

INTER-MINISTERIAL CIRCULAR SOCIALIST REPUBLIC OF VIETNAM

SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom - Happiness

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INTER-MINISTERIAL CIRCULAR
Guiding the implementation of land allocation/lease and
provision of forest land use right license

Pursuant to Decree No.163/1999/ND-CP dated 16/11/1999 of the Government on forest land allocation/lease to organisations, households and individuals for long-term and stable use in forestry purpose.

Ministry of Agriculture and Rural development coordinates with General Department of Cadastral to guide the implementation of land allocation/lease and the provision of forest land use right license as following:

I. GENERAL PROVISIONS

1. Forest land stated in this circular includes natural forest, planted forest as well as non-forested land planned for forestry purpose such as forest plantation, protection to restore natural forest and forest related experiment or research.
2. Organisations, households and individuals allocated/leased land by the state or provided forest land use right license before the effective date of this circular are not required to re-register for land allocation/lease and for provision of forest land use right license as guided in this Circular.
3. The implementation of land allocation/lease and provision of forest land use right license is undertaken in accordance with administrative unit: commune, district, town (hereby referred to commune).
4. Organisations, households and individuals are using forest land that has not been allocated/leased before 1/12/1999 (Decree 163/1999/ND-CP) without any conflicts and in compliant with the planning shall be considered for allocation/lease land and provision of forest land use right license. For the already allocated forest land which has not been used or used in the incorrect purpose shall be revoked by competent people's committee (after being proposed by communal people's committee) in compliant with regulation stated in Law and subsequently incorporated into land sources for allocation and lease.
5. The implementation of land allocation/lease and provision of forest land use right license must be based on the local land use planning that is improved by people's committee at district, town and provincial city (hereby referred to district people's committee - DPC). For communes that have not formulated land use planning, the implementation of land allocation/lease and provision of forest land use right license shall

be based on the planning of 3 forest types (protection, special-use and production forest) of agriculture and rural development sector.

6. Target groups allocated forest land without paying land use fee comprising:

- a). Households, individuals directly involve in agro-forest-aquaculture , salt production and mainly live on income generated from these production. These groups are certified by communal people's committee at locality;
- b). Protection and special-use forest management board;
- c). State owned enterprises are using forest land allocated by the State before 1/1/1999;
- d). Station, seedlings enterprises, schools and vocational training institutions;
- e). Other organisations under different economic sector allocated forest land by the State before 1/1/1999 in accordance with Decree No.12/CP on 15/1/1994 of the Prime Minister shall be entitled to use until the termination of land use tenure. After this tenure, allocated land has to be shifted into forest land lease.
- g). The armed force uses forest land in combination with national defense purpose.

7. Target groups are entitled to lease forest land by the State comprising:

- a). Households, individuals including individual household (regulated at section a, point 6 - part 1 of this circular) who have forest land use demands and capability for forestry production in combination with forest-agriculture; forest-agriculture-aquaculture production.
- b). Domestic organisations under different economic sectors;
- c). Foreign organisations, individuals

8. The following target groups are entitled to be allocated/leased forest land by the State:

- a). The State allocates forest land planned for special-use forest establishment and development to special-use forest management board established in accordance with Decision of the Government or people's committee of provinces and Central cities - hereby referred as provincial people's committee (PPC) including:

National park management board

Culture-history-environment forest management board (landscape protection).

Forest land planned for especial-use forest establishment and development is not for lease.

- b). Forest land planned for protection forest establishment and development

The State allocates forest land planned for protection forest establishment and development to protection forest management board established in accordance with Decision of the

Government or provincial people's committee. Other areas such as less crucial protection forest; scattered protection forest below criterion on management board establishment and other protection forest shelter against wind, sand blowing, sea encroachment or ecological environment protection forest shall be allocated or leased to other target groups regulated at provision a, c, d, g - point 6 and 7 of part 1 in this circular.

c). Forest land planned for production forest establishment and development is allocated or leased to every target group regulated at provision a, c, d, e, g - point 6-7 of part I in this circular.

9. Competence on land allocation/lease, provision of forest land use right license and forest land revoke.

a). District people's committee is responsible to make decision on land allocation/lease and provision of forest land use right license to households, individuals;

b). Provincial people's committee is responsible to make decision on land allocation/lease and provision of forest land use right license to organisation.

