not to exceed the quota on allocation stipulated in clause 5 of article 70 of the *Law on Land*.

5. Agricultural land areas of family households and individuals which were received by way of assignment, lease or sub-lease, or which were inherited, or in respect of which the land use right was donated or contributed as capital contribution from other persons, or which were contracted out, or which were leased by the State shall not be included in the quota on agricultural land to be allocated as stipulated in clauses 1 and 2 of this article.

Article 70: Allocation of land to family households and individuals for agricultural, forestry, aquacultural or salt production

1. Family households or individuals having been allocated agricultural land by the State prior to 1 July 2004 shall be entitled to continue to use the land for the residual term of allocation.

2. With respect to localities which have not yet allocated land to family households and individuals for agricultural, forestry, aquacultural or salt production in accordance with the law on land, the people's committee of the commune, ward or township where the land is situated shall formulate a plan on land allocation and request the people's committee of the district, town or provincial city to allocate agricultural land to persons subsisting on agricultural, forestry, aquacultural or salt production and permanently residing in the locality, including individuals who are doing their military service. If the following subjects have a requirement to use agricultural land for production, they shall be considered by the people's committee of the commune, ward or township for inclusion in the plan on land allocation:

(a) Persons subsisting on agricultural, forestry, aquacultural or salt production who are certified by the people's committee of the commune, ward or township as being permitted to reside on a long term basis in the locality but who do not yet have permanent residence status;

(b) Family households or individuals having engaged in other nonagricultural activities in the past and having permanent residence status in the locality but being currently unemployed;

(c) State employees and officials, and workers and soldiers who have retired early for health reasons or who are no longer working as a result of re-organization of production or staff reduction and who have received a one-off allowance for loss of work or an allowance over a number of years and who now permanently reside in the locality;

(d) Children of State employees and officials and of workers living in the locality who have reached working age but who are unemployed.

3. The allocation of land for agricultural, forestry, aquacultural and salt production to family households and individuals must be carried out in accordance with the following principles:

(a) On the basis of actual conditions, promoting the development of production, and stabilization in rural areas;

(b) Allocation to the correct entity, ensuring fairness and avoiding fragmentation of land.

Article 71: Resolution of cases of allocation of agricultural land in excess of quota

Based on the quotas on allocation of agricultural land stipulated in article 70 of the *Law on Land* and article 69 of this Decree, people's committee of communes, wards and townships shall review and formulate lists of family households and individuals with agricultural land allocated in excess of the quota and report to people's committees of districts, towns and provincial cities for leasing out as follows:

1. Family households using areas of agricultural land allocated in excess of the quota prior to 1 January 1999 shall be entitled to continue using such areas for a duration equal to one half of the duration of land allocation stipulated in clause 1 of article 67 of the *Law on Land*, and thereafter they shall convert to the land lease form.
2. Family households using areas of agricultural land allocated in excess of the quota from 1 January 1999 until before 1 July 2004 and having converted to the land lease form shall be entitled to continue leasing such land for the remaining duration of the land lease term provided in the land lease contract; if they have not yet converted to the land lease form, they must do so as from 1 July 2004 and the land lease term shall be the remaining duration of the land allocation term.
3. Individuals using areas of agricultural land allocated in excess of the quota prior to 1 July 2004 shall convert to the land lease form as from 1 July 2004; and the land lease term shall be the remaining duration of the land allocation term.

Article 72: *Use of protective forest land and specialized use forest land*

1. Organizations managing protective forest land and organizations managing specialized use forest land shall be allocated land by the State without collection of land use fees for management, protection, regeneration and planting in conformity with the land use zoning and planning approved by the competent State body. Organizations managing protective forest land and organizations managing specialized use forest land shall contract out specialized use forest land and protective forest land for protection, regeneration and planting in accordance with regulations of the Government.
2. Organizations managing protective forest land and organizations managing specialized use forest land shall have the following rights and obligations:

(a) The rights and obligations stipulated in articles 105 and 107 of the *Law on Land*;

(b) To be entitled to use land in association with others for other purposes pursuant to the law on protection and development of forests.

3. In the case where organizations, family households and individuals have been allocated or leased protective forest land by the State but there is as yet no organization managing such protective forest land and land zoned for planting protective forests in order to protect and develop those forests, they shall have the rights and obligations stipulated in clause 2 of this article.

4. In the case where organizations, family households and individuals have been allocated or leased land in buffer zones of specialized use forest land by the State for purposes of production, research and field testing in forestry or for use in combination with national defence and security in accordance with the zoning for protection and development of forests in buffer zones, they shall have the rights and obligations stipulated in clause 2 of this article.

5. Communities of citizens having been allocated by the State with protective forest land pursuant to the *Law on Protection and Development of Forests* shall be allocated with protective forest land in order to protect and develop the forests; and they shall have rights and obligations in accordance with the *Law on Protection and Development of Forests*.

Article 73: Contracting out of land by State owned enterprises for use for purposes of agricultural, forestry, aquacultural and salt production

Land shall be contracted out for use for purposes of agricultural, forestry, aquacultural and salt production as follows:

1. The party granting the contract shall be a State owned enterprise which has been allocated or leased agricultural land by the State to use for purposes of agricultural, forestry, aquacultural and salt production.

2. The party receiving the contract shall be an organization, family household or individual to use the land for purposes of agricultural, forestry, aquacultural and salt production.

3. The rights and obligations of the party granting the contract and of the party receiving the contract shall be implemented in accordance with regulations of the Government.

Article 74: *Agricultural land used for public interest purposes of communes, wards and townships*

1. Agricultural land funds used for public interest purposes of communes, wards and townships shall be used for the following purposes:

(a) For construction of public works of the commune, ward or township, comprising cultural facilities, sports and physical education facilities, public amusement and entertainment facilities, health facilities, educational facilities, markets, cemeteries and graveyards, and other public works as stipulated by the people's committee of the province or city under central authority;

(b) For compensation to persons having land to be used for construction of the public works stipulated in clause 1 of this article;

(c) For construction of charitable housing.

2. With respect to areas of land not yet used for the purposes stipulated in clause 1 of this article, the people's committee of the commune, ward or township shall auction the lease of such land to local family households and individuals for agricultural and aquacultural production, with the duration of land use not to exceed five years on each occasion of lease.

Article 75: *Land used for farm businesses*

1. Land used by family households and individuals for farm businesses as stipulated in article 82 of the *Law on Land* shall comprise:

(a) Land for planting annual trees; land for planting perennial trees; forest land for production, and land for aquaculture and salt production; land for construction of farm sheds for raising livestock, poultry and other types of animals permitted by law; land for construction of greenhouses and other types of buildings servicing cultivation, including forms of cultivation not directly on land; and land for growing seeds and seedlings;

(b) Land for internal traffic and irrigation within a farm business;

(c) Land for construction of establishments for production of feed for livestock and for processing products of agriculture, forestry, aquaculture and salt production; land for drying yards and for construction of barns; land for construction of establishments directly servicing agriculture, forestry, aquaculture and salt production; land for construction of temporary rest shelters for farm workers and guards.

2. Family households and individuals using agricultural land for farm businesses must use the land for the correct determined purpose; if the use purpose of any type of land is converted, a plan for business or production attached to the use of such land must be formulated and submitted to the people's committee of the district, town or provincial city for consideration and approval; and any conversion of use purpose must be registered and land use fees must be paid in accordance with law.

Article 76: Agricultural land used by community of citizens

1. A community of citizens being ethnic minority persons who are using agricultural land in conformity with their traditions and customs shall be entitled to continue to use such land.

2. A community of citizens being ethnic minority persons who have a requirement to use agricultural land for the purpose of preserving their ethnic identity, traditions and customs shall be considered by the people's committee of the district, town or provincial city for land allocation without collection of land use fees.

3. The duration of allocation of agricultural land shall be as stipulated in clause 1 of article 67 of the *Law on Land*.

4. A community of citizens using agricultural land as stipulated in clauses 1 and 2 of this article shall be issued with a certificate of land use right.

5. A community of citizens being ethnic minority persons using agricultural land shall be responsible for protecting the allocated land and shall be permitted to use the land in association with others for agricultural, forestry, aquacultural and salt production, and shall not be permitted to convert to other use purposes.

Article 77: Land containing inland water surfaces belonging to a number of provinces and cities under central authority

1. The Ministry of Fisheries¹ shall make decisions on establishment of management committees to manage and exploit lakes and ponds belonging to a number of provinces and cities under central authority.
2. People's committees of provinces and cities under central authority shall make decisions on allocation of land containing lakes and ponds within their respective localities to the management committees.
3. Management committees shall contract out water surfaces to economic organizations, family households and individuals to use for aquaculture and exploitation of aquaculture resources or to engage in joint ecological tourism businesses.
4. Users of water surfaces for aquaculture and exploitation of aquaculture resources must protect the environment and landscape.

CHAPTER VIII

Regime for Use of Non-Agricultural Land

Article 78: Duration of use of other non-agricultural land

The duration of use of other non-agricultural land stipulated in clause 5(e) of article 6 of this Decree shall be regulated as follows:

1. The duration shall be stable and long term in the following cases:
 - (a) Land containing houses of worship, museums, archives, houses which preserve or display works of art, houses of cultural and artistic compositions and other private construction works which are not attached to residential land and which are not for business purposes;
 - (b) Land stipulated in clause 2(b) of this article which the State has allocated to public professional institutions.
2. The duration of use stipulated in clause 3 of article 67 of the *Law on Land* shall apply in the following cases:
 - (a) Land with holiday homes, tents or buildings for employees on farms in rural areas;
 - (b) Land for construction of greenhouses and other types of houses for planting purposes, including the form of planting not directly on soil; for construction of sheds to breed cattle,

poultry and other species of animals as permitted by law; for construction of stations and farms for agricultural, forestry, salt production and aquatic research and experiment; for construction of nurseries for seeds and seedlings; for construction of barns and buildings to store agricultural produce, plant protection agents, fertiliser, machinery and other tools for production in urban areas, which is not land which the State has allocated to public professional institutions.

Article 79: *Quota on allocation of residential land to family households and individuals*

1. The quota on allocation of residential land to family households and individuals in clause 2 of article 83 and clause 5 of article 84 of the *Law on Land* shall only apply when the State allocates residential land to family households and individuals from 1 July 2004 and the State issues a certificate of land use right in the case stipulated in clause 5 of article 87 of the *Law on Land*.

Article 80: *Residential land containing gardens or ponds and agricultural land containing gardens or ponds in residential zones*

1. Users of residential land containing a garden or pond in the case stipulated in clause 5 of article 87 of the *Law on Land* must, when issued with a certificate of land use right, pay land use fees pursuant to clause 6 of article 50 of the *Law on Land* in respect of the area of land determined to be residential land.

2. With respect to any area of land on which residential housing has been constructed in excess of the area of land determined to be residential land on the basis of the quota stipulated in clauses 4 and 5 of article 87 of the *Law on Land*, the area of land which exceeds such quota shall be determined to be residential land with payment of land use fees and a certificate of land use right shall be issued for it.

3. Where a user of residential land has already been issued with a certificate of land use right or the residential land has been determined pursuant to article 87 of the *Law on Land* but there is a requirement to extend the area of residential land, there must be an application for conversion of land use purpose and land use fees must be paid, except for the cases stipulated

in clause 1 of article 45 of this Decree. In the case of extension of an area of residential land in an urban residential zone, in addition to an application for conversion of land use purpose and payment of land use fees, extension must be compatible with clause 5 below of this article.

4. After the area of residential land has been fixed pursuant to clauses 1, 2 and 3 of this article, the remaining area shall be fixed in accordance with the status quo of use.

5. Based on the approved urban construction zoning, people's committees of provinces and cities under central authority shall regulate the percentage area of a parcel of land containing a garden or pond on which residential housing may be constructed in conformity with the urban landscape. In order to construct residential housing, a user of agricultural land containing a garden or pond must apply for conversion of land use purpose and pay land use fees. People's committees of districts, towns and provincial cities shall consider and make decisions on conversion of land use purpose based on urban construction zoning or rural residential construction zoning, on the percentage area of a parcel of land on which residential housing may be constructed as stipulated in this clause, and on the actual requirements of land users.

6. Agricultural land containing a garden or pond in residential zones as stipulated in clause 4 of this article shall be an additional source of residential land.

Article 81: Land with investment project for construction of residential housing for sale as implemented by Vietnamese residing overseas, foreign organizations or foreign individuals

1. Purchasers of residential housing attached to land use rights belonging to an investment project for construction of residential housing for sale which is implemented by Vietnamese residing overseas, foreign organizations or foreign individuals shall be issued with a certificate of land use right for stable and long term land use.

2. Investors shall pay the State the difference between land use fees and land rent already paid to the State in accordance with the following provisions:

(a) Land use fees shall be calculated at the land price stipulated by the people's committee of the province or city under central authority at the time of payment of the difference;

(b) With respect to villas, the difference must be paid at the time of sale of the villa;

(c) With respect to apartments, the difference must be paid at the latest at the time of completion of the project.

Article 82: *Land used for embellishment and development of urban areas and rural residential zones*

1. Any area of land which must be recovered for embellishment and development of urban areas and rural residential zones must be shown in detailed land use zoning and in detailed land use planning, and must be determined specifically and displayed publicly in the residential area where the land is to be recovered, at the time and for the duration of proclamation of detailed land use zoning and detailed land use planning stipulated in article 27 of this Decree. With respect to zoning for extension of existing traffic routes or construction of new traffic routes in urban areas and rural residential zones, there must be a clear determination of the area of land to be used for building roads and the area of land on both sides of the roads which will be recovered in order to exploit the land fund, create landscape and protect the environment.

2. With respect to land within that part of land which must be recovered in order to implement zoning for embellishment and development of urban areas and rural residential zones, but for which there is as yet no decision on recovery in order to implement the zoning, land users may continue to use the land for already determined objectives but may not convert the land use purpose, may not construct any new works or extend existing works and, if they require to carry out repairs, they must comply with the law on construction applicable to areas which have already been zoned.

Article 83: *Land used for objectives of national defence and security*

1. Land used for objectives of national defence and security shall be all types of land stipulated in clauses 1(a), (b), (c), (d), (dd), (e), (g), (h), (i) and (k) of article 89 of the *Law on Land* and land in areas in respect of which the Government assigns to the Ministry of Defence and the Ministry of Police the specific duty to manage, protect and use.

2. Land which is managed and used by units of the people's armed forces but is not within the types of land stipulated in clause 1 of this article shall not be land used for objectives of national defence and security.

3. Users of land used for objectives of national defence and security shall be regulated as follows:

(a) Entities under the Ministry of Defence and the Ministry of Police shall be the land users of land for billeting such entities, except for the cases stipulated in sub-clause (c) of this clause; land used for military bases; land used for national defence works, battlegrounds and other special works for national defence and security; public service buildings of the people's armed forces; and land in areas in respect of which the Government assigns to the Ministry of Defence and the Ministry of Police the specific duty to manage, protect and use;

(b) Entities directly using land shall be the land users of military stations and ports; land used for industrial, scientific and technological works directly servicing national defence and security; land used as warehouses of the people's armed forces; land used as gun ranges and military training grounds, weapons testing grounds and weapons destruction yards; land for construction of schools, hospitals and convalescent homes for the people's armed forces; land used for detention farms, educational establishments and educational and nourishment centres managed by the Ministry of Defence and the Ministry of Police;

(c) Military headquarters of provinces and cities under central authority; military command posts of districts, towns and provincial cities; police stations of provinces and cities under central authority, districts, towns, provincial cities, wards and townships; and frontier posts shall be the land users with respect to the land on which their headquarters are constructed.

4. Land used for objectives of national defence and security must be used for the correct determined use purpose. With respect to any area of land unused or not used for the correct purpose, the people's committee of the province or city under central authority shall notify the entity being the land user to correct the use purpose; and if such entity has not remedied the problem and corrected the use purpose of the land within twelve (12) months from the date of the notice, the people's committee of the province or city under central authority shall recover the land in order to allocate it to another person to use.

5. In the case of conversion of the use purpose of land within an area of national defence and security land in accordance with approved zoning and planning for land use for objectives of national defence and security, the entity using the land must apply for conversion at the Department of Natural Resources and Environment, enclosing a written opinion from the Ministry of Defence and the Ministry of Police with such application.

6. With respect to any area of land currently being used by units of the people's armed forces but outside the approved zoning for land use for objectives of national defence and security, such land must be handed over to the locality for management. With respect to any area of land currently being used for residential housing by the family household of a senior staff member or soldier of a unit of the people's armed forces, where this is consistent with the approved land use zoning and planning, the user of such residential housing land shall be issued with a certificate of land use right and must discharge financial obligations in accordance with law. With respect to land used for non-agricultural production and business purposes, it must be used by national defence and security enterprises and must be converted to the form of allocation of land with collection of land use fees or land lease pursuant to a plan for business or production which has been approved by the Ministry of Defence or the Ministry of Police; the plan must fix the land use purpose and the duration of land use; and the national defence and security enterprise shall be issued with a certificate of land use right.

7. The competent State body shall make the final resolution on any area of land currently subject to dispute in order to determine the land user.

Article 84: *Industrial zone land*

1. Where industrial zones are established on land which the State formerly allocated or leased for production or business, the land user shall be entitled to select the following forms of land use:

(a) To retain the original form of State allocation or lease of land; if any economic organization or any Vietnamese residing overseas being leased land by the State has the requirement, it or he or she shall be permitted to convert to the form of allocation of land with collection of land use fees;

(b) To sub-lease land from an enterprise investing in the business of infrastructure in the industrial zone. The amount of land use fees and land rent paid previously by the land user to the State shall be included in the sum which the enterprise investing in the business of infrastructure in the industrial zone must pay to the State and shall be deducted from land rent and rent for lease of infrastructure in the industrial zone of the investor in the business of infrastructure in the industrial zone in accordance with the agreement between the two parties.

2. A person with a requirement to use land in an industrial zone shall be permitted to receive an assignment of land use rights or to lease or sublease land in the industrial zone from the enterprise investing in construction and conducting business of infrastructure in the industrial zone in accordance with the following provisions:

(a) Economic organizations, family households, individuals and Vietnamese residing overseas shall be permitted to receive an assignment of land use rights or to lease land from an enterprise investing in construction and conducting business of infrastructure in the industrial zone to which the State has allocated land with collection of land use fees;

(b) Vietnamese residing overseas, foreign organizations and foreign individuals shall be permitted to lease land from an enterprise investing in construction and conducting business of infrastructure in the industrial zone to which the State has allocated land with collection of land use fees;

(c) Economic organizations, family households, individuals, Vietnamese residing overseas, and foreign organizations and foreign individuals shall be permitted to sub-lease land from an enterprise investing in construction and conducting business of infrastructure in the industrial zone to which the State has leased land.

3. If any person has a requirement to use land in an industrial zone in which investment was made with funds sourced from the State Budget, the State shall allocate land with collection of land use fees or shall lease land in accordance with the following provisions:

(a) The State shall allocate land with collection of land use fees or shall lease land to economic organizations, family households and individuals, and Vietnamese residing overseas;

(b) The State shall lease land to foreign organizations and foreign individuals.

4. Land users in industrial zones, including sub-lessees, shall be issued with a certificate of land use right.

5. The duration of land use in an industrial zone shall accord with the duration of the investment project approved by the competent State body. If the duration of an investment project is longer than the residual term of land use of an industrial zone, the enterprise investing in construction and conducting business of infrastructure in the industrial zone must apply for permission from the competent State body to amend the term of land use for conformity, but the total term of land use shall not exceed seventy (70) years, and land use fees and land rent must be paid in respect of the area of land for which use is extended.

6. When formulating detailed zoning for construction of industrial zones, the people's committee of a province or city under central authority shall rely on the actual status of residential areas in its locality and the requirements for residential housing of workers working in the industrial zone in order to re-arrange the land fund for a zone for apartments, for cultural and social facilities, and for services external to the industrial zone which service living conditions of workers working in the industrial zone, consistent with the general zoning of the locality.

Article 85: *High-tech zone land*

1. The management committee of a high-tech zone shall formulate detailed land use zoning and detailed land use planning in common for the whole high-tech zone and submit it for approval to the people's committee of the province or city under central authority where the land is situated. The people's committee of the province or city under central authority shall make an one-off allocation of land to the management committee of the high-tech zone in order to organize construction and development of the high-tech zone in accordance with the approved zoning. The management committee of the high-tech zone shall re-allocate land in

the forms of allocation without collection of land use fees, allocation with collection of land use fees, and lease of land in accordance with clause 2 of this article.

