

THE GOVERNMENT
SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom - Happiness

No 163/1999/ND-CP

Hanoi, November 16, 1999

Decree of the Government

**CONCERNING allocating and leasing OF forest LAND to organizations, households
and individuals for long-term forestry purposes**

The Government

Based on:

The Law on Government Organization dated September 30, 1992;

The Land Law dated August 19, 1991;

The Land Law dated July 14, 1993 and the revised Land Law dated December 02, 1998;

Proposal of the Minister of Agriculture and Rural Development, Director of the General Department of Land Administration.

Decrees:

Chapter I
General provisions

Article 1. Scope of the decree

Article 2. Forest land

Article 3. Purposes of forest land use

Article 4. Recipients of forest land to be allocated:

Article 5. Recipients of forest land to be leased by the State.

Chapter II
Allocating and leasing forestland and issuing land tenure certificates.

Article 6. Allocation of forest land to households and individuals

Article 7. Allocation of forestland planned for establishment and development of special use forests.

Article 8. Allocation of forestland planned for establishment and development of protection forest:

Article 9. Allocation of forestland planned for establishment and development of production forest.

Article 10. Lease of forestland

Article 11. Contracting of forest land

Article 12. Allocation and lease of forestland is to be based on the following factors.

Article 13. Limits for area of forest land to be allocated or leased

Article 14. Duration of the allocation and lease of forest land

Article 15. Agro-forestry production

Article 16. The competent authority for allocation and lease of forest land:

Article 17. Issuing of Land Tenure Certificates.

Chapter III

Rights and responsibilities

Article 18. Rights and responsibilities of organizations who are allocated forest land by the State.

Article 19. Rights and responsibilities of households and individuals who were allocated forestland:

Article 20. Rights and responsibilities of organizations, households and individuals who lease forest land from the State.

Article 21. Rights and responsibilities of organizations, households and individuals who have forestland tenure rights transferred to them.

Chapter IV

Implementation provisions

Article 22. Implementation effect

Article 23. Implementing organization

Decrees:

Chapter I

General provisions

Article 1. Scope of the decree

The decree concerns allocation of forestland by the State to organizations, households and individuals for long-term forestry purposes under the form of allocation and lease of land.

Article 2. Forest land

Forestland mentioned in this Decree includes:

1. Land which has natural or planted forest;
2. Land which does not have forest but should be afforested through planting, assisted natural regeneration, or protection of vegetation for forestry purposes.

Article 3. Purposes of forest land use

The State allocates and leases forest land to organizations, households and individuals for long-term forest purposes in accordance with the characteristics of different kinds of forest, as follows:

1. Special use forest land: land which is planned for forest establishment and development for the purposes of natural conservation, constituting models for environmental protection, serving as a gene bank for forest flora and fauna and as a site for research, protecting historical vestiges, cultural and scenic places, and providing services for tourism, including:

- a. National Parks;
- b. Nature reserves;
- c. Cultural - historical - environmental forests (protection of landscape)

2. Protection forest land: land which is planned for forest establishment and development mainly for the purposes of protecting water sources and the soil, preventing erosion, limiting effects of natural disasters, regulating the climate and protecting the environment in general, including:

- a. Watershed protection forest: divided into very essential, essential and less essential protection forest areas;
- b. Windbreaks and belts protecting against blowing sand;
- c. Forests protecting dykes along rivers and the sea;

d. Environmental protection forest.

3. Production forests are mainly dedicated to production of logs, other wood products, non-wood forest products, animal products but they also contribute to environmental protection.

Article 4. Recipients of forest land to be allocated:

The State allocates forestland without payment of any land use levy to the following recipients:

1. Households and individuals whose livelihoods mainly depends on income from forestry, agriculture, fishery and salt production in which they are directly involved. This has to be certified by the local Commune People's Committees.

