

THE GOVERNMENT

DECREE No. 163/1999/ND-CP OF NOVEMBER 16, 1999 ON ASSIGNING AND LEASING FORESTRY LAND TO ORGANIZATIONS, HOUSEHOLDS AND INDIVIDUALS FOR STABLE AND LONG-TERM USE FOR FORESTRY PURPOSES

THE GOVERNMENT

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

Pursuant to the Law on Forest Protection and Development of August 19, 1991;

Pursuant to the July 14, 1993 Land Law and the December 2, 1998 Law Amending and Supplementing a Number of Articles of the Land Law;

At the proposal of the Ministry of Agriculture and Rural Development and the General Land Administration,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Decree provides for the assignment of forestry land by the State to organizations, households and individuals for stable and long-term use in the form of land assignment without collecting land use levy, and the leasing of forestry land by the State.

Article 2.- Forestry land

Forestry land prescribed in this Decree includes:

1. Land with natural forests, land with planted forests.

2. Land with no forests but planned to be used for forestry purposes such as afforestation, marked off for tendering and protection for nature rehabilitation, forestry research and experimentation.

Article 3.- Use purposes of forestry land

The State shall assign and lease forestry land to organizations, households and individuals for stable and long-term use for forestry purposes, which includes the following types:

1. Special-use forest land, which is the forestry

land area planned for building and developing forests to preserve the nature; specimens of the national forest ecology, gene pools of forest flora and fauna; scientific research, protection of historical and cultural relics and scenic places, serving rest and recreation and tourism, protection of the ecological environment, including:

a/ National parks;

b/ Nature conservation forests;

c/ Cultural, historical, environment (landscape protection) forests.

2. Protection forest land, which is the forestry land area planned for building and developing forests mainly to protect water sources and soil, prevent erosion, reduce natural calamities, regulate the climate and contribute to the protection of the ecological environment, including:

a/ Headwater protection forest land, classified into very important protection areas, important protection areas and less important protection areas;

b/ Wind- or sand-shielding protection forest land;

c/ Sea wave-shielding or sea-encroaching protection forest land;

d/ Protection forest land to protect the ecological environment.

3. Production forest land, which is the forestry land area planned mainly for producing and dealing in forest trees, other forest products, forest specialties, forest fauna, in combination with protecting the ecological environment.

Article 4.- Objects to be assigned forestry land by the State

The State shall assign forestry land without collecting land use levy to the following objects:

1. Households and individuals directly engaged in forestry, agriculture, fishery and salt-making activities that yield the major source of income for their livelihood, which is certified by People's Committees of the commune, ward or township where exists the forestry land;

2. The boards of management of special-use or protection forests;

3. State enterprises currently using forestry land assigned by the State prior to January 1st, 1999;

4. Forestry breeding stations, farms and enterprises, schools, vocational training schools;

5. Other organizations of different economic sectors that were assigned forestry land by the State prior to January 1st, 1999 under the Government's Decree No. 02/CP of January 15, 1994 may continue

to use such land until the expiry of the land assignment duration. Upon the expiry of the land assignment duration, they must shift to the forestry land-leasing form.

6. Units of the people's armed forces using forestry land in combination with defense.

Article 5.- Objects to be leased forestry land by the State

The State shall lease land to the following objects for forestial use:

1. Households and individuals, including those prescribed in Clause 1, Article 4 of this Decree, that have a demand and are capable of using forestry land for production and business;
2. Domestic organizations of all economic sectors;
3. Foreign organizations and individuals.

Chapter II

ASSIGNING LAND, LEASING LAND, GRANTING FORESTRY LAND USE-RIGHT CERTIFICATES

Article 6.- Assigning forestry land to households and individuals

1. Households and individuals that have been assigned forestry land by the State under the Government's Decree No. 02/CP of January 15, 1994 may continue to use such land in a stable and long-term manner and shall be granted land-use right certificates.

