

DECREE No. 123/2007/ND-CP OF JULY 27, 2007, AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF DECREE No. 188/2004/ND-CP OF NOVEMBER 16, 2004, ON METHODS OF DETERMINING LAND PRICES AND PRICE BRACKETS OF LAND OF DIFFERENT CATEGORIES

THE GOVERNMENT

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

Pursuant to the November 26, 2003 Land Law;

Pursuant to the April 26, 2002 Price Ordinance;

At the proposal of the Finance Minister,

DECREES:

Article 1.- To amend and supplement a number of articles of the Government's Decree No. 188/2004/ND CP of November 16, 2004, on methods of determining land prices and price brackets of land of different categories (below referred to as Decree No. 188/2004/ND-CP for short) as follows:

1. To amend Point e, Clause 1 of Article 2 into the following:

e/ Calculating the land use right value for the collection of registration fees in accordance with law."

2. To amend Clause 2 of Article 3 into the following:

"2. The actual market price of land use right transfer under normal conditions at a specified point of time means a VND amount calculated per unit of land acreage used for a certain lawful purpose and formulated on the basis of the results of common actually completed transactions between transferors and transferees under normal commercial conditions and without the influence of factors that cause

sudden irrational price rise or decrease, such as speculation, natural disaster, enemy sabotage, economic and financial crisis, change of planning, transfer under coercion, blood relations or preferential treatment and other cases as prescribed by the Ministry of Finance."

3. To add the following Clauses 3 and 4 to Article 4:

"3. Subtraction method means a method of determining the price of a land plot with attached assets by subtracting the value of assets attached to land from the total value of the real estate (including the value of land and the value of attached assets).

2. Surplus method means a method of determining the price of a bare land plot with development potential according to planning or permitted for change of the use purpose for the optimal use by subtracting estimated expenses for the development from the total assumed value of development of the real estate."

4. To amend and supplement Article 5 as follows:

a/ To add new Clauses 3 and 4 following Clause 2:

"3. The subtraction method applies to determining the price of a land plot with attached assets in the case data on the market prices of similar bare land plots are insufficient for the application of the direct comparison method while it is possible to collect data on the market prices of land plots with attached assets similar to the to-be-priced land plot.

4. The surplus method applies to determining the land price of a bare land plot with development potential thanks to change of planning or use purpose when the similar market price of land use right transfer is unavailable for the application of the direct comparison method."

b/ Clause 3 is amended into the following Clause 5:

“5. Basing themselves on the practical situation of the market and the gathered data, provincial-level People’s Committees shall select an appropriate land price determination method among those defined in Decree No. 188/2004/ND-CP and this Decree for determining land prices in their localities. In case of necessity, several land price determination methods may be combined for determining specific land prices.”

c/ To annul Clause 4.

5. To amend Article 6 as follows:

“Article 6.- Price brackets of land of different categories

1. The land price brackets issued together with this Decree apply to land categories classified under Article 6 of the Government’s Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law (below referred to as Decree No. 181/2004/ND-CP) including:

a/ For the group of agricultural land:

- The annual crop land price bracket (Table 1);
- The perennial tree land price bracket (Table 2);
- The production forest price bracket (Table 3);
- The aquaculture land price bracket (Table 4);
- The salt-making land price bracket (Table 5);
- For protection forest land and special-use forest land, provincial-level People’s Committees shall base themselves on the decided production forest land and the method of determining production forest land prices stated in Clause 10, Article 1 of this Decree to determine specific price levels.

- For other categories of agricultural land stipulated at Point e, Clause 4, Article 6 of Decree No. 181/2004/ND-CP, provincial-level People’s Committees shall base themselves on the decided prices of adjacent agricultural land areas of different categories and the method of determining prices of adjacent agricultural land of different categories stated in Clause 10, Article 1 of this Decree to

determine specific price levels.

b/ For the group of non-agricultural land:

- The rural residential land price bracket (Table 6);
- The urban residential land price bracket (Table 7);
- The rural non-agricultural production and business land price bracket (Table 8);
- The urban non-agricultural production and business land price bracket (Table 9);
- For land used for the construction of working offices and land used for the construction of non-business works; land used for defense and security purposes; land used for religions and beliefs (including land used by religious establishments, land with communal houses, temples, shrines, small pagodas, ancestral worship halls or houses); other non-agricultural land (including land for the construction of museums, conservation centers, art works display halls, and cultural and art composition facilities), provincial-level People’s Committees shall base themselves on the decided prices of adjacent residential land areas or prices of the nearest residential land areas (if adjacent land areas are unavailable) and the provisions of Clause 10, Article 1 of this Decree to determine specific price levels.
- For land used for public purposes stipulated at Point b, Clause 5, Article 6 of Decree No. 181/2004/ND-CP and other categories of non-agricultural land (including land for other construction works owned and used by individuals for non-business purposes and not associated with residential land; land used for the construction of makeshift houses and tents for workers; urban land used for the construction of houses for agricultural purposes, including cultivation not directly on land; land for the construction of facilities for raising animals permitted by law; land for the construction of laboratories devoted to agricultural, forestry or aquacultural researches and experiments; land for the construction of warehouses and houses of

families and individuals for storing agricultural products, plant protection drugs, fertilizers, machines and tools of agricultural production), provincial-level People's Committees shall base themselves on the decided price of non-agricultural production and business land in adjacent areas or the nearest areas (in case adjacent areas are unavailable) and the provisions of Clause 10, Article 1 of this Decree to determine specific price levels;

- For land used for cemeteries or grave yards, provincial level People's Committees shall base themselves on the decided price of adjacent areas and the provisions of Clause 10, Article 1 of this Decree to determine specific price levels.

- For rivers, canals, ditches, trenches and streams and water surfaces exclusively used for aquaculture, the aquaculture land price bracket is applied; if they are used for non-agricultural purposes or for a non-agricultural purpose combined with aquaculture, provincial-level People's Committees shall base themselves on the decided price of non-agricultural land in adjacent areas or the nearest areas (in case adjacent areas are unavailable) and the provisions of Clause 10, Article 1 of this Decree to determine specific price levels.

c/ For the group of unused-land

For categories of land with unidentified use purposes (including unused delta land, unused hilly and mountainous land, rock mountains without forests), when it is necessary to determine their prices, provincial-level People's Committees shall base themselves on the decided price of adjacent land areas and the provisions of Clause 10, Article 1 of this Decree to determine appropriate prices. When unused land is put to use under permission of competent authorities, provincial-level People's Committees shall base on the Government-stipulated price bracket of land of the same category and the same use purpose to determine specific price levels.

2. Basing themselves on the actual land use right transfer prices in their localities, provincial-level

People's Committees may decide on specific land prices which must be neither 20% higher than the maximum price level nor 20% lower than the minimum price level of the Government-stipulated price bracket of land of the same category in Clause 5, Article 1 of this Decree.

3. In special cases, in deep-lying and remote areas, in areas with difficult socio-economic conditions and poor infrastructure, if the actual land use right transfer prices on local markets under normal conditions are lower than the minimum price level of the price bracket of land of the same category stipulated in Clause 5, Article 1 of this Decree, provincial-level People's Committees shall decide on specific price levels applied in their localities and report them to the Ministry of Finance."

6. To amend and supplement Article 8 as follows:

a/ To amend the title of Article 8 into the following:

"Article 8.- Principles on rural land region classification for land price determination"

b/ To amend Point c of Clause 1 into the following:

"c/ Mountain region is a land region lying higher than the midland region, consisting largely of high-mountain areas with complicated terrain. Its population density is low; its infrastructure and conditions for goods production and circulation are less convenient than those in the midland region.

Mountain communes are classified according to the above basic criteria and under the guidance of the Committee for Ethnic and Mountainous Affairs (now the Committee for Ethnic Affairs)."

c/ To annul Clause 2.

7. To amend and supplement Article 9 as follows:

a/ To amend the title of Article 9 into the following:

“Article 9.- Determination of land regions and positions of land of every specific category in rural areas for land price determination”

b/ To amend Point a of Clause 1 into the following:

“a/ For annual crop land, perennial tree land, aquaculture land, production forest land, protection forest land, special-use forest land and other agricultural land (as stipulated at Point e, Clause 4, Article 6 of Decree No. 181/2004/ND-CP), different land prices are set on the basis of the land position of three types of commune classified according to their administrative territories: delta, midland and mountain. The position of land is determined based on the distance from the place of residence of the land users’ community to the place of production, the distance from the place of production to a major outlet and the degree of convenience of communications. Differentiation of land positions is based on the factor of distance combined with the factors of soil features, terrain, climate, weather and irrigation conditions of each region: delta, midland and mountain, classified according to communes’ administrative territories. The position of land is determined on the principle that position No. 1 applies to land areas where the place of residence of the land users’ community to the place of production and the distance from the place of production to a major outlet are nearest and where communications are most convenient. This position is followed by positions from No. 2 onwards characterized by longer distances and less convenient communications.”

