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THE NATIONAL ASSEMBLY
THE SOCIALIST REPUBLIC OF VIETNAM
Legislature XII, 4th Session

LAW ON
AMENDMENT AND SUPPLEMENTATION OF SOME ARTICLES
OF THE LAW ON LAND

Pursuant to the Constitution of the Socialist Republic of Vietnam 1992, amended and supplemented by the Resolution no. 51/2001-QH10 dated 25 December 2001 of the National Assembly, Legislature X, and 10th session;

This Law amends and supplements some articles of the Law on Land adopted by the National Assembly of the Socialist Republic of Vietnam on 26 November 2003.

Article 1.

Amendment and supplementation of some articles in Land Law 2003

1. Article 21 shall be amended and supplemented as follow:

"Article 21. Principles on land use plan formulation

The formulation of land use plan shall ensure the following principles:

1. It must be consistent with the master plan and strategy, the socio-economy development plan and national defense and security plans;

2. It must be formulated from overall plan to detailed plan, the land use plan of the superior level shall give orientations for the land use plan of the inferior level, the land use plan of the inferior level shall be consistent with that of the superior level;

3. *The land use plan of each level shall ensure the balance between the land use demands, the allocation of land fund for the development of sectors and fields, and shall reflect the land use demands of such level;*

4. *The use of land shall be economical and efficient; the natural resources shall be reasonably exploited; the food security, national defense and security shall be ensured; the environment shall be protected and the development shall be sustainable;*

5. *Historical and cultural relics and landscapes shall be preserved;*

6. *It must be democratic, public and transparent;*

7. *Land use plan for each period shall be decided and approved in the last year of the preceding period.”*

2. Article 22 shall be amended and supplemented as follow:

“Article 22. Grounds for land use plan formulation

1. The grounds for the formulation of land use plans for the country, for the key socio-economic regions and other regions those are of inter-province or inter-cities under the central power scale (hereinafter referred to as “regions”) shall include:

a) Strategy and master plan for socio-economic development; demands on assurance of food security, national defense and security, on protection of national and regional environment and ecology;

b) Strategy and development plan for sectors and fields;

c) State 5-year socio-economic development plan;

d) National and regional natural, social and economic conditions;

đ) Status quo of land use of the country, regions, provinces or cities under the central power;

e) Quotas for land use;

g) Scientific and technological progresses relevant to land use;

h) Results of the implementation of national and regional land use plans in the preceding period.

2. Grounds for formulation of land use plans of province and city under the central power shall include:

a) Socio-economic development master plan of province and city under the central power;

b) Land use plan of the direct superior level; land use plan for national defense and security and regional land use plan;

c) Sectors and fields development plan of province and city under the central power;

d) Five (5)-year socio-economic development plan of province and city under the central power;

đ) Natural and socio-economic conditions of province and city under the central power;

e) Status quo on land use of the locality and direct inferior administrative units;

g) Quotas on land use;

h) Scientific and technological progresses relevant to land use;

i) Results of the implementation of land use plan for the preceding period.

3. Grounds for formulation of land use plans of district, prefecture, town and city of province shall include:

a) Socio-economic development master plan of districts, prefectures, towns and cities of provinces;

b) Land use plan of the direct superior level; land use plan for national defense and security and regional land use plan;

c) Sector and field development plan of district, prefecture, town and city of province;

d) Five (5)-year socio-economic development plan of district, prefecture, town and city of province;

đ) Socio-economic development plan of commune, ward or township;

e) Natural, social and economical conditions of district, prefecture, town and city of province;

g) Status quo of land use and land use demand of district, prefecture, town and city of province and of direct inferior administrative units;

h) Quotas on land use;

i) Scientific and technological progresses relevant to land use;

k) Results of the implementation of land use plan for the preceding period.”

3. Article 23 shall be revised and supplemented to be Articles 23, 23a and 23b as follows:

“Article 23. Contents of the national land use plan

1. Determining the limits on areas of land specifically used for wet rice cultivation, specifically-used forest, protective forest and allocating to each province and city under the central power.

2. *Determining the areas of lands for national defense, security, natural reservation sites, municipals, industrial zone, high-tech zone, economic zone, infrastructure development and of other types of lands to satisfy the developing demands of important sectors and fields of the nation and allocating to each province and city under the central power.*

3. *Delineating on the maps the boundaries of land specifically used for wet rice cultivation, specifically-used forest, protective forest, natural reservation sites; specifying the locations of important works of the nation.*

4. *Suggesting the institutional and policy resolutions, programs or proposals to implement the land use planning projects.”*

“Article 23a. Contents of land use plan of province or city under the central power

1. *Determining in details and allocating to each direct inferior administrative unit the limits on areas of lands specifically used for wet rice cultivation, specifically-used forest, protective forest allocated by the national land use plan.*

2. *Determining in details the areas of lands for national defense, security, natural reservation sites, municipal, industrial zone, high-tech zone, economic zone, infrastructure development and others to serve the developing demands of important sectors and fields of the nation specified in the national land use plan.*

3. *Determining the areas of lands on the basis of land use purposes to satisfy the socio-economic development demands of province or city under the central power.*

4. *Delineating on the planning map the boundaries of the following areas:*

a) *Land specifically used for wet rice cultivation, specifically-used forest, protective forest, natural reservation sites; specifying the locations of important works of the nation;*

b) *Lands for annual crops cultivation (except the land specifically used for wet rice cultivation), perennial plant cultivation, production forest, aquaculture, salt production, national defense, security, municipals, rural residential zone, industrial zone, high-tech zone, economic zone, waste and waste processing and other important works of province and city under the central power.*

