

**THE MINISTRY OF NATURAL
RESOURCES AND
ENVIRONMENT**

No. 14/2009/TT-BTNMT

SOCIALIST REPUBLIC OF VIET NAM
Independence - Freedom – Happiness

Hanoi, October 01, 2009

CIRCULAR

**DETAILING THE COMPENSATION, SUPPORT AND RESETTLEMENT AND
ORDER OF AND PROCEDURES FOR LAND RECOVERY, ALLOCATION AND
LEASE**

THE MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT

Pursuant to the November 26, 2003 Land Law;

Pursuant to the Government's Decree No. 25/2008/ND-CP of March 4, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Natural Resources and Environment;

Pursuant to the Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement in case of land recovery by the State;

Pursuant to the Government's Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the decrees guiding the Land Law and Decree No. 187/2004/ND-CP on transformation of state companies into joint-stock companies;

Pursuant to the Government's Decree No. 84/2007/ND-CP of May 25, 2007, additionally providing for the issuance of land use right certificates, land recovery, exercise of land use rights, order of and procedures for compensation, support and resettlement in case of land recovery by the State, and settlement of land-related complaints;

Pursuant to the Government's Decree No. 69/2009/ND-CP of August 13, 2009, additionally providing for land use planning, land prices, land recovery, compensation, support and resettlement;

The Ministry of Natural Resources and Environment details the compensation, support and resettlement and order of and procedures for land recovery, allocation and lease as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular details a number of provisions on the compensation, support and resettlement and order of and procedures for land recovery, allocation and lease under the following decrees:

1. The Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement in case of land recovery by the State (below referred to as Decree No. 197/2004/ND-CP);
2. The Government's Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the decrees guiding the Land Law and Decree No. 187/2004/ND-CP on transformation of state companies into joint-stock companies (below referred to as Decree No. 17/2006/ND-CP);
3. The Government's Decree No. 84/2007/ND-CP of May 25, 2007, additionally providing for the issuance of land use right certificates, land recovery, exercise of land use rights, order of and procedures for compensation, support and resettlement in case of land recovery by the State, and settlement of land-related complaints (below referred to as Decree No. 84/2007/ND-CP);
4. The Government's Decree No. 69/2009/ND-CP of August 13, 2009, additionally providing for land use planning, land prices, land recovery, compensation, support and resettlement (below referred to as Decree No. 69/2009/ND-CP).

Article 2. Subjects of application

1. State management agencies, specialized agencies in charge of natural resources and environment, planning and investment, construction, and finance, and other concerned agencies; and cadastral officers in communes, wards and townships.
2. Domestic organizations, population communities, religious establishments, households and individuals; overseas Vietnamese, and foreign organizations and individuals having land recovered by the State for defense and security purposes, national and public interests or economic development (below collectively referred to as persons having land recovered).
3. Organizations and individuals implementing investment projects and other concerned organizations and individuals.

Chapter II

COMPENSATION, SUPPORT AND RESETTLEMENT

Section 1. LAND COMPENSATION

Article 3. Conditions for land compensation

Conditions on current land users to receive land compensation are specified in Clauses 1, 2, 3, 4, 5, 7, 9, 10 and 11, Article 8 of Decree No. 197/2004/ND-CP and Articles 44, 45 and 46 of Decree No. 84/2007/ND-CP. A number of provisions of Clause 3, Article 8 of Decree No. 197/2004/ND-CP are specified as follows:

1. Lawful papers on inheritance or donation of land use rights or assets attached to land and papers on handover of gratitude houses associated with land under Point c, Clause 3 of Article 8 include:

a/ Papers on inheritance as provided for by law;

b/ Papers on donation of houses or land, notarized or certified by People's Committees of communes, wards or townships (below collectively referred to as commune-level People's Committees) at the time of donation;

c/ Papers on handover of gratitude houses associated with land, issued by house-handing agencies or organizations.

2. For papers on liquidation or sale of houses or purchase of houses attached to residential land under Point e. Clause 3 of Article 8, the following conditions must be satisfied:

a/ To-be-liquidated or -sold houses must be under state ownership. Houses under state ownership include houses taken over from the former regime, derelict houses and deserted houses of which state ownership has been established; houses built with state budget investment; houses built with money of state budget origin; houses built with money jointly contributed by the State and people; and other houses under state ownership.

b/ Houses were liquidated or sold in association with residential land under state ownership before July 5, 1994. by administrative and non-business agencies and units, people's armed forces units, state mass organizations or state enterprises; or papers on sale of houses sold by house-managing organizations under the Government's Decree No. 61/CP of July 5, 1994. on house purchase, sale and trading.