2. Management Boards of special use and protection forests;

3. State Enterprises who are using forest land allocated by the State before January 1st, 1999;

4. Forestry seed stations and enterprises, schools, and vocational schools;

5. Other organizations in different economic sectors who have been allocated forest land in accordance with Decree no. 02/CP dated January 15, 1994 of the Government before January 1, 1999 will be allowed to use their land until the end of the allocation duration. When the validity of the allocation is expired, they will then have to rent forestland instead.

6. Units under people's armed forces who use forest land in combination with national defense.

Article 5. Recipients of forest land to be leased by the State.

The State will lease forestland to following recipients:

1. Households and individuals, including those as stipulated in section 1 of Article 4 of this Decree who have demand and capacity to use forest land for business production.

2. Domestic organizations in all economic sectors.

3. Foreign organizations and individuals.

Chapter II

Allocating and leasing forestland and issuing land tenure certificates.

Article 6. Allocation of forest land to households and individuals

1. Households and individuals who were allocated forest land in compliance with Decree No. 02/CP dated January 15, 1995 of the Government will have the right to long-term use of the land and to receive Land Tenure Certificates.
2. Households who are using forest land received before January 1, 1999 where the area exceeds the area regulated in section 1 of Article 13 of this Decree will be allowed to continue to use the land for long-term purposes and to receive Land Tenure Certificates.

Article 7. Allocation of forestland planned for establishment and development of special use forests.

1. The Prime Minister or the Chairman of the People's Committees of Provinces and province level Cities will transfer the management and utilization duty for forest land planned for establishment and development of special use forest to the Management Boards of National Parks, Management Boards of Nature Reserves and Management Boards of cultural- historical - environmental forest areas (hereafter referred to as the Management Boards of special use forests).
2. The Management Boards of Special Use Forests shall contract forest land to households who are living in the strictly protected area and are unable to move out of the protected area in accordance with the Decision on contracting of land for agricultural, forestry and fishery purposes of State Enterprises issued together with Decree No. 01/CP dated January 04, 1995 of the Government.
3. Ecological rehabilitation areas will be contracted the Management Board of Special Use Forest to households living in such areas, for protection and plantation as stated in the contract.
4. For special use forests with buffer zones where the area of forest land in the buffer zone is not included in the plans for that special use forest, allocation and lease of forest land in the buffer zone will be carried out in accordance with section 2 of Article 8 and Article 9 of this Decree.

Article 8. Allocation of forestland planned for establishment and development of protection forest:

1. The State allocates forest land planned for establishment and development of protection forests to the Management Boards of Protection forests in compliance with the corresponding decision of the Prime Minister or Chairman of the Provincial People's Committee for management, protection and establishment based on the approved plan.
2. The State allocates forest land planned for establishment and development of less essential watershed protection forest, as well as plots of watershed protection forest which are scattered so that no Management Board can be established; and also other kinds of protection forest land as given in items b, c and d, section 2 of Article 3 of this Decree to other organizations, households and individuals for management, protection and plantation. They are allowed to harvest the forests under guidance of the Ministry of Agriculture and Rural Development.

3. Organizations, households and individuals who receive protection forestland must follow the regulations in the Land Law, and the Law on Forest Protection and Development.

Article 9. Allocation of forestland planned for establishment and development of production forest.

The State allocates forest land planned for establishment and development of production forest to households, individuals and domestic organizations for forestry production purposes as regulated in sections 1, 3, 4, 5, 6 of Article 4 and Article 6 of this Decree.

Article 10. Lease of forestland

The State leases forestland to domestic organizations, households and individuals as well as foreign organizations and individuals for forestry purpose, as follows:

1. Land planned for establishment and development of production forest;
2. Less essential watershed protection forest land and different kinds of protection forest land as given in items b, c and d, Section 2 of Article 3 of this Decree;
3. Special use forest land with beautiful landscape suitable for eco-tourism business under forest canopy according to regulations of the Ministry of Agriculture and Rural Development.

