

---

## **THE GOVERNMENT**

### **DECREE No. 17/2006/ND-CP OF JANUARY 27, 2006, AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE DECREES GUIDING THE IMPLEMENTATION OF THE LAND LAW AND DECREE No. 187/2004/ND-CP ON TRANSFORMATION OF STATE COMPANIES INTO JOINT-STOCK COMPANIES**

#### **THE GOVERNMENT**

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

*Pursuant to the November 26, 2003 Land Law;*

*At the proposal of the Minister of Natural Resources and Environment and the Minister of Finance,*

#### **DECREES:**

**Article 1.-** Scope of amendment and supplementation

This Decree provides for amendment and supplementation of a number of articles of the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law (referred to as Decree No. 181/2004/ND-CP), Decree No. 182/2004/ND-CP of October 29, 2004, on handling of administrative violations in the land domain (referred to as Decree No. 182/2004/ND-CP), Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement upon land recovery by the State (referred to as Decree No. 197/2004/ND-CP), Decree No. 198/2004/ND-CP of December 3, 2004, on collection of land use levies

(referred to as Decree No. 198/2004/ND-CP), and Decree No. 187/2004/ND-CP of November 16, 2004, on transformation of state companies into joint-stock companies (referred to as Decree No. 187/2004/ND-CP).

**Article 2.-** To amend and supplement a number of articles of Decree No. 181/2004/ND-CP

**1. To amend Clause 2 of Article 30 as follows:**

"2. The good observance of land law by applicants for land allocation or land lease in cases where such applicants were previously allocated or leased land by the State for execution of production, business or service investment projects. Based on the land allocation or land lease applicants' self-declarations about the entire areas and the use of land previously allocated or leased by the State and their self-remarks on the observance of land law, the Services of Natural Resources and Environment of the provinces or centrally run cities where exists the land for which land allocation or land lease procedures are being carried out shall contact the Services of Natural Resources and Environment of the provinces or centrally run cities where exists the allocated or leased land in order to verify land users' observance of land law in the course of execution of projects to which the State has allocated or leased land.

Where land allocation or land lease applicants are non-state economic organizations, they must declare the entire areas and use of land which has been allocated or leased by the State to them and other economic organizations being co-owners."

**2. To add Clause 4 to Article 30 as follows:**

"4. The investment ratio for a unit of land area shall be calculated as equal to the total capital invested on land divided by the total land area of the project. Provincial/municipal People's Committees

shall base themselves on local practical situation to set the minimum investment ratio for a unit of land area, suitable to each kind of project and each geographical area of investment, which shall serve as a basis for project evaluation and evaluation of land use demands of the investment project."

**3. To add Points e and f to Clause 2 of Article 36 as follows:**

"e/ Using land for execution of investment projects on mineral exploration or exploitation according to the provisions of law on investment and law on minerals; using land as ground for relocation of production, business or service establishments at environmental protection requirements or under plannings, which cannot be arranged in industrial parks, hi-tech parks or economic zones.

f/ Using land for execution of infrastructure investment projects for public services, including works of traffic, power, irrigation, water supply and drainage, environmental sanitation, communication, petrol and oil pipelines, gas pipelines, educational, training, cultural, scientific and technical, medical, physical training and sport facilities, and marketplaces."

**4. To amend Clause 7 of Article 36 as follows:**

"7. Land already allocated for use for defense and security purposes, for national interests, public interests, for construction of industrial parks, or for use as ground for non-agricultural production and/or business activities must not be used for the purposes of building or dealing in dwelling houses or residential land, except cases where the competent state agencies defined in Article 37 of the Land Law permit the change of land use purposes and such change complies with the bases of land use purpose change, defined in Article 31 of the Land Law."

**5. To amend Point d, and add Points e, f and g to Clause 2 of Article 61 as follows:**

"d/ Where land is put up for auction but there is no bidder or where the auction has been held at least twice but fails, or where only one investor formulates projects of application for allocation or lease of a certain land area for execution of investment projects in compatibility with plans;

e/ Where land is used for execution of investment projects on construction of dwelling houses for resettlement, construction of dwelling houses for rent or purchase by poor people and low-income earners, or construction of official-duty houses;

f/ Where residential land is allocated to officials or public servants who move to other working places under competent agencies' decisions;

g/ Where land for which compensation or ground clearance has not been made."

**6. To amend Clause 1 of Article 63 as follows:**

"1. If state enterprises currently using land allocated or leased by the State are equitized, they may choose the form of land allocation with collection of land use levies or land lease."

**7. To add Clause 7 to Article 84 as follows:**

"7. For economic non-business units which can self-finance their regular activities and are tasked by competent agencies to build and deal in industrial-park infrastructure, if they are leased land by the State for investment in construction and commercial operation of industrial-park infrastructure, they may sub-lease the land after having invested in infrastructure."