2. Households currently using forestry land in excess of the quota prescribed in Clause 1, Article 13 of this Decree before January 1st, 1999 may continue to use such land in a stable and long-term manner and shall be granted land-use right certificates.

Article 7.- Assigning forestry land planned for building and developing special-use forests

1. The State shall assign to the Board of Management of National Parks, the Board of Management of Nature Conservation Parks, the Board of Management of Cultural, Historical Areas and the Environment (hereinafter collectively referred to as the Boards of Management of Special-Use Forests) for management and use the forestry land planned for building and developing special-use forests under decisions of the Prime Minister or the presidents of the People's Committees of the provinces and centrally-run cities.

2. The Boards of Management of Special-Use

Forests shall assign forestry land through contracts to households currently living in the strictly-protected zones where there are not enough conditions to move them out of these zones, according to the Regulation on the contractual assignment of land by State enterprises for agricultural, forestial and aquacultural purposes issued together with the Government's Decree No. 01/CP of January 4, 1995.

3. For ecological rehabilitation zones, the Boards of Management of Special-Use Forests shall assign through contracts to households living in such zones for protection and afforestation.

4. For special-use forests with buffer zone projects but the area of the buffer forestry land is not incorporated in the planning of such special-use forests, the assignment or leasing of such buffer forestry land shall comply with the provisions in Clause 2, Article 8, and Article 9 of this Decree.

Article 8.- Assigning forestry land planned for building and developing protection forests

1. The State shall assign forestry land planned for building and developing headwater protection forests to the Boards of Management of Protection Forests under decisions of the Prime Minister or the presidents of the provincial People's Committees for management, protection and building according to the approved planning and plan.

2. The State shall assign forestry land planned for building and developing less important protection forests, land of scattered headwater protection forests where there are not enough conditions for setting up a Board of Management of Protection Forests and various types of protection forest land prescribed at Points b, c and d, Clause 2, Article 3 of this Decree to other organizations, households and individuals for management, protection, afforestation and exploitation according to the guidance of the Ministry of Agriculture and Rural Development.

3. Organizations, households and individuals using protection forest land must observe the provisions of the land legislation and forest protection and development legislation.

Article 9.- Assigning forestry land planned for building and developing production forests

The State shall assign forestry land planned for building and developing production forests to households, individuals and domestic organizations prescribed in Clauses 1, 3, 4, 5 and 6, Article 4, and Article 6 of this Decree for use in forestial production.

Article 10.- Leasing forestry land

The State shall lease forestry land to Vietnamese

organizations, households and individuals and foreign organizations and individuals for forestial uses as follows:

1. Land planned for building and developing production forests;
2. Headwater protection forest land in less important regions and various types of protection forest land prescribed at Points b, c and d, Clause 2, Article 3 of this Decree.
3. Special-use forestry land for dealing in landscapes, ecological tourism under the forest canopy according to the regulations of the Ministry of Agriculture and Rural Development.

Article 11.- Contracting forestry land

1. The Boards of Management of Special-Use Forests, the Boards of Management of Protection Forests and State enterprises which are assigned or leased forestry land by the State shall contract forestry land according to the Regulation on contractual assignment of land by State enterprises for agricultural, forestial and aquacultural purposes, issued together with the Government's Decree No. 01/CP of January 4, 1995 and the Prime Minister's Decision No. 187/1999/QĐ-TTg of September 16, 1999 regarding the renewal of organization and managerial mechanism in State-run forestry farms.

2. Organizations, households and individuals that have planted agricultural perennial trees on forestry land without forests which is now assigned by the State to enterprises, if suited to the approved projects, shall shift to the forestry land-contracting form in accordance with the Regulation on contractual assignment of land by State enterprises for agricultural, forestial and aquacultural purposes, issued together with the Government's Decree No. 01/CP of January 4, 1995 or to the forestry land-leasing form.

