

NEW REGULATIONS ON SANCTIONS FOR ADMINISTRATIVE VIOLATIONS IN THE LAND SECTOR

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On October 4, 2024, the Government issued Decree 123/2024/ND-CP regulating sanctions for administrative violations in the land sector (**Decree 123**). This Decree is issued to ensure consistency with several provisions of the Law on Land 2024 and to overcome several difficulties and obstacles in the implementation of Decree 91/2019/ND-CP on sanctions for administrative violations in the land sector (**Decree 91**). Below are some highlights of Decree 123:

Firstly, amending the provision on the scope of governance of the Decree. In general, the governance scope of Decree 123 inherits almost the regulation of the previous decree. However, Decree 123 further clarifies administrative violation acts in the land sector, which include administrative violation acts that have ended and those that are ongoing instead of the general provisions in Decree 91. Accordingly, it should be noted that even violations committed in the past can still be handled once they are detected.

Secondly, supplementing and specifying some remedial measures. Compared to Decree 91, Decree 123 supplements some new remedial measures to comply with the Law on Land 2024, such as:

- Forcing the implementation of procedures to get approval for large-scale animal husbandry projects;
- Forcing the development of agricultural land use plans for organizations receiving agricultural land use right transfer;
- Forcing individuals not directly engaged in agricultural production who receive land use right transfer beyond the given limit to establish economic organizations and develop plans for the use of rice lands.

In addition, *some measures in Decree 91 are also specified in the new decree*. Typically, instead of compulsory measures to implement administrative procedures on land as in Decree 91, Decree 123 stipulates some more specific measures such as

(i) forcing land registration; (ii) forcing the full implementation of financial obligations and procedures to hand over land; (iii) forcing the submission of documents to apply for approval from the Provincial People's Committee regarding the agreement on receiving land use rights to implement projects.

Thirdly, amending and supplementing some groups of violation acts and adjusting the fine levels. In general, many violation act groups identified in Decree 91 are still inherited in Decree 123, such as using land in the non-agricultural land group for other purposes without the competent State agency's permission; encroaching and occupying land; causing obstacles and difficulties (damage) to the use of land by others. However, some specific acts in each group have been adjusted, and the fine levels have been amended to be higher for consistency with current practices and laws. For example, with the violation act group of encroaching or occupying land, Decree 123 replaces the act of "encroaching or occupying unused land in rural areas" with the act of "encroaching or occupying land managed by State agencies and organizations, shown in the cadastral records within the communal administrative boundaries or documents allocating land for management". The fine for this violation is from VND 3,000,000 to VND 200,000,000, depending on the area of land violated (for individual violators).



Comments and recommendations

Decree 123 replaces Decree 91 from the effective date of October 4, 2024. Individuals and organizations should have a plan to study this document to ensure compliance with the applicable laws. It should be noted that for decisions on administrative sanctions in the land sector that were issued or fully enforced before the effective date of Decree 123, but the individuals and organizations that are subjects to administrative sanction still have complaints, the provisions on administrative sanctions in the land sector at the time of issuance of the sanction decision shall be applied for resolution.