3. Papers issued by a competent agency under the former regime to the current land user under Point f, Clause 3 of Article 8 include:

a/ Land title-deed;

b/ Document on sale of real estate (including house and residential land), certified by an agency under the former regime;

c/ Document on purchase and sale, donation, exchange or inheritance of the house attached to residential land, certified by an agency under the former regime;

d/ Testament or written agreement on division of the house inheritance, certified by an agency under the former regime;

e/ Permit for house construction or permit recognizing lawful architecture of the house, issued by an agency under the former regime;

f/ Effective judgment of the court under the former regime;

g/ Other papers evidencing the establishment of house or residential land, recognized by the People's Committee of a province or centrally run city (below collectively referred to as provincial-level People's Committee) where exists residential land.

Article 4. Deduction of unfulfilled land-related financial obligations

The deduction of unfulfilled land-related financial obligations from the compensation and support amount under Clause 3, Article 14 of Decree No. 69/2009/ND-CP is specified as follows:

1. For land users who are entitled to compensation and support but have not yet fulfilled land-related financial obligations with regard to the recovered land area, such financial obligations shall be deducted from the compensation and support amount (not from the compensation for assets or the support for relocation, resettlement, life and production stabilization, or job change and creation).

2. Land-related financial obligations deducted from the compensation and support amount include use levy and rent of land leased by the State, land-use right transfer tax, tax on income from land-use right transfer, fine for violations of the land law, compensation to the State for damage caused in land management and use, and charges and fees in land management and use.

Article 5. Land prices used for compensation calculation and remaining investment expenses

1. Land prices used for compensation calculation under Article 11 of Decree No. 69/2009/ND-CP are prices of recovered land according to its current use purpose, set by provincial-level People's Committees and announced on January 1 every year.

In case land prices set by provincial-level People's Committees are not close to actual market prices of land-use right transfer under normal conditions, provincial-level People's Committees shall assign functional agencies to re-determine specific land prices in order to decide on appropriate land prices used for compensation calculation which are not restricted notwithstanding the provisions on price brackets of land of different categories.

2. Remaining investment expenses under Clause 3. Article 9 of Decree No. 197/2004/ND-CP are actual reasonable expenses invested in land by land users for permitted use purposes but, by the time of land recovery by the State, such expenses are

not fully recovered yet. Expenses invested in land must be evidenced by dossiers and documents. Remaining investment expense equals (=) total actual reasonable expense in cash invested in land minus (-) the investment amount allocated to the period during which the land has been used. Remaining investment expenses include:

a/ Land use levy for the period during which the land will not be used in case land is allocated for a definite period of time and land use levy has been prepaid for the period during which land will not be used (evidenced by documents and invoices on payment);

b/ Expenses for ground leveling and refurbishment of the allocated or leased land according to the land use purpose. In case of land recovery in which land compensation has been paid, expenses for ground leveling and land refurbishment will not be compensated.

c/ Other related expenses.

Provincial-level People's Committees shall stipulate the determination of remaining investment expenses in case of unavailability of dossiers or documents evidencing such expenses as suitable to local practical conditions.

Article 6. Compensation for agricultural land of households and individuals

Compensation for agricultural land of households and individuals shall be paid under Article 16 of Decree No. 69/2009/ND-CP, specifically as follows:

1. Agricultural land eligible for compensation includes land under annuals, land under perennials, land under planted production forests, aquaculture land, salt-making land, and other agricultural land.

2. For land for which the planning on protection forests and special-use forests has been approved by a competent state agency and on which organizations, households and individuals undertake to zone off for reforestation, tending, protection or planting with state budget capital under contracts, compensation will not be paid for land but only for plants on land in case of land recovery by the State. The levels of compensation are equivalent to those of product sharing specified in Joint Circular No. 80/2003/TTLT/BNN-BTC of September 3, 2003, of the Ministry of Agriculture and Rural Development and the Ministry of Finance, guiding the Prime Minister's Decision No. 178/2001/QD-TTg of November 12, 2001, on benefits and obligations of households and individuals that are allocated, leased or contracted forests and forestland.

