



# Decree No.102/2024/NĐ-CP: Ensuring consistency, synchronization and uniformity between the Land Law and other related legal provisions

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In order to fully specify articles and clauses that the Law has assigned to the Government for regulation, ensuring compliance with the Land Law and effective simultaneously with the effective date of the Land Law; to ensure consistency, harmony, and unity between land law and other related legal regulations, on July 30<sup>th</sup>, 2024, the Ministry of Natural Resources and Environment issued Decree No. 102/2024/NĐ-CP detailing implementation of several articles of the Land Law.

## 1. THE NECESSITY OF ISSUING DECREE NO.102/2024/NĐ-CP

The 2013 Land Law was approved by the National Assembly and took effect on July 1<sup>st</sup>, 2014. To organize the implementation of the Land Law, the Ministries of Natural Resources and Environment, Justice, Finance and Agriculture and Rural Development have advised on establishment and submission of 25 Decrees (including 16 new Decrees, 7 amended and supplemented Decrees, and 2 replaced Decrees); ministries and sectors have issued 59 Circulars and inter-ministerial Circulars, of which the Ministry of Natural Resources and Environment has presided over the issuance of 46 Circulars. The timely, synchronized, and fairly complete issuance of detailed regulations for implementing the Land Law has created a coherent, tight, and feasible legal framework for managing and exploiting resources, using land reasonably, economically, and effectively, developing technical infrastructure, social infrastructure, and urban housing; facilitating land participation in the real estate market; significantly increasing revenue for the state budget, and positively contributing to the socio-economic development, national defense, and security of the country. During organizing of implementation of the 2013 Land Law, the Ministry of Natural Resources and Environment has always listened to feedback from localities, citizens, and businesses. Based on that, the Ministry has advised the Government to issue Decrees No.01/2017/NĐ-CP dated January 6<sup>th</sup>, 2017, Decree No.148/2020/NĐ-CP dated December 18<sup>th</sup>, 2020, Decree No.10/2023/NĐ-CP dated April 3<sup>rd</sup>, 2023 amending and supplementing several articles of the Decrees guiding the implementation of the Land Law, and Decree No.12/2024/NĐ-CP dated February 5<sup>th</sup>, 2024 amending and supplementing several articles of Decree No.44/2014/NĐ-CP dated May 15<sup>th</sup>, 2014 regulating land prices, and Decree No.10/2023/NĐ-CP dated April 3<sup>rd</sup>, 2023 amending and supplementing several articles of the Decrees guiding the implementation of the Land Law. The Decrees detailing the implementation of several articles of the 2013 Land Law mentioned above have contributed to resolving

difficulties and obstacles in organizing the implementation of the Law in the past period.

However, the process of summarizing the implementation of the 2013 Land Law shows that despite achieving certain results, administration and land use still face existing limitations, such as: land use planning has not ensured synchronization, comprehensiveness, and systematization; quality is not high and lacks long-term vision; land resources have not been fully and sustainably exploited; in some areas, land use is still wasteful and ineffective; access to land by organizations and individuals, especially ethnic minorities is still inadequate; land recovery, compensation, support, and resettlement in some areas have not ensured harmonious benefits between the State, land users, and investors; administrative reform in land management has not met practical requirements; land finance and land prices do not accurately reflect market realities; trends of land degradation, soil pollution, and saltwater intrusion are occurring in many places, with complex developments; land disputes, complaints, denunciations, and violations of land law are still numerous, but the handling is still limited... The causes are due to the historical and complex nature of land; the enforcement of land law in some places has not been strict; policies and laws still have inadequacies; some contents of related laws have not been consistent and synchronized with land law; detection, prevention, and handling have not been well implemented; some newly arising contents in practice have not been regulated by law.