8. To amend and supplement Article 11 as follows:

a/ To amend the title of Article 11 into the following:

“Article 11.- Competence to classify land regions, street grades and land positions for land price determination”

b/ To amend and supplement Article 11 as follows:

“Basing themselves on the provisions of Articles 8, 9 and 10 of Decree No. 181/2004/ND-CP and Clauses 6 and 7, Article 1 of this Decree and the practical situation of each locality, provincial-level People’s Committee shall issue specific criteria and prescribe the classification of regions, kinds and positions of land as bases for land price determination.

Annually, provincial-level People’s Committees shall readjust land categories, street grades and land positions upon any planning change or investment in upgrading or construction of infrastructure that affects the currently applied land categories, street grades and land positions.”

9. To amend and supplement Point d, Clause 1 of Article 12 into the following:

“d/ In case the adjacent land areas of the same category between two provinces are separated by a river, lake, canal, hill, mountain pass or mountain of a width of 100 meters or less, the adjacent land areas shall be determined as stretching from the bank of the river, lake or canal or the foot of the hill, mountain pass or mountain into the administrative territory of each province under Points a, b and c, Clause 1, Article 12 of Decree No 188/2004/ND-CP. If the river, lake, canal, hill, mountain pass or mountain is over 100 meters in width, it is not categorized as adjacent land.”

10. To amend Article 13 into the following:

“Article 13.- Determination of specific land prices in localities

1. On January 1 every year, provincial-level People’s Committees shall:

a/ Decide on and publicize in their localities the classification of land regions, street grades and land positions under the provisions of Articles 8, 9, 10 and 11 of Decree No. 188/2004/ND-CP and Clauses

6, 7 and 8, Article 1 of this Decree.

b/ Decide on and publicize in their localities the land price brackets applied in their localities after submitting them to the People's Councils of the same level for comments.

2. Methods of determining specific prices for land of each category

Land of a certain category is subject to the price bracket stipulated by the Government for land of that category on the following principles:

a/ For annual crop land, perennial tree land, aquaculture land, production forest land, protection forest land special-use forest land and agricultural land of other kinds: Land at position 1 in each region (delta, midland or mountain) has the highest price; land at positions from No. 2 onwards has corresponding lower prices.

b/ For salt-making land: Land at position No. 1 has the highest price; land at positions from No. 2 onwards has corresponding lower prices.

c/ For residential land, non-agricultural production and business land and non-agricultural land of other kinds in rural areas:

Land in region 1 has the highest price; land in regions from No. 2 onwards has corresponding lower prices.

In each land region, the price of land at position No. 1 has the highest price; land in positions from No. 2 onwards has corresponding lower prices.

d/ In the following cases, the land price is equal to the price of perennial crop land at position No. 1 in the same region in a province:

- Garden and pond land lying in the same land plot with a house which is not determined as residential land;

- Agricultural land lying within the administrative boundaries of a ward, within the residential area of a township or a rural residential area already delimited under a planning already approved by a

competent state agency;

- For agricultural land lying within a residential area of a township or a rural residential area without an approved planning, it shall be determined according to the boundaries of the outermost land plot with a house in the residential area;

Based on the practical situation in their localities, provincial-level People's Committees may prescribe higher prices in the above cases which, however, must not exceed twice the price of perennial tree land at position No. 1 in the same region already set by provincial-level People's Committees.

e/ For rural non-agricultural land lying along main roads, traffic hubs, trade zones, tourist resort or industrial parks, provincial-level People's Committees shall base themselves on the practical situation in their localities to prescribe appropriate land prices on the principles that:

- For residential land, the prices set by provincial-level People's Committees must not exceed 5 times the maximum price level in the rural residential land bracket stipulated by the Government;

- For non-agricultural production and business land, the prices set by provincial-level People's Committees must not exceed 3 times the maximum price level of the rural land price bracket stipulated by the Government."