2. The management committee of a high-tech zone shall re-allocate or lease land in accordance with the following provisions:

(a) Allocation of land without collection of land use fees to organizations, individuals and Vietnamese residing overseas; lease of land to foreign organizations and individuals with exemption from payment of land rent for the construction of common infrastructure in the high-tech zone; for the construction of training facilities; for the construction of high-tech research, development and application centres; and for the construction of an area which creates high-tech enterprises to support activities of experimental research and production and forming enterprises which produce high-tech products; Persons to which land is allocated without collection of land use fees and lessees exempt from payment of land rent shall have the right to sell, lease out, mortgage, guarantee and contribute capital using assets that they have invested in on the land; they shall not have the right to assign, lease out or sub-lease out, mortgage, guarantee or contribute capital using the land use right;

(b) Allocation of land with collection of land use fees or land lease to organizations, individuals, and Vietnamese residing overseas; land lease to foreign organizations and individuals for the construction and business of technical infrastructure of the high-tech zone, factories, and high-tech services establishments, and production and business of high-tech products, services for the livelihood and welfare of persons, and construction of residential housing for lease.

3. Land users in a high-tech zone shall be permitted to receive an assignment of land use rights or to lease or sub-lease land from the enterprise developing the high-tech zone or from the enterprise developing the infrastructure in accordance with the following provisions:

(a) Where land has been allocated with collection of land use fees to the enterprise developing the high-tech zone or to the enterprise developing the infrastructure, the economic organizations, individuals, and Vietnamese residing overseas shall be permitted to receive an assignment of land use rights or to lease land; and foreign organizations and foreign individuals shall be permitted to lease land;

(b) If the management committee of the high-tech zone leases land to the enterprise developing the high-tech zone or to the enterprise developing the infrastructure, the land users with a requirement to use land in the high-tech zone shall be permitted to sub-lease land from such enterprises.

4. Users of land in high-tech zones must use land for the determined purpose as recorded in the decision on re-allocation of land or in the land lease contract.

5. Organizations and individuals being re-allocated or leased land by the management committee of the high-tech zone for the purpose of investing in construction of residential housing shall only have the right to lease out the residential housing after it is constructed.

Article 86: *Economic zone land*

1. The management committee of an economic zone shall formulate detailed land use zoning and detailed land use planning in accordance with clause 8 of article 15 of this Decree, fixing the borders of land use between duty free areas and duty areas, and the committee shall submit such zoning and planning for approval to the people's committee of the province or city under central authority where the land is situated. After the detailed land use zoning and detailed land use planning for the economic zone have been approved, the people's committee of the province or city under central authority shall direct and implement recovery of land zoned for construction of the duty free area and industrial zones belonging to the duty area; and shall recover land in accordance with the approved detailed land use planning for the remaining land in the duty areas.

2. The people's committee of the province or city under central authority shall allocate land to the management committee of the economic zone in order to organize construction of the economic zone in accordance with the following provisions:

(a) Make an one-off allocation of land to the management committee of the economic zone in order to construct the duty free area, and the industrial zone belonging to the duty area of the economic zone;

(b) Allocate land in accordance with the approved detailed land use planning for the economic zone with respect to the remaining land which must be recovered within the duty area.

3. The management committee of the economic zone shall be responsible to implement compensation and site clearance of land recovered by the competent State body in order for such land to be allocated to the management committee prior to re-allocation and leasing out. The management committee of the economic zone shall allocate land with collection of land use fees, allocate land without collection of land use fees, and lease land to persons with a requirement to use land in accordance with the law on land. The term of land use for production and business in an economic zone shall not exceed seventy (70) years.

4. The management committee of the economic zone shall make decisions on the level of land use fees to be collected, on land rent, and on exemption and reduction of land use fees and land rent for each project aimed at ensuring encouragement of investment on the basis of land prices decided by the people's committee of the province or city under central authority applicable to re-allocation or sub-lease of land other than by auction of land use right or tendering for a project using land.

5. Land users in economic zones shall be entitled to invest in construction and business of residential housing and infrastructure and shall be entitled to conduct production and business or conduct services activities and they shall have rights and obligations corresponding to the form of allocation of land or land lease as provided by the law on land.

6. The management committee of the economic zone shall undertake the task of formulation of detailed land use zoning and detailed land use planning and shall re-allocate or sub-lease land which has been recovered; administrative bodies at all levels shall perform the other duties of land

administration in the economic zone in accordance with the law on land.

Article 87: Land for implementation of build-transfer (BT) projects and buildoperate-transfer (BOT) projects

1. The State shall allocate land to investors for management of a land area to implement build-transfer (BT) projects; investors shall not have to pay land use fees or land rent during the period of construction of works under an approved project and they shall be responsible for preserving the land area allocated to them for management and use in accordance with the correct purpose and schedule as stipulated for the project. The time-limit for hand-over of a project must be implemented correctly in accordance with the schedule recorded in the project as approved by the competent State body, or in accordance with any extended time-limit granted by the competent State body. If, upon expiry of such time-limit for hand-over, the investor has failed to make the hand-over, it must lease land from the State with a term calculated from the expiry of the time-limit for construction of works under the approved project.

2. The State shall allocate or lease land to investors to implement buildoperate- transfer (BOT) projects; investors shall be entitled to exemption or reduction of land use fees and land rent in accordance with regulations of the Government.

3. When the recipient of the hand-over receives the works for use and operation, the State shall allocate or lease land to such recipient or shall entrust such recipient to manage the land area containing such works in accordance with the law on land.

Article 88: *Land with groups of small industries and handicraft villages*

1. People's committees of districts, towns and provincial cities shall direct formulation and approval of detailed land use zoning and planning which is consistent with the zoning for construction of rural residential areas, groups of small industries and handicraft villages, and which is consistent with the requirements for development of production and protection of the environment.

2. Agricultural land in traditional handicraft villages shall be prioritized for use for purposes of extension of non-agricultural production and business establishments and for waste treatment establishments; when converting the land use purpose, the people's committee of the district, town or provincial city must provide permission and land users shall be entitled to exemption and reduction of land use fees in accordance with regulations of the Government.

3. The regime for use of land with groups of small industries shall be implemented in the same manner as the regime for use of land in industrial zones stipulated in article 90 of the *Law on Land* and article 84 of this Decree.

Article 8: *Land used for mineral activities*

1. The State shall lease land to organizations and individuals permitted to explore and exploit minerals. It shall not be necessary to lease land if the mineral exploration does not affect land use or if the mineral exploitation does not affect the ground layers of the land or the land surface.

2. Organizations and individuals with a requirement to use land surfaces for processing minerals shall be entitled to select the form of land allocation by the State with collection of land use fees or the form of land lease; and they shall be entitled to receive an assignment of land use right or lease land from other economic organizations, family households or individuals.

3. Where a people's committee at any level has authority to lease out land and to issue licences for mineral exploration or exploitation, the issuance of the licence must occur at the same time as the issuance of the decision to lease land. Where a people's committee at any level has authority to lease out land but does not have authority to issue licences for mineral exploration or exploitation, the issuance of a decision on lease of land shall occur after the entity with the requirement to use land has been issued with a licence for mineral exploration or exploitation.

4. Any entity using land for mineral activities must take measures for protection of the environment, for waste treatment, and to ensure loss is not caused to other land users and neighbours; and, at the end of the project for mineral exploration or exploitation, such entity must return the land in the same state as stipulated in the lease contract.

Article 90: *Land for exploitation of raw materials for production of bricks and tiles and for making ceramics*

1. The use of land for exploitation of raw materials for production of bricks and tiles and for making ceramics must take full advantage of all types of hilly land, uncultivated hillocks,

abandoned land, soil from rivers, ponds or lakes which need to be deepened, riverbanks where there is no agricultural production, and soil from no-longer-used dyke embankments and soil obtained as a result of improvement of fields.

2. It shall be strictly prohibited to use the following types of land for exploitation of raw materials for production of bricks and tiles and for making ceramics:

(a) Land containing historical-cultural sites and places of scenic beauty which have been classified or in respect of which a people's committee of a province or city under central authority has made a protection decision;

(b) Land within the safety corridors of works.

3. The grounds on which a competent State body shall make a decision on lease of land for use for the purpose of exploitation of raw materials for production of bricks and tiles and for making ceramics shall comprise:

(a) Business registration or investment licence for production of bricks and tiles or for making ceramics as issued by the competent State body;

(b) Requirement to use land consistent with the investment project or production capacity of the establishment producing bricks and tiles or making ceramics;

(c) Conformity with approved zoning and planning for land use.

4. During the process of operational use of land for exploitation of raw materials for production of bricks and tiles or for making ceramics, land users must apply appropriate technological measures to operate and use land appropriately and economically; and they must take necessary measures not to cause damage to production or to the lives of surrounding land users and not to affect adversely the environment.

Article 91: *Land used for public purposes*

1. The State shall allocate land with collection of land use fees or shall lease land with exemption from or reduction of land use fees and land rent in accordance with regulations of the Government to persons using land to construct public works with business purposes.

2. The State shall allocate land without collection of land use fees to persons using land to construct public works without business purposes.

3. The State shall allocate land to be managed and shall not issue a certificate of land use in the following cases:

(a) Land for construction of road traffic systems, bridges, sewers, footpaths, ferry landings; water supply and water discharge systems, irrigation systems, dyke embankments and dams; squares, statues and memorials;

(b) Land used for public purposes which has been allocated to the people's committee of a ward, commune or township to manage.

4. In the case of land use for the purpose of construction of public works outside the categories stipulated in clause 3 of this article, the land user shall be issued with a certificate of land use right.

Article 92: *Land for construction of public works with safety corridors*

1. In respect of land being safety corridors for public works in respect of which the competent State body has made a decision, where the works do not use the ground level, the land shall only be required to be leased for the duration of the execution of construction of such works.

2. Based on the regulations on the scope of safety corridors surrounding works as promulgated by the competent State body, the organization directly managing works with safety corridors shall be responsible to preside over co-ordination with the people's committee in the place where the works are situated to formulate a plan for fastening markers delimiting the boundaries of specific safety corridors and to submit the plan for approval to the people's committee of the province or city under central authority where the works are situated; and, at the same time, to notify people's committees at all levels in the place where the works are situated for the purpose of co-ordination in the protection of the safety corridors of the works.

3. Within a time-limit not to exceed thirty (30) working days from the date of approval by the people's committee of the province or city under central authority of the plan for fastening markers delimiting the boundaries of safety corridors, the organization directly managing works with safety corridors shall be responsible to co-ordinate with the people's committee of

the district, town or provincial city and with the people's committee of the commune, ward or township where the works are situated to proclaim publicly the fastening of such markers, to fasten the markers on site, and to hand over the markers for management to the people's committee of the commune, ward or township where the works are situated. 4. The organization directly managing works with safety corridors shall be responsible to preside over co-ordination with the people's committee of the commune, ward or township and with the Division of Natural Resources and Environment where the works are situated to review the actual state of land use within such safety corridors in order to make recommendations to the competent State body for resolution in accordance with the following provisions:

(a) Where the land use impacts on the protection of safety of works or where activities of the works directly affect the lives and health of land users, the body with the function of State administration of the works shall evaluate the level of such impact and, if it is necessary to recover the land, such body shall propose that the people's committee at the authorized level issue a decision on recovery. Any person having land recovered shall be entitled to compensation and assistance in respect of land and assets attached to land which such person had prior to proclamation of the safety corridor surrounding works in accordance with law; Where the land use impacts on the protection of safety of the works, the owner of such works and the land user must take remedial measures. The owner of such works shall be responsible for implementing such measures and, if the remedial measures are not successful, the State shall recover the land and the person having land recovered shall be compensated, assisted, and resettled in accordance with law;

(b) Where land use does not fall within the provisions in sub-clause (a) above, the persons currently using land which is situated in safety corridors surrounding works shall be entitled to continue to use the land for the stipulated purpose, and they must comply with the regulations on protection of safety of the works;

(c) Land in safety corridors of works shall be issued with a certificate of land use right in accordance with articles 44 to 55 inclusive of this Decree, except for cases of compulsory relocation or recovery where there is a decision on such relocation or recovery; Any person to

which a certificate of land use right is issued may only use the land in accordance with the provisions in sub-clause (b) above.

5. Bodies and organizations directly managing works with safety corridors shall bear the major responsibility for protecting the safety of the works. If there is any invasion or trespass on the safety corridors or if they are used unlawfully, the people's committee of the commune, ward or township where the safety corridor is invaded, trespassed on or used unlawfully shall be notified promptly in order to deal with the matter.

6. People's committees of communes, wards and townships where there are works with safety corridors shall be responsible:

(a) To detect and deal promptly with cases of invasion, trespass upon or unlawful use of safety corridors surrounding works; to prevent in a timely manner any works being constructed on invaded land or on land which has been trespassed upon; and to compel the person in breach to return the land to its state prior to the breach;

(b) To co-ordinate with bodies and organizations directly managing such works to disseminate and popularize the laws on the protection of the safety of works; and to co-ordinate with bodies and organizations directly managing such works to proclaim the markers delimiting the boundaries of safety corridors surrounding works;

(c) If the chairman of a people's committee at any level allows an invasion, trespass or unlawful use of safety corridors surrounding works in his or her locality, such chairman shall be jointly liable in accordance with law.

Article 93: *Land containing historical-cultural sites and places of scenic beauty*

1. Land containing historical-cultural sites and places of scenic beauty which have been classified or in respect of which a people's committee of a province or city under central authority has made a protection decision must be strictly managed in accordance with the following provisions:

(a) With respect to land containing historical-cultural sites and places of scenic beauty which is directly managed by organizations, family households, individuals and communities of citizens, such manager shall bear the major responsibility for management of such land in

accordance with the laws on cultural heritage; If there is any invasion or trespass on the land, or if the owner of a site uses the land for an incorrect or unlawful purpose, the people's committee of the commune, ward or township where the land is situated shall be responsible to detect, prevent and deal with such breach in a timely manner;

(b) With respect to land containing historical-cultural sites and places of scenic beauty outside the category of sub-clause (a) above, the people's committee of the commune, ward or township where the land is situated shall bear the major responsibility for management

of such land; If there is any invasion or trespass on the land, or if the land is used for an incorrect or unlawful purpose, the chairman of the people's committee of the commune, ward or township where the land is situated shall be responsible to detect, prevent and deal with such breach in a timely manner.

2. With respect to a case of land containing historical-cultural sites and places of scenic beauty being invaded, trespassed on or used for an incorrect purpose prior to 1 July 2004, the site owner, the organization or the people's committee of the commune, ward or township to which management of the site was assigned shall be responsible to report to the people's committee of the district, town or provincial city for its final resolution of the matter.

3. The conversion of use purpose of land containing historical-cultural sites and places of scenic beauty to another land use purpose must be correct in terms of the approved land use zoning and planning and must be implemented in accordance with the following provisions:

(a) With respect to land containing historical-cultural sites and places of scenic beauty which has been classified by the Ministry of Culture and Information, there must be written consent from the Minister of Culture and Information before the people's committee at the authorized level makes a decision permitting conversion of land use purpose;

(b) With respect to land containing historical-cultural sites and places of scenic beauty for which a people's committee of a province or city under central authority has made a protection decision, there must be written consent from the chairman of the people's committee of the province or city under central authority before the people's committee at the authorized level makes a decision permitting conversion of land use purpose.

Article 94: *Land used for cemeteries and graveyards*

1. Any arrangement of land for the construction of new cemeteries and graveyards must comply with local land use zoning and planning.
2. People's committees of provinces and cities under central authority shall regulate the criteria and levels of use of land for burial, ensuring economic use of land and a policy encouraging means other than use of land for the repose of the dead.
3. It shall be prohibited to establish private cemeteries and graveyards contrary to approved land use zoning and planning.

CHAPTER IX

**Management of Unused Land and Commissioning Use of
Unused Land**

Article 95: *Management of unused land*

People's committees at all levels shall be responsible for tightly managing the unused land fund and for commissioning use of unused land in the locality as follows:

1. When conducting land inventories and formulating land statistics, unused land shall be divided into three categories namely unused flat country, unused hills and mountains, and rocky mountains without forest. It shall be necessary to specify the area of each category of unused land which the State has not yet commissioned into use but which is currently being occupied unlawfully.
2. When conducting land inventories and formulating land statistics, it shall be necessary to specify the areas of land already allocated or leased by the State or for which the State has recognized a land use right, but which land is currently uncultivated in order that it can be recovered and added to the local unused land fund.
3. When formulating land use zoning, it shall be necessary to specify the area of the unused land fund which is to be commissioned into use in that zoning period; and when formulating land use planning, it shall be necessary to specify the annual rate of commissioning unused land into use.

Article 96: Methods of commissioning unused land into use in accordance with approved land use planning

1. Land shall be allocated without collection of land use fees to units of the people's armed forces, to youth associations and to economic organizations to commission in the case of unused land in border areas, on islands, and in remote, mountainous and uninhabited areas.
2. Unused land shall be allocated without collection of land use fees pursuant to the quota stipulated in article 70 of the *Law on Land* and in clause 4 of article 69 of this Decree to family households and individuals being local direct agricultural workers and having not yet been allocated land or lacking productive land for agriculture, forestry, aquaculture and salt production. If the quota on land allocation stipulated in clause 4 of article 69 of this Decree is exceeded, family households and individuals must lease the area of land which exceeds the quota.
3. Unused land shall be leased to local and other family households and individuals not engaged in agricultural production for use for agriculture, forestry, aquaculture and salt production.
4. Unused land shall be allocated with collection of land use fees or leased to economic organizations and to Vietnamese residing overseas; or shall be leased to foreign organizations and foreign individuals to carry out investment projects in either agricultural or non-agricultural production and business.
5. The State shall have a policy of investment in infrastructure in border areas, on islands, in remote, mountainous and uninhabited areas, and in areas with difficult natural conditions in order to commission unused land into use for agricultural production. The State shall have a policy on exemption and reduction of land use fees and land rent when unused land is allocated or leased in order to effect improvements and commission the land into use.

Article 97: Reclaimed land, and unused land which is occupied

1. Where family households or individuals are currently using agricultural land which they reclaimed themselves, and if the land is consistent with the approved land use zoning, and if

the land is not subject to dispute and is being used effectively, the State shall recognize the land use right for that area within the quota on allocation of agricultural land stipulated in clauses 1 to 4 inclusive of article 70 of the *Law on Land*; and if the quota is exceeded, an additional calculation shall be made within the quota stipulated in clause 5 of article 70 of the *Law on Land* and in clause 4 of article 69 of this Decree; and if thereafter the quota is still exceeded, the excess area must be leased. In all cases referred to in this clause, a certificate of land use right shall be issued.

2. Where family households or individuals are currently using nonagricultural land which they reclaimed themselves, the State shall recognize the land use right and a certificate of land use right shall be issued in accordance with clause 6 of article 50 of the *Law on Land*.

3. Where an organization is currently using agricultural land which it reclaimed itself, the State shall recognize the land use right and a certificate of land use right shall be issued in accordance with article 49 of this Decree.

4. Where an organization is currently using non-agricultural land which it reclaimed itself, the State shall recognize the land use right and a certificate of land use right shall be issued in accordance with articles 51, 52 and 53 of this Decree.

5. Where unused land is occupied without any investment in improvement in order to commission the land into use, the State shall recover such land.

CHAPTER X

Rights and Obligations of Land Users

Article 98: Time when rights of land users shall be permitted to be exercised

1. The time when land users shall be permitted to exercise their rights to assign, lease out, sub-lease out, bequeath and donate land use rights and to mortgage, guarantee and contribute capital using land use rights pursuant to the law on land and in respect of land allocated by the State with collection of land use fees, or in respect of leased land, or in respect of land for which conversion of use purpose is permitted with payment of land use fees shall be regulated as follows:

(a) If the land user is not granted permission to delay the discharge of its financial obligations or to debit its financial obligations, the rights of a land user shall only be permitted to be exercised after complete discharge of its financial obligations in accordance with law;

(b) If the competent State body issues a decision permitting the land user to delay the discharge of its financial obligations or to debit its financial obligations, the rights of a land user shall be permitted to be exercised as from the date of such decision;

(c) If the land user delays the discharge of its financial obligations or debits its financial obligations in accordance with law, the land user shall be permitted to exercise the rights of a land user as from the date of the decision on allocation of land or on permission to convert use purpose or as from the date of signing the lease contract.

2. The time when family households and individuals shall be permitted to exercise their rights to exchange, assign, lease out, bequeath and donate land use rights and to mortgage, guarantee and contribute capital using land use rights pursuant to the law on land and in respect of agricultural land allocated by the State without collection of land use fees shall commence from the date of effectiveness of the decision on allocation of land.

3. The time when land users shall be permitted to exercise their rights to assign, lease out, bequeath and donate land use rights and to mortgage, guarantee and contribute capital using land use rights pursuant to the law on land and in respect of land converted from lease form to allocation form shall commence from the date of discharge in full of financial obligations in accordance with law.