5. *Determining the areas of lands to be converted to other use purposes in order to implement the land use limits specified in the land use plan.*

6. *Determining the areas of unused lands to be put in use for agricultural and non-agricultural purposes.*

7. *Recommending the solutions to implement the land use plan.*”

“Article 23b. Contents of land use plan of district, prefecture, town and city of province

1. *Determining in details for each administrative unit as commune, ward or town the limits on areas of lands specifically used for wet rice cultivation, specifically used forest, protective forest allocated by the land use plan of the province or city under the central power to districts, prefectures, towns, cities of the province as provided for in paragraph 1, Article 23a of this Law.*

2. *Determining in details the areas of lands for national defense, security, industrial zone, high-tech zone, economic zone, infrastructure development and others to serve the developing demands of important sectors and fields of the nation, province and city under the central power as provided for in paragraphs 2 and 3, Article 23a of this Law.*

3. *Determining and balancing the areas of lands on the basis of land use purposes to satisfy the socio-economic development demands of districts, prefectures, towns and cities of provinces and of each subordinate commune, ward and town.*

4. *Delineating in details on the land use planning map the boundaries of the following areas:*

a) *Land specifically used for wet rice cultivation, specifically used forest, protective forest and natural reservation sites;*

b) *Land used to serve the key socio-economic development objectives of the nation, regions, provinces and cities under the central power;*

c) *Lands for annual crops cultivation (except the land specifically used for wet rice cultivation); perennial plant cultivation; production forest; aquaculture; salt production; national defense and security, municipals; rural residential zone; industrial zone; high-tech zone; waste gathering, storage, processing and dumping; cemeteries and graveyards; infrastructure construction and others to serve the important socio-economic development objectives of districts, prefectures, towns, cities of province and of commune and township.*

5. *Determining the areas of lands to be converted to other land use purposes to implement the land use limits specified in the land use plan.*

6. *Determining areas of unused land to be put in use for agricultural and non-agricultural purposes.*

7. *Recommending solutions to implement the land use plan.*”

4. Article 24 shall be amended and supplemented as follow:

“Article 24. Land use planning period

Land use plans of the country; of provinces and cities under the central power; of districts, prefectures, towns and cities of provinces shall be formulated for ten (10) year period, with orientations for next ten (10) years.”

5. Article 25 shall be amended and supplemented as follow:

“Article 25. Liability on formulation of land use plan

1. Liability on formulation of national land use plan

a) The Government shall be liable to formulate land use plan for the whole country.

b) The Ministry of Natural Resources and Environment shall be responsible to the Government for the organization of the formulation of national land use plan, for guiding the formulation of land use plans of provinces, cities under the central power, of districts, prefectures, towns and cities of provinces.

c) The Ministry of Agriculture and Rural Development shall be responsible to recommend the demands of lands specifically used for wet rice cultivation, specifically used forest, protective forest, natural reservation sites; other Ministries and line-ministries shall be responsible to recommend the land use demands in consistence with sector and field development strategy and plans.

d) In case of necessity, the Prime Minister shall decide the formulation of regional land use plan.

2. Liability on formulation of local land use plan

a) People’s Councils of provinces and cities under the central power; People’s Councils of districts, prefectures, towns and cities of province shall implement the formulation of local land use plan, and submit to the equivalent People’s Committee for adoption before submission to the competent state agency for approval.

b) During the formulation of land use plan, agencies organizing the formulation of land use plan shall gather people’s contributory opinions.”

6. Article 26 shall be amended and supplemented as follow

“Article 26. Authority to decide and approve the land use plans

1. The National Assembly shall decide the national land use plan.

2. *The Prime Minister shall decide and approve the land use plans of regions, provinces and cities under the central power.*

3. *People's Councils of provinces and cities under the central power shall decide and approve the land use plan of districts, prefectures, town and cities of province."*

7. Article 26a shall be hereby supplemented as follow:

"Article 26a. Land use scheme

1. *People's Councils of provinces and cities under the central power, districts, prefectures, towns and cities of province shall organize the formulation of five (5)-year land use scheme of the locality and submit to the equivalent People's Committees for adoption.*

2. *Grounds for formulation of land use scheme shall include:*

a) *Local land use plan approved by the competent State agencies;*

b) *State five-year and annual socio-economic development plans;*

c) *Land use demands of organizations, religious establishments, households, individuals, resident community, Vietnamese residing overseas; foreign organizations and individuals;*

d) *Results of the implementation of land use scheme in the preceding period;*

đ) *Capacity to invest on the projects or works using land.*

3. *Contents of the land use scheme of province and city under the central power:*

a) *Determining the land areas of important projects, works of the nation, of important projects, works of province and city under the central power, which are already included in the land use plan of province and city under the central power and need to be carried out in annual and five (05)-year plan periods;*

b) *Determining the land areas to be converted to other land use purpose, the areas of lands to be recovered to carry out the projects and works provided for in item a, this paragraph in annual and five (05)-year plan periods;*

c) *Determining the areas of unused lands to be put into use for agricultural and non-agricultural purposes to carry out the projects and works provided for in item a, this paragraph in annual and five-year plan periods;*