Article 7. Compensation for residential land

1. Persons having residential land recovered will receive compensation in new residential land or resettlement houses or cash based on the value of land use rights at the time of issuance of land recovery decisions.

Compensation in residential land or resettlement houses shall be paid to persons having land recovered who fall in any of the cases specified in Article 18 of this Circular.

2. In case compensation in residential land is paid to those sharing land use rights under Article 15 of Decree No. 197/2004/ND-CP in case of land recovery by the State while land-related papers do not show the land area under the private use right of each organization, household or individual, the provincial-level People's Committee shall guide the receipt and division of land compensation amounts.

Article 8. Compensation for land within safety corridors in case of building works with safety corridors

Compensation for damage due to land use restriction in case the State does not recover land under Clause 2, Article 16 of Decree No. 197/2004/ND-CP is specified as follows:

1. In case land use purposes are changed:

a/ For residential land converted into non-agricultural land other than residential land or into agricultural land, compensation will equal (=) the difference between the residential land price and the non-agricultural land (other than residential land) price, or between the residential land price and the agricultural land price, multiplied by (x) the land area subject to use purpose change;

b/ For non-agricultural land (other than residential land) converted into agricultural land, compensation will equal (=) the difference between the non-agricultural land (other than residential land) price and the agricultural land price, multiplied by (x) the land area subject to use purpose change.

2. In case the land use purpose is not changed (houses and works are allowed to exist within the works' safety corridors) but the land use is restricted, compensation will be paid in cash based on the actual damage. Provincial-level People's Committees shall decide on specific levels of compensation to suit local practical conditions.

3. When the safety corridor of a work will occupy over 70% of the used land area with the house and work of a land user, compensation must also be paid for the remaining land area under Clauses 1 and 2 of this Article.

Article 9. Handling of cases in which organizations have land recovered without receiving compensation under Article 17 of Decree No. 197/2004/ND-CP

For administrative and non-business agencies and units of the State or companies with 100% state capital that are leased or allocated land by the State without having to pay land use levy or allocated land with payment of land use levy or transferred land use rights and pay land use levy or money for the transferred land use rights from the slate budget, when the State recovers such land, they are only entitled to compensation for remaining investment expenses under Clause 2, Article 5 of this Circular provided those

expenses are of non-state budget origin, but not to land compensation. If these agencies, units or companies have to be relocated, they are entitled to support in cash for implementing approved investment projects in the new places. The maximum level of support is equivalent to the level of compensation for the land area at the recovered site.

Organizations having land recovered may use this cash amount for compensation and investment in the new places under approved projects, and shall remit any unused amount into the state budget in accordance with the Stat Budget Law.

Section 2. COMPENSATION FOR ASSETS

Article 10. Handling of specific cases of compensation or support for houses or works

The handling of cases of compensation or support for houses or works under Article 20 of Decree No. 197/2004/ND-CP is specified as follows:

1. For houses and other works permitted under the construction law to be built on land eligible for compensation, compensation will be paid under Article 24 of Decree No. 69/2009/ND-CP.
2. For houses and other works which are not permitted to be built under the construction law but were built on land eligible for compensation before July 1, 2004, compensation will be paid under Article 24 of Decree No. 69/2009/ND-CP. Compensation will not be paid to these houses or works if they were built on or after July 1, 2004, not according to land use purposes under law. In special cases, provincial-level People's Committees may consider and provide support on a case-by-case basis to suit local practical conditions.

Article 11. Compensation and support for houses and works to current users of houses under state ownership

Compensation and support for houses and works to current users of houses under state ownership comply with Article 21 of Decree No. 197/2004/ND-CP. and are specified as follows:

1. Under Clause 1 of Article 21, the area of a house under state ownership which is refurbished, repaired or upgraded will be regarded as lawful when such refurbishment, repair or upgrading is permitted by the agency issuing the house allocation decision or the local agency managing houses and land under state ownership.
2. Under Clause 2 of Article 21, when houses under state ownership are dismantled, their current users may rent houses in resettlement areas. If no resettlement houses are available, they may receive cash amounts for seeking new residence, which is equal to 60% of the land value and 60% of the value of houses they rent. If resettlement houses are available but current users of houses under state ownership do not wish to rent those houses, they will not be entitled to cash amounts.