Based on this situation, on January 18<sup>th</sup>, 2024, at the 5<sup>th</sup> Extraordinary Session, the 15th National Assembly passed the Land Law No.31/2024/QH15 with 16 Chapters and 260 Articles. On March 5<sup>th</sup>, 2024, the Prime Minister issued Decision No.222/QĐ-TTg assigning ministries and sectors to prepare detailed regulations for the implementation of the 2024 Land Law, under which the Ministry of Natural Resources and Environment was assigned to prepare 6 Decrees to detail the implementation of several articles of the Law, including Decree No.102/2024/NĐ-CP dated July 30<sup>th</sup>, 2024, detailing the implementation of



several articles of the Land Law. The Decree detailing the implementation of several articles of the Land Law is issued to specify 54 contents assigned in the Law, which is necessary to ensure effectiveness simultaneously with the effective date of the Land Law in accordance with the articles of the Law on the promulgation of legal documents.

## **2. SOME BASIC CONTENTS OF DECREE NO.102/2024/NĐ-CP**

Decree No.102/2024/NĐ-CP detailing 54 Articles and Clauses assigned by the 2024 Land Law for the Government to specify. The Decree consists of 10 Chapters, 113 Articles, and 1 Appendix, specifically: General articles (Articles 1 to 12); Organization of public land services (Articles 13 and 14); Land use planning and plans (Articles 15 to 24); Land recovery and requisition (Articles 25 to 40); Development, management, and exploitation of land funds (Articles 41 to 43); Land allocation, land lease, and change of land use purpose (Articles 44 to 63); Land use regimes (Articles 64 to 100); Monitoring and evaluating land management and use; land inspection (Articles 101 to 104); Resolving land disputes and violations of land law in the performance of public duties in the land sector (Articles 105 to 109); Implementation clauses (Articles 110 to 113); and the Appendix includes 31 forms.

### **3. SOME MAIN CONTENTS OF THE DECREE**

#### **1. Regulations on scope of adjustment, applicable subjects; individuals directly engaged in agricultural production; land classification**

One of the shortcomings in the implementation of the 2013 Land Law relates to defining what is meant by “stable income from agricultural production on that land” to identify households and individuals directly engaged in agricultural production. On the basis of inheritance specified in Clause 30, Article 3 of the 2013 Land Law, it has been clarified that individuals directly engaged in agricultural production must be those who have been allocated land by the State, leased land, or recognized for their rights to agricultural land; who have transferred rights to agricultural land and earn income from agricultural production on that land, and who are not recipients of salaries from the state budget, pensions, monthly social insurance benefits, or workers with indefinite labor contracts (Article 3).

Regarding land classification (Articles 4, 5 and 6), Decree No.102/2024/NĐ-CP details the types of land within the categories of agricultural land, non-agricultural land and unused land, specifically: (1) Agricultural Land: details 7 land types within the agricultural land category, including annual crop land, perennial crop land, forestry land, aquaculture land, concentrated livestock land, salt-making land, and other agricultural land; (2) Non-Agricultural Land: details 11 land types within the non-agricultural land category, including residential land, land for government offices, defense and security land, land for public works, non-agricultural production and business land, land for public purposes, religious land, worship land, cemeteries, funeral

homes, crematoria, columbarium land, specialized water surface land, and other non-agricultural land; (3) Unused Land: details 5 land types within the unused land category, including land recovered by the State that has not been allocated or leased and is managed by the local People’s Committee, unused flat land, unused hilly land, rocky land without forest, and unused water surface land. The detailed regulations on land classification fundamentally inherit the articles on land statistics, inventory, and mapping of current land use according to the 2013 Land Law, while also refining specific land categories to align with the classification articles in the 2024 Land Law, such as: supplementing the classification of concentrated livestock land into agricultural land category; supplementing columbarium land and merging river, stream, canal, brook, and specialized water surface land into specialized water surface land, and abolishing regulation on cemetery land within the non-agricultural land category.