Article 11. Contracting of forest land

1. The Management Boards of special use forests, protection forests and State Enterprises who have been allocated or leased forest land from the State shall make contracts for land for agriculture, forestry and aqua-culture purposes as given in the regulation issued together with Decree No. 01/CP dated January 04, 1995 of the Government and Decision no. 187/1999/QĐ-TTg dated September 16, 1999 of the Prime Minister on renovation of organization and management mechanism of State Forest Enterprises.

2. For organizations, households and individuals who have planted long-term agriculture crops on bare land belonging to an SFE as allowed by all authorities concerned, the following will apply: The organizations, households and individuals will be accorded rights

- either as given in the regulations in Decree 01 dated 4 January 1995 by the Government on contracting of land belonging to State business units, or

- as given in regulation for units who lease land.

Article 12. Allocation and lease of forestland is to be based on the following factors.

1. The availability of forest land in different localities.
2. Current status of forest land management and utilization of organizations, households and individuals.

3. A limit for area of forest land to be allocated and leased as given in Article 13 of this Decree.

4. The competent State authority should as stated in the projects approve demand for forestland use of organizations; applications for land from households and individuals are to be certified by the local Commune People's Committees.

Article 13. Limits for area of forest land to be allocated or leased

1. The limit for area of forestland to be allocated to households shall be decided by Provincial People's Committee, but is not to exceed 30 ha.

2. The competent State authority shall as stated in projects approve the limit for area of forestland to be allocated to organizations.

3. The limit for area of forestland to be leased to organizations shall be based on projects approved by the competent State authority. The limit for area of forestland to be leased to households and individuals shall be based on the applications for land from households and individuals.

4. For open land, bare hills, coastal sandy land, alluvium by the sea, the limit of area of forest land to be allocated to households for forestry purpose shall be decided by the Provincial People's Committee based on the land availability in the locality and the production capacity of the households in such a way that favorable conditions for utilization of those kinds of land for forestry purposes are created.

Article 14. Duration of the allocation and lease of forest land

1. The duration of the allocation of forest land is as follows:

a. The duration of land allocation to organizations is determined in sections 2,3,4,6 of Article 4 of this Decree and is to be in accordance with projects approved by the competent State authority;

b. The duration of forest land allocation to organizations as stated in section 5 of Article 4 of this Decree shall be determined to be the end of the duration of the allocation already done by the State.

c. The duration of land allocation to households and individuals for long-term use is 50 years. After this period has passed, it will in each case be determined whether the land users still need the land and use it for suitable purposes. If this is the case, the validity of the allocation will be prolonged. If the land user has planted trees with a rotation period of more than 50 years, the validity of the allocation will be prolonged to the end of the rotation.

2. The validity of the allocation of forest land is counted as follows:

a. For organizations, households and individuals who were allocated forest land before October 15, 1993, the validity period shall be calculated from October 15, 1993;

b. For organizations, households and individuals who were allocated forestland after October 15, 1993, the validity period shall be calculated from the day of allocation.

3. The duration of forest land lease to organizations, households and individuals shall be determined according to projects approved by the competent State authority and in accordance with applications for land from households and individuals, but is not exceed 50 years.

In case projects have demand for forestland lease of more than 50 years, the Prime Minister up to a maximum of 70 years may prolong the validity through decision.

After this period has passed, if the organizations, households and individuals still need the land and use it for suitable purposes, the State will prolong the validity of the lease.

Article 15. Agro-forestry production

Organizations, households and individuals who were allocated or leased forest land as regulated in section 4 of Article 7, section 2 of Article 8 and Article 9 of this Decree shall be allowed to use land without forest cover for long-term agriculture crops that are useful for sustainable environmental protection or to establish facilities for tourism under forest canopy in accordance with different projects approved by the competent State authority.

Article 16. The competent authority for allocation and lease of forest land:

1. The District People's Committees shall determine the allocation and lease of forest land to households and individuals;
2. The Provincial People's Committees shall determine the allocation and lease of forestland to organizations.

Article 17. Issuing of Land Tenure Certificates.