Article 12. Compensation for plants and animals

Compensation for plants and animals complies with Article 24 of Decree No. 197/2004/ND-CP, and is specified as follows:

1. The level of compensation for annuals equals the value of the harvested yield per season. The value of yield per season shall be calculated based on the highest yield of major plants during three (3) straight previous years in a locality, calculated at the average price of farm produce of the same kind in that locality at the time of land recovery.

2. For perennials, including industrial trees, fruit trees, timber trees, trees for leaves and forest trees under Clause 1. Article 2 of the Government's Decree No. 74/CP of October 25, 1993, detailing the Law on Agricultural Land Use Tax, in case of land recovery by the State, compensation will be paid based on the current value of gardens, excluding the value of land use rights. The current value of perennials gardens used for compensation calculation is determined as follows:

a/ For perennials which are currently in the investment cycle or capital construction period, it is the total of the initial investment expense and tending expense by the time of land recovery, calculated in cash at the local market price;

b/ For perennials to be harvested once (timber trees) which are currently in the harvest period, it equals (=) the quantity of trees of each kind multiplied by (x) the selling price of one (1) tree of the same kind, age, size or productivity on the local market at the time of compensation minus (-) the recovered value (if any);

c/ For perennials to be harvested many times (such as fruit trees, oily and resinous trees, etc.) which are currently in the harvest period, it is the selling price of the gardens on the local market at the time of compensation minus (-) the recovered value (if any);

d/ For perennials due to be liquidated, compensation will be paid only for the felling expense to the tree garden owner.

Initial investment, tending and felling expenses under this Clause shall be calculated in cash at the local average expense level specified by the provincial-level People's Committee for each kind of tree.

3. For plants and subsidiary forest products on the area of barren land and bare hills allocated by the State to households and individuals that have invested their capital in forest planting, zoning off. protection and regeneration, compensation will be paid based on the local forest-gate selling price of felled forest trees of the same kind at the time of issuance of land recovery decisions, minus (-) the recovered value (if any).

Article 13. Handling of compensation for assets under state ownership

The use of compensation for assets under state ownership under Article 25 of Decree No. 197/2004/ND-CP is specified as follows:

When organizations having assets allocated by the State for management and use suffer asset damage and have to move to new places upon land recovery, they may use compensation for damaged assets for investment in the new places under approved investment projects. Persons allocated or leased land by the State shall pay such compensation. These organizations shall remit any unused compensation money into the state budget.

Section 3. SUPPORT POLICIES

Article 14. Life and production stabilization support

The currently used agricultural land area for determining life and production stabilization support and support beneficiaries under Article 20 of Decree No. 69/2009/ND-CP are specified as follows:

1. Beneficiaries of life and production stabilization support are households and individuals directly engaged in agricultural production, including:

a/ Households and individuals that are allocated agricultural or forest land under the Government's Decree No. 64/CP of September 27, 1993, promulgating the Regulation on allocation of agricultural land to households and individuals for stable and long-term agricultural production; Decree No. 02/CP of January 15, 1994, promulgating the Regulation on allocation of forestland to organizations, households and individuals for stable and long-term silviculture; Decree No. 85/1999/ND-CP of August 28, 1999, amending and supplementing a number of articles of the Regulation on allocation of agricultural land to households and individuals for stable and long-term agricultural production, and additionally allocating salt-making land to households and individuals for stable and long-term use; Decree No. 163/1999/ND-CP of November 16, 1999, on allocation and lease of forestland to organizations, households and individuals for stable and long-term silviculture; and Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law;

b/ Agricultural production members of households defined at Point a of this Clause after the time of allocation of agricultural land to those households;

c/ Households and individuals that are eligible for agricultural land allocation under Point a of this Clause but have not yet been allocated agricultural land and are using agricultural land transferred, inherited, donated or reclaimed under law, and commune-level People's Committees of the localities where exists the recovered land certify that these households and individuals are directly conducting production on such agricultural land.

2. The agricultural land area currently used by households and individuals under Clause 1, Article 20 of Decree No. 69/2009/ND-CP, including areas for annuals and perennials, areas allocated for planting production forests, aquaculture land, salt-making land and other agricultural land, is determined as follows:

a/ For agricultural land with land-use right papers (land use right certificates or papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law), the agricultural land area is the land area indicated on those papers;

b/ For agricultural land without land-use right papers which is indicated in agricultural land allocation plans under Point a. Clause 1 of this Article, the agricultural land area shall be determined under these plans;

c/ For agricultural land without land-use right papers or land allocation plans specified at Points a and b of this Clause, the agricultural land area shall be determined based on the actual land-use status.