4. In cases of exemption from financial obligations in accordance with law, the time when land users shall be permitted to exercise their rights to assign, lease out, sub-lease out, bequeath and donate land use rights and to mortgage, guarantee and contribute capital using land use rights pursuant to the law on land shall commence from the date of the decision on allocation of land or as from the date of signing the lease contract.

5. The time when a person implementing a business project for construction of residential housing for sale and lease shall be permitted to assign land use rights shall be implemented in accordance with clause 1 of article 101 of this Decree.

Article 99: Receipt of land use right

1. Transferees of land use rights shall be regulated as follows:

(a) Family households and individuals shall be entitled to receive a land use right of agricultural land by way of exchange of land use right as stipulated in clause 2 of article 113 of the *Law on Land* and article 102 of this Decree;

(b) Economic organizations, family households and individuals shall be entitled to receive a land use right by way of receipt of an assignment of land use right, except in the cases stipulated in article 103 of this Decree; and Vietnamese residing overseas shall be entitled to receive a land use right by way of receipt of an assignment of land use right in an industrial zone, high-tech zone or economic zone;

(c) Organizations, family households, individuals and communities of citizens shall be entitled to receive a land use right by way of donation of land use right pursuant to clause 2(c) of article 110 and clause 6 of article 113 of the *Law on Land*, except in the cases stipulated in article 103 of this Decree;

(d) Organizations, family households, individuals and communities of citizens shall be entitled to receive a land use right by way of inheritance;

(dd) Vietnamese residing overseas who fall into the categories stipulated in article 121 of the *Law on Land* shall be entitled to receive a land use right by way of purchase of residential housing, inheritance of residential housing, or donation of residential housing attached to the right to use residential land;

(e) An economic organization being a new legal entity formed from a capital contribution using a land use right shall be entitled to receive the land use right from the capital contributor;

(g) Organizations, family households, individuals, communities of citizens, religious organizations and Vietnamese residing overseas shall be entitled to receive a land use right by way of allocation of land by the State;

(h) Economic organizations, family households, individuals, Vietnamese residing overseas, and foreign organizations and foreign individuals shall be entitled to receive a land use right by way of lease of land by the State;

(i) Organizations, family households, individuals, communities of citizens and religious organizations shall be entitled to receive a land use right by way of recognition by the State of the land use right applicable to land used stably;

(k) Organizations, family households, individuals, communities of citizens, religious organizations, Vietnamese residing overseas and foreign organizations and foreign individuals shall be entitled to receive a land use right as the result of conciliation of a land dispute recognized by the competent level people's committee; pursuant to an agreement in a contract of mortgage or guarantee with respect to realization of the debt; pursuant to an administrative decision of a competent State body resolving a complaint or denunciation relating to land; pursuant to a judgment or decision of a people's court or a decision on enforcement of a judgment enforcement body; pursuant to a legal document recognizing the results of auction of a land use right in accordance with law; or pursuant to a legal instrument on division of the land use right in accordance with law applicable to family households or a group of individuals with a common land use right; (l) An organization being a new legal entity formed from division or merger pursuant to a decision of a competent body or organization or pursuant to a legal instrument on division or merger of an economic organization consistent with law shall be entitled to receive the land use right from the organization which was divided or merged.

2. The transferee of a land use right must use the land for the correct stipulated purpose and within the correct land use term.

3. Family households and individuals may receive an assignment of land use right at the place where their permanent residence is registered and at other localities, except in the cases stipulated in clauses 3 and 4 of article 103 and article 104 of this Decree. Economic organizations with requirement for land use for production and business purposes may receive an assignment of land use right at the place where they have business registration and at other localities, except in the cases stipulated in clauses 1 and 2 of article 103 of this

Decree. The transferee of a land use right stipulated in this clause shall be issued with a certificate of land use right without having to satisfy conditions on the place where their permanent residence is registered or the place where they have business registration.

Article 100: Conditions for receipt of transfer of right to use agricultural land for implementation of non-agricultural investment project or plan for production and business

1. Economic organizations, family households and individuals shall be entitled to receive transfer of a right to use agricultural land for implementation of a non-agricultural investment project or plan for production and business when the following conditions are satisfied:

(a) The use purpose of the land area for which transfer is received must comply with the land use zoning and planning which has been approved by the competent State body;

(b) The authorized people's committee has permitted conversion of use purpose of the land and has confirmed the term of land use as well as approved the requirement for land use on the bases stipulated in article 30 of this Decree;

(c) The financial obligations associated with conversion of land use purpose must be discharged pursuant to article 36 of the *Law on Land* and regulations of the Government on collection of land use fees.

2. With respect to non-agricultural investment projects or plans for production and business for which the land user received a transfer of the right to use agricultural land prior to the date of effectiveness of this Decree but neither the decision on approval of the project nor the decision on permission for conversion of land use purpose fixed the land use term, the duration of land use shall be fifty (50) years from the date of effectiveness of the decision on permission for conversion of land use purpose.

Article 101: Conditions for assignment of land use right in implementation of investment project for the business of construction of residential housing for sale or lease

1. An economic organization, Vietnamese residing overseas, and foreign organization and foreign individual using land for implementation of an investment project for the business of construction of residential housing for sale or lease shall only be permitted to assign a land use right for the land area on which construction of the residential housing pursuant to the

approved project has been completed; if the project for the construction of residential housing has a component project, it shall be permitted to assign the land use right after completion of the investment in the component project of the approved investment project; it shall not be permitted to assign land use rights in the form of sale of land lots on which residential housing has not yet been constructed.

2. If the person implementing an investment project is unable to continue to so implement, the State shall recover the land; the residue of land use fees, land rent and the residual value of investment in the land and belonging to the person having land recovered shall be resolved pursuant to article 35 of this Decree.

Article 102: Circumstances in which agricultural land use right is permitted to be exchanged

Family households and individuals using agricultural land for which they lawfully received the land use right by way of allocation by the State or by way of exchange, assignment, donation or inheritance from another person shall be permitted to exchange such agricultural land use right with another family household or individual in the same ward, commune or township for the benefit of agricultural production. Family households and individuals exchanging agricultural land pursuant to the general policy of "don dien doi thua"² shall not be liable to pay income tax on proceeds from the transfer of the land use right, nor registration fees, nor cadastral fees and charges.

Article 103: Circumstances in which receipt of assignment or donation of land use right is not permitted

1. Organizations, family households and individuals shall not be permitted to receive an assignment or donation of a land use right in cases where the law does not permit an assignment or donation of a land use right.

2. Economic organizations shall not be permitted to receive an assignment of a land use right for land for rice cultivation, protective forest land or specialized use forest land, except in cases where the land use purpose is converted pursuant to approved land use zoning or planning.

3. Family households and individuals not directly engaged in agricultural production shall not be permitted to receive an assignment or donation of a land use right of land for rice cultivation.

4. Family households and individuals shall not be permitted to receive an assignment or donation of a land use right of residential land or of agricultural land in strictly protected or ecological rehabilitation sections of specialized use forest land; or in protective forest land if they do not live and earn their living in such specialized use forest land or protective forest land.

Article 104: Circumstances in which assignment or donation of land use right by family households and individuals is subject to conditions

1. In the case of family households and individuals having been allocated by the State on the initial occasion land being agricultural land without collection of land use fees or residential land exempt from land use fees, where they have assigned and no longer have any land for production or for residential purposes: if, on a subsequent occasion, the State allocates the family households or individuals agricultural land without collection of land use fees or residential land exempt from land use fees, they shall not be permitted to assign or donate the land use right within a period of ten (10) years as from the date of the subsequent occasion of land allocation.

2. In the case of family households and individuals living and earning their living in strictly protected or ecological rehabilitation sections of specialized use forest land and not yet having the conditions to enable them to leave those areas, they shall only be permitted to assign or donate the land use right for residential land or forest land combined with agricultural, forestry or aquacultural production to other family households and individuals also living in the same sections.

3. In the case of family households and individuals having been allocated by the State residential land or land for agricultural production in protective forest land, they shall only be permitted to assign or donate the land use right for residential land for agricultural production to other family households and individuals also living in such protective forest land.

Article 105: Use of agricultural land in excess of quota due to receipt of transfer of land use right

Where family households and individuals receive a transfer of land use rights in excess of the quota permitted by regulations of the Standing Committee of the National Assembly, the subject area of agricultural land shall be dealt with as follows:

1. The Division of Natural Resources and Environment in the locality where the family household or individual receives the transfer of land use right but where such family household or individual has not registered permanent residence shall be responsible to notify the Division of Natural Resources and Environment in the locality where the family household or individual has registered its permanent residence of the area of agricultural land in respect of which a transfer of land use right was received in the locality.
2. The Division of Natural Resources and Environment in the locality where the family household or individual has registered its permanent residence shall be responsible to calculate the total area of agricultural land in respect of which a transfer of land use right was received in order to calculate the area in excess of the quota upon receipt of the transfer of land use right and shall notify the people's committee of the district, town or provincial city for its decision.
3. When a transfer of land use right is received for an area of agricultural land which exceeds the quota permitted by regulations of the Standing Committee of the National Assembly, the conversion to land lease shall be implemented pursuant to regulations of the Standing Committee of the National Assembly. Pending regulations from the Standing Committee of the National Assembly on the quota upon receipt of a transfer of land use right, the area of agricultural land which a family household receives by way of assignment shall not be required to be converted to land lease.
4. Where family households or individuals received an assignment of or inherited a land use right for an area of agricultural land which exceeded the quota on land use in accordance with the 1993 *Law on Land* but such land has been converted to land lease and does not exceed the quota under regulations of the Standing Committee of the National Assembly, they shall not be required to convert to land lease as from 1 July 2004; and the land use term shall be the

residual period of the term allocated. Pending regulations from the Standing Committee of the National Assembly on the quota upon receipt of transfer of land use right, the area of agricultural land which a family household receives by way of assignment or inheritance shall not be required to be converted to land lease.

5. The Division of Natural Resources and Environment in the locality where the transferee of a land use right exceeding the quota has registered its permanent residence shall be responsible to notify such transferee of the area of agricultural land which must be converted to land lease; and the transferee of the land use right exceeding the quota upon receipt of transfer of land use right shall have the right to select the parcel of land to be converted to land lease.

Article 106: Rights and obligations of economic organizations receiving assignment of land use right

1. The case of an economic organization receiving a lawful assignment of non-agricultural land use right from another economic organization, family household or individual to which the State allocated land with collection of land use fees or from a family household or individual having a land use right which has been recognized by the State shall be dealt with as follows:

(a) Where the fees paid for such assignment were not sourced from the State Budget, it shall not be required to pay land use fees, shall not be required to convert to land lease, and shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*;

(b) Where the fees paid for such assignment were sourced from the State Budget, the economic organization which received the assignment of land use right shall be required to convert to land lease and shall have the rights and obligations stipulated in clause 1 of article 110 of the *Law on Land*; and where an economic organization selects the form of land allocation with collection of land use fees, it must pay land use fees pursuant to the land price stipulated by the people's committee of the province or city under central authority and it shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*;

(c) If there was a duration of land use prior to the receipt of assignment of land use right, the

land use term shall be the residual period of such land use term; and if the duration of land use prior to the receipt of assignment of land use right was stable and long term, the land use term shall be stable and long term.

2. The case of an economic organization receiving an assignment of agricultural land use right together with conversion of land use purpose in accordance with the law on land prior to 1 July 2004 shall be dealt with as follows:

(a) Where fees have been paid for such assignment and conversion of land use purpose but they were not sourced from the State Budget, it shall not be required to pay land use fees, shall not be required to convert to land lease, and shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*;

(b) Where fees have been paid for such assignment and conversion of land use purpose and they were sourced from the State Budget, the economic organization shall be required to convert to land lease and shall have the rights and obligations stipulated in clause 1 of article 111 of the *Law on Land*; and if the economic organization selects the form of land allocation with collection of land use fees, it must pay land use fees for the land in respect of which the use purpose was converted at the price stipulated by the people's committee of the province or city under central authority, and it shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*;

(c) The land use term shall be the duration of the project as approved by the competent State body.

Article 107: Rights and obligations of enterprises being new legal entities formed by capital contribution using land use right

1. Enterprises formed by capital contribution using land use right contributed by domestic organizations, family households or individuals shall not be required to convert to land lease and shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land* in the following circumstances:

(a) Where the land with which the economic organization made its capital contribution was allocated by the State with collection of land use fees and the land use fees which have been paid were not sourced from the State Budget;

(b) Where the land with which the economic organization made its capital contribution was received by way of assignment of land use right and was not land leased by the State, and fees paid for the assignment of land use right were not sourced from the State Budget;

(c) Where the land with which the family household or individual made the capital contribution was not land leased by the State.

2. Enterprises formed by a joint venture between foreign organizations, foreign individuals or Vietnamese residing overseas with a domestic economic organization which makes its capital contribution using land use

right in the circumstances stipulated in clauses 1(a) and (b) above shall not be required to convert to land lease and shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*.

3. Where a capital contributing party is a State owned enterprise to which the State leased land prior to 1 July 2004 and which the State has permitted to use the value of land use right in the same manner as the State Budget issued to the enterprise, and which is not required to acknowledge a debt and not required to repay land rent in accordance with the law on land in order to make a capital contribution to a joint venture enterprise with a foreign organization or foreign individual, the joint venture enterprise shall not be required to lease land and shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*. The value of the land use right shall be the portion of State owned capital contributed to the joint venture enterprise.

4. Where the State allocated land with collection of land use fees to a Vietnamese residing overseas who subsequently made a capital contribution using the land use right in its capacity as a domestic economic organization entering a joint venture with a foreign organization or foreign individual, the joint venture enterprise shall not be required to convert to land lease

and shall have the rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*.

5. When a joint venture enterprise to which the Vietnamese party made a capital contribution using a land use right converts to an enterprise with one hundred (100) per cent foreign owned capital, the enterprise with one hundred (100) per cent foreign owned capital must lease land from the State and shall have the rights and obligations stipulated in clauses 2 and 3 of article 119 of the *Law on Land*.

Article 108: Rights of joint venture enterprises with foreign owned capital which leased land from family households or individuals and which convert subsequently to enterprises with one hundred (100) per cent foreign owned capital

1. A joint venture enterprise with foreign owned capital which leased land from a family household or individual and which converts subsequently to an enterprise with one hundred (100) per cent foreign owned capital shall be permitted to implement the signed lease contract and must use the land for the correct use purpose which was fixed.

2. The Ministry of Natural Resources and Environment shall be responsible to monitor the effectiveness of land use when an enterprise with one hundred (100) per cent foreign owned capital leases land from a family household or individual as a test model and the Ministry shall make an overall report to the Government.

Article 109: Land use right of co-operatives upon dissolution or declaration of bankruptcy

Land of a co-operative which is dissolved or declared bankrupt shall be resolved as follows:

1. The State shall recover the land in the case of land allocated by the State without collection of land use fees, land leased by the State, land allocated by the State with collection of land use fees, purchase of assets attached to the land use right or receipt of a lawful assignment of land use right from another person and the land use fees, sum paid for purchase of assets or fees paid for the assignment of land use right were sourced from the State Budget.

2. With respect to land allocated by the State with collection of land use fees, purchase of assets attached to the land use or receipt of a lawful assignment of land use right from another

person and the land use fees, sum paid for purchase of assets or fees paid for the assignment of land were not sourced from the State Budget or with respect to land with which members of the co-operative made their capital contribution, the State shall not recover such land and the land use right shall be included in the assets of the co-operative to be dealt with in accordance with the charter of the co-operative or a resolution of members of the co-operative.

Article 110: *Rights of land user in respect of land for construction of apartment complexes*

1. An economic organization using land allocated by the State without collection of land use fees, or land allocated by the State with collection of land use fees, or land received by way of a lawful assignment of land use right, and the land use fees or fees paid for the assignment of land use right were sourced from the State Budget in order to engage in the business of construction of an apartment complex pursuant to a project approved by the competent State body shall have the following rights and obligations:

(a) The rights and obligations stipulated in articles 105 and 107 of the *Law on Land*;

(b) To sell, donate or lease out apartments in the apartment complex;

(c) To mortgage or guarantee using apartments in the apartment complex not within the cases stipulated in sub-clause (b) above;

(d) The value of the land use right of land used for construction of the apartment complex shall not be included in the price of apartments in the apartment complex when they are sold or leased out; and the land use right of such land may not be used to mortgage, guarantee or make a capital contribution.

2. An economic organization using land allocated by the State with collection of land use fees or land received by way of an assignment of land use right and the land use fees or fees paid for the assignment of land use right were not sourced from the State Budget; or a Vietnamese residing overseas being allocated land by the State with collection of land use fees in order to invest in the business of construction of an apartment complex pursuant to a project approved by the competent State body shall have the following rights and obligations:

- (a) The rights and obligations stipulated in articles 105 and 107 of the *Law on Land*;
- (b) The rights and obligations stipulated in clause 2 of article 110 of the *Law on Land*;
- (c) The value of the land use right of land used for construction of the apartment complex shall be included in the price of apartments in the apartment complex when they are sold or leased out.

3. Family households and individuals receiving a land use right by way of transfer of such land use right in order to invest in the business of construction of an apartment complex pursuant to a project which conforms with approved zoning for construction of urban areas or zoning for construction of rural residential areas shall have the rights and obligations stipulated in clause 2 of this article.

4. Vietnamese residing overseas or foreign organizations and foreign individuals using land leased by the State with one-off payment of rent for the whole term of the lease in order to invest in the business of construction of an apartment complex pursuant to a project approved by the competent State body shall have the following rights and obligations:

- (a) The rights and obligations stipulated in clause 3 of article 119 of the *Law on Land*;
- (b) The rights and obligations stipulated in article 81 of this Decree.

Article 111: *Rights and obligations of group of land users having land use right as common asset*

1. A group of land users, comprising a number of members being economic organizations, family households and individuals, having a land use right as a common asset shall have the following rights and obligations:

(a) If membership of the group is made up of family households and individuals only, the group of land users shall have the same rights and obligations as family households and individuals stipulated in article 113 of the *Law on Land*;

(b) If membership of the group is made up of economic organizations, the group of land users shall have the same rights and obligations as economic organizations stipulated in article 112 of the *Law on Land*.

2. Rights and obligations of a group of land users stipulated in clause 1 of this article shall be implemented as follows:

(a) If the land use right of the group is divided into portions, each member of the group shall exercise its rights and obligations in respect of the area of land under its use right;

(b) If the land use right of the group is not divided into portions, the representative of the group shall exercise the rights and obligations; Each member of the group shall be entitled to authorize the representative of the group to exercise the rights and obligations stipulated in sub-clause (a) above in accordance with civil law;

(c) When the representative exercises rights and obligations of the group stipulated in sub-clause (b) above, he or she must have written authority from all of the members of the group together with the certificate of land use right issued to members of the group.

Article 112: Resolution of cases where the State has borrowed land from family households and individuals

1. A State body which has borrowed land from family households and individuals as stipulated in clause 1 of article 116 of the *Law on Land* means any body, unit or organization of the State or of the Communist Party of Vietnam, the Vietnam Fatherland Front or any socio-political organization.

2. Where family households and individuals previously lent their land to the State and the documentation of land use right and the documentation on the lending of the land remain archived at the State body, the State body shall be responsible to issue such documentation to the family households and individuals to enable them to complete the file referred to in clause 1 of article 116 of the *Law on Land*.

3. Where a State body borrowed land with residential housing built thereon from family households and individuals prior to 1 July 1991, the issue shall be resolved in accordance with Resolution 58-1998-NQ-UBTVQH10 of the Standing Committee of the National Assembly dated 20 August 1998.

4. Compensation in the form of monetary compensation or allocation of new land shall be calculated at land prices issued by the people's committee of the province or city under central authority.

3. Resolutions for return of land which the State borrowed from family households and individuals shall be implemented until the end of 31 December 2010.

Article 113: *Resolution of cases where family households and individuals borrowed or leased land from other family households and individuals*

1. Cases where family households and individuals borrowed or leased land with residential housing built thereon from other family households and individuals, irrespective of whether there is still residential housing on such land; and cases where family households and individuals borrowed or leased land from other family households and individuals as a land surface on which to conduct production or business, irrespective of whether or not there were factories built on such land and belonging to such other family households and individuals shall be resolved when the following conditions are satisfied:

(a) The family household or individual lending or leasing out land must have a certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*;

(b) Documentation of agreement on lending or leasing out of the land.