d) *Recommending solutions to implement the land use scheme."*

4. *Contents of the land use scheme of district, prefecture, town and city of province:*

a) *Determining the land areas of projects, works of district, prefecture, town, city of province, commune, ward and township of province; which are already included in the land use plan of district, prefecture, town and city of province and need to be carried out in annual and five-year plan periods;*

b) *Determining the land areas to be assigned, leased to households, individuals and resident communities to use for all purposes;*

c) *Determining the land areas to be converted to other land use purposes or to be recovered to carry out the project or works provided for in item a and to be assigned, leased as provided for in item b of this paragraph in annual and five-year plan periods;*

d) *Determining the areas of unused lands to be put into use for agricultural and non-agricultural purposes to carry out the projects and works provided for in item and to be assigned, leased as provided for in item b, this paragraph in annual and five (05)-year plan periods;*

d) *Recommending solutions to implement the land use scheme.”*

8. Article 29 shall be amended and supplemented as follow:

“Article 29. Implementation of the land use plan and scheme

1. *The Ministry of Natural Resources and Environment shall be responsible to organize and guide the implementation of the national land use plan and scheme; examine the implementation of land use plans and schemes of the provinces and cities under the central power; take the lead, in cooperation with the Ministry of National Defense and the Ministry of Public Security, to examine the implementation of land use plan and scheme for national defense and security.*

The Ministry of Agriculture and Rural Development shall be responsible to cooperate with the People’s Councils of the provinces and cities under the central power to preserve the fund of lands specifically used for wet rice cultivation, specifically-used forest, protective forest specified in the land use plan.

People’s Councils of the provinces, cities under the central power shall organize and guide the implementation of land use plan and scheme in the locality; examine the implementation of land use plan and scheme of the direct inferior locals.

People’s Councils of districts, prefectures, towns and cities of province shall organize the implementation of land use plan and scheme as approved; guide the People’s Councils of communes, wards and townships to examine, discover, prevent and handle, based on their authority, land use activities those are contradictory to land use plan and scheme promulgated.

2. If in the land use plan and scheme promulgated, there is an area of land that shall be recovered, but the State has not conducted the land recovery, compensation, site clearance yet, the land user are allowed to use the land continuously for the purpose determined before the promulgation of land use plan and scheme; if the land user does no longer have land use demand, the State will recover the land, make compensation or provide supports in accordance with the provisions of laws.

The State strictly prohibits all arbitrary construction on, or real estate investment in, the lands to be recovered in order to implement the land use plan and scheme. If there is a demand to improve or repair residential or other buildings attached to land to be recovered that will change the scale and level of the current works, the permission of the competent State body shall be required.

3. If a land area is identified in the promulgated land use scheme as a land to be recovered for implementation of project or works, or to be converted to other use purposes, but the recovery or conversion has not been conducted after three years in accordance with the scheme, the state agency authorized to approve the land use scheme shall adjust or rescind, and promulgate.”.

9. Article 37 shall be amended and supplemented as follow:

“Article 37. Authority to allocate land, to lease land, to permit the conversion of land use purpose, and to recognize the land use right

1. People’s Councils of provinces and cities under the central power shall decide the land allocation, land lease, *land use right recognition*, permission on conversion of land use purposes for organizations; land allocation to religious establishments; land allocation and land lease to Vietnamese residing overseas; land lease to foreign organizations or individuals.

2. People’s Councils of districts, prefectures, towns or cities of province shall decide the land allocation, land lease, *land use right recognition*, permission of conversion of use purposes for households, individuals; allocation of land to resident communities.

3. People’s Councils of communes, wards or townships shall lease land of agricultural land fund for the use for public interest of the commune, ward or township.

4. The agencies authorized to decide on land allocation, land lease, permission of conversion of land use purposes as provided for in paragraphs 1, 2 and 3 of this Article shall not delegate [such authority]”.

10. Article 39 shall be amended and supplemented as follow

“Article 39. Recovery of land for use for national defense, security, national and public interest, and economic development

Recovery of land for use for national defense, security, national and public interest, and economic development shall comply with following principles:

1. Land recovery shall only be conducted after approval and promulgation of land use plan and scheme by the competent state agency.

2. *At least thirty (30) days prior to the land recovery*, the competent state agency shall notify persons subject to land recovery the reasons of the recovery, movement time and plan.

3. Persons subject to land recovery shall comply with the land recovery decision after the issuance of land recovery decision, and the plans for compensation, site clearance and resettlements have been approved by state agencies, publicly promulgated and taken effect,

Where the persons subject to land recovery do not comply with the land recovery decision, People's Councils authorized to issue the land recovery decision shall issue the enforcement decision. Persons subject to the land enforcement decision shall comply with the enforcement decision and shall have right to complaint.”

11. Article 40 shall be amended and supplemented as follow:

“Article 40. Recovery of land to use for national defense, security, national and public interest, and economic development purpose

1. *State shall conduct the recovery of land to use for national defense, security, national and public interest and economic development, except the cases provided for in paragraph 2 of this Article.*

2. With respect to projects using land as production or business site, *or for construction of residential houses for business in a land of less than one (01) hectare in area*, if the land is situated interminglement with the residential zone and such project is in conformity with land use plan approved, the investor may be assigned or leased the land use right, or may receive capital contribution by the land use right from economic organizations, households and individuals without being required to conduct land recovery procedure.”