3. When economic organizations or production and business households that have registered business have their land recovered by the State and, as a result, cease their production and business activities, they are entitled to support not exceeding 30% of one (1) year's post-tax income, calculated based on the average income of the three (3) straight previous years. Post-tax income shall be determined based on audited or tax agency-approved financial statements. If these statements have not yet been audited, or approved by tax agencies, post-tax income shall be determined based on post-tax income declared by the units in their year-end financial statements or production and business reports submitted to tax agencies.

Article 15. Determination of residential areas for support calculation with regard to agricultural land in residential areas

1. Residential areas in townships and rural residential areas defined in Clauses 1 and 2, Article 21 of Decree No. 69/2009/ND-CP, are determined according to boundaries of outermost land lots with houses of villages, hamlets or similar residential quarters.

2. Provincial-level People's Committees shall, based on local practical conditions, specify the determination of boundaries of outermost land lots with houses specified in Clause 1 of this Article.

Article 16. Job change and creation support Job change and creation support comply with Article 22 of Decree No. 69/2009/ND-CP and is specified as follows:

1. Households and individuals defined in Clause 1, Article 14 of this Circular that have agricultural land recovered but do not fall into the cases specified in Clauses 1 and 2, Article 21 of Decree No. 69/2009/ND-CP are entitled to job change and creation support.

2. The job change and creation support equal to one (1) residential land ration or one (1) condominium apartment or one (1) non-agricultural production and business land ration will be provided only once when the following conditions are fully satisfied:

a/ The support-eligible household or individual wishes to receive the residential land ration or condominium apartment or non-agricultural production and business land ration;

b/ The locality has land and house funds;

c/ The job change and creation support in cash under Point a, Clause 1, Article 22 of Decree No. 69/2009/ND-CP must be equal to or larger than the value of one (1) residential land ration or the price of one (1) condominium apartment or the value of one (1) non-agricultural production and business land ration.

3. The collection of comments of persons having agricultural land recovered on job training and change plans shall be conducted simultaneously with the collection of comments on compensation, support and resettlement plans. The form of collection is the same as that for compensation, support and resettlement plans under Clause 2, Article 30 of Decree No. 69/ 2009/ND-CP.

Article 17. Support for current tenants of houses under non-state ownership

Support for current tenants of houses under non-state ownership under Article 30 of Decree No. 197/2004/ND-CP is specified as follows:

When the State recovers land, households and individuals currently renting under contracts houses under non-state ownership that have to remove are entitled to removal expense support under Clauses 1 and 4, Article 18 of Decree No. 69/2009/ND-CP.

Section 4. RESETTLEMENT

Article 18. Cases eligible for resettlement

Households and individuals having residential land recovered by the State may be arranged resettlement places in the following cases:

1. They have to remove as a result of residential-land recovery and have no other places of residence within communes, wards or townships where exists recovered land (unless they do not wish to resettle).

2. They have land recovered while the remaining land area is unsuitable for residence under regulations of provincial-level People's Committees and have no other places of residence within communes, wards or townships where exists recovered land.

3. Those with residential land within safety corridors of public works that have to remove and have no other places of residence within communes, wards or townships where exists recovered land.

4. In case different generations (different couples) live together in a household while all the conditions for separation into different households are satisfied, or different households have the common right to use one (1) land lot to be recovered, the provincial-level People's Committee shall, based on local practical conditions, specify the areas of land and house for resettlement arrangement.

Article 19. Resettlement arrangement

Resettlement arrangement complies with Article 34 of Decree No. 197/2004/ND-CP and is specified as follows:

1. Resettlement arrangement plans shall be publicized. For projects with available resettlement areas, households and individuals may have a look at resettlement areas before they move in.

2. The provincial-level People's Committee shall decide on land prices used for collecting land use levy in resettlement areas according to the Governments regulations on methods of determining land prices and price brackets of land of different categories: selling prices of resettlement houses based on the house investment ration and local practical conditions: and house lease prices to suit local practical conditions.