2. Resolution of cases where family households and individuals borrowed or leased land from other family households and individuals as stipulated in clause 1 of this article shall apply as follows:

(a) The land use right is the asset of the person lending or leasing out the land;

(b) Any factory for production or business built on such land is the asset of the person lending or leasing out such factory;

(c) The land use right; factories for production or business built on such land; residential housing built on the land must not be on the list of cases where the State policy for improvement of land, residential housing and factories has been implemented;

(d) The land use right and factories for production or business built on land shall be resolved in the same manner as residential housing built on land as stipulated in Resolution 58-1998-NQ-UBTVQH10 of the Standing Committee of the National Assembly dated 20 August 1998 regarding civil transactions of residential housing built prior to 1 July 1991.

3. Where a family household or individual borrowed or leased land from another family household or individual without any documentation of agreement on lending or leasing out of the land as stipulated in clause 1(b) of this article and the subject land is subsequently returned voluntarily, the people's committee of the district, town or provincial city must issue a decision on recognition.

Article 114: Resolution of cases where organization borrowed or leased land or lent or leased out land

1. Where the party which borrowed or leased land is an organization not being a State body stipulated in clause 1 of article 112 of this Decree, the issue shall be resolved in the same manner as stipulated in article 113 for family households and individuals borrowing or leasing land from other family households and individuals.

2. Where the party which lent or leased out land is an organization, the issue shall be resolved in the same manner as stipulated in clause 2(b) of article 51, clause 2(c) of article 52 and clause 2(c) of article 53 of this Decree.

Article 115: Representative exercising rights and obligations of land users

1. Any representative exercising rights and obligations of land users shall be a person responsible before the State for land use as stipulated in article 2 of this Decree.

2. Any representative exercising rights and obligations of land users as stipulated in clause 1 of this article shall be entitled to authorize another person to do so in accordance with civil law.

3. Any representative exercising rights and obligations of land users must be a person with full legal capacity in accordance with civil law. Authority to a person to act as a representative exercising rights and obligations of land users as stipulated in clause 2 of this article must be in writing. In the case of family households and individuals, a power of

attorney must be certified by the people's committee of the ward, commune or township where the family household or individual resides, or it must be notarized by the State Notary Public.

CHAPTER XI

Order and Administrative Procedures for

Management and Use of Land

SECTION 1

Administrative Procedures Applicable in General

when Land Users Exercise their Rights and Obligations

Article 116: Implementation of administrative procedures in cases where land user has not yet been issued with certificate of land use right

Where land users have one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, the conduct of administrative procedures relating to land shall be resolved as follows:

1. Where a whole parcel of land is to be recovered, the competent State body shall issue a decision on land recovery and also on retrieval of the documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*.

2. Where the competent State body conducts administrative procedures relating to a whole parcel of land outside the case stipulated in clause 1 above, such body shall retrieve the documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* and issue

a certificate of land use right in accordance with articles 135, 136 and 137 of this Decree when conducting the initial step of administrative procedures relating to a certificate of land use right.

3. Where the competent State body conducts administrative procedures relating to one part of a parcel of land, such body shall separate the parcel of land in accordance with article 145 of

this Decree and follow the order and conduct administrative procedures relating to each part of such parcel and hand over a certificate of land use right to the land user in respect of each part after the parcel of land has been separated.

Article 117: Implementation of administrative procedures in cases of exchange, assignment, leasing out, sub-leasing out, bequest or donation of land use right or mortgage, guarantee or capital contribution using land use right applicable to one part of a parcel of land

1. In cases where a certificate of land use right has already been issued for the parcel of land:
 - (a) Where a land user exercises its right to exchange, assign, bequeath or donate the land use right, or to contribute capital using the land use right and thereby creates a new legal entity, or to lease out or sub-lease out the land use right in an industrial zone, when exercising such right, the file must specify the part of the parcel of land to be separated out;
 - (b) Where a land user exercises its right to lease out the land use right but not in an industrial zone, to mortgage or guarantee using the land use right, or to contribute capital using the land use right without creating a new legal entity, and wishes to separate out a part of the parcel of land, the land user shall prepare a file on separation of a part of the parcel of land prior to exercising rights pursuant to clause 1 of article 145 of this Decree;
 - (c) The natural resources and environment body shall conduct administrative procedures on separation of a part of the parcel of land pursuant to clause 2 of article 145 of this Decree prior to implementation of administrative procedures for exchange, assignment, leasing out, sub-leasing out, bequest or donation of land use right or mortgage, guarantee or capital contribution using land use right applicable to one part of a parcel of land as requested by a land user, and shall deliver a certificate of land use right to the person using the remaining part of the parcel of land. If a land user exercises its rights as stipulated in clause 1(b) of this article but does not wish to separate out a part of the parcel of land, the land use right registration office shall register an entry in the cadastral file and amend the certificate of land use right.

2. Clause 3 of article 116 of this Decree shall apply to cases where a certificate of land use right has not yet been issued for the parcel of land.

Article 118: Retrieval of certificate of land use right or documentation of land use right in case where the State recovers land

1. Within five working days from the date of completion of compensation and site clearance in the case when the State recovers land pursuant to clause 1 of article 38 of the *Law on Land*, or within five working days from the date of effectiveness of a decision by the authorized people's committee in cases of recovery of land pursuant to any one of clauses 2 to 12 inclusive of article 38 of the *Law on Land*, the natural resources and environment body shall notify the person having land recovered to return the certificate of land use right or documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Within ten (10) working days at the latest from the date of receipt of the notice referred to in clause 1 above, the person having land recovered shall return to the natural resources and environment body the certificate of land use right or documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*.

3. If, upon expiry of the time-limit stipulated in clause 2 of this article, the person having land recovered fails to return to the natural resources and environment body the certificate of land use right or documentation of land use right, the natural resources and environment body shall notify the land use right registration office and the people's committee of the commune, ward or township where the land is situated.

Article 119: Notarization by State Notary Public or certification by people's committee of ward, commune or township of contract or document when land user exercises rights

1. The contract or document by which a land user exercises its right to exchange, assign, lease out or sub-lease out, bequeath or donate its land use right or mortgage, guarantee or contribute capital using the land use right must be notarized by the State Notary Public or certified by the people's committee of the ward, commune or township as follows:

(a) In the case of organizations, Vietnamese residing overseas, foreign organizations and foreign individuals, there must be notarization by the State Notary Public;

(b) In the case of family households and individuals, there must be notarization by the State Notary Public or certification by the people's committee of the ward, commune or township where the land is situated;

(c) When a land user exercises its rights and one party to the transaction falls in the category of clause (a) above and another party to the transaction falls in the category of clause (b) above, there must be notarization by the State Notary Public or certification by the people's committee of the ward, commune or township where the land is situated.

2. When a land user exercises its rights and one party to the transaction requests certification by the people's committee of the ward, commune or township where the land is situated, such people's committee shall certify the contract or document within three working days at the latest from the date of receipt of a complete and valid file.

3. The Ministry of Justice shall preside over co-ordination with the Ministry of Natural Resources and Environment to provide guidelines on notarization by the State Notary Public and certification by the people's committee of the ward, commune or township of a contract or document when a land user exercises rights to exchange, assign, lease out or sublease out, bequeath or donate its land use right or mortgage, guarantee or contribute capital using the land use right.

Article 120: Discharge of financial obligations by land user upon implementation of administrative procedures for management and use of land

1. Financial obligations being land use fees, land rent and all types of land taxes shall be discharged after the tax authority has determined such fees and taxes based on cadastral data supplied by the land use right registration office. Within three working days at the latest from the date of receipt of cadastral data supplied by the land use right registration office, the tax authority shall notify the land use right registration office of the amount of fees and taxes payable by the land user and such office shall in turn notify directly the person liable to discharge such financial obligations or shall in turn notify the natural resources and

environment body or the people's committee of the ward, commune or township where the land is situated if the file was submitted to such body or people's committee. Within three working days at the latest from the date of receipt of such notice, the land use right registration office, the natural resources and environment body or the people's committee of the ward, commune or township where the land is situated shall notify the person liable to discharge such financial obligations to pay the money into the State treasury in accordance with law.

2. The land use right registration office shall notify the land user of any fees and charges payable pursuant to law during the course of conduct of procedures for management and use of land.

Article 121: Time-limits for implementation of administrative procedures

1. Where this Decree has not yet stipulated specific time-limits for implementation of procedures for management and use of land, people's committees of provinces and cities under central authority shall be responsible to do so. People's committees of provinces and cities under central authority and people's committees of districts, towns and provincial cities shall have the right to stipulate shorter time-limits for implementation of tasks than those stipulated in this Decree.

2. In the case of island, remote and mountainous areas, time-limits for implementation of procedures for management and use of land may be extended, but by no more than fifteen (15) days in each case.

3. In the case where it is necessary to make an extract of the cadastral measurements of an area of land because there is no cadastral map, timelimits for implementation of procedures for management and use of land may be extended, but by no more than twenty (20) days in each case.

Article 122: Submission of files and notification of results when implementing administrative procedures for management and use of land

1. In the case of applications for allocation or lease of land, for permission to convert land use purpose, or for extension of land use term pursuant to articles 123, 124, 125, 126, 127, 134,

135 and 141 of this Decree, files shall be submitted and results of applications shall be notified as follows:

(a) Files shall be submitted as stipulated in each article.

(b) Where conditions have been satisfied and the application has been resolved, within three working days at the latest from the date of the decision of the authorized people's committee, the natural resources and environment body shall deliver to any applicant which filed its application with the body such decision together with the original signed or amended certificate of land use right, or the body shall deliver such decision together with the original signed or amended certificate of land use right to the people's committee of the ward, commune or township in the case where the applicant filed its application with such people's committee; and the natural resources and environment body shall deliver a copy of the signed or amended certificate of land use right together with any retrieved documentation of land use right as stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* to the land use right registration office under its administration; and shall send a notice on changes to land use to the land use right registration office under the Department of Natural Resources and Environment in order that the original cadastral file may be amended. Within three working days from the date of receipt of the certificate of land use right, the people's committee of the ward, commune or township shall deliver it to the land user.

(c) Where conditions have not been satisfied for resolution, within three working days at the latest from the date of the results on failure to resolve from the competent body, the natural resources and environment body shall return the file to the applicant and notify the reasons, or it shall rely on the people's committee of the ward, commune or township to notify the applicant in the case where the applicant filed its application with such people's committee. Within three working days from the date of receipt of the file, the people's committee of the ward, commune or township shall return the file to the applicant and notify the reasons therefor.

2. In the case of land applications in high-tech zones and economic zones pursuant to articles 128 and 142 of this Decree, files shall be submitted and results of applications shall be notified as follows:

(a) Files shall be submitted to the management committee of the hightech zone or economic zone.

(b) Where conditions have been satisfied and the application has been resolved by a decision of the management committee of the hightech zone or economic zone, within three working days at the latest from the date of such decision, the natural resources and environment body shall deliver to the management committee of the high-tech zone or economic zone the signed or amended certificate of land use right; and the body shall deliver a copy of the signed or amended certificate of land use right together with any retrieved documentation of land use right as stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* to the land use right registration office under its administration; and shall send a notice on changes to land use to the land use right registration office under the Department of Natural Resources and Environment in order that the original cadastral file may be amended.

(c) Where conditions have not been satisfied for resolution, within three working days at the latest the management committee of the high-tech zone or economic zone shall return the applicant the file and notify the reasons.

3. In the case of applications for issuance of a certificate of land use right and for registration of changes in land use pursuant to articles 129, 133, 136, 137, 138, 139, 140, 143, 144, 148, 149, 150, 151, 152, 153, 154, 155, 156 and 157 of this Decree, files shall be submitted and results shall be notified as follows:

(a) Files shall be submitted to the land use right registration office under the Department of Natural Resources and Environment in the case of an organization, religious organization, Vietnamese residing overseas implementing an investment project, foreign organization or foreign individual; and shall be submitted to the land use right registration office under the Division of Natural Resources and Environment in the case of a family household, individual or community of citizens using land in a ward or a Vietnamese residing overseas purchasing a house attached to a residential land use right; or shall be submitted to the people's committee of the commune or township in the case of a family household, individual or community of citizens using land in such commune or township. Within three working days from the date of receipt of a complete and valid file, the people's committee of the commune or township shall

deliver the file to the land use right registration office under the Division of Natural Resources and Environment.

(b) Where conditions have been satisfied and the application has been resolved, within three working days at the latest from the date of the decision of or approval from the competent body, the natural resources and environment body shall send the original signed or amended certificate of land use right to the land use right registration office under the Division of Natural Resources and Environment in the case where the applicant filed its application with the people's committee of the commune or township; and the natural resources and environment body shall send a copy of the signed or amended certificate of land use right together with any retrieved certificate of land use right or retrieved documentation of land use right as stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* to the land use right registration office under the Department of Natural Resources and Environment in the case where the land user is an organization, religious organization, Vietnamese residing overseas implementing an investment project, or foreign organization or foreign individual; to the land use right registration office under the Division of Natural Resources and Environment in the case where the land user is a family household, individual or community of citizens or a Vietnamese residing overseas purchasing a house attached to a residential land use right; and shall send a notice on changes to land use to the land use right registration office under the Department of Natural Resources and Environment in order that the original cadastral file may be amended. Within three working days from the date of receipt of the certificate of land use right, the land use right registration office or the people's committee of the commune or township shall deliver or return it to the land user.

(c) Where conditions required by law have not been satisfied, within three working days at the latest from the date of the results on failure to resolve from the competent body, the land use right registration office shall return the file to the applicant and notify the reasons or shall rely on the people's committee of the commune or township to notify the applicant in the case where the applicant filed its application with such people's committee. Within three working days from the date of receipt of the file, the people's committee of the commune or township shall return the file to the applicant and notify the reasons therefor.

4. In the case of land recovery pursuant to articles 130, 131 and 132 of this Decree, within seven working days at the latest from the date of retrieval of the issued certificate of land use right pursuant to article 118 of this Decree, the natural resources and environment body shall send a copy of the decision on land recovery together with the original retrieved certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, together with a list of land users in the case of inability to retrieve the issued certificate of land use right, to the land use right registration office under administration of such body; and shall also send a notice on changes to land use to the land use right registration office under the Department of Natural Resources and Environment in order that the original cadastral file may be amended.

5. In the case of exchange of agricultural land use rights pursuant to article 147 of this Decree, files shall be submitted and results shall be notified as follows:

(a) Files shall be submitted to the people's committee of the commune, ward or township where the land is situated.

(b) Where conditions have been satisfied for a resolution, within two working days at the latest the Division of Natural Resources and Environment shall send the original certificates of land use right for the exchanged parcels of land to the people's committee of the commune, ward or township where the land is situated; and shall send a copy of the certificates of land use right together with the retrieved certificates of land use right, together with any retrieved documentation of land use right as stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* to the land use right registration office under its administration; and shall send a notice on changes to land use to the land use right registration office under the Department of Natural Resources and Environment in order that the original cadastral file may be amended.

(c) Where conditions have not been satisfied for resolution, within two working days at the latest the people's committee of the commune, ward or township shall return the file.

SECTION 2

Order and Procedures for Administration of Land

Article 123: Order and procedures for allocation or lease of agricultural land to family households and individuals

1. The allocation of land for planting annual trees and of land for salt production to family households and individuals being directly engaged in agricultural or salt production shall be implemented in accordance with a plan prepared by the people's committee of the commune, ward or township where the land is situated and approved by the people's committee of the district, town or provincial city. The procedures for allocation of land shall be implemented in accordance with the following provisions:

(a) The people's committee of the commune, ward or township shall prepare a general plan for resolution of all cases of land allocation in its locality; establish an advisory council for land allocation, comprising a chairman or a vice chairman of the people's committee acting as the council chairman, a representative of the Vietnam Fatherland Front, a representative of the Farmers Association, heads of residential areas in its locality and an official in charge of land administration (hereinafter referred to as advisory council for land allocation) in order to consider and make recommendations on cases of land allocation.

(b) The people's committee of the commune, ward or township shall, on the basis of the recommendations from the advisory council for land allocation, complete the plan for land allocation and display publicly a list of cases of land allocation at its headquarters within fifteen (15) working days and receive recommendations from the people; and shall finalize the plan for land allocation and submit it to the people's council at the same level for adoption before such plan is submitted to the people's committee of the district or provincial city (through the Division of Natural Resources and Environment) for consideration and approval.

(c) The Division of Natural Resources and Environment shall be responsible for evaluating the plan for land allocation; directing the land use right registration office under its authority to conduct surveys, draw cadastral maps and prepare cadastral files; and shall submit them to the people's committee at the same level for making decisions on land allocation and issuing

certificates of land use right. The time-limit for performance of the tasks stipulated in this subclause shall not exceed fifty (50) days from the date on which the Division of Natural Resources and Environment receives a proper file to the date on which the land user receives a certificate of land use right.

2. Allocation or lease of land for planting perennial crops, forest land for production, protective forest land, buffer zones of specialized use forest land, land for aquaculture or other agricultural land to family households and individuals shall be implemented in accordance with the following provisions:

(a) A family household or individual shall submit an application file for allocation or lease of land to the people's committee of the commune, ward or township where the land is situated; the application shall specify the requirement for a land area to be used. In the case of applications for allocation or lease of land for aquaculture, an aquaculture project evaluated by the body in charge of aquaculture of the district, town or provincial city and an environmental impact assessment report in accordance with the law on environment shall be required.

(b) Where all conditions are satisfied, the people's committee of the commune, ward or township shall be responsible for verifying and recording its certification of the requirement of the family household or individual for land use in the application for allocation or lease of land, and shall forward same to the land use right registration office under the Division of Natural Resources and Environment.

(c) The land use right registration office shall be responsible for rechecking the file; where all conditions are satisfied, it shall make an extract of the cadastral map or make an extract of the cadastral measurements of the area of land if there is no cadastral map and a copy of the cadastral file and forward them to the Division of Natural Resources and Environment.

(d) The Division of Natural Resources and Environment shall be responsible for verifying all applications for allocation and lease of land, conducting an on-site verification where necessary, and forwarding a submission to the people's committee of the district, town or provincial city to make a decision on allocation or lease of land and to sign a certificate of land use right; and to sign a land lease contract in cases of land lease.

3. The period for performance of the tasks stipulated in clauses 2(b), (c) and (d) of this article shall not exceed fifty (50) working days from the date on which the people's committee of the commune, ward or township receives a complete and valid file to the date on which the land user receives a certificate of land use right.

Article 124: Order and procedures for allocation of land for residential housing to family households and individuals in rural areas outside cases where there must be auction of land use right

1. A family household or individual with a requirement for land use for residential housing shall submit an application for land allocation to the people's committee of the commune where the land is situated.

2. Land shall be allocated as follows:

(a) The people's committee of the commune shall, based on its approved detailed land use zoning and planning, prepare a plan for allocation of land for residential housing and submit it to the advisory council for land allocation referred to in clause 1(a) of article 123 of this Decree for consideration and recommendation; and shall display publicly a list of cases of land allocation at its headquarters within fifteen (15) working days and receive recommendations from the people; and shall finalize the plan for land allocation and prepare an application file for land allocation and submit it to the land use right registration office under the Division of Natural Resources and Environment. The file shall be prepared in two sets and shall include a submission from the people's committee of the commune on allocation of land for residential housing, a list of family households and individuals with their applications for allocation of land for residential housing, and recommendations of the advisory council for land allocation of the commune.

(b) The land use right registration office shall be responsible for rechecking the file; where all conditions are satisfied, it shall make an extract of the cadastral map or make an extract of the cadastral measurements of the area of land if there is no cadastral map and a copy of the cadastral file and forward them together with the file stipulated in sub-clause (a) above to the Division of Natural Resources and Environment; and it shall send the cadastral data to the tax authority to determine the financial obligations. (c) The Division of Natural Resources and

Environment shall be responsible for verifying all cadastral files; conducting an on-site verification, and forwarding a submission to the people's committee of the district, town or provincial city to make a decision on land allocation and to sign a certificate of land use right.

(d) The people's committee of the commune shall, on the basis of the decision on land allocation, hand over land on site.

3. The period for performance of the tasks stipulated in clauses 2(b), (c) and (d) of this article shall not exceed forty (40) working days (excluding the duration of compensation, site clearance and discharge of financial obligations by land users) from the date on which the land use right registration office receives a complete and valid file to the date on which the land user receives a certificate of land use right.

Article 125: Order and procedures for allocation or lease of land to Vietnamese residing overseas, and to foreign organizations and foreign individuals in cases where site has been cleared or site does not require clearing, to organizations and religious organizations,

1. A person with a requirement to apply for allocation or lease of land shall contact the body to which the people's committee of the province or city under central authority has assigned the duty to reach agreement on site locations or the land fund development organization in the place where land is available in order to introduce a site for land use.