In cases, the Government decides to set up forest and allocate forest land, provincial people's committee is only responsible for forest land use right license provision.

c). State agencies who authorized to make decision on forest land allocation/lease are also competent agencies to revoke the allocated/leased land. People who allocated/leased land are well informed about land revoke in terms of reason, time, implementation plan, measure as well as compensation level as regulated by Law.

10. Forest land allocation/lease area

a). Base on forest land use planning, forest land use demands and capability prescribed at investment project approved by state competent agency, forest land allocation tenure shall be decided.

b). Base on current land use status, local forest land and forest land use demands and capability of households/individuals, forest land allocation tenure to households and individuals shall be decided. PPC decides forest land area allocated to households, individuals (one-person household). However, the total forest land allocated to 1 household or individual shall not be exceeded 30 ha.

Households, individuals allocated area that was exceeded the regulated level are entitled for continuous use. After terminating the allocated land use tenure, it will be shifted into forest land lease form.

c). Forest land area leased to organisations as project shall be approved by state competent agency; forest land area leased to households, individuals is decided in accordance with the application form elaborated by households, individuals based on the current forest land use status and local forest land sources.

d). With regard to barren land, denuded hill and coastal area, land area allocated to households, individuals for forestry purpose shall be decided by PPC on the basis of local forest land sources and production capability of the households and individuals in ensuring

full implementation of incentive policy to create favourable conditions for exploiting and using these land in forestry purpose.

11. Forest land allocation/lease tenure.

a). With regard to organisations, land allocation tenure as project is decided by competent state agencies; for households and individuals - land allocation tenure is 50 years. At the termination of this tenure, if the land users have land use demands for continuous use and if they strictly follow regulations stated in land law and law on forest protection and development during their usage, their land use tenure shall be considered and extended by competent agencies for continuous use. If they plant forest trees with long-rotation of over 50 years, they are entitled to extend their tenure.

Land allocation tenure accounted from 15/10/1993 is applicable to any organisations, households and individuals allocated land by the State before 15/10/1993. Whereas, for any organisations, individuals allocated land after 15/10/1993, land tenure shall be accounted from the date of allocation.

b). Forest land lease tenure to organisations, households and individuals is decided in accordance with project approved by competent agencies and the land lease application form forwarded by households and individuals without exceeding 50 years. The Prime Minister shall decide to lease land to any project for over 50 years but without exceeding 70 years.

At the end of this tenure, the state shall consider and extend land lease tenure to organisations, households and individuals who have land lease demands and use it in the right purpose.

12. Organisations, households and individuals are using forest land which was allocated by the State to state owned enterprise have to shift into forest land contract as regulated at Regulation on land contract for agriculture, forestry and aquaculture raising purpose within state owned enterprises issued along with Decree No.01/CP on 4/1/1995 of the Government.

State owned enterprises allocated land before 1/1/1999 has to inventorize the allocated land sources; forest land used in incorrect purpose as well as low efficiency or unused areas. PPC will revoke these areas to incorporate into forest land sources for allocation and lease.

II. PROCEDURES ON LAND ALLOCATION/LEASE AND

PROVISION OF FOREST LAND USE RIGHT LICENSE

1. Identify forest land sources to allocate and lease

a). Basis on identification of forest land sources for allocation and lease comprising:

Maps, documents, existing data on forested land and unused land planned for forestry purpose use.

Land use planning of commune or of 3 forest types (protection, special-use and production forests) approved by state agencies;

Current status related to forest land managed and used by organisations, households and individuals;

b). People's committee at province, district conducts cadastral unit, agriculture and rural development units, forest protection units under people's committee at lower level to identify forest land sources to allocate, lease for utilization and development purposes of protection, special-use and production forests.

c). Forest land sources for allocation and lease identified as communal administrative unit and detailed indicated on maps and synthesized from each map or forest block.