Households and individuals that are allocated land or purchase or rent houses in resettlement areas shall pay land use levy, house purchase money or land rents under law and may have such levy, rents or money deducted from compensation and support amounts; the difference (if any) shall be paid in cash under regulations, unless these households and individuals are entitled to resettlement support under Clause 1, Article 19 of Decree No. 69/ 2009/ND-CP.

Section 5. ORGANIZATION OF COMPENSATION, SUPPORT AND RESETTLEMENT

Article 20. General plan on compensation, support and resettlement

1. The general plan on compensation, support and resettlement constitutes part of an investment project, formulated by the investor and approved together with the investment project. In case an investment project is not required to be submitted to a competent state agency for approval or when an investment certificate is not required for such project, the district-level People's Committee of the locality where exists the land in question shall consider and approve the general plan on compensation, support and resettlement. The compensation and ground clearance organization shall assist the investor in formulating the general plan on compensation, support and resettlement.

2. A general plan on compensation, support and resettlement contains the following details:

a/ Areas of land of different categories to be recovered;

b/ Total land users within the area of land to be recovered:

c/ Projected compensation and support amount;

d/ Arrangement of resettlement (projected needs, locations and form of resettlement);

e/ Tentative time of and plan on relocation and ground handover.

Article 21. Separation of compensation, support and resettlement issues into a sub-project

The separation of compensation, support and resettlement issues into a sub-project for independent implementation complies with Clause 1, Article 33 of Decree No. 69/2009/ND-CP, and is specified as follows:

1. The time of separating compensation, support and resettlement issues into a sub-project is the time of approving an investment project.

2. An approved sub-project on compensation, support and resettlement may be implemented independently but must ensure the investment project's implementation schedule.

Article 22. Evaluation and approval authorization of compensation, support and resettlement plans

The evaluation and approval of compensation, support and resettlement plans comply with Articles 30 and 31 of Decree No. 69/2009/ND-CP. more specifically:

1. The compensation and ground clearance organization shall make a compensation, support and resettlement dossier, comprising:

a/ A complete compensation, support and resettlement plan under Clause 3, Article 30 of Decree No. 69/2009/ND-CP;

b/ A sheet of comments of persons having land recovered.

2. The compensation, support and resettlement dossier specified in Clause 1 of this Article shall be sent to the provincial-level Natural Resources and Environment Department, if land recovery involves two (2) or more urban districts, rural districts, towns or provincial cities; or to the district-level Natural Resources and Environment Section, if land recovery involves only one (1) district-level administrative unit.

3. Contents to be evaluated:

- a/ Name and address of the person having land recovered;
- b/ Area, type, location and origin of the recovered land; quantity, volume, and percentage of the residual quality, of damaged assets;
- c/ Bases for calculating the compensation and support amount, such as land, house or work price used for compensation calculation, number of household members, number of laborers in working age, and number of social policy beneficiaries;
- d/ Compensation and support amount;
- e/ Arrangement of resettlement;
- f/ Relocation of works of the State, organizations, religious establishments or population communities;
- g/ Relocation of graves.

4. Funds for the formulation and evaluation of projects' compensation, support and resettlement plans come from funds for organizing compensation, support and resettlement in case of land recovery by the State under Article 26 of Decree No. 69/2009/ND-CP.

5. Based on local practical conditions and projects' characteristics and sizes, provincial-level People's Committees may authorize district-level People's Committees to approve compensation, support and resettlement plans, ensuring quick and effective compensation, support and resettlement.

Article 23. Hiring providers of compensation and ground clearance services

The hiring of enterprises or organizations with the function of providing compensation and ground clearance services under Clause 3, Article 25 of Decree No. 69/2009/ND-CP is specified as follows:

- 1. Compensation and ground clearance services include:
 - a/ Surveying and drawing maps; making copies of maps and cadastral dossiers (or measuring, and making dossiers of, land lots in case cadastral dossiers are unavailable or no longer suitable to practical conditions);
 - b/ Making compensation, support and resettlement plans;
 - c/ Formulating and implementing projects to build resettlement areas;

d/ Other related services.

2. In case of setting up district-level compensation, support and resettlement councils, the hiring of enterprises or organizations to provide compensation and ground clearance services complies with the following regulations:

a/ District-level compensation, support and resettlement councils shall request in writing district-level People's Committees to decide on the hiring of enterprises or organizations to provide compensation and ground clearance services;

b/ Enterprises or organizations providing compensation and ground clearance services shall satisfy all the conditions prescribed by law.