Regarding land support for ethnic minorities (Article 8), this is a new policy in the 2024 Land Law. The law specifically outlines policies for supporting residential land and production land for individuals who are ethnic minorities classified as poor or near-poor households in ethnic minority and mountainous regions. It defines the responsibilities of state agencies in developing and implementing land policies for ethnic minorities, the resources required to carry out these policies, and ensures land availability to implement land policies for ethnic minorities. Additionally, it stipulates certain restrictions on the rights of land users regarding cases of land allocation, leasing, or changing land use purposes under the ethnic minority land policy. For detailed regulations, the Decree specifies support for individuals who are ethnic minorities and have been allocated land for the first time but no longer have residential land, allowing them to be allocated residential land or change the purpose of land use from other types to residential land. If they lack residential land, they may change the purpose of land use from other types to residential land and be exempt from land use fees for the area within the residential land allocation limit. In cases where they no longer have agricultural land or the agricultural land they are using is less than 50% of the local agricultural land allocation limit, they will be supported in being allocated agricultural land within the limit. Moreover, it assigns responsibilities to the commune-level and district-level People’s Committees in



supporting land for individuals who are ethnic minorities. It clearly defines the funding for compensation, support, and resettlement for land recovery; costs for surveying, preparing land registration documents, issuing land use rights certificates, and other expenses that will be allocated from local budgets and other legal funding sources as stipulated by law. If a locality cannot balance its budget, the provincial People's Committee must report to the Ministry of Finance for the Prime Minister's consideration and decision.

Regarding the regulations on economic organizations with foreign investment receiving capital transfers as the value of land use rights (Article 9), current land law regulates that the value of land use rights can be capitalized into the equity of the enterprise. However, the enterprise law and other related laws do not provide regulations on capitalizing the value of land use rights. To address this shortcoming, specific conditions have been established for foreign-invested economic organizations to receive capital transfers as the value of land use rights from organizations currently using land allocated by the State with land use fees or leased land paid in a lump sum for the entire lease period, where the value of land use rights has become part of the charter capital of the economic organization and has the rights and obligations specified in Clause 3, Article 41 of the Land Law. In cases where capital transfers are received as the value of land use rights in border communes, wards, and towns; coastal communes, wards, and towns; or other areas that affect national defense and security, the transfer of capital as the value of land use rights will be carried out in accordance with provisions of investment law and related laws.

Additionally, in order to reduce the requirements for reporting forms, the quantity and components of application files, shorten the appraisal time and provide flexibility in submission methods to facilitate individuals and businesses in carrying out land administrative procedures, Article 12 of the Decree clearly specifies the agencies responsible for receiving applications and returning results, submission methods, and the timeframes for resolving administrative procedures. According to this, the time for carrying out administrative procedures is calculated from the date of receipt of valid applications and does not include the time taken by financial and tax authorities, the time for land users to fulfill their financial obligations, the time for negotiating to implement land accumulation and concentration, the time for determining specific land prices, and the time for surveying the land parcel. At the same time, the provincial People's Committees are tasked with deciding on the agencies responsible for receiving and returning results for administrative procedures, the timelines for each step of the administrative procedures of relevant agencies and units, and ensuring inter-agency resolution under a one-stop-shop mechanism to comply with legal timeframes. They are also responsible for publicizing administrative procedures and the selection of application submission locations to ensure efficiency in time and costs for organizations, individuals, and competent authorities in resolving administrative procedures.

## 2. Organizing public land services

The Decree specifies the functions, tasks and organizational structure of the Land Registration Office and the Land Fund Development Center that detailed in Articles 13 and 14. Accordingly, the Land Registration Office is a public service unit under the provincial land management authority; it is responsible for registering and issuing land use rights certificates, ownership of property attached to land, surveying, adjusting, preparing cadastral maps, building, managing, operating, and exploiting the land information system, providing public land services, and supporting other state management tasks related to land at the provincial level. This regulation aims to ensure the institutional spirit of Resolution No.18-NQ/TW regarding decentralization, delegation of authority, clarity of roles and responsibilities, and transparency in resolving administrative procedures related to land, specifically detailing the contents of land registration and certificate issuance in the 2024 Land Law. Regarding the Land Development Center (Article 14), the Decree stipulates that the Land Development Center is a public service unit established by the provincial People's Committee and is directly under the provincial People's Committee. Based on the actual situation in the locality, the provincial People's Committee decides to establish the Land Development Center under the district People's Committee; specifies the tasks, organizational structure, financial sources, and expenditure related to the activities of the Land Development Center. The restructuring of the land development organization aims to address the shortcomings identified during the evaluation of the operational model of land development organizations, which include the dispersion of local land development organizations, a lack of concentration of resources, insufficient centralized and unified direction, difficulties in coordination with relevant agencies, inadequate support regarding environmental issues and operational mechanisms, and limitations on funding in terms of quantity and duration due to dependence on state budget allocations for the Land Development Fund or voluntary advance funding from project investors.