**8. To amend Clause 1 of Article 101 as follows:**

"1. The transfer of rights to use land of investment projects on construction of dwelling houses for sale or lease is specified as follows:

a/ For cities, provincial towns, new urban centers of cities or provincial towns, or new urban centers planned for development into cities or provincial towns, the transfer of land use rights to households or individuals in form of selling house foundations while houses have not yet been built is disallowed. Investors may transfer the land use rights to economic organizations for the land areas on which investment construction of infrastructure has been completed under approved projects or under component projects of approved investment projects; economic organizations being land use rights transferees must use the land for proper purposes strictly according to construction items and progress stated in such projects;

b/ For other geographical areas, the transfer of rights to use land of investment projects on commercial operation of dwelling houses shall comply with provisions of Point a of this Clause; where exist investment projects on construction of population-quarter infrastructure, investors must complete the projects strictly according to their approved contents before they can transfer the rights to use land associated with such infrastructure to economic organizations, households or individuals."

**9. To add Article 111a as follows:**

**"Article 111a.-** Rights and obligations of land users in cases where they are allocated residential land, land for use as production and/or business ground or land for execution of investment projects for profit purposes, who are entitled to exemption from or reduction of land use levies or land rents

1. Persons who are allocated residential land or leased land by the State for execution of projects on construction and trading of dwelling houses, who are entitled to land use levy or land rent exemption or reduction, shall have the rights and obligations

provided for by land law like the cases where they are not entitled to land use levy or land rent exemption or reduction.

2. Persons who are allocated land by the State for use as production and/or business ground, or for execution of investment projects for profit purposes, who are entitled to reduction of land use levies or land rents, shall have the rights and obligations provided for by land law like the cases where they are not entitled to land use levy or land rent exemption or reduction for land of categories with corresponding use purposes.

3. Persons who are allocated land by the State for use as production and/or business ground, or for execution of investment projects for profit purposes, who are entitled to land use levy or land rent exemption, shall have the rights and obligations provided for by land law like the cases where annual land rents are paid for State-leased land of categories with corresponding use purposes.

Where projects are in the process of construction investment but land users become incapable of continuing to execute the projects, the State shall recover the land; assets already invested on land shall be handled according to the provisions of Article 35 of Decree No. 181/2004/ND-CP.

Where projects are completed at the capital construction stage but investors become incapable of continuing to execute the projects, they may sell the assets affixed to the land; asset purchasers may continue executing the projects and must use the land strictly for the approved purposes."

**10. To amend Clause 1 of Article 119 as follows:**

"1. Contracts or papers when land users exercise their rights to exchange, transfer, lease, sublease, inherit or donate land use rights, to mortgage, guarantee or contribute capital with land

use rights, must be certified by notaries public, or authenticated by commune, ward or township People's Committees, or certified by management boards of industrial parks, economic zones or hi-tech parks according to the following regulations:

a/ The transfer, lease or sublease of the rights to use land, mortgage, guarantee or capital contribution with the rights to use land in industrial parks, economic zones or hi-tech parks must be certified by management boards of such industrial parks, economic zones or hi-tech parks;

b/ For cases not defined at Point a, Clause 1 of this Article, certification of notaries public is required for organizations, overseas Vietnamese, foreign organizations or individuals; certification of public notaries or authentication of People's Committees of communes, wards or townships where exists land is required for households or individuals; certification of public notaries or authentication of People's Committees of communes, wards or townships where exists land is required for participants being households or individuals and other parties being organizations, overseas Vietnamese, foreign organizations or foreigners."

**11. To amend Clauses 5 and 6 of Article 130 as follows:**

"5. At least twenty (20) days before the expiration of notification duration, provincial/municipal Services of Natural Resources and Environment shall have to submit land recovery decisions to provincial/municipal People's Committees.

Within five (05) working days after receiving the submissions, provincial/municipal People's Committees shall have to consider, sign and send the land recovery decisions to provincial/municipal Services of Natural Resources and Environment and People's Committees of rural/urban districts or provincial towns or cities. The land recovery

decisions must include contents on recovery of specific land areas of land plots used by organizations, religious establishments, overseas Vietnamese, foreign organizations or foreigners, and contents on land recovery applicable collectively to all land areas used by households, individuals or population communities.

Where land areas being used by households or individuals are included in the recovered land plots, within ten (10) working days after receiving the land recovery decisions from provincial/municipal People's Committees, People's Committees of rural/urban districts or provincial towns or cities shall decide on recovery of specific land areas used by households, individuals or population communities.

6. After obtaining land recovery decisions of provincial/municipal People's Committees, land fund development organizations or People's Committees of rural/urban districts or provincial towns or cities shall have to formulate and submit plans on compensation or ground clearance.