Section 6. EXPENSES FOR COMPENSATION, SUPPORT AND RESETTLEMENT AND COERCIVE RECOVERY OF LAND

Article 24. Estimates of expenses for compensation, support and resettlement and coercive recovery of land

1. The compensation and ground clearance organization shall make estimates of expenses for compensation, support and resettlement, including:

a/ Expense for propagation and dissemination of land recovery decisions and the law on compensation in case of land recovery by the State; mobilization of entities to execute land recovery decisions, and survey on the socio economic situation and actual state of land and assets under the project;

b/ Expense for inventory and assessment of actually damaged land and assets, such as delivery of declaration forms and provision of guidance on declaration to damage sufferers; survey of land area, and inventory of the quantity and value of damaged houses, architectures, crops and other assets of each organization, household or individual in case of land recovery by the State: examination and cross-check between declaration forms and results of inventory and determination of the extent of damage for each entity having land recovered; and calculation of the value of damage in land, houses, architectural objects, crops or other assets;

c/ Expense for formulation of the compensation, support and resettlement plan, covering the calculation of compensation norms, approval of the compensation plan, and public notification of the compensation, support and resettlement plan;

d/ Expense for evaluation of the compensation, support and resettlement plan;

e/ Expense for examination of and guidance on the implementation of regulations on compensation, settlement of problems arising in compensation work and payment;

f/ Expense for renting offices and working facilities of the compensation and ground clearance and evaluation agency (if any);

g/ Expense for printing and stationery;

h/ Payment of salaries and social insurance premiums for personnel hired for the compensation, support and resettlement work;

i/ Other expenses directly related to the organization of compensation, support and resettlement.

2. Agencies competent to approve compensation plans shall approve estimates and decide on funds for organizing compensation, support and resettlement under Clause 2, Article 26 of Decree No. 69/2009/ND-CP

3. In case of coercive recovery of land, the compensation and ground clearance organization shall make estimates of funds for coercive recovery and submit them to the agency competent to approve compensation, support and resettlement plans for decision. Funds for coercive recovery of land shall be included in projects' investment capital.

4. The compensation and ground clearance organization may advance funds for organizing compensation, support and resettlement in order to perform its assigned tasks. Funds for organizing compensation, support and resettlement shall be paid and finalized under law.

Chapter III

ORDER OF AND PROCEDURES FOR LAND RECOVERY, ALLOCATION AND LEASE

Article 25. Order of and procedures for land recovery, allocation and lease

The order of and procedures for land recovery, allocation and lease comply with Articles 29, 30 and 31 of Decree No. 69/2009/ND-CP; some of these provisions are specified in Articles 26 thru 29 of this Circular.

Article 26. Land recovery notices

1. Based on results of processing investment dossiers, provincial-level People's Committees or authorized district-level People's Committees shall issue land recovery notices. A land recovery notice must indicate:

a/ The details specified in Clause 2, Article 29 of Decree No. 69/2009/ND-CP;

b/ Assignment to the compensation and ground clearance organization to perform compensation, support and resettlement work;

c/ Permission for the investor to conduct survey and formulate an investment project.

2. The provincial- or district-level People's Committee's land recovery notice serves as a legal basis for the compensation and ground clearance organization and investor to perform the jobs specified at Points b and c. Clause 1 of this Article.

Article 27. Evaluation and certification of land use demands

The evaluation and certification of land use demands under Clause 2, Article 27 of Decree No. 69/2009/ND-CP are specified as follows:

1. Evaluation of land use demands under an investment project covers:

a/ Assessment of conformity with the approved land use planning and plan; or assessment of conformity with the approved urban construction planning or planning on construction of rural residential quarters, in case the land use planning or plan has not yet been approved;

b/ Assessment of the project's land use demand under current regulations on land use criteria and norms. For a project for which regulations on land use criteria and norms are unavailable yet, the evaluating agency shall conduct assessment based on the project's size and characteristics and the local land fund.

2. Contents of certification of land use demands in case the formulation of investment projects is not required comply with Point a. Clause 1 of this Article and requirements on land use area and purposes and local land funds.