## 3. Land use planning and land use plans

The Decree assigns Ministry of Natural Resources and Environment (MONRE) the responsibility to establish technical regulations for the formulation and adjustment of the national land use plan, as well as provincial and district land use plans, as detailed in Articles 15, 18, 19, 20, and 21. It specifies the technical

requirements and steps related to the methods and content of land use target allocation for planning at various levels, including codes and symbols for land types, regulations on the forms and specifications of land use planning documents, steps in the process of formulating land use plans at all levels, and a system of codes and color symbols for different land types corresponding to the maps for each planning level. These regulations build upon existing articles, currently governed by Circular No.01/2021/TT-BTNMT dated April 12, 2021 which outlines technical regulations for formulating and adjusting land use plans with 52 articles and 185 pages, including annexes, forms, and map color symbols.

Regarding the principles and criteria for allocating land use targets (Article 22), this represents a new point of Decree compared to current regulations. The Decree details the principles and criteria for allocating land use targets, specifying five groups of principles for allocation to meet the requirements for each planning level. The criteria for allocating land use targets are categorized into two groups, separately defining the criteria for national land use targets (such as rice land, protective forest land, special-use forest land, natural production forest land, defense land and security land) for localities, and the criteria for allocating targets in provincial land use planning for district land use planning concerning 26 types of land in the agricultural and non-agricultural categories, consistent with land types defined in Article 9 of the Land Law. Clearly outlining the conditions, criteria, and responsibilities of consulting organizations and lead consulting experts, as well as the selection process for consultants in formulating land use plans at each level (Articles 23 and 24), ensuring that the participation of various stakeholders in land use planning is expanded while maintaining the quality of the selected consulting units.

#### **4. Land recovery and land expropriation**

The regulations regarding land recovery related to national defense and security (from Article 25 to Article 27) detail specific cases for (1) recovering land for national defense and security that is included in the national defense land use plan and security land use plan, which is to be transferred to localities for implementing socio-economic development projects for national and public benefit; (2) recovering land to perform national defense and security tasks that are not yet included in the national defense land use plan and security land use plan; and (3) recovering national defense and security land, along with assets attached to the land, to be transferred to localities for socio-economic development projects for national and public benefit, even when the area of land to be recovered has not been defined in the national defense land use plan and security land use plan. These are new regulations compared to current articles, aiming to detail Article

84 of the 2024 Land Law. The procedures for land recovery are clearly designed, outlining the steps, timelines, and responsibilities of agencies and land users involved in the recovery process.

The Decree also clarifies the cases of force majeure applicable to handling situations as stipulated in clauses 6, 7, and 8 of Article 81 of the Land Law, which include force majeure events and objective obstacles under civil law that directly impact land use. These include: natural disasters, environmental disasters; fires, epidemics; wars, national defense emergencies; other cases as regulated by emergency laws; situations where competent state agencies apply emergency measures, such as temporary seizure or freezing of land use rights and assets attached to the land, allowing land users to continue using the land afterward; administrative decisions and actions by competent state agencies that constitute objective obstacles, not due to the fault of the land user, directly affecting land use; other cases determined by the Prime Minister based on proposals from provincial People's Committees or relevant ministers; specifying the timing for extending the deadline to no more than 24 months for cases where land is not put to use or where there are delays in land use; time affected by force majeure is not counted toward the time for not putting land to use or delays in land use as stipulated in Clause 8 of Article 81 of Land Law. The Chairperson of the provincial People's Committee is responsible for determining the duration of the impact due to force majeure for projects within their jurisdiction based on legal regulations and the actual implementation of investment projects.