Within fifteen (15) working days after receiving the submissions, provincial/municipal People's Committees shall have to consider, sign and send decisions on approval of compensation or ground clearance plans to land fund development organizations or People's Committees of rural/urban districts or provincial towns or cities."

**12. To annul Clause 3 of Article 149.**

**13. To amend Clause 3 of Article 163 as follows:**

"3. Within forty five (45) days after receiving settlement decisions of presidents of People's Committees of rural/urban districts or provincial towns or cities, if complainants disagree with such decisions, they may initiate lawsuits at people's courts or lodge their complaints with provincial/

municipal People's Committees.

Where complaints are lodged with provincial/municipal People's Committees, presidents of provincial/municipal People's Committees shall have to settle such complaints within the time limits set by the Law on Complaints and Denunciations. Complaint-settling decisions of provincial/municipal People's Committee presidents shall be final, which must be published and sent to complainants and other persons with related interests and obligations."

**14. To amend Clause 3 of Article 164 as follows:**

"3. Within forty five (45) days after receiving settlement decisions of provincial/municipal People's Committee presidents, if complainants disagree with such decisions, they may initiate lawsuits at people's courts."

**Article 3.-** To amend Clause 7, Article 7 of Decree No. 182/2004/ND-CP as follows:

"7. Sanctioning forms and levels shall be determined on the basis of the nature and seriousness of violations, consequences of administrative violations, personal backgrounds of persons committing administrative violations, and extenuating and aggravating circumstances. Extenuating and aggravating circumstances shall apply according to the provisions of Articles 8 and 9 of the Ordinance on Handling of Administrative Violations."

**Article 4.-** To amend and supplement a number of articles of Decree No. 197/2004/ND-CP

1. To amend and supplement Point b, Clause 1 of Article 3 as follows:

"b/ Organizations and individuals that are allocated land by the State with collection of land use levies or leased land and have advanced money for compensation or ground clearance support shall

have such advanced money amounts subtracted from land use levies or land rents payable to the State; the to-be-subtracted amounts must not exceed the payable land use levies or land rents."

**2. To amend and supplement Clause 1 of Article 9 as follows:**

"1. Land prices for compensation calculation are land prices according to use purposes set and announced by provincial/municipal People's Committees; compensation shall not be made at prices of land with use purposes to be changed; where such prices do, at the time of issue of land recovery decisions, not match actual market prices of land use rights transfer under normal conditions, provincial/municipal People's Committees shall decide on proper specific land prices."

**3. To add Clause 3 to Article 28 as follows:**

"3. Where households or individuals having land recovered are ranked as poor households according to the poverty line published in each period by the Ministry of Labor, War Invalids and Social Affairs, they shall receive supports for getting rid of poverty; the support levels and time shall be specified by provincial/municipal People's Committees which, however, must be between 3 years and 10 years after the land recovery is completed."

**4. To amend Article 29 as follows:**

"Households and individuals directly engaged in agricultural production, that have over 30% of agricultural land areas recovered but are not compensated with corresponding agricultural land by the State, shall receive supports for job change or job creation according to the following regulations:

1. They shall be allocated land with collection of land use levies at locations which can be used as ground for non-agricultural production or service-

provision; land areas to be allocated shall be prescribed by provincial-level People's Committees, based on the land fund and recovered land area of each household or individual; prices of to be-allocated land shall be equal to those of corresponding agricultural land plus expenses for investment in infrastructure on land which, however, must not be higher than land prices at the time of land recovery, set and announced by provincial-level People's Committees;

2. In special cases where land provided for in Clause 1 of this Article is unavailable, family members who are still of the working age shall receive supports for job change training; specific support levels shall be set by provincial-level People's Committees to suit local practical situation; supports for job change training shall be given mainly in form of job learning at job-training establishments."

**5. To add Clause 3 to Article 36 as follows:**

"3. For households or individuals that have residential land recovered and have to move to resettlement zones, the resettlement must be associated with job creation or job change according to the following regulations:

a/ If they are households or individuals directly engaged in agricultural production but not compensated by the State with agricultural land corresponding to the recovered agricultural land, the resettlement shall be associated with allocation of land for use as ground for non-agricultural production or service-provision as specified in Clause 1, Article 29 of this Decree;

b/ If they are households or individuals engaged in non-agricultural production or service-provision, resettlement must be associated with job creation from non-agricultural production or service-provision; in special cases where land is unavailable for associating resettlement with job

creation from non-agricultural production or service-provision, households or individuals shall receive supports for job change training according to the provisions of Clause 2, Article 29 of this Decree."