2. After the applicant has a written agreement on a location or written permission for the investment or written agreement to construction of works on the agreed site from the competent State body, the applicant shall submit a file in two sets to the Department of Natural Resources and Environment in the locality where the land is situated. The file shall comprise:

(a) Application for allocation or lease of land;

(b) Written agreement on a location or written permission for the investment or written agreement to construction of works on the agreed site from the competent State body; (c) Investment decision or a copy of the investment licence certified by the State Notary Public; in the case of a project of an organization not funded by the State Budget or in the case of a project not with foreign owned capital, there must be written evaluation of the requirement to

use land from the Department of Natural Resources and Environment in the locality where the land is situated in accordance with clause 1(b) of article 30 of this Decree; (d) In the case of a project for mineral exploration or exploitation, the licence must be accompanied by a map of exploration or exploitation of the mine; in the case of land use for the purpose of production of bricks and tiles or for making ceramics, there must be either a decision or permit for production of bricks and tiles or an investment project which has been approved by the competent State body;

(dd) Written confirmation from the Department of Natural Resources and Environment in the locality where the land is situated of proper compliance with the law on land by the applicant for allocation or lease of land in the case where the State has previously allocated or leased land to such applicant.

3. The allocation or lease of land shall be regulated as follows:

(a) The Department of Natural Resources and Environment shall be responsible to investigate and direct the land use right registration office to make an extract of the cadastral map of the parcel of land or make an extract of the cadastral measurements of the area of

land if there is no cadastral map (in the case of a project to use land for construction of works over a wide area such as dyke embankments, hydro-electric plant, power lines, roads, railways, water conduits, oil pipelines or gas pipelines, the most recently drawn topographical map with a scale no less than 1/25,000 shall be used instead of a cadastral map) and to make a copy of the cadastral file;

(b) The land use right registration office shall send the cadastral data to the tax authority to determine the financial obligations;

(c) The Department of Natural Resources and Environment shall be responsible to investigate the cadastral file, to verify it on site, and to submit the matter to the people's committee of the province or city under central authority to make a decision on allocation or lease of land and to issue a certificate of land use right, to sign a contract of lease of land in the case of lease of land, and to direct the Division of Natural Resources and Environment and the people's

committee of the commune, ward or township where the land is situated to organize on-site hand-over of the land.

4. The time-limit for performance of the tasks stipulated in clause 3 above shall be no more than twenty (20) working days (excluding the duration for discharge by the land user of its financial obligations) from the date on which the Department of Natural Resources and Environment receives a complete and valid file to the date on which the land user receives a certificate of land use right.

Article 126: Order and procedures for allocation or lease of land to Vietnamese residing overseas, and to foreign organizations and foreign individuals in cases where site has not yet been cleared

1. A person with a requirement to apply for allocation or lease of land shall contact the body to which the people's committee of the province or city under central authority has assigned the duty to reach agreement on site locations in order to introduce a site for land use.

2. The applicant shall submit a file as stipulated in clause 2 of article 125 of this Decree.

3. Recovery of land, compensation and site clearance shall be implemented in the order stipulated in clauses 1, 3, 4, 5, 6 and 7 of article 130 of this Decree and in accordance with regulations of the Government on compensation, financial assistance and resettlement.

4. After the site has been cleared, allocation or lease of land shall be implemented in accordance with clause 3 of article 125 of this Decree.

5. The time-limit for performance of the tasks stipulated in clause 4 above shall be no more than twenty (20) working days (excluding the duration for discharge by the land user of its financial obligations) from the date on which the site is cleared and the Department of Natural Resources and Environment receives a complete and valid file to the date on which the land user receives a certificate of land use right.

Article 127: Order and procedures for allocation of land for use for objectives of national defence and security

1. A unit of the people's armed forces as stipulated in clause 3 of article 83 of this Decree applying for allocation of land for objectives of national defence and security shall submit a file in two sets to the Department of Natural Resources and Environment of the locality in which the land is situated; the file shall comprise:

(a) Application for land allocation;

(b) Extract of the investment decision for construction of works for national defence and security from the competent State body, including items relating to land use or a decision approving the plan for the site of a garrison from the Ministry of Defence or the Ministry of Police;

(c) Written proposal for land allocation from the Ministry of Defence or the Ministry of Police or the head of the unit delegated by the Ministry of Defence or the Ministry of Police.

2. Land shall be allocated as follows:

(a) Within a time-limit of five working days from the date of receipt of a complete and valid file, the Department of Natural Resources and Environment shall be responsible to verify it and to send one set to the land use right registration office under its authority; and shall provide the people's committee of the district, town or provincial city with guidelines for preparation of a plan for compensation and site clearance;

(b) Within a time-limit of five working days from the date of receipt of the file, the land use right registration office shall be responsible to make an extract of the cadastral map or an extract of the cadastral measurements of the area of land if there is no cadastral map, and an extract of the cadastral file and send them together with the application file for allocation of land to the Department of Natural Resources and Environment;

(c) Within a time-limit of ten (10) working days from the date of receipt of the extract of the cadastral map and the extract of the cadastral file, the Department of Natural Resources and Environment shall be responsible to forward a submission to the people's committee of the province or city under central authority to make a decision on recovery of the land from the current land user in cases within its jurisdiction or to sign a request to the people's committee

of the district, town or provincial city to make a decision on land allocation and issue a certificate of land use right;

(d) With a time-limit of ten (10) working days from the date of receipt of the file, where all conditions are satisfied, the people's committee of the province or city under central authority shall be responsible for considering and signing a decision on recovery of land, a decision on land allocation, and a certificate of land use right, and sending them to the Department of Natural Resources and Environment; and shall notify the people's committee of the district, town or provincial city for implementation of compensation, support and resettlement;

(dd) Recovery of land, payment of compensation and site clearance shall be conducted in accordance with the procedures stipulated in clauses 1, 3, 4, 5, 6 and 7 of article 130 of this Decree and in accordance with regulations of the Government on compensation, support and resettlement;

(e) Within a time-limit of three working days from the date of completion of payment of compensation and site clearance, the Department of Natural Resources and Environment shall direct the Division of Natural Resources and Environment and the people's committee of the commune, ward or township in which the land is situated to organize on-site hand-over of the land.

Article 128: Order and procedures for re-allocation or lease of land in high-tech zones and economic zones

1. An applicant shall submit a file in two sets, comprising:

(a) Application for re-allocation or lease of land;

(b) In the case of an organization, the investment project in accordance with the law on investment;

(c) In the case of a Vietnamese residing overseas, a foreign organization or a foreign individual, the investment decision or investment project in accordance with the law on investment.

2. Re-allocation or lease of land shall be regulated as follows:

(a) Within a time-limit of nine working days from the date of receipt of a file, the management committee of a high-tech zone or economic zone shall be responsible for consideration of it; where all conditions are satisfied, it shall make an extract of the cadastral map or an extract of the cadastral measurements of the area of land if there is no cadastral map; it shall issue a decision on re-allocation of land or sign a land lease contract; and it shall give notification to the land user to pay land use fees or land rent in accordance with law; and it shall send the decision on land re-allocation or the land lease contract together with the extract of the cadastral map or extract of the cadastral measurements to the natural resources and environment body under the people's committee authorized to issue certificates of land use right;

(b) Within a time-limit of five working days from the date of receipt of the decision on land re-allocation or land lease contract, the Department of Natural Resources and Environment shall be responsible for signing a certificate of land use right or the Division of Natural Resources and Environment shall be responsible for forwarding a submission to the people's committee at the same level to sign a certificate of land use right; and shall send the certificate of land use right to the management committee of the high-tech zone or economic zone;

(c) Within a time-limit of three working days from the date on which the land user discharges its financial obligations, the management committee of the high-tech zone or economic zone shall be responsible for on-site hand-over of the land and delivery of the certificate of land use right.

Article 129: Order and procedures for conversion from form of land lease to land allocation with collection of land use fees

1. Any land lessee with a requirement for conversion from the form of land lease to the form of allocation of land with collection of land use fees shall submit a file in one set comprising:

(a) Application for registration of conversion of the form of land lease to the form of allocation of land with collection of land use fees;

(b) Land lease contract and certificate of land use right.

2. Conversion from the form of land lease to the form of allocation of land with collection of land use fees shall be regulated as follows:

(a) Within a time-limit of five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verification of it; where all conditions are satisfied, it shall make an extract of the cadastral file and submit it together with the file to the natural resources and environment body at the same level; and it shall send the cadastral data to the tax authority to determine the financial obligations;

(b) Within a time-limit of three working days from the date on which the land user discharges its financial obligations, the natural resources and environment body shall be responsible for amending the certificate of land use right.

3. Where a land user has a requirement for conversion from the form of land lease to the form of allocation of land with collection of land use fees in combination with conversion of land use purpose, the procedures for conversion of land use purpose shall be performed prior to the performance of the procedures for conversion from the form of land lease to the form of allocation of land with collection of land use fees.

Article 130: Order for recovery of land in cases stipulated in clause 1 of article 38 of the Law on Land

1. The authorized people's committee shall, on the basis of the land use zoning or planning approved by the competent State body, be responsible for delegating the natural resources and environment body under its authority to direct the land use right registration office to make an extract of the cadastral map, or an extract of the cadastral measurements of the area of land to be recovered if there is no cadastral map, and an extract of the cadastral file and to send them to the body or organization responsible for preparation of a plan of compensation and site clearance in accordance with clauses 2 and 3 of this article.

2. In the case of land recovery after land use zoning and planning have been proclaimed but where there is as yet no investment project, the people's committee of a province or city under central authority shall delegate a land fund development organization to prepare an overall

plan for compensation and site clearance and submit it to the people's committee of the province or city under central authority for approval.

3. In the case of land recovery for implementation of investment projects, the people's committee of a district, town or provincial city shall be responsible for preparing an overall plan for compensation and site clearance and submit it to the people's committee of the province or city under central authority for approval.

4. Upon approval of the overall plan for compensation and site clearance, the people's committee of the district, town or provincial city where the land is to be recovered shall provide notice to the person currently using the land of the reason for recovery of the land, the time-limit and plan for removal, and the general plan for compensation, site clearance and resettlement at least ninety (90) days in advance with respect to agricultural land and at least one hundred and eighty (180) days in advance with respect to nonagricultural land.

5. At least twenty (20) days prior to the expiry of the period for notification, the land fund development organization or the people's committee of the district, town or provincial city shall be responsible for submitting the plan for compensation and site clearance to the people's committee of the province or city under central authority for decision; and the Department of Natural Resources and Environment shall be responsible for forwarding a submission on a decision on land recovery to the people's committee of the province or city under central authority for its decision. The decision on land recovery must contain specific items on recovery of each specific parcel of land used by organizations, religious organizations, Vietnamese residing overseas and foreign organizations and foreign individuals and general items on recovery of parcels of land used by family households, individuals and communities of citizens.

6. Within a time-limit of fifteen (15) working days from the date of receipt of a submission, the people's committee of the province or city under central authority shall be responsible for considering and signing a decision on land recovery and a decision approving the plan for compensation and site clearance and forwarding them to the Department of Natural Resources and Environment, the people's committee of the district, town or provincial city or the land fund development organization. Where areas currently used by family households or

individuals are situated within the area to be recovered, within a time-limit of thirty (30) working days from the date of receipt of the decision on land recovery from the people's committee of the province or city under central authority, the people's committee of the district, town or provincial city shall be responsible for issuing a decision on recovery of a specific area with respect to each parcel of land used by each family household, individual or community of citizens.

7. The land fund development organization shall be responsible for carrying out compensation and site clearance in the case of land recovery after land use zoning and planning have been proclaimed but where there is as yet no investment project; the people's committee of the district, town or provincial city shall be responsible for organizing implementation of compensation and site clearance in the case of land recovery for allocation or lease of land for implementation of investment projects.

8. Upon completion of compensation and site clearance, the people's committee of the province or city under central authority shall issue a decision on land allocation to the land fund development organization for management or on allocation or lease of land to investors for implementation of projects.

Article 131: Order for recovery of land in cases stipulated in clauses 2 and 8 of article 38 of the Law on Land

1. Recovery of land from organizations to which the State allocated land without collection of land use fees, or to which the State allocated land with collection of land use fees but those fees were paid from the State Budget, or to which the State leased land with payment of annual rent, where such organizations have transferred to another place or their requirements to use land have reduced or no longer exist; and recovery of land from land users which return voluntarily land shall be carried out as follows:

(a) Where the land user is an organization, religious organization, Vietnamese residing overseas or foreign organization or foreign individual, a document on land return and the certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any) shall be forwarded to the

Department of Natural Resources and Environment where the land is situated; or to the Division of Natural Resources and Environment where the land is situated if the land users are family households, individuals or communities of citizens.

(b) Within a time-limit of twenty (20) working days from the date of receipt of the document on land return, the natural resources and environment body shall be responsible for carrying out an examination, or on-site verification where necessary; and shall forward a submission to the people's committee at the same level for a decision on land recovery.

(c) Within a time-limit of fifteen (15) working days from the date of receipt of the submission, the authorized people's committee shall be responsible for considering and signing a decision on land recovery and forwarding it to the natural resources and environment body under its authority.

2. The recovery of land from organizations to which the State allocated land without collection of land use fees, or to which the State allocated land with collection of land use fees but those fees were paid from the State Budget, or to which the State leased land with payment of annual rent, or where such organizations have been dissolved or declared bankrupt, shall be carried out as follows:

(a) Within a time-limit of twenty (20) working days from the date of receipt of the decision on dissolution or bankruptcy from the competent State body, the Department of Natural Resources and Environment shall be responsible for carrying out an examination, or on-site verification where necessary; and shall forward a submission to the people's committee at the same level for a decision on land recovery.

(b) Within a time-limit of fifteen (15) working days from the date of receipt of the submission, the people's committee of the province or city under central authority shall be responsible for considering and signing a decision on land recovery and forwarding it to the Department of Natural Resources and Environment.

Article 132: Order for recovery of land in cases stipulated in clauses 3, 4, 5, 6, 7, 9, 10, 11 and 12 of article 38 of the Law on Land

1. Land recovery in the cases stipulated in clauses 3, 4, 5, 6, 9, 11 and 12 of article 38 of the *Law on Land* shall be carried out as follows:

(a) Within a time-limit of fifteen (15) working days from the date of receipt of a conclusion from an inspector, the natural resources and environment body shall be responsible for carrying out an examination, or on-site verification where necessary; and shall forward a submission to the people's committee at the same level for a decision on land recovery.

(b) Within a time-limit of fifteen (15) working days from the date of receipt of the submission, the authorized people's committee shall be responsible for considering and signing a decision on land recovery and forwarding it to the natural resources and environment body under its authority; and shall direct and deal with calculation of the residual value of the investment made in the land or assets attached to the land (if any) in accordance with law.

2. Land recovery in the case stipulated in clause 7 of article 38 of the *Law on Land* shall be carried out as follows:

(a) Within a time-limit of fifteen (15) working days from the date of receipt of a death registration certificate or a decision on declaration of a missing person from the competent State body and a document certifying that there is no heir from the people's committee of the commune, ward or township where the land is situated, the Division of Natural Resources and Environment shall be responsible for carrying out an actual examination or verification and shall forward a submission to the people's committee at the same level for a decision on land recovery.

(b) Within a time-limit of ten (10) working days from the date of receipt of the submission, the people's committee of the district, town or provincial city shall be responsible for considering and signing a decision on land recovery and forwarding it to the Division of Natural Resources and Environment.

3. Land recovery in the case stipulated in clause 10 of article 38 of the *Law on Land* shall be carried out as follows:

(a) Within a time-limit of thirty (30) working days from the date of expiry of the term of land use, the natural resources and environment body shall be responsible for forwarding a submission to the people's committee at the same level for a decision on land recovery.

(b) Within a time-limit of ten (10) working days from the date of receipt of the submission, the authorized people's committee shall be responsible for considering and signing a decision on land recovery and forwarding it to the natural resources and environment body under its authority.

Article 133: Order and procedures for registration of conversion of land use purpose in cases where it is not necessary to apply for permission

1. A land user with a requirement for conversion of land use right shall submit a file in one set comprising:

(a) Declaration form for registration of conversion of land use purpose in accordance with the form provided by the Ministry of Natural Resources and Environment;

(b) Certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. A land user shall be permitted to convert land use purpose after twenty (20) days from the date of submission of the file, unless the land use right registration office provides notification that the conversion of land use purpose is not permitted because it fails to comply with clause 2 of article 36 of the *Law on Land*.

3. Registration of conversion of land use purpose shall be regulated as follows:

(a) The land use right registration office shall be responsible for verifying the file; shall return the file and notify reasons if registration of conversion of land use purpose does not comply with clause 2 of article 36 of the *Law on Land*; or shall make its certification on the declaration form for registration and forward the file to the same level natural resources and environment body for amendment of the certificate of land use right in the case where registration of conversion of land use purpose complies with clause 2 of article 36 of the *Law on Land*.

(b) The natural resources and environment body shall be responsible for amending the certificate of land use right.

4. The time-limit for performance of the tasks stipulated in clause 3 of this article shall not exceed eighteen (18) working days from the date on which the land use right registration office receives a complete and valid file to the date on which the land user receives the amended certificate of land use right.

Article 134: Order and procedures for registration of conversion of land use purpose in cases where it is necessary to apply for permission

1. A land user with a requirement for conversion of land use right shall submit a file in one set to the Department of Natural Resources and Environment where the land is situated in the case of an organization, Vietnamese residing overseas, foreign organization or foreign individual; and to the Division of Natural Resources and Environment where the land is situated in the case of a family household or individual; and the file shall comprise:

(a) Application for conversion of land use purpose;

(b) Certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any);

(c) Investment project pursuant to the law on investment if the applicant is an organization, Vietnamese residing overseas or foreign organization or foreign individual.

2. The natural resources and environment body shall be responsible for checking the file and carrying out an on-site verification; for considering conformity with the detailed land use zoning and planning (or with the land use zoning and planning if detailed zoning and planning is not yet available); and shall direct the land use right registration office under its authority to make an extract of the cadastral file.

3. The land use right registration office shall be responsible to make an extract of the cadastral file and submit it to the natural resources and environment body at the same level; and shall send the cadastral data to the tax authority to determine the financial obligations.

4. The natural resources and environment body shall be responsible for forwarding a submission to the people's committee at the same level for decision on conversion of land use

purpose; for amendment of the certificate of land use right; and for signing of a new land lease contract in cases of land lease.

5. The time-limit for performance of the tasks stipulated in clauses 2, 3 and 4 of this article shall not exceed thirty (30) working days (excluding the period of discharge of financial obligations by the land user) from the date on which the natural resources and environment body receives a complete and valid file to the date on which the land user receives the amended certificate of land use right.

Article 135: Order and procedures for issuance of certificates of land use right to family households and individuals currently using land in communes and townships

1. A family household or individual shall submit to the people's committee of the commune or township where the land is situated a file in one set, comprising:

- (a) Application for issuance of a certificate of land use right;
- (b) One of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*;
- (c) Power of attorney to make the application for issuance of a certificate of land use right (if any).

2. Issuance of certificates of land use right shall be regulated as follows:

- (a) The people's committee of the commune or township shall be responsible for investigating and making its certification of the status of land dispute with respect to the parcel of land on the application for issuance of a certificate of land use right; for investigating and making its certification of the origin and period of land use, of the status of land dispute with respect to the parcel of land and of the conformity with approved land use zoning in the case where the current land user does not have any of the documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*; and shall display publicly a list of land users satisfying all conditions for issuance of a certificate of land use right at its office for fifteen (15) days; and shall consider recommendations on the applications for issuance of a certificate of land use right and shall send files to the land use right registration office under the Division of Natural Resources and Environment.

(b) The land use right registration office shall be responsible for verifying files; making its certification on the application for issuance of a certificate of land use right in the case where all conditions for issuance of a certificate of land use right are satisfied, or providing its recommendation in the case where all conditions are not satisfied; where the conditions for issuance of a certificate of land use right are satisfied, it shall make an extract of the cadastral map or the cadastral measurements of the parcel of land with respect to areas where there is no cadastral map and send the cadastral data to the tax authority to determine the financial obligations in the case where the land user is required to discharge financial obligations in accordance with law; and shall send files together with the extracts of the cadastral map and extracts of the cadastral files to the Division of Natural Resources and Environment in both cases where conditions for issuance of a certificate of land use right are satisfied and where such conditions are not satisfied.

(c) The Division of Natural Resources and Environment shall be responsible for inspecting the files and forwarding a submission to the people's committee at the same level for a decision on issuance of certificates of land use right, and on signing of land lease contracts in the case where the State leases land.