11. To amend Point a, Clause 1 of Article 14 into the following:

a/ When determining the prices of land in adjacent areas between provinces or centrally run cities, the People's Committees of the provinces with these adjacent land areas shall base themselves on the provisions of Clause 1, Article 12 of Decree No. 188/2004/ND-CP and Clause 9, Article 1 of this Decree to reach agreement on the land prices and plans on adjustment of land prices in the adjacent areas on the principles that:

- For adjacent land areas of a certain category, the price bracket stipulated by the Government for such category is applied;

- For adjacent land areas with the same natural conditions, infrastructure and use purposes, their prices are the same;

In special cases, when economic and social conditions and common infrastructures in two localities are different, the prices in adjacent areas may differ by 30% at most."

12. To amend Article 15 into the following:

"Article 15.- Adjustment of specific prices of land of different categories in localities

1. When competent authorities adjust land use plannings or plans, change land use purposes, change urban center grades, street grades or land positions, provincial-level People's Committees shall adjust the prices of land in regions where such changes occur as appropriate according to current regulations.

2. In case of allocation of land by the State with collection of land use levy not through land use right auction or bidding for projects involving land use, land recovery by the State or allocation of land as selected by equitized state enterprises, if land prices prescribed by provincial-level People's Committees at the time of land allocation, issuance of land recovery decisions or inclusion of land prices into the value of equitized enterprises are not close to actual market land prices under normal conditions, provincial-level People's Committees shall base themselves on the actual market prices of land use right transfer in their localities to decide on specific land prices as appropriate without having to observe the provisions of Clause 5, Article 1 of this Decree.

3. Before making decisions on any adjustment

of land prices at some land positions, land regions and land categories in a year falling under their competence, provincial-level People's Committees shall prepare plans and submit them to the standing boards of the People's Councils of the same level for comment, and report their decisions to the People's Councils of the same level at the nearest session."

Article 2.- Implementation provisions

1. This Decree takes effect 15 days after its publication in "CONG BAO."

2. To annul Clause 4, Article 30 of the Government's Decree No. 109/2007/ND-CP of June 26, 2007, on transformation of enterprises with 100% state capital into joint-stock companies; to annul Clause 2 of Article 4, Clause 1 of Article 5, and Article 6 of Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the Decree guiding the implementation of the Land Law and Decree No. 187/2004/ND-CP on transformation of state companies into joint-stock companies.

3. Provincial-level People's Committee shall base themselves on Decree No. 188/2004/ND-CP and this Decree to promulgate and publicize specific prices of land of different categories for application from January 1 every year.

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

5. The Ministry of Finance shall guide the implementation of this Decree.

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG

PRICE BRACKETS OF LAND OF DIFFERENT CATEGORIES

*(Issued together with the Government's Decree No. 123/2007/ND-CP
of July 27, 2007)*

Table 1: ANNUAL CROP LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Type of commune	Delta commune		Midland commune		Mountain commune	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	4.00	135.00	3.00	105.00	1.00	71.00

Table 2: PERENNIAL TREE LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Type of commune	Delta commune		Midland commune		Mountain commune	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	5.00	158.00	3.50	98.00	0.80	68.00

Table 3: PRODUCTION FOREST LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Type of commune	Delta commune		Midland commune		Mountain commune	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	1.50	60.00	0.80	38.00	0.50	30.00

Table 4: AQUACULTURE LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Type of commune	Delta commune		Midland commune		Mountain commune	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	3.00	135.00	2.00	75.00	0.50	36.00

Table 5: SALT-MAKING LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Price level	Nationwide	
	Minimum price	Maximum price
	1.50	62.00

Table 6: RURAL RESIDENTIAL LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Type of commune	Delta commune		Midland commune		Mountain commune	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	10.00	1,875.00	4.50	1,275.00	2.50	900.0

Table 7: URBAN RESIDENTIAL LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Grade of urban center	Special grade		I		II		III		IV		V	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	1,500.0	67,500.0	400.0	42,500.0	150.0	30,000.0	120.0	19,500.0	50.0	13,350.0	30.0	6,700.0

Table 8: RURAL NON-AGRICULTURAL PRODUCTION/BUSINESS LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Type of commune	Delta commune		Midland commune		Mountain commune	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	10.00	1,350.00	4.50	900.0	2.50	525.00

Table 9: URBAN NON-AGRICULTURAL PRODUCTION/BUSINESS LAND PRICE BRACKETUnit of calculation: VND thousand/m²

Grade of urban center	Special grade		I		II		III		IV		V	
Price level	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price	Minimum price	Maximum price
	1,000.0	47,810.0	250.0	29,500.0	100.0	20,000.0	50.0	13,500.0	40.0	8,500.0	15.0	4,500.0