12. Article 41 shall be amended and supplemented as follow:

“Article 41. Land recovery and management of recovered land fund

1. State shall decide land recovery and assign lands to land fund development organizations to conduct the recovery, compensation and site clearance, to directly manage the recovered land fund; *and to organize auction of land in respect to projects using land for economic development purpose.*

2. State shall recover, compensate, clear the site and assign land to investors for implementation of projects in the cases where the investment projects have been approved by competent state agency.

3. Land recovered under paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Article 38 of this Law, if located in the municipals, shall be assigned to the land fund development organizations for management; if located in the rural, shall be assigned by the People's Council authorized to issue the land recovery decision to the land fund development organization or the People's Council of commune for management.”

4. Land development fund organization shall operate in form of a non-productive agency with incom, or state-owned enterprise for public interest established by People's Council of province or city under the central power to perform the following functions:

a) To conduct compensation, site clearance where the lands have been recovered after the promulgation of the land use plan and scheme, but there have not been any investment project yet, and the compensation and site clearance consultancy and service have not been conducted yet;

b) To receive the assignment of land use right over lands to be recovered as planned before State decides to recover the lands;

c) To invest on infrastructure development and implement resettlement projects assigned by the People's Council of province, city under the central power;

d) To organize land use right auction;

đ) To manage the recovered land fund as provided for in paragraphs 1 and 3, Article 41 of this Law;

e) To fulfill other tasks assigned by the People's Council of province and city under the central power.

The Ministry of Finance shall provide in details the capital financing and mobilizing mechanism of the land fund management organization; the Ministry of Internal Affairs shall provide in details the functions, mandates, authority and operation of land fund development organization; the State Bank shall provide in details on credit incentives for the land fund development organizations.”

13. Article 42 shall be amended and supplemented as follow”

“Article 42. Compensation and resettlement for persons subject to land recovery

1. When the State recovers land from the land user, if the person subject to the land recovery has land use certificate, or is eligible to have the land use

right recognized as provided for in Article 50 of this Law, such person shall be compensated, except the cases provided for in paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Article 38 and items a, b, c, d, đ and g, paragraph 1 Article 43 of this Law.

2. Persons subject to land recovery decisions shall be compensated by allocation of new lands those have the same use purposes, if there is no land to compensate, the compensation shall be made ***in currency, based on the price closely to the market price for the same category of land*** at the time of issuance of recovery decision, ***and be compensated other damages caused by land recovery.***

3. *In case of recovery of residential land where the resettlement is required, the People's Council of the province and city under the central power shall instruct the establishment, implementation and completion the resettlement project before the issuance of the land recovery decision. The participation of persons subject to land recovery into the establishment of the resettlement project shall be required.*

4. *Resettlement zone must be commonly planned for one or more investment projects in the same locality and must ensure the infrastructure that is equivalent to, or better than that in the old residence.*

State agency authorized to recover land shall be liable to organize the examination to ensure that the infrastructure of the resettlement zone is equivalent to, or better than that in the old residence before implementation of resettlement.

If there is no resettlement zone, in the municipals, persons subject to the land recovery decision shall be compensated in currency, and if there is the state owned house fund, persons subject to the land recovery decision shall be prioritized to buy or lease the state owned house; in the rural areas, persons subject to land recovery decisions shall be compensated by residential land, and if the value of land use right over the land recovered is higher than that over the land compensated, persons subject to land recovery decision shall be compensated in currency for such difference.

5. When the land of a direct-producer household or individuals is recovered, and there is no land to compensate for continuous production, besides the compensation in currency, persons subject to land recovery decision shall also be supported by State for life stabilization, occupation conversion or new job arrangement.

People's Council of province and city under the central power shall be liable to organize the establishment and implementation of job arrangement, occupation conversion and life stabilization project for persons subject to land recovery decision before the issuance of land recovery decision. The

participation of persons subject to land recovery decision into the establishment of the project shall be required.

6. If the land is recovered to use for economic development purpose, the investor shall be liable to receive the capital contribution by compensatory money from persons subject to land recovery.

7. If land users, who have been compensated by the State in land recovery, fail to fulfill financial obligations on land in accordance with the provisions of laws, the value of unperformed financial obligations shall be deducted from the value of compensation or support.

8. The Government shall provide about the compensation, resettlement, supports to life stabilization, occupation conversion and new job arrangement for persons subject to land recovery decision and financial resource for implementation.”

14. Article 44 shall be amended and supplemented as follow:

“Article 44. Authority to recover land

1. People’s Council of province and city under the central power shall recover the land to carry out the investment projects after the land use plan and scheme have been approved by the competent state agency.

2. People’s Council of province and city under the central power shall recovers land from organizations, religious establishments, Vietnamese residing overseas except those entitled to buy house attached to the land use right.

3. People’s Council of district, prefecture, town or city of province shall decide to recover land from households, individuals, resident communities, Vietnamese residing overseas entitled to buy residential house attached to land use right in Vietnam.

4. If in the same parcel of land to be recovered to carry out investment project, there is person provided for in paragraphs 2 and 3 of this Article, the People’s Council of province and city under the central power shall recover.

5. State agency authorized to recover land provided for in paragraphs 1, 2, 3 and 4 of this Article shall not delegate [such authority].”