#### **5. Development, administration, exploitation of land funds**

The decree specifies the cases in which Land Development Organization develops, manages, and exploits land funds; the procedures for establishing, appraising, and approving land fund creation projects; regulations on managing and exploiting short-term land funds of no more than 5 years; stipulations that land lessees are not required to register land and will not be issued Land Use Rights Certificates or property ownership certificates attached to the land; the starting rental price is determined by the Chairman of the competent People's Committee granting the lease. Rental payments are included in revenue and accounted for according to regulations for public service units. Land users are prohibited from constructing permanent structures and must commit to voluntarily dismantling any constructions when the State recovers the land, and will not be compensated for land, assets, or investment costs related to the land and must pay a deposit for the responsibility of dismantling the structures.



## 6. Land allocation, land leasing, and change of land use purpose

In cases where the State leases land, if the land handover date is from January 1<sup>st</sup>, 2005, to before October 1<sup>st</sup>, 2009, the land price for calculating the land rent applies the land price table at the time of land handover. If the land handover date is from October 1<sup>st</sup>, 2009, to before July 1<sup>st</sup>, 2014, and falls under cases that require specific land price determination, the land price for calculating the land rent applies the land price table multiplied by the land price adjustment coefficient at the time of land handover. If the land handover date is from July 1<sup>st</sup>, 2014, to December 31<sup>st</sup>, 2014, for cases of leasing land with a one-time rent payment for the entire lease period, according to regulations at the time of land handover, which fall under the method of applying the land price adjustment coefficient when determining the specific land price, or cases of leasing land with annual rent payments, the land price for calculating the land rent applies the land price table multiplied by the land price adjustment coefficient at the time of land handover. If the land handover date is from January 1<sup>st</sup>, 2015, to before August 1<sup>st</sup>, 2024, for cases of leasing land with a one-time rent payment for the entire lease period, according to regulations at the time of land handover, which fall under the method of applying the land price adjustment coefficient when determining the specific land price, or cases of leasing land with annual rent payments, the land price applies the land price table at the time of land handover multiplied by the land price adjustment coefficient at the time of land handover. If the land handover date is from July 1<sup>st</sup>, 2014, to before August 1<sup>st</sup>, 2024, and according to regulations at the time of land handover requires specific land price determination and does not fall under the application of the land price adjustment coefficient method, then the methods specified in points a, b, c of clause 5 and points a, b, c of clause 6 of Article 158 of the Land Law, detailed in the Decree on land prices,

shall apply. The determination of the land price adjustment coefficient in the above regulations is carried out according to the Decree on land prices. In cases where land is allocated or leased by the State through forms permitted by the competent authority to change land use purposes and requires the payment of land use fees or land rents, the time for determining the land price for calculating land use fees and land rents is the time when the competent state authority issues the decision.

## 7. Land use regime

Based on the articles inherited from Decree No.42/2024/NĐ-CP of the Government, Section 3 of Chapter 7 has completed the content regarding land use planning and plans for marine areas designated for land reclamation; decisions on investment policy, approval of investment policy, and selection of investors for investment projects involving land reclamation; preparation, appraisal of feasibility study reports, and project approval; preparation, appraisal, and approval of construction designs; construction and acceptance of construction works for investment projects involving land reclamation or land reclamation components of investment projects. The regulations concerning land allocation, land leasing, and allocation of marine areas for land reclamation activities; acceptance of completed land reclamation activities; determination of land use fees and land rental fees; and issuance of land use rights certificates and ownership certificates for assets attached to land for land reclamation activities have been completed based on the regulations of the 2024 Land Law.



