

**LEGAL UPDATE**

August 2024

**GUIDING DECREES FOR THE LAW ON LAND OF 2024****OVERVIEW**

From June to July 2024, the Vietnamese Government issued a series of decrees guiding the implementation of the Law on Land of 2024 (“**Land Law**”), including Decree No. 71/2024/ND-CP (“**Decree 71**”), Decree No. 88/2024/ND-CP (“**Decree 88**”), Decree No. 101/2024/ND-CP (“**Decree 101**”), Decree No. 102/2024/ND-CP (“**Decree 102**”) and Decree No. 103/2024/ND-CP (“**Decree 103**”). These decrees provide detailed guidelines on, among other things, the matters of land price, land rents and land use fees, land withdrawal and compensation, and issuance of the title deeds.

This article presents the coverage of the decrees and their notable points which may impact foreign and local investors in their land-related business in Vietnam.

**DECREE 71**

Decree 71 was issued on 27 June 2024 to provide for: (i) land valuation methods prescribed in Article 158; (ii) formulation and adjustment of the land price list (in Vietnamese: *bảng giá đất*) prescribed in Article 159; (iii) specific land valuation in Article 160; (iv) conditions for practicing land valuation consultancy services in Article 162; and (v) application of land valuation methods in transitional cases in Article 257 of the Land Law. We summarize below the guidelines in Decree 71.

- (a) Land valuation methods: Article 158 of the Land Law names the valuation methods, including price comparison, net income from land, surplus from land development, and land price adjustment coefficient method. In Decree 71, each method is further described with specific criteria and implementation procedures.
- (b) Formulation and adjustment of the land price list: Decree 71 stipulates the procedures related to the formulation, adjustment, amendment, and supplementation of the land price list.<sup>1</sup> The Decree also provides criteria and steps for making necessary changes to the land price list to ensure that the price list reflects the actual value of land according to market fluctuations.
- (c) Specific land valuation: Decree 71 details the process and criteria for implementing specific land valuation. This includes the application of appropriate valuation methods to determine the value of specific land plots, serving purposes such as compensation, land recovery, or commercial transactions related to land.
- (d) Conditions for practicing land valuation consultancy: Decree 71 stipulates the necessary conditions for practicing land valuation consultancy services, including requirements on professional qualifications, experience, and practice licenses. This is to ensure that individuals and entities involved in land valuation consultancy services have sufficient

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<sup>1</sup> For the purposes of the land price list and specific land valuation, please refer to our Legal Update in April 2024.

capacity and expertise to perform valuation work.

- (e) Application of land valuation methods in transitional cases: Decree 71 also stipulates specific procedures and criteria for handling cases related to land prices in the transitional period from the old regulations to the new regulations of the Land Law.

## **DECREE 88**

Decree 88 was issued on 13 July 2024 to guide the implementation for the compensation, support and resettlement when the State recovers land which are provided in Articles 87, 92, 94, 95, 96, 98 – 100, 102, 106 – 109, and 111 of the Land Law. This decree provides detailed regulations on compensation, support and resettlement when the State recovers land for various purposes, including national defense and security purposes and socio-economic development. Decree 88 emphasizes land compensation in the following cases:

- (a) Land compensation when the State recovers agricultural land from households and individuals: Details on how to compensate and support households and individuals when the State needs to recover their agricultural land to serve the above purposes.
- (b) Land compensation when the State recovers non-agricultural land other than residential land from households and individuals: Details on compensation for households and individuals when their non-agricultural land other than residential land is recovered.
- (c) Compensation for land when the State recovers land from economic organizations, economic organizations with foreign investment capital (FIC): Specifies the provisions for compensation when land owned by organizations, communities or special individuals is recovered.
- (d) Compensation for damage to houses and construction works attached to land when the State recovers land: Details on compensation for damage related to houses and construction works attached to recovered land.

When the State recovers land, people whose land is recovered will be compensated in four main forms, including:

- (a) Land allocation for the same purpose of use: People whose land is recovered have the right to receive a new plot of land with the same purpose of use as the type of land that was recovered. If the locality no longer has suitable land funds to carry out land compensation, compensation will be made in cash according to the specific land price decided by the relevant People's Committee at the time of approving the compensation, support and resettlement plan.
- (b) Compensation by land with a different purpose of use: In case the person whose land is recovered has a need and the locality has sufficient land funds, compensation may be considered with a land plot with a different purpose of use than the type of land that has been recovered.
- (c) Compensation by money: If the person whose land is recovered requests compensation in money instead of land or housing, the State will pay compensation in money. The compensation amount will be determined based on the market price of the land at the time of recovery.