15. Article 50 shall be amended and supplemented as follow:

“Article 50. Recognition of land use right for household, individual or resident community who is using land but has not been issued the land use right certificate

1. Households, individuals, who are using land stably and have one of the following documents, if the People's Council of commune, ward or township certifies that the land is not subject of any dispute, shall have the land use right recognized and shall not required to pay the land use fees:

a) Document issued prior to 15 October 1993 by competent state agencies in the implementation of land policies of the State of Democratic Republic of Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam and the State of the Socialist Republic of Vietnam on the land use right;

b) Temporary land use certificate issued by the competent state agencies or [land users'] the name is listed in land and field register, or cadastral register;

c) Legitimate document on inheritance or gift of land use right or asset attached to the land, document on assignment of charity house attached to the land;

d) Document on transfer of land use right, sale of house attached to the land prior to 15 October 1993, and the use of it is now certified by the People's Council of commune, ward or township as before 15 October 1993;

đ) Document on house liquidation or disposal sale of residential house attached to land in accordance with provisions of laws;

e) Document issued by the competent agencies of the former regime to the land user.

2. Households or individuals, who are using land, have one of documents provided for in paragraph 1 of this Article but another's name listed on it and such document is accompanied by a document on transfer of land use right signed by the relevant parties, have not performed the land use right transfer procedure in accordance with the provisions of laws prior to the date when this Law takes effect, if the People's Council of the commune, ward or township certifies that the land is not subject of any dispute, shall have the land use right recognized and shall not be required to pay land use fees.

3. Households or individuals, who are using the land, have household registration in the locality, and directly engage in agricultural and forestry production, aquaculture or salt production at the locality in difficult socio-economic conditions in mountains or islands, if the People's Council of the commune where the land is located certifies that such person has used the land stably and the land is not the subject of dispute, shall have the land use right recognized and shall not be required to pay the land use fees.

4. Households or individuals, who do not have any document provided for in paragraph 1 of this Article, if the People's Council of commune, ward or township certifies that the land has been stably used from before 15 October 1993, is not subject of any dispute and the use of land is in conformity with land

use plan, or *detailed municipal construction plan or rural residential place development plan* approved in respect to the locations where the plan are available, shall have the land use right recognized and shall not be required to pay land use fees.

In case of recognition of residential land use right, the payment of land use fees for the area within the quota recognized a residential land as provided for in Article 87 of this Law shall not be required.

5. Households or individuals, who are entitled to use land under the enforced judgment or decision of the People's Courts, under enforced judgment enforcement decision of the Judgment Enforcement Agencies, under *enforced land dispute resolution decision or enforced land complaint resolution decision* of the competent state agencies shall have the land use right recognized after fulfillment of financial obligations in accordance with provisions of laws.

6. Households or individuals, who are using land but do not have any document as provided for in paragraph 1 of this Article, if the People's Council of commune, ward or township certifies that the land has been used from 15 October 1993 till before 1st July 2004, is not subject to any dispute and the use of land is in conformity with land use plan, or *detailed municipal construction plan or rural residential place development plan* approved in respect to the locations where the plan are available, shall have the land use right recognized and shall pay land use fees in accordance with the Government's regulations.

7. Resident community, who are using land where communal house, temple, shrine, pagoda, worship hall or family shrine are situated, shall have the land use right recognized if the following conditions have been satisfied:

- a) An application for recognition of land use right has been submitted;
- b) The People's Council of commune, ward or township where the land is situated certifies that the land is commonly used for the community and not subject of any dispute."

16. Article 51 shall be amended and supplemented as follow:

“Article 51. Recognition of land use right for organizations, religious establishments who are using land but have not been issued the land use right certificate yet

1. Land use right over the land, which has been used by organization from before the 1st July 2004, the use of it is in conformity with land use plan, or *detailed municipal construction plan or rural residential place development plan* approved in respect to the locations where the plan are available, and is not subject of any dispute, shall be recognized in the following situations:

a) Land currently in use without any land assignment or lease decision by the competent state agency has been effectively used;

b) Land currently in use with the land assignment or lease decision by the competent state agency and the land user voluntarily changed the land use purpose;

c) Land is currently in use by assignment of land use right.

2. The land use right over land, which is currently used by organization from before 1 July 2004 with the record on the win in land use right auction in accordance with provisions of laws, shall be recognized.

3. In the cases of recognition of land use right provided for in paragraph 1 of this Article, payment of land use fees and rents in accordance with the Government's regulations shall be required.

4. For the land area currently in use by organization, but the land use right over it is not recognized, it shall be resolved as follows:

a) State shall recover the area of land unused, used for wrong purpose, or inefficiently used;

b) The organization shall hand over the area of land used as residential land to the People's Council of district, prefecture, town or city of province for management; if a state-owned enterprise, who engages in agriculture, forestry, aquaculture or salt production and had been allocated land by the State, allows households or individuals to use a part of land fund as residential land, the residential land area shall be re-arranged as residential zone and submitted to the People's Council of province and city under the central power for approval before handing over to the locals for management.

5. If an economic organ selects land lease form, the land management agency of province and city under the central power shall perform procedure to conclude the land lease contract after the issuance of the decision on land use right.

6. Religious establishments, which are using land but have not been issued land use right certificate yet, shall have the land use right recognized when the following conditions have been satisfied:

a) The State allows such religious establishment to operate;

b) The application in writing by religious organization who has such religious establishment has been submitted;

c) People's Council of commune, ward or township certifies the land use demand of such religious establishment, certifies that the land is not subject of any dispute and the use of it is in conformity with land use plan, or *detailed municipal construction plan or rural residential place development plan* approved in respect to the locations where the plan are available."