2. Elaboration of application for forest land allocation, lease

a). For organisations: application dossier is submitted to Cadastral unit including:

Forest land allocation/lease application

Investment project ratified by competent agency

Decision on establishment or approval for establishment of the organisation

Map or similar documents related to the area under proposal for allocation, lease.

b). For households, individuals: their application dossier is submitted to communal people's committee including:

Forest land allocation/lease application

Forest land use option (applicable to land lease)

3. Organisation responsible for ratifying forest land allocation/lease application

a). With regard to organisation:

Within 30 days after receiving complete dossier, Provincial Cadastral unit in coordination with agriculture and rural development, forest protection units at perspective level appraise application dossier on forest land allocation/lease and subsequently note their comment down on this application; prepare relevant procedures to submit to PPC for consideration and approval to allocate, lease forest land to organisations that meet regulated requirements; return application dossier including explanation to organisations that have not met regulated requirements.

Within 15 days after receiving complete dossier forwarded by Cadastral unit, PPC has to make final decision on forest land allocation, lease and to inform to cadastral unit any unaccepted dossier with clear reason so as to inform to relevant applicants.

b). With regard to household, individual:

Within 15 days after receiving complete dossier, communal people's committee has to fulfill the tasks of appraisal, and noting comment down on the application and then forward to district cadastral unit. Any incomplete or inappropriate dossier provided with explicit explanation shall be returned to relevant applicant.

Within 15 days after receiving complete dossier forwarded by communal people's committee, district cadastral unit in coordination with agriculture and rural development, forest protection units fulfill dossier appraisal, note down comment on the application and then forward to district people's committee for consideration and approval.

Within 15 days after receiving complete dossier forwarded by cadastral unit, district people's committee has to make final decision on forest land allocation, lease and to inform district cadastral unit any unaccepted dossier with clear reasons so as to inform to relevant applicants.

4. Land allocation on site.

a). Communal people's committee coordinates with cadastral and forest protection units at competent level to allocate, lease and organise forest land allocation to any target groups who already provided with forest land allocation, lease decision under the certification of village/hamlet leader and adjacent land's owner.

b). Land allocation on site must be accompanied with demarcation classification and markers in addition to the statement on handling over land on site signed by representative of organisation, individual stated at provision a of this point.

5). Provision of land use right license

a). Within 30 days after completing land allocation on site, district cadastral unit shall submit district people's committee to sign forest land use right license of households and individuals; provincial cadastral department shall submit PPC to sign forest land use right license for organisations.

b). Organisations, households, individuals allocated forest land by the state but have not yet provided license prepare procedures on land registration, cadastral dossier and land use right license provision in accordance with Circular No.346/1998/TT-TCDC on 16/3/1998 of General department on Cadastral.

Forest land use right license is similar to the sample elaborated by General department on Cadastral and modified as following:

Code of the used forest block is indicated on forest land allocation map and under "number of maps" column of the land area listed document while code of forest plot and

compartment is stated under “number of land area” column of the land area listed document.

Following contents area stated at column “additional part”: + Specific use purpose applicable to individual forest types:

Special use forest stated according to organisational form: National park, Nature conservation area, culture-history-environment forest

Protection forest comprising: very crucial, crucial and less crucial watershed protection forest; wind, sand blowing prevention protection forest; wave and sea encroachment protection; ecology-environment protection.

Production forest should be clearly stated: large wood, small wood production; bamboo, rattan and special forest product forest.

+ With regard to forest land with natural, planted forest: forest status should be explicitly addressed in accordance with regulation prescribed at Decision No.682B/QDKT dated 1/8/1984 of Ministry of Forestry (now called MARD) on promulgation of forest design and commerce procedures.

+ Requirements on forest protection and development such as: restoration oriented protection, plantation and other requirements.

6. Formulation and management of cadastral dossier

a). Cadastral dossier formulated during land allocation, lease and forest land use right license provision process comprises the following documents:

Cadastral or forest land allocation map

Cadastral book

Land list book

Land use right license provision book

Original documents including: application on forest land allocation, lease; forest land sources statistic table; statement on land handling over on site; decision on forest land allocation, lease.

b). Sample of Cadastral book, land list book, land use right license provision book, land changes monitoring book implemented in compliant with regulation stated at Decision

No.449/QD-DC on 27/7/1995 of the General department of Cadastral and supplemented as following:

Cadastral book, list book and forest land use right license provision book are formulated and applicable to all land types, not to formulate a separate book for forest land;

Code of the used forest block is indicated on forest land allocation map while on different documents or books, forest block's code is stated to replace code of perspective map; codes of forest compartment and plot replace code of land area;

Part III- related to "Land use right bindings" in Cadastral book is supplemented contents regulated at "additional part" column of the forest land use right license.

c). In case, there is not any cadastral book, forest land allocation map has to be developed to indicate forest land allocation, lease results. Forest land allocation map is developed according to communal administrative unit and has to be approved by provincial cadastral unit.