(d) The time-limit for performance of the tasks stipulated in subclauses (a), (b) and (c) of this clause shall not exceed fifty five (55) working days (excluding the duration for publication of the list of applications for a certificate of land use right and the duration for discharge by the land user of its financial obligations) from the date on which the people's committee of the commune or township receives a complete and valid file to the date on which the land user receives a certificate of land use right.

3. With respect to issuance of certificates of land use right to farm businesses, the status quo of land use must be checked in accordance with article 50 of this Decree prior to issuance of a certificate of land use right pursuant to clauses 1 and 2 of this article.

Article 136: Order and procedures for issuance of certificates of land use right to family households and individuals currently using land in wards

1. A family household or individual shall submit a file in one set, comprising:

- (a) Application for issuance of a certificate of land use right;
- (b) One of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*;
- (c) Power of attorney to make the application for issuance of a certificate of land use right (if any).

2. Issuance of certificates of land use right shall be regulated as follows:

- (a) The land use right registration office shall be responsible for verifying the file, conducting an on-site verification if necessary, and obtaining certification from the people's committee of the ward regarding the status of land dispute with respect to the parcel of land; or obtaining the recommendation of the people's committee of the ward on the origin and time of land use, the status of land dispute with respect to the parcel of land, and conformity with approved land use zoning in the case where the land user does not have any of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*; and shall display publicly a list of land users satisfying the conditions for issuance of a certificate of land use right at the land use right registration office for fifteen (15) days; shall consider recommendations on land users applying for a certificate of land use right; shall make its certification on the application for issuance of a certificate of land use right in the case where the conditions for issuance of a certificate of land use right are satisfied, and provide its recommendation in the case where all conditions are not satisfied; and, in cases where all conditions are satisfied, it shall make an extract of the cadastral map or of the cadastral measurements of the parcel of land with respect to areas where there is no cadastral map, and shall send the cadastral data to the tax authority to determine financial obligations in the case where the land user is required to discharge financial obligations in accordance with law; and shall send files together with the extracts of the cadastral map and extracts of the cadastral files to the Division of Natural Resources and Environment in both cases where conditions are satisfied and where conditions are not satisfied.
- (b) The Division of Natural Resources and Environment shall be responsible for inspecting the files and forwarding a submission to the people's committee at the same level for a

decision on issuance of certificates of land use right, and on signing of land lease contracts in the case where the State leases land.

(d) The time-limit for performance of the tasks stipulated in subclauses (a) and (b) of this clause shall not exceed fifty five (55) working days (excluding the duration for publication of the list of cases of application for a certificate of land use right and the duration for discharge by the land user of its financial obligations) from the date on which the land use right registration office receives a complete and valid file to the date on which the land user receives a certificate of land use right.

Article 137: Order and procedures for issuance of certificates of land use right to organizations currently using land

1. An organization currently using land shall submit a file in one set, comprising:

(a) Application for issuance of a certificate of land use right;

(b) One of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*;

(c) Power of attorney to make the application for issuance of a certificate of land use right (if any);

(d) Report on the review by the organization of the status quo of land use in accordance with articles 49, 51, 52, 53 and 55 of this Decree; With respect to organizations which have not yet conducted a review of the status quo of land use, the Department of Natural Resources and Environment shall direct the organization to perform the review in accordance with articles 49, 51, 52, 53 and 55 of this Decree;

(dd) Any decision of the people's committee of a province or city under central authority to deal with the land of such organization.

2. Issuance of certificates of land use right shall be regulated as follows:

(a) The land use right registration office shall, on the basis of the decision of the people's committee of a province or city under central authority fixing the area of land which the organization is permitted to continue using, be responsible for making an extract of the

cadastral map or of the cadastral measurements of the parcel of land with respect to areas where there is no cadastral map; sending the cadastral data to the tax authority to determine financial obligations in the case where the organization using land is required to discharge financial obligations in accordance with law; and sending the extract of the cadastral map and the extract of the cadastral file together with the application file for issuance of a certificate of land use right to the Department of Natural Resources and Environment.

(b) The Department of Natural Resources and Environment shall be responsible for signing a certificate of land use right in a case where it is so authorized; or for forwarding a submission to the people's committee at the same level for signing a certificate of land use right in a case where it is not so authorized; and for signing a land lease contract in the case where the State leases land.

(d) The time-limit for performance of the tasks stipulated in subclauses (a) and (b) of this clause shall not exceed fifty five (55) working days (excluding the duration for discharge by the land user of its financial obligations) from the date on which the land use right registration office receives a complete and valid file to the date on which the land user receives a certificate of land use right.

Article 138: Order and procedures for issuance of certificates of land use right to units of the people's armed forces currently using land for objectives of national defence and security

1. A unit of the people's armed forces shall submit a file in one set, comprising:

(a) Application for issuance of a certificate of land use right;

(b) Decision of the Minister of Defence or the Minister of Police on the site for a garrison or construction work;

(c) Power of attorney to make the application for issuance of a certificate of land use right (if any);

(d) Copy of the decision of the Prime Minister of the Government approving the land use zoning for objectives of national defence and security in areas of military zones, in areas of

units under the control of the Border Guard Command, and in provinces and cities under central authority, specifying the name of the unit applying for a certificate of land use right, or the decision on land allocation of the competent State body or a document verifying that the land was taken over or included in the cadastral register of a commune, ward or township and that the people's committee of the commune, ward or township certifies that such land is being stably used and is not subject to dispute.

2. Issuance of certificates of land use right shall be regulated as follows:

(a) Within a time-limit of thirty (30) working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for making an extract of the cadastral map, or of the cadastral measurements of the parcel of land (only including the measurements of the boundary of the parcel and excluding measurements of works for national defence or security or of buildings in such land area) with respect to areas where there is no cadastral map, and an extract of the cadastral file; and shall send the extract of the cadastral map and the extract of the cadastral file together with the application file for issuance of a certificate of land use right to the Department of Natural Resources and Environment.

(b) Within a time-limit of seven working days from the date of receipt of the file, the Department of Natural Resources and Environment shall be responsible for signing a certificate of land use right in a case where it is so authorized; or for forwarding a submission to the people's committee at the same level for signing of a certificate of land use right in a case where it is not so authorized.

(c) Within a time-limit of seven working days from the date of receipt of the submission, the people's committee of a province or city under central authority shall be responsible for signing a certificate of land use right and sending it to the Department of Natural Resources and Environment.

(d) Within a time-limit of six working days from the date of receipt of the certificate of land use right, the Department of Natural Resources and Environment shall be responsible for sending the certificate of land use right to the land use right registration office for delivery of the certificate to the unit to be issued with such certificate of land use right.

Article 139: Order and procedures for issuance of certificates of land use right to persons being successful at auction of land use right or in tendering for project which will use land

1. The organization which held an auction of a land use right or tendering for a project using land shall be responsible for submitting, on behalf of the successful party in the auction or tendering, a file in one set, comprising:

(a) Document recognizing the successful bid in the auction of land use rights and the successful tender in tendering for a project using land pursuant to the law on auction of land use rights;

(b) Extract of the cadastral map, or of the cadastral measurements of the land area with respect to areas where there is no cadastral map;

(c) Document evidencing discharge of financial obligations (if any).

2. Within a time-limit of five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verifying the file; making an extract of the cadastral map, or of the cadastral measurements of the parcel of land with respect to areas where there is no cadastral map, and an extract of the cadastral file; and for sending them together with the file to the natural resources and environment body at the same level.

3. Within a time-limit of ten (10) working days from the date of receipt of the file, the Department of Natural Resources and Environment shall be responsible for signing a certificate of land use right in accordance with its delegated authority; or the Division of Natural Resources and Environment shall be responsible for forwarding a submission to the people's committee at the same level for signing a certificate of land use right; and the natural resources and environment body shall send the signed certificate of land use right to the land use right registration office under its authority for delivery to the successful party in the auction or tendering.

Article 140: Order and procedures for issuance of certificates of land use right to persons receiving land use right in cases stipulated in clauses 1(k) and 1(l) of article 99 of this Decree

1. A person receiving a land use right shall submit a file in one set, comprising:

(a) One of the following types of documents: a record of the result of conciliation of a land dispute recognized by the competent level people's committee; or the agreement contained in a contract of mortgage or contract of guarantee to realize the debt; or an administrative decision of a competent State body resolving a complaint or denunciation relating to land; or a transcript of the judgment or decision of a people's court or a decision on enforcement of a judgment enforcement body; or a legal document recognizing the results of auction of a land use right in accordance with law; or a legal instrument on separation of the land use right in accordance with law applicable to family households or a group of individuals with a common land use right; or a decision of a competent body or organization on division or merger of an organization; or a legal instrument on division or merger of an economic organization consistent with law;

(b) Document evidencing the discharge of financial obligations (if any).

2. Within a time-limit of five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verifying the file; for making an extract of the cadastral map, or of the cadastral measurements of the parcel of land with respect to areas where there is no cadastral map, and an extract of the cadastral file; and for sending them together with the file to the natural resources and environment body at the same level.

3. Within a time-limit of ten (10) working days from the date of receipt of the file, the Department of Natural Resources and Environment shall be responsible for signing a certificate of land use right in accordance with its delegated authority; or the Division of Natural Resources and Environment shall be responsible for forwarding a submission to the people's committee at the same level for signing a certificate of land use right.

Article 141: *Order and procedures for extension of term of land use by economic organizations, Vietnamese residing overseas, foreign organizations and foreign individuals using land; by family households and individuals using non-agricultural land; by*

familyhouseholds and individuals directly engaged in agricultural production and using agricultural land leased by the State

1. Six months prior to the expiry of the term of land use, a land user with a requirement for extension of the term of land use shall submit a file in one set to the Department of Natural Resources and Environment in the case of economic organizations, Vietnamese residing overseas, and foreign organizations and foreign individuals; and to the Division of Natural Resources and Environment in the case of family households and individuals. The file shall comprise:

(a) Application for extension of the term of land use for up to twelve (12) months in cases of family households and individuals, economic organizations, Vietnamese residing overseas, and foreign organizations and foreign individual;

(b) Approved additional production or business project in cases of economic organizations, Vietnamese residing overseas, and foreign organizations and foreign individuals together with the application for an extension of the term of land use for more than twelve (12)

months. The competent State body authorized to consider and approve investment projects shall consider and approve additional projects in cases of projects using capital from the State Budget and projects with foreign invested capital. The Department of Planning and Investment shall consider and approve additional projects in cases of non-agricultural production or business projects not using capital from the State Budget and projects other than projects with foreign invested capital. The Department of Agriculture and Rural Development shall consider and approve additional projects in cases of agricultural production projects not using capital from the State Budget and projects other than those with foreign invested capital.

2. Extensions shall be regulated as follows:

(a) The natural resources and environment body shall be responsible for verifying the file and determining the requirement for land use on the basis of the application for extension of the term of land use or on the basis of the approved additional production or business project, and shall forward a submission to the people's committee at the same level for decision on

extension of the term of land use; and shall direct the land use right registration office under its authority to make an extract of the cadastral file.

(b) The land use right registration office shall be responsible for making an extract of the cadastral file and submitting it to the natural resources and environment body at the same level and sending the cadastral data to the tax authority to determine financial obligations.

(c) The land user shall be responsible for submitting the expired certificate of land use right and a document evidencing discharge of financial obligations to the natural resources and environment body in the case where extension of the term of land use is permitted.

(d) The natural resources and environment body shall be responsible for amending the term of land use in the certificate of land use right in the case where extension of the term of land use is permitted.

(dd) The time-limit for performance of the tasks stipulated in subclauses (a), (b), (c) and (d) of this clause shall not exceed twenty (20) working days (excluding the duration for discharge by the land user of its financial obligations) from the date on which the natural resources and environment body receives a complete and valid file to the date on which the land user receives a certificate of land use right.

3. Where all conditions for extension of a term of land use are not satisfied, the natural resources and environment body shall recover the land in accordance with clause 3 of article 132 of this Decree.

Article 142: Order and procedures for extension of term of land use in high-tech zones and economic zones

1. Six months prior to the expiry of the term of land use, a land user with a requirement for further land use shall submit a file in one set, comprising:

(a) Application for extension of the term of land use;

(b) Approved additional production or business project in the case of application for extension of the term of land use for more than twelve (12) months. The competent State body authorized to consider and approve investment projects shall consider and approve

additional projects in the case of projects using capital from the State Budget and projects with foreign invested capital.

The management committee of a high-tech zone or economic zone shall consider and approve additional projects in the case of projects not using capital from the State Budget and projects other than those with foreign owned capital.

2. Extension of the term of land use shall be regulated as follows:

(a) Within a time-limit of seven working days from the date of receipt of the application file for extension of the term of land use, the management committee of the high-tech zone or economic zone shall be responsible for considering and making a decision on extension of the re-allocation or land lease contract; and for providing notification to the land user which is granted an extension of the term of land use to discharge its financial obligations.

(b) Within a time-limit of five working days from the date of expiry of the term of land use, the land user shall be responsible for returning the expired certificate of land use right and a document evidencing discharge of financial obligations in the case where extension of the term of land use is permitted by the management committee of the high-tech zone or economic zone.

(c) Within a time-limit of five working days from the date of receipt of the expired certificate of land use right and financial documents, the management committee shall be responsible for forwarding them to the natural resources and environment body for amendment of the certificate of land use right.

(d) Within a time-limit of seven working days from the date of receipt of such certificate of land use right and financial documents, the natural resources and environment body shall be responsible for amending the term of land use stated in the certificate of land use right and for forwarding it to the management committee of the high-tech zone or economic zone.

(dd) Within a time-limit of five working days from the date of receipt of such certificate of land use right, the management committee of the high-tech zone or economic zone shall be responsible for delivering it to the land user which is granted an extension of the term of land use.

3. Where all conditions for extension of the term of land use are not satisfied, the natural resources and environment body shall recover land in accordance with clause 3 of article 132 of this Decree.

Article 143: Order and procedures for registration of changes in land use due to name change, due to reduction in land area due to a natural landslide, or due to changes in rights or changes in financial obligations

1. A land user with a requirement for registration of a change in land use shall submit a file in one set, comprising:

- (a) Application for registration of a change in land use;
- (b) Certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any);
- (c) Other lawful documents relating to registration of the change in land use.

2. Registration of changes in land use shall be regulated as follows:

- (a) Within a time-limit of ten (10) working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verifying the file and making its certification on the application for registration of a change in land use; for making an extract of the cadastral measurements of the parcel of land in the case of changes of the land area caused by a natural landslide and an extract of the cadastral file and sending them together with the application file for registration of a change to the natural resources and environment body at the same level.
- (b) Within a time-limit of seven working days from the date of receipt of a file, the natural resources and environment body shall be responsible for amending the certificate of land use right.

Article 144: Order and procedures for re-issuance of certificate of land use right or for issuance of replacement certificate of land use right

1. A land user with a requirement for issuance of a new or replacement certificate of land use right shall submit a file in one set, comprising:

- (a) Application for issuance of a new or replacement certificate of land use right;
- (b) Certificate of land use right in the case of issuance of a replacement certificate.

2. Issuance of a new or replacement certificate of land use right shall be regulated as follows:

(a) The land use right registration office shall be responsible for verifying the file; for making an extract of the cadastral map, or an extract of the cadastral measurements of the parcel of land if there is no cadastral map, and an extract of the cadastral file; for making its certification on the application for issuance of a new or replacement certificate of land use right; for sending the extract of the cadastral map and the extract of the cadastral file together with the application file for issuance of a new or replacement certificate of land use right to the natural resources and environment body at the same level.

(b) The Department of Natural Resources and Environment shall be responsible for signing a certificate of land use right in accordance with its delegated authority; or the Division of Natural Resources and Environment shall be responsible for forwarding a submission to the people's committee at the same level for signing a certificate of land use right.

(c) The time-limit for performance of the tasks stipulated in subclauses (a) and (b) of this clause shall not exceed twenty eight (28) working days from the date on which the land use right registration office receives a complete and valid file to the date on which the land user receives a certificate of land use right. In the case of application for issuance of a replacement certificate of land use right arising due to the loss of the certificate, the land use right registration office shall be entitled to an additional period of forty (40) working days, of which ten (10) working days shall be for inspection of the contents of the lost certificate of land use right and thirty (30) days shall be for display of a notice of the loss of the certificate of land use right at the land use right registration office and at the office of the people's committee of the commune, ward or township where the land is situated.

Article 145: Order and procedures for land separation or land consolidation

1. An application file for land separation or land consolidation shall comprise:

(a) Application by a land user for land separation or land consolidation in the case where the land user has such a requirement because he exercises rights in relation to one part only of a parcel of land; or decision from the competent State body on recovery of one part only of a parcel of land; or one of the types of documentation stipulated in clause 1(a) of article 140 of this Decree when only one part of a parcel of land is affected;

(b) Certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Land separation or land consolidation at the request of a land user shall be implemented as follows:

(a) The applicant shall submit a file in one set to the Department of Natural Resources and Environment where the land user is an organization, religious organization, Vietnamese residing overseas, foreign organization or foreign individual; and shall submit a file in one set to the Division of Natural Resources and Environment where the land user is a family household or individual.

(b) Within a time-limit of seven working days from the date of receipt of a complete and valid file, the natural resources and environment body shall be responsible for sending the file to the land use right registration office in order for the latter to prepare a cadastral file.

(c) Within a time-limit of ten (10) working days from the date of receipt of the file, the land use right registration office shall be responsible for making an extract of the cadastral map, or an extract of the cadastral measurements of the parcel of land if there is no cadastral map, and an extract of the cadastral file; and for sending such documents to the natural resources and environment body at the same level.

(d) Within a time-limit of ten (10) working days from the date of receipt of the extract of the cadastral map and extract of the cadastral file, the Division of Natural Resources and Environment shall be responsible for retrieving the issued certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, and for forwarding a submission to the people's committee at the same

level for signing a certificate of land use right for the new parcel of land; and the Department of Natural Resources and Environment shall be responsible for retrieving the issued certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, and for signing a certificate of land use right for the new parcel of land if authority has been delegated to such Department or, if not so authorized, it shall make a submission to the people's committee at the same level for signing a certificate of land use right for the new parcel of land.

(dd) Within a time-limit of ten (10) working days from the date of receipt of the submission, the people's committee at the same level shall be responsible for signing a certificate of land use right for the new parcel of land and sending it to the natural resources and environment body under its administration, unless authority has been delegated to the Department of Natural Resources and Environment.

(e) Within a time-limit of five working days from the date of signing the certificate of land use right for the new parcel of land, the natural resources and environment body shall be responsible for delivering the original certificate for the new parcel land to the land user and for sending a copy of the certificate of land use right for the new parcel of land together with the retrieved certificate and any retrieved documentation of land use right as stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* to the land use right registration office under its administration; and shall send a notice of change in land use to the land use right registration office under the Department of Natural Resources and Environment in order for the original cadastral file to be amended.

3. Land separation or land consolidation in the case where the State recovers one part only of a parcel of land or in the case as stipulated in clause 5(dd) of article 41 of this Decree shall be implemented as follows:

(a) Based on the decision on land recovery or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, the natural resources and environment body shall be responsible for preparing the file on land separation or land consolidation as stipulated in clause 1 of this article.

(b) Land separation or land consolidation shall be implemented as stipulated in clauses 2(b), (c), (d), (dd) and (e) of this article.

SECTION 3

Order and Administrative Procedures when Land Users Exercise their Rights

Article 146: *Contracts relating to land use rights*

1. Contracts for exchange, assignment, lease and sub-leasing of land use rights; and contracts or lawful documents for donation of land use rights; and contracts for mortgage, guarantee and capital contribution using land use rights; and lawful documents for bequest of land use rights shall be the documents prepared by the relevant parties provided that they are not contrary to civil law.

2. Where a land use right is common to a family household, contracts for exchange, assignment, lease and sub-leasing of land use rights; and contracts or lawful documents for donation of land use rights; and contracts for mortgage, guarantee and capital contribution using land use rights must be agreed by all members of the household with full civil capacity and must be signed by all members of the household or their proxies authorized in writing in accordance with civil law.

3. Where a land use right is common to a group of land users, contracts for assignment, lease and sub-leasing of land use rights; and contracts or lawful documents for donation of land use rights; and contracts for mortgage, guarantee and capital contribution using land use rights must be agreed by all members of the group and must be signed by all members of the group or their proxies authorized in writing in accordance with civil law.

4. Contracts for exchange, assignment, lease and sub-leasing of land use rights; and contracts or lawful documents for donation of land use rights; and contracts for mortgage, guarantee and capital contribution using land use rights shall be effective as from the date of registration at the land use right registration office. The order of priority in payment of obligations relating to land use rights shall be the time order of registration at the land use right registration office.

To the extent that they relate to land use rights, wills, minutes of distribution of inheritances and documents undertaking to make donations shall be effective in accordance with civil law.