▲ *Ho Chi Minh City People's Committee will issue the adjusted land price list*



Besides, Articles 79 to 90 of the Decree provide general regulations on the land use for national defense and security; state administration of land for national defense and security; entities using national defense land in conjunction with production labour activities and economic construction; principles of using national defense and security land in conjunction with production labor activities and economic construction; the responsibilities of Minister of National Defense and Minister of Public Security in managing and using national defense and security land in conjunction with production labor activities and economic construction; rights and obligations of units and enterprises managed by Ministries of National Defense and Public Security regarding the use of national defense and security land in conjunction with production labor activities and economic construction; cases where the use of national defense and security land in conjunction with production labor activities and economic construction is exempt from annual land use fees; cases where annual land use fees must be paid for the use of national defense and security land in conjunction with production labor activities and economic construction; methods for calculating annual land use fees, the time frame for collecting annual land use fees, and the responsibilities of Minister of National Defense and Minister of Public Security in assigning functional agencies to guide the collection and payment of annual land use fees for state-owned units and enterprises managed by Ministries of National Defense and Public Security; procedures for preparing, appraising, and approving plans for using national defense and security land in conjunction with production labor activities and economic construction; revenues and expenditures from the use of national defense and security land in conjunction with production labor activities and economic construction; and management of the funds collected from the use of national defense and security land in conjunction with production labor activities and economic construction. The articles regarding the use of national defense and security land in conjunction with production labor activities are built on the basis of inheriting the contents specified in Decree No.26/2021/NĐ-CP dated March 25<sup>th</sup>, 2021, of the Government, which details some articles of Resolution No. 132/2020/QH14 dated November 17<sup>th</sup>, 2020, of the National Assembly, piloting some policies to resolve difficulties and outstanding issues in administration and use of national defense and security land in conjunction with production labor activities and economic construction, with improvements regarding the entities using national defense and security land in conjunction with production labor activities and economic construction to align with the articles of Clause 1, Article 201 of the 2024 Land Law.

## **8. Monitoring and evaluating land administration and use; specialized land inspection**

The Decree stipulates the content of monitoring and evaluation for state administration agencies regarding land, monitoring and evaluating compliance with land law by land users; developing plans and organizing annual inspections of land management and use, specifying the subjects of monitoring and evaluation under the responsibility of Ministry of Natural Resources and Environment (MONRE) for large-scale areas that use extensive land; the declaration, registration, and reporting of the management and use of land by land users; regulations on providing and reflecting information on land management and use, including the timing, forms, and content of reports; providing and reflecting information on land management and use; bases, authority, responsibilities, content, and forms of specialized land inspections; and the procedures for conducting inspections. The content for monitoring and evaluating land management and use, as well as specialized land inspections, is fundamentally improved based on current regulations, with more specific articles regarding the monitoring and evaluation of land management and use by state management agencies and the compliance with land law by land users; regulations on the bases, authority, responsibilities, content, forms of inspections, and the procedures for conducting specialized land inspections.

In addition, the Decree also stipulates several contents related to the resolution of land disputes, violations of land law when performing duties in the field of land (from Article 105 to Article 109), and the enforcement provisions (from Article 110 to Article 113).

It can be said that with the decisive direction of the Government and the Prime Minister, to ensure the conditions for the implementation of the 2024 Land Law effective from August 1<sup>st</sup>, 2024 (five months earlier than planned), in a short period, Ministry of Natural Resources and Environment (MONRE) has actively and proactively coordinated with relevant ministries, agencies, and organizations to draft and submit to the Government four decrees detailing the implementation of the 2024 Land Law, which will take effect simultaneously with the Law. Among them is Decree No.102/2024/NĐ-CP dated July 30<sup>th</sup>, 2024, which details the implementation of certain articles of the 2024 Land Law. At the same time, the Ministry has also issued four circulars as authorized by the Law. These results have contributed to effective management and the release of land resources, meeting the requirements for socio-economic development, ensuring national defense and security, and sustainable development during the period of accelerating the country's industrialization and modernization. This also contributes to completing the socialist-oriented market economy institution in our country now and in the future ■