Article 12.- Bases for assignment and leasing of forestry land

1. The forestry land fund of each locality
2. The present situation of the management and use of forestry land by organizations, households and individuals.
3. The assigned or leased forestry land quotas prescribed in Article 13 of this Decree.
4. The organizations' forestry land use demand written in the projects approved by the competent State agencies; the households' and individuals' applications for land assignment or leasing certified by the commune-level People's Committees of the

localities where forestry land is located.

Article 13.- Quotas of assigned and leased forestry land

1. Quotas of forestry land assigned to households shall be decided by the provincial People's Committees but must not exceed 30 hectares.
2. Quotas of forestry land assigned to organizations according to projects shall be approved by the competent State agency(ies).
3. Quotas of forestry land leased to organizations according to projects shall be approved by the competent State agency(ies); Quotas of forestry land leased to households and individuals shall depend on their land-leasing applications .
4. For uncultivated land, bare hills, coastal sand land and sea-encroaching land, the quotas of land assigned to households for forestial use shall be decided by the provincial People's Committees, depending on the local land fund and their production capacity, ensuring the implementation of the policy to encourage and create favorable conditions for the exploitation and use of these types of land for forestial purposes.

Article 14.- Forestry land assignment and leasing durations

1. The forestry land assignment duration is prescribed as follows:

a/ The land assignment duration applicable to organizations prescribed in Clauses 2, 3, 4 and 6, Article 4 of this Decree shall conform to the projects approved by the competent State agency;

b/ The land assignment duration applicable to organizations prescribed in Clause 5, Article 4 of this Decree shall last until the expiry of the duration already assigned by the State;

c/ The land assignment duration applicable to households and individuals for stable and long-term use shall be 50 years. Upon the expiry of this duration, if the land users wish to continue using such forestry land and during the course of using such land they have strictly observed the land legislation and the forest protection and development legislation, they shall be considered and assigned such land by the competent State agency for continued use. If they plant trees with a cycle of over 30 years, after the expiry of this duration they shall still be assigned land for use.

2. The forestry land assignment duration is calculated as follows:

a/ For organizations, households or individuals that were assigned forestry land by the State from

October 15, 1993 backwards, their forestry land assignment duration shall be uniformly calculated from October 15, 1993;

b/ For organizations, households or individuals that were assigned forestry land after October 15, 1993, their forestry land assignment duration shall be calculated from the date of assignment;

3. The forestry land-leasing duration for organizations, households and individuals shall be determined on the basis of the projects approved by the competent State agencies or the land-leasing applications of households or individuals but must not exceed 50 years.

Where a project needs to lease forestry land for a duration of more than 50 years, it must be decided by the Prime Minister but not exceed 70 years.

Upon the expiry of this duration, if the organization, household or individual still needs to lease such forestry land and has used such land for the right purpose, the State shall consider and continue to lease the land to such organization, household or individual.

Article 15.- Combined agro-forestry production

Organizations, households and individuals that are assigned or leased forestry land by the State as prescribed in Clause 4, Article 7, Clause 2, Article 8 and Article 9 of this Decree may use the area of land without forests for growing agricultural perennial trees which can help protect the environment in a sustainable manner or constructing facilities in service of landscape tourism under the forest canopy according to each project approved by the competent State agency.

Article 16.- Competence to assign or lease forestry land

1. The district-level People's Committees shall decide the assignment and leasing of forestry land to households and individuals.

2. The provincial People's Committees shall decide the assignment and leasing of forestry land to organizations.

Article 17.- Granting of forestry land use right certificates

1. The State agencies competent to assign and lease forestry land prescribed in Article 16 of this Decree shall be also the agencies competent to grant forestry land use right certificates. In cases where the Government makes forestry land assignment decisions, the provincial People's Committees shall grant the forestry land use certificates.

2. Organizations, households and individuals that

have been assigned or leased forestry land by the State shall be granted land use right certificates.