Article 28. Land allocation and lease dossiers

1. An applicant for the allocation or lease of land for implementing an investment project shall make a dossier and send two sets thereof to the provincial-level Natural Resources and Environment Department, each comprising:

a/ Written request (or application) for land allocation or lease;

b/ Approved investment project;

For a project on exploration or exploitation of minerals, construction materials, porcelain or pottery, the competent state agency's license is required under law.

The applicant for the allocation of land for defense and security purposes is not required to submit an investment project but shall submit an extracted copy of the competent state agency's decision on investment in building a defense and security work, containing land use-related details, or the decision approving the planning on locations of stations of the forces of the Ministry of National Defense or the Ministry of Public Security;

c/ Copy of the land lot's cadastral map;

d/ Evaluated compensation, support and resettlement plan; in case this plan falls within the approving competence of the provincial-level People's Committee, it shall be evaluated simultaneously with the land allocation or lease dossier.

Provincial-level Natural Resources and Environment Departments shall evaluate land allocation and lease dossiers for submission to provincial-level People's Committees for decision.

2. In case the land allocation and lease fall within the competence of district-level People's Committees, applicants for land allocation or lease shall make dossiers and send two sets thereof to district-level Natural Resources and Environment Sections, each comprising:

a/ Application for land allocation or lease:

b/ Commune-level People's Committee's written certification of the land use demand;

c/ Copy of the land lot's cadastral map;

d/ Compensation, support and resettlement plan.

District-level Natural Resources and Environment Sections shall evaluate land allocation or lease dossiers simultaneously with compensation, support and resettlement plans for submission to district-level People's Committees for decision.

Article 29. Land handover

1. When receiving compensation and support money and being arranged a resettlement place, the person having land recovered shall submit the originals of land use right certificates and certificates of ownership of assets attached to land (if any) to the compensation and ground clearance organization for transfer to the natural resources and environment agency to carry out procedures for revoking, adjusting or issuing a certificate for the land area not recovered.

2. Within twenty (20) days after being fully paid the compensation and support money, the person having land recovered shall hand over land to the compensation and ground clearance organization.

The handover of land between the compensation and ground clearance organization and the person having land recovered must be made in a record certified by the commune-level People's Committee of the locality where the recovered land exists. If wishing to authorize another person to receive compensation, the eligible person shall make a paper of authorization in accordance with law.

Chapter IV

ORGANIZATION OF IMPLEMENTATION

Article 30. Implementation provisions

1. This Circular takes effect on November 16, 2009.
2. This Circular replaces the following circulars:
 - a/ The Finance Ministry's Circular No. 116/2004/TT-BTC of December 7, 2004, guiding the Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement in case of land recovery by the State;
 - b/ The Finance Ministry's Circular No. 69/2006/TT-BTC of August 2, 2006, amending and supplementing Circular No. 116/2004/TT-BTC of December 7, 2004, which guides the Government's Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement in case of land recovery by the State.
3. To annul Parts VII and IX of Joint Circular No. 14/2008/TTLT/BTC-BTNMT of January 31, 2008, of the Ministry of Finance and the Ministry of Natural Resources and Environment, guiding a number of articles of the Government's Decree No. 84/2007/ND-CP of May 25, 2007, which additionally provides for issuance of land use right certificates, land recovery, exercise of land use rights, order of and procedures for compensation, support and resettlement in case of land recovery by the State, and settlement of land-related disputes.
4. Provincial-level People's Committees shall:
 - a/ Specify the mechanism of coordination and information provision among natural resources and environment, planning and investment, construction, finance and other concerned agencies as well as district- and commune-level People's Committees in compensation, support and resettlement work; and order of land recovery, allocation and lease for carrying out administrative reform under the "one-stop shop" mechanism;
 - b/ Specify the time for taking steps in carrying out land recovery, allocation or lease procedures suitable to the time limit for notifying land recovery under Clause 2, Article 39 of the Land Law;
 - c/ Set up land fund development organizations. Compensation and ground clearance organizations other than land fund development organizations which are operating in localities shall be converted into land fund development organizations.
5. The General Director of the Land Management Directorate shall guide, inspect and urge the implementation of this Circular.

Provincial-level People's Committees should promptly report any problems arising in the course of implementation of this Circular to the Ministry of Natural Resources and Environment for guidance on settlement.

**MINISTER OF
NATURAL RESOURCES AND ENVIRONMENT**

Pham Khoi Nguyen