Article 147: Order and procedures for family households and individuals to exchange agricultural land use rights

1. Cases of exchange of land pursuant to the general policy of "merger of land by exchanging blocks" shall be implemented as follows:

(a) Households and individuals using agricultural land shall be permitted to make their own agreement to exchange their agricultural land use rights; and shall submit such agreement together with their certificates of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

(b) The people's committee of the commune, ward or township shall prepare a general plan on exchange of agricultural land use rights to be applied to the whole locality (including a schedule for implementing same) and deliver the plan to the Division of Natural

(c) The Division of Natural Resources and Environment shall check the plan and instruct the land use right registration office under its management to prepare a cadastral file.

(d) The land use right registration office shall be responsible for making an extract of the cadastral map, or of the cadastral measurements of the parcel of land with respect to areas where there is no cadastral map, and an extract of the cadastral file, and for sending them to the Division of Natural Resources and Environment.

(dd) The Division of Natural Resources and Environment shall be responsible for appraising the file and submitting it to the people's committee at the same level to make a decision.

(e) The people's committee of the district, town and provincial city shall be responsible to consider and sign certificates of land use right for the exchanged parcels of land and to send them to the Division of Natural Resources and Environment.

2. The order and procedures for exchange of agricultural land use rights between two family households or individuals shall be implemented as follows:

(a) A household or individual wishing to exchange agricultural land use rights shall submit an application file in one set, comprising a contract of exchange of agricultural land use rights, the certificates of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

(b) Within two working days from the date of receipt of a complete and valid file, the people's committee of the commune, ward or township shall send the file to the land use right registration office under the Division of Natural Resources and Environment.

(c) Within three working days from the date of receipt of a complete and valid file, the land use right registration office shall make a copy of the cadastral file and amend the certificates of land use right or issue new certificates of land use right where necessary.

Article 148: Order and procedures for assignment of land use rights

1. A recipient of an assignment of a land use right shall submit a file in one set, comprising:

(a) Contract of assignment of land use right;

(b) Certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Assignment of a land use right shall be implemented as follows:

(a) Within four working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verifying the file; for making a copy of the cadastral file and for sending the cadastral data to the tax authority to determine the financial obligations; and for amending the issued certificate of land use right or conducting procedures for issuing a new certificate where necessary.

(b) Within three working days from the date of receipt of a notice on financial obligations, the land use right registration office or the people's committee of the commune, ward or township shall notify both parties to the assignment of such financial obligations.

(c) Within three working days from the date on which both parties to the assignment discharge in full the financial obligations, the land use right registration office or the people's

committee of the commune, ward or township shall deliver a certificate of land use right to the recipient of the assignment of the land use right.

Article 149: Order and procedures for registration of leasing and sub-leasing out land use rights

1. A lessor or sub-lessor of a land use right shall submit a file in one set, comprising:

(a) Contract of lease or sub-lease of land use right;

(b) Certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Within five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for registering the lease or sub-lease of the land use right on the cadastral file and for amending the issued certificate of land use right or conducting procedures for issuing a new certificate where necessary.

3. The order and procedures for registration of lease and sub-lease of a land use right as stipulated in this article shall not apply to industrial zones.

Article 150: Order and procedures for de-registration of leasing and subleasing out land use rights

1. Upon expiry of effectiveness of a contract of lease or sub-lease of a land use right, the lessor or sub-lessor of the land use right shall submit a file in one set, comprising:

(a) Confirmation of liquidation of the contract of lease or sub-lease in the case of a signed contract, or minutes of liquidation of the contract of lease or sub-lease;

(b) Certificate of land use right.

2. Within five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for deregistration of leasing or sub-leasing out of the land use right on the cadastral file, and for amending the certificate of land use right.

Article 151: Order and procedures for inheritance of land use rights

1. A person inheriting a land use right shall submit a file in one set, comprising:

(a) Will; minutes of distribution of inheritance; effective judgment or decision of a people's court resolving a dispute relating to inheritance of the land use right; or application from a person inheriting the land use right when such person is the sole heir;

(b) Certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Registration of inheritance of a land use right shall be implemented as follows:

(a) Within four working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verifying the file; for making a copy of the cadastral file and for sending the cadastral data to the tax authority to determine the financial obligations (if any); and for amending the issued certificate of land use right or conducting procedures for issuing a new certificate where necessary.

(b) Within three working days from the date of receipt of a notice on financial obligations, the land use right registration office or the people's committee of the commune, ward or township shall notify the heir to discharge the financial obligations in accordance with law.

(c) Within three working days from the date of discharge in full by the heir of its financial obligations, the land use right registration office or the people's committee of the commune, ward or township shall deliver a certificate of land use right to the heir.

Article 152: Order and procedures for donation of land use rights

1. A person receiving a land use right as a donation shall submit a file in one set, comprising:

(a) Lawful document on donation of the land use right, being the undertaking, contract or decision from an organization;

(b) Certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Donation of a land use right shall be implemented as follows:

(a) Within four working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verifying the file; for making a copy of the cadastral file and for sending the cadastral data to the tax authority to determine any

financial obligations (if any); and for amending the issued certificate of land use right or conducting procedures for issuing a new certificate where necessary.

(b) Within three working days from the date of receipt of a notice on the financial obligations, the land use right registration office or the people's committee of the commune, ward or township shall notify the donee to discharge its financial obligations.

(c) Within three working days from the date of discharge in full by the donee of its financial obligations, the land use right registration office or the people's committee of the commune, ward or township shall deliver a certificate of land use right to the donee.

Article 153: Order and procedures for registration of mortgages and guarantees using land use rights

1. Within five working days from the date of signing a credit contract, both parties to a mortgage or guarantee using a land use right shall submit a file in one set, comprising:

(a) Contract of mortgage or guarantee using the land use right;

(b) Certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Within five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for registering the mortgage or guarantee in the cadastral file and for amending the issued certificate of land use right or conducting procedures for issuing a new certificate where necessary.

3. Registration of changes to registered mortgages and guarantees and correction of errors in registration of mortgages and guarantees shall follow the same order and procedures for registration of mortgages and guarantees using a land use right as stipulated in clause 2 of this article.

Article 154: Order and procedures for de-registration of mortgages and guarantees using land use rights

1. Upon discharge in full of repayment of the debt, the mortgagor or guarantor using a land use right shall submit a file in one set, comprising:

(a) Confirmation from the beneficiary of the mortgage or person guaranteed of discharge in full of repayment of the debt provided for in the contract of mortgage or guarantee using a land use right;

(b) Certificate of land use right.

2. Within five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for checking that there has been discharge in full of repayment of the debt provided for in the contract of mortgage or guarantee, and for de-registration of the mortgage or guarantee on the cadastral file, and for amending the certificate of land use right.

3. Registration of cancellation of the registration of mortgages and guarantees using land use rights; results of realization of assets secured by mortgages or guarantees using land use rights shall follow the same order and procedures for de-registration of mortgages and guarantees using land use rights as stipulated in clauses 1 and 2 of this article.

Article 155: Order and procedures for registration of capital contribution using land use rights

1. A capital contributor using a land use right shall submit a file in one set, comprising:

(a) Contract of capital contribution using land use right;

(b) Certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any).

2. Within ten (10) working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for evaluating the file, registering the capital contribution using the land use right in the cadastral file, and for amending the issued certificate of land use right or conducting procedures for issuing a new certificate where necessary.

Article 156: Order and procedures for de-registration of capital contribution using land use rights

1. One or both parties to a capital contribution using a land use right shall submit a file in one set, comprising:

(a) Contract of termination of capital contribution;

(b) Certificate of land use right.

2. In the case of de-registration of capital contribution where the certificate of land use right was amended only on the original occasion of the capital contribution (because there was no change to the parcel of land), within five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for checking the file and for de-registering the capital contribution on the cadastral file, and for amending the certificate of land use right.

3. In the case of de-registration of capital contribution where a certificate of land use right was issued to a new legal entity on the original occasion of the capital contribution (because there was a change to the parcel of land):

(a) Within three working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for making a copy of the cadastral file and sending it to the Department of Natural Resources and Environment.

(b) Within five working days from the date of receipt of the file, the Department of Natural Resources and Environment shall amend the certificate of land use right (if there is no change to the parcel of land) or retrieve the certificate of land use right issued to the new legal entity (if there was a change to the parcel of land); and if the capital contributor was an economic organization, a Vietnamese residing overseas or a foreign organization or foreign individual and the land use term has not yet expired despite termination of capital contribution, it shall sign a certificate of land use right for issuance to the capital contributor and send it to the land use right registration office under such Department; and if the capital contributor was a family household or individual and the land use term has not yet expired despite termination of capital contribution, it shall send the certificate of land use right retrieved from the new legal entity to the Division of Natural Resources and Environment where the land is situated.

(c) Within three working days from the date of receipt of the file, the Division of Natural Resources and Environment shall be responsible for checking the file and submitting it to the people's committee at the same level to issue a decision issuing a certificate of land use right to the capital contributor being a family household or individual having a land use term which has not yet expired.

(d) Within three working days from the date of receipt of the submission, the people's committee of the district, town and provincial city shall consider and sign a certificate of land use right.

4. If the term of land use expired at the same time as termination of capital contribution but the capital contributor has a requirement to continue to use the land, articles 141 and 142 of this Decree shall apply to any application for extension of the term of land use; but if the capital contributor does not apply for an extension of or is not permitted to extend the term of land use, the natural resources and environment body shall recover the land pursuant to clause 3 of article 132 of this Decree.

Article 157: Order and procedures for registration of receipt of land use rights as result of realization by enforcement of contracts of mortgage, guarantee or capital contribution using land use rights or as result of attachment and auction of land use rights

1. An organization which has realized a land use right which was mortgaged, guaranteed or used to make a capital contribution or which has attached and auctioned a land use right in order to conduct enforcement of a court decision in accordance with law shall represent the recipient of the land use right and shall submit a file in one set, comprising:

(a) Contract of mortgage, guarantee or capital contribution using a land use right, or the court decision on attachment and auction of a land use right;

(b) Certificate of land use right, or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land* (if any);

(c) Document evidencing discharge of financial obligations (if any);

(d) Legal document recognizing the results of auction.

2. Registration of receipt of a land use right shall be implemented as follows:

(a) Within five working days from the date of receipt of a complete and valid file, the land use right registration office shall be responsible for verifying the file; and for making a copy of the cadastral map, or an extract of the cadastral measurements of the area of land if there is no cadastral map, and a copy of the cadastral file and shall forward them to the natural resources and environment body at the same level.

(b) Within five working days from the date of receipt of the file, the natural resources and environment body shall amend the issued certificate of land use right or conduct procedures to issue a new certificate of land use right where necessary.

Article 158: Order and procedures for purchase, sale, leasing out, inheritance and donation of assets attached to land; for mortgage, guarantee or capital contribution using assets attached to land

1. The order and procedures for purchase, sale, leasing out, inheritance and donation of residential housing and other buildings and forest trees and perennial crops belonging to a land user and attached to land; and for mortgage, guarantee or capital contribution using residential housing and other buildings and forest trees and perennial crops belonging to a land user and attached to land shall be implemented in the same manner as assignment of land use rights, leasing and sub-leasing out of land use rights, inheritance of land use rights, donation of land use rights, mortgages and guarantees using land use rights, and capital contribution using land use rights as stipulated in articles 148, 149, 151, 152, 153 and 155 of this Decree.

2. The Ministry of Justice shall preside over co-ordination with the Ministry of Natural Resources and Environment and other relevant bodies to provide guidelines on exercise of rights for purchase, sale, leasing out, inheritance and donation of assets attached to land; and for mortgage, guarantee or capital contribution using assets attached to land.

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CHAPTER XII

Resolution of Land-Related Disputes and Complaints

Article 159: Conciliation of land-related disputes

1. Parties to a land-related dispute must be proactive in meeting each other to conciliate the dispute. If an agreement is not able to be reached, the dispute must be referred to conciliation.
2. Where parties to a land-related dispute have not been able to resolve it by way of their own conciliation, they shall submit an application for conciliation to the people's committee of the ward, commune or township where the land is situated. Minutes of conciliation shall be made and signed by the parties and certified by the people's committee, whether or not the conciliation is successful. Minutes of conciliation shall be sent to the disputing parties and filed at the relevant people's committee.
3. Where a successful conciliation changes the status of boundaries of or the owner using a parcel of land, the people's committee of the ward, commune or township shall send the minutes of conciliation to the Division of Natural Resources and Environment in the case of a dispute arising amongst households, individuals or communities of citizens; or to the Department of Natural Resources and Environment in other cases. The Division of Natural Resources and Environment or the Department of Natural Resources and Environment shall make a submission to the people's committee at the same level to recognize any change in boundaries of the parcel of land and to issue a new certificate of land use right.

Article 160: Authority to resolve land-related disputes when disputing parties do not have documentation of land use right

In the case of a land-related dispute when the disputing parties do not have a certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, the disputing parties must go to the administrative authority to try to resolve the dispute. The administrative authority shall act as follows:

1. The chairman of the people's committee of the district, town or provincial city shall resolve a land-related dispute arising between family households, individuals or communities of citizens. If the disputing parties disagree with the decision of the chairman of the people's committee of the district, town or provincial city, they shall have the right to petition the

chairman of the people's committee of the province or city under central authority and his or her decision on resolution of the dispute shall be final.

2. The chairman of the people's committee of the province or city under central authority shall resolve a land-related dispute arising between organizations, religious organizations, Vietnamese residing overseas, foreign organizations and foreign individuals; or between an organization, religious organization, Vietnamese residing overseas, foreign organization or foreign individual and a family household, individual or community of citizens.

If the parties in dispute disagree with the decision of the chairman of the people's committee of the province or city under central authority, they shall have the right to petition the Minister of Natural Resources and Environment and his or her decision on resolution of the dispute shall be final.

Article 161: Grounds for resolution of land-related disputes when disputing parties do not have documentation of land use right

In the case of a land-related dispute when the disputing parties do not have a certificate of land use right or one of the types of documentation of land use right stipulated in clauses 1, 2 and 5 of article 50 of the *Law on Land*, the grounds for resolution of such dispute shall be as follows:

1. Evidence provided by the disputing parties as to the origin and history of the particular land use.
2. Opinion of the advisory council on dispute resolution of the commune, ward or township as established by the people's committee of the commune, ward or township and composed of:
 - (a) The chairman or deputy chairman of the people's committee of the commune, ward or township, acting as president of the advisory council;
 - (b) A representative of the local Vietnam Fatherland Front;
 - (c) Head of the citizens group in an urban area or head of the village in a rural area;

(d) A representative of any households which have lived many years in the locality and have knowledge of the origin and history of the particular land use;

(dd) The cadastral officer and legal officer of the people's committee of the commune, ward or township.

3. Other land which the disputing parties are actually using and is not in dispute, and the average area of land held in the locality by each member of a household.

4. Conformity of the status quo of use of the land in dispute with approved detailed land use zoning.

5. State policy on preferences for persons having contributed to the State.

6. Law on land allocation and land lease.

Article 162: *Complaints relating to administrative decisions and administrative acts*

1. Complaints shall be permitted to be made relating to the following administrative decisions during the course of land management:

(a) Decisions on allocation, leasing out, recovery or requisition of land; decisions on permission for conversion of land use purpose;

(b) Decisions on payment of compensation, on site clearance, on financial assistance and resettlement;

(c) Decisions on issuance or retrieval of certificates of land use right;

(d) Decisions on extension of land use term.

2. Complaints shall be permitted to be made relating to administrative acts of State employees and officials when carrying out their duties relating to land management as referred to in clause 1 of this article.

Article 163: *Order for dealing with complaints relating to administrative decisions of people's committees of districts, towns and provincial cities; and relating to administrative acts of State employees and officials of people's committees of communes, wards and townships, of Divisions of Natural Resources and Environment and of people's committees of districts, towns and provincial cities*

1. No later than thirty (30) days after the date on which the people's committee of a district, town or provincial city issues an administrative decision relating to land management or after the date on which an employee or official of a people's committee of a commune, ward or township or of a Division of Natural Resources and Environment or of the people's committee of a district, town or provincial city commits an administrative act during the course of land management, where a person with related interests and obligations is dissatisfied with such administrative decision or act, such person may lodge a complaint with the people's committee of the district, town or provincial city.

2. The chairman of the people's committee of the district, town or provincial city shall resolve the complaint within the time-limit stipulated in the *Law on Complaints and Denunciations*.

The decision on resolution of a complaint by the chairman of a people's committee of a district, town or provincial city shall be publicized and sent to the complainant and other persons with related interests and obligations.

3. Where a complainant is dissatisfied with the decision on resolution of a complaint by the chairman of a people's committee of a district, town or provincial city, no later than forty five (45) days after the date of such decision, the complainant may institute legal proceedings at a people's court or may petition the chairman of the people's committee of the province or city under central authority. In the case of petition to the chairman of the people's committee of the province or city under central authority, the chairman of the people's committee of the province or city under central authority shall resolve the complaint within the time-limit stipulated in the *Law on Complaints and Denunciations* and his or her decision shall be final. The decision on resolution of a complaint by the chairman of a people's committee of the province or city under central authority shall be displayed publicly and sent to the complainant and other persons with related interests and obligations.

4. Any body receiving a complaint shall record it in a book for monitoring resolution of complaints.

Article 164: *Order for dealing with complaints relating to administrative decisions of Departments of Natural Resources and Environment and of people's committees of provinces and cities under central authority; and relating to administrative acts of State*

employees and officials of Departments of Natural Resources and Environment and of people's committees of provinces and cities under central authority

1. No later than thirty (30) days after the date on which the Department of Natural Resources and Environment or the people's committee of a province or city under central authority issues an administrative decision relating to land management or after the date on which an employee or official of a Department of Natural Resources and Environment or of a people's committee of a province or city under central authority commits an administrative act during the course of land management, where a person with related interests and obligations is dissatisfied with such administrative decision or act, such person may lodge a complaint with the people's committee of the province or city under central authority.

2. The chairman of the people's committee of the province or city under central authority shall resolve the complaint within the time-limit stipulated in the *Law on Complaints and Denunciations*.

The decision on resolution of a complaint by the chairman of a people's committee of a province or city under central authority shall be displayed publicly and sent to the complainant and to other persons with related interests and obligations.

3. Where a complainant is dissatisfied with a decision on resolution of a complaint by the chairman of a people's committee of a province or city under central authority, no later than forty five (45) days after the date of issuance of such decision, the complainant may institute legal proceedings at a people's court.

4. Any body receiving a complaint shall record it in a book for monitoring resolution of complaints.

Article 165: *Dealing with complaints relating to administrative decisions and administrative acts not covered by article 162 of this Decree*

The *Law on Complaints and Denunciations* shall apply to resolution of administrative decisions and administrative acts not covered by article 162 of this Decree.

CHAPTER XIII

Identifying and Dealing with Breaches of

Law on Land by Administrators

SECTION 1

Principles for Dealing with Breaches, Forms of Discipline, and Measures of Imposing Liability of Administrators for Material Loss

Article 166: *Individuals subject to penalties*

1. The head of an organization or the head of an authorized body who, while making decisions on land management, commits a breach of the law on land.
2. Employees or officials of land management bodies at all levels and cadastral officers of communes, wards and townships who commit breaches of regulations on administrative order and procedures relating to land management.
3. The head and any employee or official of an organization to which land is allocated by the State for management as referred to in clause 1 of article 3 of this Decree who commits a breach of the law on land in respect of the allocated land.

Article 167: *Principles for dealing with breaches*

1. All breaches must be detected, prevented and dealt with in a timely manner. Imposition of disciplinary action and decisions on liability for material loss must be conducted in a prompt, transparent and complete manner. Any consequences resulting from an offence must be remedied in accordance with this Decree and relevant regulations.
2. Forms of discipline shall be applied independently. Measures of imposing liability for material loss shall be applied at the same time as the form of discipline for offences in accordance with this Decree. The nature and level of the form of discipline shall depend on the nature and seriousness of a breach and the personal identity of the offender.
3. Any breaches of the law on land by employees and officials while carrying out their duties relating to land management but not covered by Section 2 of this Chapter shall be subject to discipline and liability for material loss in accordance with the relevant law.
4. Only an authorized person shall decide on imposition of disciplinary action and liability for material loss.

5. Only one form of discipline shall apply to each offence. Where a number of persons jointly commit one offence, a form of discipline shall be imposed on each person. Where one person commits a number of offences concurrently, a form of discipline shall be imposed for each offence and a higher level of discipline shall apply than that for the most serious offence amongst the number of offences.