**6. To amend Clause 2 of Article 48 as follows:**

"2. To be-deducted funds for the organization of compensation, support and resettlement shall not exceed 2% of the projects' total funds for compensation and support; specific levels shall be decided by provincial-level People's Committees to suit local practical situation, depending on the scale, nature and characteristics of projects of each type; spending, payment and settlement shall comply with the provisions of law.

District-level land fund development organizations or councils for compensation, support and resettlement may, when performing the work of compensation, support and resettlement for various projects in localities, balance to be-deducted fund of each project to suit practical situation but must ensure that the total fund for the organization of compensation, support and resettlement for a project shall not exceed 2% of the total fund for compensation, support and resettlement of such project."

**Article 5.-** To amend and supplement a number of articles of Decree No. 198/2004/ND-CP

**1. To amend and supplement Clause 2 of Article 4 as follows:**

"2. Land prices for calculation and collection of land use levies are land prices based on the allocated-land use purposes, set and announced by provincial/municipal People's Committees; where at the time of land allocation, such prices are not close to actual market prices of land use right transfer under normal conditions, provincial/municipal People's Committees shall decide on

suitable specific land prices."

**2. To amend and supplement Point a, Clause 2 of Article 6 as follows:**

"a/ If they convert garden or pond land within the same land plots where exist dwelling houses in population quarters, which is not recognized as residential land, into residential land, the land use levies shall be collected at a level equal to 50% of the difference between the land use levies calculated at residential land prices and those calculated at agricultural land prices;

Where households or individuals are permitted by competent state agencies to convert garden or pond land, which is not recognized as residential land, or agricultural land into land for non-agricultural production and/or business purposes, the land use levies shall be collected at a level equal to the difference between the land use levies calculated at prices of land for non-agricultural production/business purposes and those calculated at agricultural land prices."

**3. To amend and supplement Clause 4 of Article 11 as follows:**

"4. Land use levy exemption or reduction shall not apply in cases where land use rights are put up for auction to allocate land with collection of land use levies; where land lease is changed to land allocation with collection of land use levies for use for production and/or business purposes, except cases where the change to land allocation with collection of land use levies helps the subjects be entitled to land use levy exemption provided for in Article 12 of Decree No. 198/2004/ND-CP."

**4. To add Clauses 4 and 5 to Article 15 as follows:**

"4. For households or individuals that are permitted to convert garden or pond land within the

same land plots where exist dwelling houses in population quarters, which is not recognized as residential land, or to convert agricultural land into residential land, they shall have to pay land use levies according to the provisions of Article 6 of this Decree, and for households or individuals using land and granted land use right certificates but have to pay land use levies according to the provisions of Article 8 of this Decree, if they are incapable of paying land use levies to the State, the payable land use levies shall be booked as debts in their land use right certificates; such debt amounts shall be calculated at land prices at the time of grant of land use right certificates.

Where households or individuals make land use right transactions (transfer, lease, mortgage, pledge, capital contribution with land use rights), donate land use rights to non-heirs according to the provisions of the civil law (except cases defined at Point c, Clause 2, Article 110 of the Land Law), or are compensated with land upon land recovery by the State, they shall have to pay the debts to the State. Land use right registration offices under natural resources and environment sections of localities where exists the land shall have to write off debts in land use right certificates if households or individuals have fully paid the land use levy debts to the State.

Land use right transactions related to land with land use right certificates being inscribed with debts payable to the State shall not legally valid.

5. Economic organizations which are allocated land by the State with collection of land use levies for investment shall pay the land use levies according to the land allocation progress stated in approved investment projects."

**5. To amend and supplement Clause 1 of Article 17 as follows:**

"1. For households or individuals having used

land from October 15, 1993 to the effective date of this Decree, that have been granted land use right certificates but still have land use levy debts, such debts may continue to be booked and they must pay land use levies to the state budget according to the provisions of Clause 4, Article 15 of this Decree."

**Article 6.-** To amend Point b, Clause 1, Article 19 of Decree No. 187/2004/ND-CP as follows:

"b/ If equitized enterprises choose the form of land allocation, the land use right value must be included in the value of such equitized enterprises at land prices set and announced by provincial/ municipal People's Committees; if such prices do not match actual market prices of land use right transfer under normal conditions at the time of equitization, provincial/municipal People's Committees shall decide on suitable specific land prices. The order and procedures for land allocation, payment of land use levies and grant of land use right certificates shall comply with the current provisions of land law."

**Article 7.-** Implementation provisions

This Decree takes effect 15 days after its publication in "CONG BAO." To annul previous regulations which are contrary to those of this Decree.

Ministers, heads of ministerial-level agencies, heads of Government-attached agencies, and presidents of provincial/municipal People's Committees shall have to implement this Decree.

The Ministry of Natural Resources and Environment and the Ministry of Finance shall guide the implementation of this Decree.

**On behalf of the Government**  
**Prime Minister**  
**PHAN VAN KHAI**