17. Article 55 shall be amended and supplemented as follow:

“Article 55. Land price

Land prices shall be formed in the following cases:

1. By *determination* by the People’s Council of province and city under the central power in accordance with provisions in *item b, paragraph 2 Article 56* of this Law.
2. From auction of land use right or tendering of projects using land;
3. By agreement between the land user and relevant persons when exercising rights to assign, lease, sub-lease the land use right; or by capital contribution by land use right.”

18. Article 56 shall be amended and supplemented as follow (land price frame was abolished)

“Article 56. Land price fixed by the State

1. Fixing of land price by the State shall comply with the following principles:

a) *[Land price fixed shall] be close to the land price on the market in the ordinary course of business.*

b) Adjacent parcels of land, in the same natural, economic and social condition, on the same infrastructure, for the same current use purpose and for the same use purpose under the plan shall be at the same price level.

c) Lands in bordering area of provinces, cities under the central power, in the same natural conditions, on the same infrastructure, for the same current use purpose and for the same use purpose under the plan shall be at the same price level.

2. Based on principles on fixing land price provided for in paragraph 1 of this Article and the land price fixing methods instructed by the Ministry of Natural Resource and Environment, the *People’s Committee of province and city under the central power shall fix land prices for various types of land once every five (05) years, periodically, and promulgate on the 1st January of the first year of the period as basis for calculation of taxes and fees on land, and of land use fees when the State have recognized the land use right for households and individuals currently using land in case the payment of land use fees is required.*

The People’s Committee of province and city under the central power shall fix the land prices closely to the land prices on the market in the ordinary course of business when assigning lands, leasing without auction of land use right or without tendering project using land; determining floor price in auction of land use right or tendering project using land; converting land use purpose;

compensating when the State recovers land; privatizing state-owned enterprise where the value of land use right is privatized; calculating the compensation to persons who conducts violation of laws on land causing loss to the State.

People's Committee of province and city under the central power shall form the land prices for various types of land in the locality before submit to the equivalent People's Committee for comments before decision.

3. People's Committee of province and city under the central power shall decide the establishment of land price determination body to implement the land price determination provided for in paragraph 2 of this Article and shall establish the land price verification committee before issuance of the decision of land price.

The Ministry of Natural Resource and Environment shall provide in details the operational mechanism of the land price determination body and land price verification committee."

19.

First solution. Article 66 shall be amended and supplemented as follow:

"Article 66. Land stably-used for long term

Land user shall be entitled to use land stably for long term in the following cases:

1. Protective forest, specifically used forest land;

2. Lands for agricultural production, production forest, aquaculture, salt production by households and individuals allocated by the State in accordance with provisions in paragraph 1 Article 33 of this Law; land for garden and pond in the same parcel of land where the residence is situated, but not recognized as residential land;

3. Land for agriculture used by resident community as provided for in paragraph 71 of this Law;

4. Residential land used by households, individuals or Vietnamese residing overseas; land allocated to economic organization or Vietnamese residing overseas to implement investment project on construction of residential houses for sale or lease;

5. Land as site for construction of production or business facilities of households or individuals who are stably using the land and have the land use right recognized by the State;

6. Land, which used to be land of households or individuals as provided for in paragraphs 2, 4 and 5 of this Law, being used by economic organization as a site for construction of production or business facilities; land allocated by the State in form of exchange of land for infrastructure.

7. Land used for construction of office of state agencies or non-productive works as provided for in Article 88 of this Law;

8. Land used for national defense and security;

9. Land used by religious establishments as provided for in Article 99 of this Law;

10. Land where communal houses, temples, shrines, pagodas, worship hall or family shrines are situated;

11. Land for transportation, irrigation; land for construction of cultural, medical, educational and training, sport facilities for public interests and other works for public interests, not for business purpose; land where historical or cultural relics or landscapes are situated;

12. Land used for cemeteries and graveyards.”

Second solution: Article 66 is remained

20.

First solution: Article 67 shall be amended and supplemented as follow:

“Article 67. Land used for definite period

Land user shall be entitled to use land for definite period in the following cases:

1. *Duration of lease of lands for annual crops cultivation, aquaculture, salt production for households or individuals shall not exceed twenty (20) years; duration of lease of lands for perennial plants cultivation, production forest for households or individuals shall not exceed fifty (50) years.*

Duration of land lease shall be calculated from the date of issuance of land lease decision by the competent state agency; if the land was leased by the State before 15th October 1993, the duration of land lease shall be calculated from 15th October 1993.

When the duration expires, the land user can be leased the land by the State continuously if [the land user] still has land use demand and has been conforming with the laws on land during the land use period, and the use of such land is in conformity with the land use plan approved;

2. *Households or individuals, who are using agricultural land over the quota because was allocated before the 1st January 1999 shall be entitled to use land continuously in accordance with provisions of laws on land before the date when this Law takes effect;*

3. Duration for land allocation and lease to economic organizations for use for agricultural and forestry production, aquaculture, salt production; to economic organizations, households or individuals for use as site for construction of production or business facilities; to economic organizations to implement the investment projects; to Vietnamese residing overseas, foreign organizations or individuals to implement the investment projects in Vietnam shall be considered and decided on the basis of investment project or application for land allocation and lease, but shall not exceed fifty (50) years; in respect to investment project with large investment capital but a slow capital recovery rate, and investment projects in locations in difficult socio-economic conditions or in specially difficult socio-economic conditions that requires longer duration, the duration of land allocation or land lease shall not exceed seventy (70) years, *except the cases provided for in paragraphs 4 and 6, Article 66 of this Law.*

When the duration expires, the land user can be considered to extend the land use duration by the State if [the land user] still has land use demand and has been conforming with the laws on land during the land use period, and the use of such land is in conformity with the land use plan approved;

4. Duration for land lease for construction of foreign organization offices, which have diplomatic functions as provided for in paragraph 5, Article 9 of this Law, shall not exceed ninety-nine (99) years.