1. The competent State authorities for allocation and lease of forest land as regulated in Article 16 above are also the ones who have right to issue Land Tenure Certificates. In case the forest land allocation is determined by the Prime Minister, the Land Tenure Certificates shall be issued by the Provincial People's Committee.
2. Organizations, households and individuals who have been allocated or leased forestland is to receive Land Tenure Certificates.
3. For organizations, households and individuals using forest land which has not been allocated or leased to them before the date of validity of this Decree, if there is not any conflict and the land is used for the right purposes, a consideration shall be made in order to allocate or lease the land and issue Land Tenure Certificates to them.
4. The Land Administration agency shall assist the People's Committees at the same level in allocation and lease of land and in issuing of Land Tenure Certificates.

Chapter III

Rights and responsibilities

Article 18. Rights and responsibilities of organizations who are allocated forest land by the State.

1. Organizations who are allocated forest land shall have following rights:

- a. Have the rights stated in sections 1,2,4,5,6,7,8 of Article 73 of the Land Law;
- b. Obtain reduced tax levels or be exempted from paying land use taxes in accordance with the law; enjoy support by the State in support of protection and development of forests;
- c. State enterprises and domestic economic organizations also have rights as follows: mortgage assets under their management and the land tenure right to credit institutions of Vietnam as collateral for loans for business and production; contribute value of Land tenure right as the share for forestry production and business with domestic and foreign organizations and individuals.

2. Organizations who are allocated forest land shall have following responsibilities:

- a. Have duties as regulated in sections 1,2,3,6,7 of Article 79 of the Land Law;
- b. Pay taxes and Cadastral fees according to the law;
- c. Follow regulations on management, protection and development of forests.

Article 19. Rights and responsibilities of households and individuals who were allocated forestland:

1. Households and individuals who are allocated forest land shall have following rights:

- a. Have rights as regulated in section 3 of Article 3, Article 73 and section 3 of Article 76 of the Land Law;
- b. Contribute the value of land tenure right for business and production together with domestic organizations and individuals.
- c. Obtain reduced tax levels or be exempted from paying taxes according to the Law; enjoy support by the State in support of protection and development of forest.

2. Households and individuals who are allocated forest land have the following rights:

- a. Have rights as regulated in sections 1,2,3,4,6,7 of Article 79 of the Land Law;
- b. Follow regulations on forest management, protection and development.

Article 20. Rights and responsibilities of organizations, households and individuals who lease forest land from the State.

1. Organizations, households and individuals who lease forestland shall have rights as regulated in sections 1,2,4,5,6,7,8 of Article 73 of the Land Law. Depending on how the land rent is paid, the duration of the lease, the frequency of payment (annually or less often), households and individuals who lease forest land shall have rights as stated in section 9 of Article 1 of the revised Land Law, and the organizations who rent forest land shall have rights as regulated in section 12 of Article 1 of the revised Land Law.

2. Organizations, households and individuals who lease forestland shall have responsibilities as regulated in section 1,2,3,4,6,7 of Article 79 of the Land Law: pay land rent and follow regulations on forest management, protection and development.

Article 21. Rights and responsibilities of organizations, households and individuals who have forestland tenure rights transferred to them.

Organizations, households and individuals who have land tenure right transferred to them from other organizations, households and individuals who have received forest land from the State through land allocation or lease according to law shall have rights and responsibilities as regulated in Articles 18, 19 and 20 of this Decree during the duration of land allocation and land lease as decided by the State.

Chapter IV

Implementation provisions

Article 22. Implementation effect

1. This Decree is to replace Decree No. 02/CP dated January 15, 1994 of the Government on allocation of forestland to organizations, households and individuals for long-term forestry purposes.

2. This Decree takes effect 15 days from the date of signing

Article 23. Implementing organization

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

2. Ministers, leaders of ministerial-level agencies, leaders of authorities under the Government, Chairmen of People's Committees of Provinces and province level Cities are responsible for the implementation of this Decree.

For the Government

Prime Minister

Phan Van Kha