6. The limitation period for imposing a form of discipline relating to land management shall be three months from the date on which an offence is identified; where an offence contains complicated elements and requires time for investigation and verification, the limitation period may be extended provided that it does not exceed six months, except in the circumstances provided for in clause 4 of article 9 of Decree 97-1998-NDCP of the Government dated 17 November 1998.

Where, within the limitation period for imposing a form of discipline, an individual commits a new offence which belongs to one of the offences provided for in this Decree or tries to evade or obstruct enforcement of a form of discipline, the limitation period shall be recalculated from the date on which the new offence occurs or the offender stops evading or obstructing enforcement of the form of discipline.

7. Where an offence is identified as containing a criminal element, the offender shall be subject to criminal prosecution in accordance with the *Criminal Code*.

Article 168: *Forms of discipline and methods of imposing liability for material loss*

1. Forms of discipline shall comprise the following:

- (a) Reprimand;
- (b) Warning;
- (c) Wage reduction;
- (d) Demotion;
- (dd) Removal from office;
- (e) Compulsory retrenchment.

2. Measures of imposing liability for material loss shall comprise the following:

- (a) Being ordered to pay compensation to the State for loss, or to persons suffering loss, caused by the offence;
- (b) Being ordered to reimburse to a body the amount of compensation paid by such body to persons suffering loss caused by the offence.

SECTION 2

Conduct Constituting Breach and Forms of Discipline

Applicable to Administrators

Article 169: Breaches of regulations on cadastral files and administrative boundary markers

1. The following acts or conduct shall constitute a breach of regulations on cadastral files and administrative boundary markers:

- (a) Writing errors into a scheme for administrative demarcation landmarks, a table of coordinates of administrative demarcation landmarks or a minute of hand-over of administrative demarcation landmarks;
- (b) Setting up improperly on-site demarcation landmarks.

2. Forms of discipline shall comprise the following:

- (a) Where any offence referred to in clause 1(a) of this article is committed, if it was as a result of irresponsibility, a reprimand shall apply, with a warning applicable in the case of a repeat of such offence; and a wage reduction shall apply to a deliberate offence, with demotion applicable in the case of a repeat of a deliberate offence;
- (b) Where any offence referred to in clause 1(b) of this article is committed, if it was as a result of irresponsibility, a warning shall apply, with a wage reduction applicable in the case of a repeat of such offence; and a demotion shall apply to a deliberate offence, with removal from office or compulsory retrenchment applicable in the case of a repeat of a deliberate offence.

Article 170: Breaches of regulations on land use zoning and planning

1. The following acts or conduct shall constitute a breach of regulations on land use zoning and planning:

(a) Failure to proclaim or delay in proclamation of approved detailed land use zoning and planning; failure to proclaim or delay in proclamation of amended or rescinded land use planning; writing errors into or losing maps of detailed land use zoning;

(b) Setting up improperly on-site detailed land use zoning limiting landmarks;

(c) Allowing immovable assets to be constructed or invested in contrary to detailed land use zoning and planning in a land area which must be recovered for implementing approved detailed land use zoning and planning.

2. Forms of discipline shall comprise the following:

(a) Where any offence referred to in clause 1(a) of this article is committed, if it was as a result of irresponsibility, a reprimand shall apply, with a warning applicable in the case of a repeat of such offence; and a wage reduction shall apply to a deliberate offence, with demotion or removal from office applicable in the case of a repeat of a deliberate offence;

(b) Where any offence referred to in clauses 1(b) and 1(c) of this article is committed, if it was as a result of irresponsibility, a reprimand or warning shall apply, with a warning or wage reduction applicable in the case of a repeat of such offence; and a demotion or removal from office shall apply to a deliberate offence, with removal from office or compulsory retrenchment applicable in the case of a repeat of a deliberate offence.

Article 171: Breaches of regulations on allocation or lease of land and on conversion of land use purpose

1. The following acts or conduct shall constitute a breach of regulations on allocation or lease of land and on conversion of land use purpose:

(a) Allocation, re-allocation or lease of land in the incorrect position or allocation, re-allocation or lease of incorrect land area on site;

(b) Allocation, re-allocation or lease of land or providing permission for conversion of land use purpose outside authority, to the incorrect entity, or contrary to proclaimed or approved

detailed land use zoning and planning, including zoning for development of urban areas and rural residential zones.

2. Forms of discipline shall comprise the following:

(a) Where any offence referred to in clause 1(a) of this article is committed, if it was as a result of irresponsibility, a warning shall apply, with a wage reduction applicable in the case of a repeat of such offence; and demotion or removal from office shall apply to a deliberate offence, with removal from office or compulsory retrenchment applicable in the case of a repeat of a deliberate offence;

(b) Where any offence referred to in clause 1(b) of this article is committed, if it was as a result of irresponsibility, a warning or wage reduction shall apply, with a wage reduction or removal from office applicable in the case of a repeat of such offence; and demotion or removal from office shall apply to a deliberate offence, with compulsory retrenchment applicable in the case of a repeat of a deliberate offence.

Article 172: Breaches of regulations on recovery of land

1. The following acts or conduct shall constitute a breach of regulations on recovery of land:

(a) Failure to provide advance notice pursuant to article 39 of the *Law on Land*; failure to provide public notice of plans for compensation and resettlement;

(b) Paying compensation to the incorrect entity, for the wrong area of land or at the incorrect amount; making incorrect entries in a file on land recovery, or fixing on site the incorrect position and area of land to be recovered;

(c) Recovery of land outside authority, from the incorrect entity, or contrary to approved detailed land use zoning and planning.

2. Forms of discipline shall comprise the following:

(a) Where any offence referred to in clause 1(a) of this article is committed, if it was as a result of irresponsibility, a reprimand shall apply, with a warning applicable in the case of a repeat of such offence; and wage reduction shall apply to a deliberate offence, with demotion applicable in the case of a repeat of a deliberate offence;

(b) Where any offence referred to in clause 1(b) of this article is committed, if it was as a result of irresponsibility, a reprimand or warning shall apply, with a warning or wage reduction applicable in the case of a repeat of such offence; and demotion or removal from office shall apply to a deliberate offence, with removal from office or compulsory retrenchment applicable in the case of a repeat of a deliberate offence;

(c) Where any offence referred to in clause 1(c) of this article is committed, if it was as a result of irresponsibility, a warning or wage reduction shall apply, with a wage reduction or demotion applicable in the case of a repeat of such offence; and demotion or removal from office shall apply to a deliberate offence, with compulsory retrenchment applicable in the case of a repeat of a deliberate offence.

Article 173: Breaches of regulations on requisition of land

1. The following acts or conduct shall constitute a breach of regulations on requisition of land:

(a) Paying compensation to the incorrect entity, for the wrong area of land or the incorrect amount, or not making payment in a timely manner to the person having had land requisitioned;

(c) Conducting requisition of land outside the provisions in clause 1 of article 37 of this Decree.

2. Forms of discipline shall comprise the following:

(a) Where any offence referred to in clause 1(a) of this article is committed, if it was as a result of irresponsibility, a reprimand shall apply, with a warning applicable in the case of a repeat of such offence; and wage reduction shall apply to a deliberate offence, with demotion or removal from office applicable in the case of a repeat of a deliberate offence;

(b) Where any offence referred to in clause 1(b) of this article is committed, if it was as a result of irresponsibility, a warning shall apply, with a wage reduction applicable in the case of a repeat of such offence; and demotion shall apply to a deliberate offence, with removal from office or compulsory retrenchment applicable in the case of a repeat of a deliberate offence.

Article 174: Breaches of regulations on management of land which the State allocated for management

1. The following acts or conduct shall constitute a breach of regulations on management of land which the State allocated for management:

- (a) Allowing a temporary land user to use land for an incorrect purpose;
- (b) Using land for an incorrect purpose;
- (c) Allowing land to be invaded, trespassed on, damaged or lost.

2. Forms of discipline shall comprise the following:

- (a) Where any offence referred to in clause 1(a) of this article is committed, a reprimand or warning shall apply, with wage reduction applicable in the case of a repeat of such offence;
- (b) Where any offence referred to in clause 1(b) of this article is committed, a warning shall apply, with wage reduction or removal from office applicable in the case of a repeat of such offence;
- (c) Where any offence referred to in clause 1(c) of this article is committed, a warning or wage reduction shall apply, with demotion or removal from office applicable in the case of a repeat of such offence.

Article 175: Breaches of regulations on implementation of order and administrative procedures for management and use of land

1. The following acts or conduct shall constitute a breach of regulations on implementation of order and administrative procedures for management and use of land:

- (a) Failure to receive complete and valid files or to provide guidelines, causing inconvenience for applicants, failing to note files in the monitoring register;
- (b) Creating administrative procedures which fall outside the actual provisions, causing inconvenience for applicants;
- (c) Conducting administrative procedures improperly, delaying in delivering documents signed by competent bodies to the applicants;

(d) Dealing with administrative procedures in an untimely manner compared to the stipulated time-limits;

(dd) Refusing to implement or failing to implement administrative procedures in accordance with law when applicants have in fact satisfied conditions;

(e) Implementing administrative procedures improperly in terms of authority;

(g) Issuing decisions, writing opinions or certifying documents improperly, resulting in a loss or thereby facilitating applicants to cause a loss to the State, organizations or individuals;

(h) Losing or destroying files, making incorrect entries in files.

2. Forms of discipline shall comprise the following:

(a) Where any offence referred to in clauses 1(a) and 1(c) of this article is committed, if it was as a result of irresponsibility, a reprimand shall apply, with a warning applicable in the case of a repeat of such offence; and wage reduction shall apply to a deliberate offence, with demotion or removal from office applicable in the case of a repeat of a deliberate offence;

(b) Where any offence referred to in clauses 1(b) and (dd) of this article is committed, if it was as a result of irresponsibility, a warning shall apply, with a wage reduction applicable in the case of a repeat of such offence; and demotion shall apply to a deliberate offence, with removal from office or compulsory retrenchment applicable in the case of a repeat of a deliberate offence;

(c) Where any offence referred to in clause 1(d) of this article is committed, if it was as a result of irresponsibility, a reprimand shall apply, with a warning applicable in the case of a repeat of such offence; and wage reduction shall apply to a deliberate offence, with demotion or removal from office applicable in the case of a repeat of a deliberate offence;

(d) Where any offence referred to in clauses 1(e) and (g) of this article is committed, a warning or demotion shall apply, with removal from office or compulsory retrenchment applicable in the case of a repeat of such offence;

(dd) Where any offence referred to in clause 1(h) of this article is committed, if it was as a result of irresponsibility, a reprimand or warning shall apply, with a warning or wage

reduction applicable in the case of a repeat of such offence; and demotion shall apply to a deliberate offence, with removal from office or compulsoryretrenchment applicable in the case of a repeat of a deliberate offence.

Article 176:*Application of measures of imposing liability for material loss*

Any person committing a breach as stipulated in clause 1 of any one of articles 169 to 175 inclusive of this Decree may, in addition to the forms of discipline stipulated in clause 2 of each of articles 169 to 175 inclusive of this Decree, be liable for material loss as stipulated in Decree 97-1998-ND-CP of the Government dated 17 November 1998.

SECTION 3

Authority and Order for Imposing Forms of Discipline on Administrators

Article 177:*Authority and order for imposing forms of discipline*

1. Authority to impose forms of discipline on employees and officials who commit breaches shall comply with the general provisions on management of such employees and officials.
2. The order for imposing forms of discipline and liability for material loss shall comply with Decrees 96-1998-ND-CP and 97-1998-ND-CP of the Government both dated 17 November 1998.
3. Where an employee or official has been disciplined but it is identified that it would be contrary to interest if he or she continued to hold the position in which he or she committed such breach, the authorized body shall arrange another job for such employee or official.
4. If, during the process of imposing forms of discipline on an employee or official, such employee or official is identified as having committed a crime, the authorized person shall request the authorized body to institute criminal prosecution.

Article 178:*Rights of persons being disciplined*

1. Any employee or official who is disciplined shall have the right to lodge a complaint against a decision or to make a denunciation relating to an abuse of power.
2. Complaints against a penalty decision or any denunciation referred to in clause 1 of this article shall be resolved in accordance with the *Law on Complaints and Denunciations*.

Article 179: Dealing with breaches of law on land by administrators which were committed before the date of effectiveness of this Decree

1. Any breaches dealt with before the date of effectiveness of this Decree shall not be governed by this Decree.
2. Any breaches occurring before the date of effectiveness of this Decree which are discovered but which have not been dealt with shall be resolved in accordance with the law on State employees and officials.

SECTION 4

Detecting and Dealing with Breaches of Law on Land

Article 180: Receiving information and recommendations from organizations and citizens relating to breaches of law on land

1. People's committees and land management bodies at all levels shall publish their direct telephone numbers, private mail boxes and private addresses to receive information and recommendations from organizations and citizens relating to breaches of the law on land. Where State bodies are able to arrange facilities, they shall also organize receipt of information and recommendations from organizations and citizens by facsimile, electronic mail, webpages and other means.
2. People's committees and land management bodies at all levels shall arrange staff responsible to receive information and recommendations from organizations and citizens relating to breaches of the law on land, and such staff shall maintain registers thereof.
3. Where any State body receives information or recommendations from organizations and citizens relating to matters outside the scope of its authority, such body shall forward the information to the authorized State body as stipulated in clause 1 of article 144 of the *Law on Land*.
4. Any organization or citizen obtaining information relating to any breach of the law on land shall be responsible for delivering such information or a recommendation thereon to the authorized State body for resolution as stipulated in clause 1 of article 144 of the *Law on Land*.

5. Organizations or individuals may deliver their information relating to identified breaches or recommendations to news bodies and press bodies, which bodies shall be responsible for publishing the information on the mass media and for delivering it to the authorized State body for resolution as stipulated in clause 1 of article 144 of the *Law on Land*.

Article 181: Resolving information and recommendations from organizations and citizens relating to breaches of law on land

Any State body stipulated in clause 1 of article 144 of the *Law on Land* which receives information or recommendations from organizations and citizens relating to any breach of the law on land shall be responsible for dealing with it as follows:

1. Imposing forms of discipline on State employees and officials carrying out their duties relating to land management pursuant to this Decree, or imposing administrative penalties in other cases pursuant to the Decree of the Government on imposition of administrative penalties for breaches of the law on land; and notifying the organization or citizen providing the information or recommendation;
2. Remedying the consequences which the breach caused.

Article 182: Responsibilities of cadastral officers and chairmen of people's committees of communes, wards and townships for detecting, preventing and dealing with breaches of regulations on management and use of land

1. Cadastral officers of communes, wards and townships shall be responsible for regularly inspecting the status of land use in their localities in order to detect promptly whether or not land has been invaded or trespassed on, or is being used properly or has been converted properly in accordance with law, and whether or not land users are exercising their rights and discharging their obligations in accordance with law, and in order to detect administrative breaches of the regulations on management and use of land. Within no more than one day from the date on which a breach is detected, cadastral officers shall report same to the chairman of the people's committee of their locality for resolution and, at the same time, shall report same to the natural resources and environment body.

2. Chairmen of people's committees of communes, wards and townships shall be responsible for regularly providing guidelines for inspecting land use and for detecting breaches as referred to in clause 1 of this article. Within no more than one day from the date on which a breach is detected or reported, the chairman of a people's committees shall conduct an inspection, prepare minutes and issue a decision to prevent the breach, impose an administrative penalty within the scope of powers and require the offender to restore the land to its original state. If an offender does not comply with such decision, the chairman shall issue a decision to force the offender to restore the land to its original state and shall send a written report to the people's committee at the higher level.

CHAPTER XIV

Implementing Provisions

Article 183: Responsibilities of ministries, ministerial equivalent bodies, Government bodies, people's committees at all levels and land users

1. The Ministry of Natural Resources and Environment and the Ministry of Finance shall, within the scope of their respective functions, powers and duties, be responsible for providing guidelines for implementation of this Decree.

2. Ministers, heads of ministerial equivalent bodies, heads of Government bodies and chairmen of people's committees at all levels and land users shall be responsible for implementation of this Decree.

Article 184: Uniform time-limit for conducting land use rights transactions using certificate of land use right

As from 1 July 2007, land users must have a certificate of land use right before they will be permitted to exercise their rights to exchange, assign, lease out, sublease out or donate their land use right; or to mortgage, guarantee and contribute capital using their land use right.

Article 185: Establishment of land use right registration offices

1. People's committees of provinces and cities under central authority must, prior to 1 July 2005, complete establishment of land use right registration offices which have adequate capacity to carry out the duties stipulated in this Decree.

2. The Ministry of Natural Resources and Environment shall provide guidelines for performance of administrative procedures regarding land management and use for the period prior to establishment of land use right registration offices and to cover the situation where a Division of Natural Resources and Environment does not have its own land use right registration office.

Article 186: Effectiveness

1. This Decree shall be of full force and effect after fifteen (15) days from the date of its publication in the Official Gazette.

2. This Decree shall replace the following Decrees:

(a) Decree 64-CP dated 27 September 1993 issuing regulations on allocation of agricultural land to family households and individuals for stable and long-term use for agricultural production;

(b) Decree 88-CP dated 17 August 1994 on management and use of urban land;

(c) Decree 11-CP dated 24 January 1995 providing detailed regulations for implementation of the *Ordinance on Rights and Obligations of Foreign Organizations and Foreign Individuals Leasing Land in Vietnam*;

(d) Decrees 09-CP dated 12 February 1996 and 69-2000-ND-CP dated 20 November 2000 on management and use of land for use for objectives of national defence and security;

(dd) Decrees 17-1999-ND-CP dated 29 March 1999 and 79-2001-ND-CP dated 1 November 2001 on procedures for exchange, assignment, leasing and sub-leasing out, and inheritance of land use rights and mortgage or capital contribution using land use rights;

(e) Decree 85-1999-ND-CP dated 28 August 1999 issuing amending regulations on allocation of agricultural land to family households and individuals for stable and long-term use for agricultural production;

(g) Decree 163-1999-ND-CP dated 16 November 1999 on allocation and lease of forestry land to family households and individuals for stable and long term use for forestry production;

(h) Decrees 04-2000-ND-CP dated 11 February 2000 and 66-2001-ND-CP dated 28 September 2001 on implementation of the *Law on Land*;

(i) Decree 68-2001-ND-CP dated 1 October 2001 on land use zoning and planning.

3. The provisions in the following Decrees on management and use of urban land which are inconsistent with this Decree are hereby repealed:

(a) Decree 60-CP dated 5 July 1994 on house ownership and residential land use rights in urban areas: clause 2 of article 1; article 3, articles 10 to 17 inclusive and article 20; the provisions on residential land registration and sample forms in article 8; and the provisions on the obligation to register residential land in article 9;

(b) Decree 61-CP dated 5 July 1994 on purchase, sale and trading of residential housing: the provisions on issuance of certificates of residential land use right and the land use rights of purchasers of residential housing in article 10;

(c) Decree 14-1998-ND-CP dated 6 March 1998 on management of State assets: the provisions on land registration in clause 1 of article 9; and the provisions on authority to recover land in clause 2 of article 14;

(d) Decree 25-1999-ND-CP dated 19 April 1999 on methods of payment for residential housing: articles 24 to 26 inclusive; the provisions on applications for issuance of certificates of residential land use right and on land use rights in articles 15.1, 16.1, 18.1,

21.1 and 23.1; and the provisions on rent prices and procedures for determining residential housing ownership in Resolution 58-1998-NQ-UBTVQH10 dated 20 August 1998 on civil transactions regarding residential housing which were entered into before 1 July 1991;

(dd) Decree 73-1999-ND-CP dated 19 August 1999 on policies encouraging socialization in the education, health, cultural and sporting sectors: the provisions on State allocation of land on a long-term basis without collection of land use fees to private establishments in clause 1 of article 7;

(e) Decree 08-2000-ND-CP dated 10 March 2000 on registration of security transactions: clauses 1(d) and 1(dd) of article 8; clauses 2(d) and 2(dd) of article 8; and clauses 4 and 5 of article 25;

(g) Decree 38-2003-ND-CP dated 15 April 2003 on conversion of enterprises with foreign owned capital to shareholding companies: the provisions on retention of value of land use right recorded in the investment licence, on equitization of a joint venture enterprise where the Vietnamese party contributed capital in the form of land use right as stipulated in clause 3 of article 9.

4. Ministries, ministerial equivalent bodies and people's committees of provinces and cities under central authority shall be responsible to check whether any legal instruments they have issued are inconsistent with the 2003 *Law on Land* or with any Decree implementing such Law in order that such bodies shall repeal or amend those legal instruments.

The Office of Government shall direct Government bodies to check whether any legal instruments such bodies have issued are inconsistent with the 2003 *Law on Land* or with any Decree implementing such Law in order that the Office of Government shall repeal or amend those legal instruments.

For the Government

Prime Minister

PHAN VAN KHAI