When the duration expires, the foreign organizations can be considered to extend the land lease or to lease other land if [it] still has land use demand;

5. Duration of lease of land that is in the agricultural land fund and used for public interests of commune, ward or township, shall not exceed five (5) years; if the land was leased prior to 1st January 1999, the duration of land lease shall be determined in accordance with the land lease contract.”

Second solution: Article 67 is remained.

21. Article 68 shall be amended and supplemented as follow:

“Article 68. Duration of land use upon the conversion of land use purpose

1. Duration of land use for households or individuals upon the conversion of land use purpose shall be stipulated as follows:

a) In the case of conversion of protective forest land or specifically used forest land to other use purposes, the duration shall be determined on the basis of duration applicable to the type of land after the conversion of land use purpose. The duration of land use shall be calculated from the time of conversion of land use purpose.

b) *In the case of conversion of land use purpose among the types of land leased by the State, including lands for annual crops cultivation, production forest, aquaculture and salt production, the households or individuals using land shall be entitled to use land continuously in accordance with the duration of the lease.*

When the duration expires, the households or individuals using land can be leased the land by the State continuously if [the households or individuals] still have land use demand and has been conforming with the laws on land during the land use period, and the use of such land is in conformity with the land use plan approved;

c) In the case of conversion of agricultural land to use for non-agricultural purpose, the duration of land use shall be determined on the basis of duration applicable to the types of land after the conversion of land use purpose. The duration of land use shall be calculated from the time of conversion of land use purpose;

d) In the case of conversion of non-agricultural land used for long-term to the agricultural land used for definite term, or from non-agricultural land used for definite term to non-agricultural land stably used for long term, the households or individuals using the land shall be entitled to use the land stably for long term.

2. Duration of land use for economic organizations, Vietnamese residing overseas, foreign organizations or individuals for implementation of investment projects which are not located in industrial zone, or high-tech zone upon the conversion of land use purpose shall be determined on the basis of investment project provided for in the paragraph 3, Article 67 of this Law.

3. The economic organizations, who convert the land use purpose from non-agricultural land used stably for long term to non-agricultural land used for definite term, or from non-agricultural land used for definite term to non-agricultural land used stably for long term, shall be entitled to use land stably for long term.”

22. Article 69 shall be amended and supplemented as follow:

“Article 69. Duration of land use upon the land use right assignment

1. The duration of land use upon the land use right assignment over the land subject to stipulated duration shall be the period left of the duration prior to the conversion of land use purpose.

2. Persons being assigned land use right over the land of the type that is used stably for long term shall be entitled to use [the land] stably for long term.

When an organization being assigned land use right over a parcel of agricultural land to carry out project on agricultural business production, the land use duration shall be calculated in accordance with paragraph 3, Article 67 of this Law.

23. Article 87 shall be amended and supplemented as follow:

“Article 87. Determination of area of residential land containing gardens and ponds

1. Land containing gardens and ponds determined as residential land shall be situated in the same parcel of land with the residential house in residential zone.

2. In the case of land containing gardens and ponds formed prior to 18th December 1980, if the land user has any type of documents on land use right as provided for in paragraphs 1, 2 and 5, Article 50 of this Law, such area of land of gardens and ponds shall be determined as residential land.

3. In the case of land containing gardens and ponds formed in the period from 18th December 1980 till the date this Law takes effect, if the land user has one of the documents on land use right provided for in paragraphs 1, 2 and 5 of this Law and the area of residential land is clearly stated in such document, the area of land containing gardens and ponds shall be determined on the basis of such a document.

4. In the case of land containing gardens and ponds formed in the period from 18th December 1980 till the date this Law takes effect, if the land user has one of the documents on land use right provided for in paragraphs 1, 2 and 5 of this Law and the area of residential land is not stated in such document, the area of land containing gardens and ponds shall be determined as follows:

a) People’s Council of province and city under the central power, based on the local conditions and customs, shall provide the quota for recognition of residential land on the basis of the number of family members;

b) If the area of parcel of land is larger than the quota for recognition of residential land in the locality, the residential land area shall be determined to be equal to the quota for recognition of residential land in the locality;

c) If the area of the parcel of land is smaller than the quota of recognition of residential land in the locality, the residential land shall be determined to be the whole area of the parcel of land.

5. If there is no document on the land use right as provided for in the paragraphs 1, 2 and 5, Article 50 of this Law, the area of residential land containing gardens and ponds shall be determined on the basis of the quota of land to be allocated to each household or individual provided for in paragraph 2, Article 83 and paragraph 5, Article 84 of this Law.