3. Organizations, households and individuals currently using forestry land which has neither been assigned nor leased before the effective date of this Decree, if no dispute arises and they have used such land for the right purpose, they shall be considered and assigned or leased land and granted land use right certificates.

4. The land administration agencies shall assist the People's Committees of the same level in processing the procedures for land assignment, land leasing and granting forestry land use right certificates.

Chapter III

RIGHTS AND OBLIGATIONS

Article 18.- Rights and obligations of organizations that are assigned forestry land by the State

1. Organizations that are assigned forestry land by the State shall have the following rights:

a/ The rights prescribed in Clauses 1, 2, 4, 5, 6, 7 and 8 of Article 73 of the Land Law;

b/ To be entitled to land use levy reduction or exemption as prescribed by law and the State's support policies regarding forest protection and development;

c/ State enterprises and domestic economic organizations shall also have the rights to mortgage properties under their management which is associated with the right to use such land at a Vietnamese credit institution to borrow capital for their production and business; make capital contribution for production and business cooperation with domestic organizations and/or individuals as well as foreign organizations and/or individuals with the value of the land use right in order to continue using their land for forestry production purposes.

2. Organizations that are assigned forestry land by the State shall have the following obligations:

a/ The obligations prescribed in Clauses 1, 2, 3, 6 and 7, Article 79 of the Land Law;

b/ To pay taxes and land administration fees as prescribed by law;

c/ To observe the law provisions on forest management, protection and development.

Article 19.- Rights and obligations of households and individuals that are assigned forestry land by the State

1. Households and individuals that are assigned

forestry land by the State shall have the following rights:

a/ The rights prescribed in Clause 3, Article 3, Article 73, and Clause 3, Article 76 of the Land Law;

b/ To make capital contribution with their land use right for production and business cooperation with domestic organizations and/or individuals;

c/ To be entitled to land use levy reduction or exemption as prescribed by law and the State's support policies regarding the forest protection and development.

2. Households and individuals that are assigned forestry land by the State shall have the following obligations:

a/ The obligations prescribed in Clauses 1, 2, 3, 4, 6 and 7, Article 79 of the Land Law;

b/ To observe the law provisions on forest management, protection and development.

Article 20.- Rights and obligations of organizations, households and individuals with the forestry land leased by the State

1. Organizations, households and individuals that are leased forestry land by the State shall have the rights prescribed in Clauses 1, 2, 4, 5, 6, 7 and 8, Article 73 of the Land Law. Depending on their mode of payment of land rental for the entire land-leasing duration, for a number of years or every year, households and individuals that are leased forestry land by the State shall have the rights prescribed in Clause 9, Article 1 of the Law Amending and Supplementing a Number of Articles of the Land Law and organizations that are leased forestry land by the State shall have the rights prescribed in Clause 12, Article 1 of the Law Amending and Supplementing a Number of Articles of the Land Law.

2. Organizations, households and individuals that are leased forestry land by the State shall have the obligations prescribed in clauses 1, 2, 3, 4, 6 and 7, Article 79 of the Land Law, pay land rental and observe the law provisions on forest management, protection and development.

Article 21.- Rights and obligations of organizations, households and individuals as transferees of the forestry land use right

Rights and obligations of organizations, households and individuals that are as transferees of the forestry land use right from organizations, households or individuals that are assigned or leased forestry land by the State in accordance with the provisions of law, shall have the rights and obligations prescribed in Article 18, 19 and 20 of this Decree during the time they are assigned or leased land by the State.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 22.- Implementation effect

1. This Decree replaces the Government's Decree No. 02/CP of January 15, 1994 on the assignment of forestry land to organizations, households and individuals for stable and long-term use for forestial purposes.

2. This Decree takes effect 15 days after its signing.

Article 23.- Organization of implementation

1. The Minister of Agriculture and Rural Development, the Minister of Finance and the General Director of Land Administration shall guide the implementation of this Decree.

2. The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

On behalf of the Government
Prime Minister
PHAN VAN KHAI