- (d) Compensation by housing: In case the person whose land is recovered has a need for compensation in housing and the locality has the housing funds, the person whose land is recovered will be considered for compensation in housing.

### **DECREE 101**

Decree 101 was issued on 29 July 2024 to guide the implementation of the Land Law on basic land survey, registration, issuance of Certificates of Land Use Rights, Ownership of Assets attached to Land (i.e., the title deed or “LURC” in this article), and the National Land Information System, which are provided for in Articles 50, 55, 131, 135, 138 – 140, 142, 170, 181 and 223 of the Land Law.

Decree 101 shortens the time period for land registration and issuance of the LURC for the first time to 23 business days (under the Law on Land of 2013, it is 45 days). It also provides the criteria for determining a land plot which has not been granted a LURC but has been in stable and long-term use in order to issue the LURC for such land plot. Finally, Decree 101, allows a new method of land registration via the National Land Information System. However, the applicability of these advanced changes may need time to prove effective.

### **DECREE 103**

Decree 103 was issued on 30 July 2024 to mainly guide the implementation of Articles 153.1(a) and 153.1(b) of the Land Law on land use fees and land rents, respectively. In particular, Decree 103 guides the calculation, collection, and exemption (or reduction) of land use fees<sup>2</sup> in the following circumstances:

- (a) The State allocates land with land use fee collection;
- (b) The State permits the change of land use purpose to the type of land that is allocated by the State with land use fee collection; and
- (c) The State recognizes land use rights, adjusts land allocation decisions, adjusts detailed planning, permits the change of land use form, permits the use of land for multiple purposes in accordance with the provisions of law, which gives rise to obligations regarding land use fees.

The decree guides the calculation, collection, and exemption (or reduction) of land rents in the following circumstances:

- (a) The State leases land;
- (b) The State permits the change of land use purpose to another land type that the State leases land and must pay land rent;
- (c) The State leases land to build underground works for business purposes that are not underground parts of above-ground construction works; land for building above-ground

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<sup>2</sup> Under the Land Law, land use fees are applicable in the cases: (i) when the State allocates land to land users (e.g., individuals for residential land and to local and foreign investors for development of residential projects); and (ii) when the State compensates land users by residential land when withdrawing their land. Land lease is applicable to land plots which are not allocated (for residential land) and the State collects rents from the lease.

works to serve the operation, exploitation and use of underground works; and

- (d) The State recognizes land use rights, extends land use, adjusts land use terms, adjusts land lease decisions, adjusts detailed planning, permits the conversion of land use forms or permits the use of land for multiple purposes in cases where land rent must be paid.

## **DECREE 102**

Generally, Decree 102 was issued (on 30 July 2024) to guide the remaining articles of the Land Law which needs detailed guidance. For this reason, this decree guides various articles of the Land Law. Some notable regulations of Decree 102 are presented below.

- (a) Amendments to decisions on land allocation, land lease or permission to change land use purpose: The old Land Law and the decree guiding its implementation (i.e., Decree No. 43/2014/ND-CP) do not provide mechanism for adjustment of authority decisions on land allocation, land lease or change in land use purpose, leading to difficulties for land users when they need to adjust the above decisions. Decree 102 stipulates that when there is a document from a state agency with content that changes the basis for the decision on land allocation, land lease or change in land use purpose, land users can base on such document to carry out the adjustment. Documents serving as the basis for adjusting the decisions include: (i) those approving the winning results of the auction of land use rights; (ii) those approving the results of investor selection; (iii) annual land use plans, decisions approving investment policies or documents approving the results of investor selection; and (iv) district-level land use planning or general or zoning planning.
- (b) Lease of land for a short-term period: For temporarily unused land plots, local land authorities may lease out for a period of up to five years for short-term use purposes.
- (c) Establishment of branches of the provincial Land Registration Office: A provincial Land Registration Office may have its branches at district-level localities. A branch of the Land Registration Office is authorized to carry out land registration and issuance of the LURC to individuals (while the Land Registration Office carries out registration and issuance of LURCs to organizations/entities).

Except for a few articles in the above-discussed decrees which took effect on the date of issuance of the relevant decrees, the remaining articles of the decrees took effect on 1 August 2024, the same effective date of the Land Law.<sup>3</sup>

We hope our article has been helpful to you. Please feel free to contact us if you have any further inquiries.

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<sup>3</sup> In our previous Legal Updates on the new Land Law and Law on Real Estate Business, we explained that the effective date of these laws was set for 1 January 2025. However, following our updates, the National Assembly of Vietnam issued a law which allows these laws, along with the Law on Residential Housing of 2023, to take effect earlier, on 1 August 2024. This change was made to meet the goals of overcoming limitations and problems of previous laws and put the new regulations into practice earlier, creating momentum for economic development.