If the parcel of residential land containing gardens and ponds was formed before 18 December 1980, is not encroaching land or illegally converted the land use purpose, the area of residential land shall be determined to not exceed five (5) times of the quota of land to be allocated to each household or individual as provided for in paragraph 2, Article 83 and paragraph 5, Article 84 of this Law.”

24. Article 107 shall be amended and supplemented as follow:

“Article 107. Land users’ general obligations

Land user shall have the following general obligations:

1. to use land for the right purpose, within the boundaries of the parcel of land, in accordance with the provisions on land use to a certain depth underground and to a certain height in space; to protect the public works underground; and to comply with other provisions of laws;

2. to register the land use right; to complete all procedure upon transfer, assignment, lease, sub-lease, inheritance, gift of land use right; mortgage, guarantee of, or capital contribution by, land use right in accordance with provisions of laws;

3. to perform financial obligations in accordance with provisions of laws;

4. to perform land protective measures; *be responsible to preserve the layer of cultivate land and perform plan to use such layer of land for purpose of improvement and enlargement of agricultural land when converting the land use purpose from land for agriculture to non-agricultural purpose;*

5. to comply with regulations on environment protection, and not to harm the legitimate interests of the relevant land users;

6. to comply with provisions on objects discovered underground;

7. to hand over the land when the State has issued the land recovery decision or the duration of land use has expired.”

25. Article 136 shall be amended and supplemented as follow:

“Article 136. Land dispute resolution

If a land dispute had been conciliated at the People’s Council of commune, ward or town, but one party or concerned persons disagrees, it shall be resolved as follows:

1. *Land dispute*, where there is a certificate or any document provided for in paragraphs 1, 2 and 5, Article 50 of this Law over *the land area in dispute*, and dispute over the asset attached to the land shall be resolved by the People’s Courts;

2. *Land dispute*, where there is no certificate or any document provided for in paragraphs 1, 2 and 5, Article 50 of this Law over *the land area in dispute*, shall be resolved as follow:

a) Chairman of the People’s Council of district, prefecture, town and city of province shall resolve land disputes among household, individual and resident community. If disagrees with the resolution decision of the Chairman of the People’s Council of district, prefecture, town and city of province, *a party or the parties to the dispute shall be entitled to sue at the People’s Courts.*

b) Chairman of the People’s Council of province and city under the central power shall resolve land disputes among the organization, religious establishment, foreign organization and individual or with household, individual or resident community. If disagrees with the resolution decision of the Chairman of the People’s Council of province and city under the central power, *a party or the parties to the dispute shall be entitled to sue at the People’s Courts.*

3. *Time limit for lodging an application for land dispute resolution in the cases provided for in item 2 of this paragraph is ninety (90) days, from the receipt of the land dispute resolution decision of the competent state agency.*

4. *Time limit for land dispute resolution by the People’s Council shall not exceed sixty (60) days from the receipt of full legitimate file; in case of complexity, the time limit may be extended, but shall not exceed ninety (90) days from the receipt of full legitimate file.*

For the remote areas where the transportation is difficult, the time limit for the land dispute resolution for the first time shall not exceed ninety five (90) working days from the receipt of full legitimate file; in case of complexity, it may be extended but shall not exceed one hundred and twenty (120) days from the receipt of full legitimate file.”

26.

Solution 1: Article 138 shall be remained.

Solution 2: Article 138 shall be amended and supplemented as follow:

“Article 138. Land complaint resolution

1. Land users, persons with related right and obligations shall have right to complaint against the administrative decision or activity on land administration.

2. Land complaint resolution shall be conducted in accordance with the provisions in laws on complaint and denouncement.”

Article 2. Enforcement clause

1. This Law shall take effect on 2009.

2. For the economic organizations, households, individuals, who are leased land by the State and pay land use fees annually as provided for in Articles 35, 73, 75, 78, 19, 80, 81, 90, 91, 92, 94, 95 and 102 of the Law on Land, the form of land leased by the State with payment of full land use fees for the whole duration once is hereby added.

Households or individuals, who are leased land by the State with payment of the land use fees for the whole duration once, shall be entitled to exercise the land user’s powers as provided for in Article 113 of the Land on Law, except the power on assignment of land use right.

Economic organizations, who are leased the land by the State with payment for the whole duration once, shall have powers provided for in paragraph 2, Article 110 of the Law on Land.

3. The phrase of “other public facilities for non-business purpose” in Article 33 the Law on Land shall be replaced by the phrase of “other public facilities of public”.

The phrase of “public facilities for business purpose” in Articles 34, 35 and 60 of the Law on Land shall be replaced by the phrase of “public facilities out of public”.

4. The phrase of “land use right certificate” used in the Law on Land 2003 shall be replaced by the phrase of “certificate on land use right and ownership over asset attached to the land”

5. The phrase of “with economic organization or individual in order to borrow capital for business and production” provided for in paragraph 7, Article 113 and paragraph 1, Article 114 of the Law on Land shall be replaced by the phrase of “with economic organization or individual in order to borrow capital”.

6. Paragraph 3, 19 and 20 of Article 4, Articles 46, 48, 49, 52; paragraph 3 Article 91; paragraph 3, Article 92; Articles 108, 123, 124, 126, 127, 128, 129, 130 and 131 of the Law on Land shall be hereby abolished.

7. The Government shall provide in details the implementation of this Law.

This Law was adopted by the National Assembly of the Socialist Republic of Vietnam, XII Legislature, on 2009, at... Session.

Chairman of the
national assembly