III. ORGANISATION OF IMPLEMENTATION

1. Responsibility of Provincial People's Committee (PPC)

a). Develop planning of land use and 3 forest types (special-use, protection, production); plan to organise the implementation of land allocation, lease and provision of land use right license to organisations, households and individuals in province in compliant with regulations stated in Land Law and the Law on forest protection and development, Decree No.163/1999/ND-CP on 16/11/1999 of the Government of forest land allocation, lease to organisations, households and individuals for long term and stable use in forest purpose as well as this circular.

b). Approve planning on forest land use, forest land allocation and lease elaborated by district people's committee on district area.

c). Provide land use right license consistent with regulation stated in Law

2). Responsibility of district People's Committee

a). Develop land use planning; plan to organise the implementation of forest land allocation, lease on district area in accordance with State regulation.

b). Approve planning on forest land use, forest land allocation/lease developed by communal people's committee on the area.

c). Provide land use right license consistent with regulation stated in Law

2. Responsibility of communal People's Committee

a). Propagandize and disseminate State's guidelines and polices; plans of people's committee at province, district and commune levels concerning land allocation, lease and provision of forest land use right license to the whole population in locality.

b). Review forest land use situation of organisations, households and individuals in locality

c). Develop and forward planning on land allocation/lease and provision of forest land use right license in locality to competent level for approval and then organise the implementation in accordance with State's regulation.

4). Responsibilities of specialized state management agencies

a). Cadastral agency

Consult people's committee at perspective level to develop land use planning; plan and organise the implementation of land allocation/lease and provision of forest land use right license at locality.

Formulate maps and charts serving land allocation/lease and provide land use right license

In coordinate with forest protection unit, consult people's committee at perspective level to allocate/lease land, register land, formulate cadastral dossier and provide forest land use right license.

In coordination with other relevant agencies to consult people's committee at perspective level to solve outstanding impediments raised during land use planning, forest land allocation/lease process.

b). Agriculture and Rural development agency in coordination with Cadastral, forest protection agencies consult people's committee at perspective level to develop forest land use planning; review forest land area allocated by the State to forest enterprises, agriculture enterprise, special-use/protection forest management board.

c). Forest protection agency:

Coordinate with agriculture and rural development agency, Cadastral agency to demarcate forest land and 3 forest types boundaries on map and site.

Identify forest land with natural forest, planted forest on map and site to develop forest protection options.

Coordinate with Cadastral agency to allocate/lease forest land and monitor changes of forest and forest land.

Coordinate with Cadastral agency to consult people's committee at perspective level to supervise, monitor and settle conflicts between organisations, households and individuals on forest land use in accordance with regulations stated by law.

Coordinate with agriculture and rural development and cadastral agencies to settle within delegated mandate, forest land conflicts

5. Implementation effect

This circular shall replace the Inter-ministerial circular No.1- TT/LB on 6/2/1991 of Ministry on forestry - General Department of land management (now called MARD - General department of Cadastral) guiding land allocation/lease process for forest plantation to organisations and individuals for long term and stable use in forestry purpose; circular No.06 LN/KL on 18/6/1994 of Ministry of Forestry (now called MARD) guiding the implementation of Decree No.02/CP dated 15/1/1994 of forest land allocation.

Any outstanding issued raised during implementation process, should be immediately reported to MARD and General Department of Cadastral for consideration and settlement.

For the General Director of
Cadastral Dept.
Vice-general Director

For Minister on
Agriculture & Rural development
Vice Minister

Nguyen Dinh Bong

Nguyen Van Dang

C.C

Vice Prime-Minister Nguyen Cong Tan

Government's Office

Central Economic Committee

Vietnam Farmers' Association

People's committee at provinces and Central cities

Ministry of Finance

MPI

Cadastral dept

DARD

Forest protection sub-department

Dept of MARD and Cadastral

Official gazette

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