

Summary report

Assessment of agricultural land management in the 2012-2022 period and policy implications



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Research leader
Dr Nguyen Quoc Viet



Part

1

An overview of agricultural land policy

1.1. Overview of agricultural land policy

In the light of Resolution 19-NQ/TW of 2012 on continuing to renew policies and laws on land during the comprehensive renewal period, providing a solid foundation for turning Vietnam into modern industrialised country by 2020, the National Assembly has issued three resolutions including the Resolution No. 28/2016/QH14 dated November 11, 2016 on amending and supplementing a number of articles of Resolution No. 55/2010/ QH12 on exemption and reduction of agricultural land use tax; the Resolution No. 107/2020/ QH14 dated June 10, 2020 on the extension of the period of agricultural land use tax exemption as stipulated in the Resolution No. 55/2010/QH12 dated November 24, 2010 on exemption and reduction of agricultural land use tax, which has been amended and supplemented under Resolution No. 28/2016/QH14 dated November 11, 2016; the Resolution No. 49/2013/QH13 dated June 28, 2013 on extending the duration of use of land for cultivation of annual crops, aquaculture or salt production by households and individuals.

The Government issued two decrees, including Decree 35/2015/ ND-CP dated April 13, 2015, on the management and use of land for rice cultivation, Decree 62/2019/ND-CP on amending Decree 35/2015/ND-CP on land management and use for rice cultivation; Decree 168/2016/ND-CP dated December 27, 2016, on contracting forests, orchards and water surface areas in the Management Boards of special-use forests, protection forests and one member agricultural limited liability companies and state forestry.



The Prime Minister issued the directive No. 15/CT-TTg on land resource inventory and land use mapping in 2019; Decision No. 990/QĐ-TTg dated June 18, 2014, on piloting allowing farmers to contribute equity capital with agricultural land use rights to cooperate in investment and implementation of projects on the development of rubber trees in Son La province.

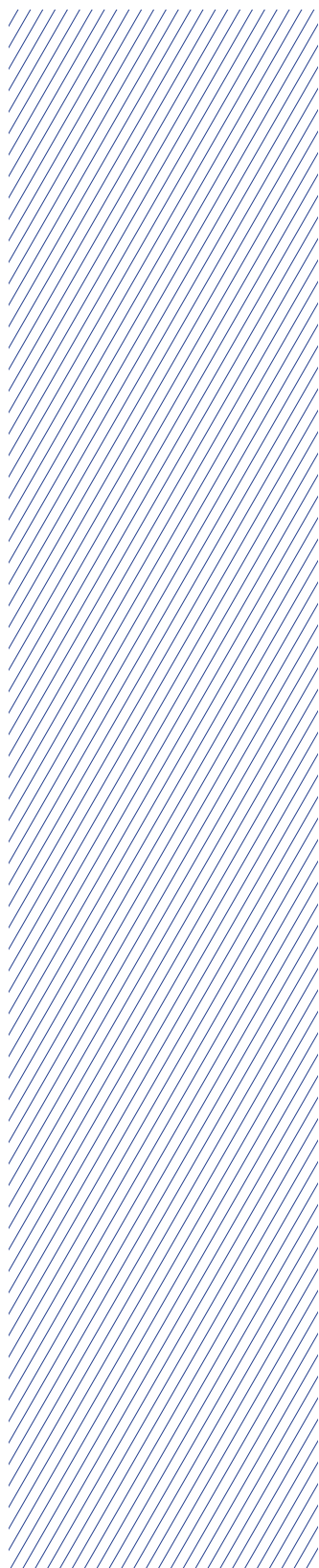
Ministries have issued several circulars, including the Ministry of Finance's Circular 207/2014/TT-BTC dated December 26, 2014, stipulating the determination of land rent for agricultural and forestry companies that use the land for agricultural production, forestry, aquaculture; the Ministry of Agriculture and Rural Development's Circular 19/2016/TT-BNNPTNT detailing Article 4 of the Decree 35/2015/ND-CP on the land management and use for rice cultivation; the Ministry of Natural Resources and Environment's Joint Circular No. 22/2016/TTLT-BNNPTNT-BTNMT dated June 30, 2016; The Ministry of Agriculture and Rural Development stipulates the type of perennial plants that are certified for ownership; Circular 18/2016/TT-BTC dated 21/01/2016 guiding the implementation of Decree 35/2015/ND-CP on the land management and use for rice cultivation; Circular 19/2016/TT-BNNPTNT detailing Article 4 of Decree 35/2015/ND-CP on the land management and use for rice cultivation.

On June 16, 2022, the Party Central Committee issued Resolution 18-NQ/TW on "Continuing to renovate and fine-tune institutions and policies, improve the effectiveness and efficiency of land management and use, creating a driving force to turn the country into a high-income developed country". The committee has identified views and goals with six main groups of tasks and solutions, of which the group of solutions related to improving institutions and policies on land management includes 8 tasks and c solutions.

Policy on agricultural land management can be divided into 4 groups: (1) Policy on management of land allocation, land lease, land registration, grant of use right certificates, change of agricultural land use purpose; (2) Planning policy and land use plan; (3) Policies on taxes, fees and prices of agricultural land and (4) Policies on land management and use in line with the purpose of use.



1.2. Some typical international experiences



1.2.1. Policy on management of land allocation, land lease, land registration, and issuance of certificates of agricultural land use rights

Serbia

Serbia is a case in point for the hasty transfer of land from state and collective ownership to private ownership, leading to fragmentation and difficulties in mass production. The rental market in Serbia is currently more active than the buying and selling market. Land leases are often short-term and do not encourage medium-term investment in land or farm infrastructure development because Serbia lacks an appropriate regulatory framework.

China

Contrary to Serbia, China has a policy of land allocation, land lease, and management of land use rights that are relatively effective, efficient and consistent with the capability and level of production and management.

Article 10 of China's 1982 Constitution and the Law on Land Management stipulate that land in China belongs to the state, including state ownership and collective ownership, of which all urban land belongs to state ownership. The conversion of agricultural land to other purposes is strictly regulated, based on not occupying agricultural land or minimising the appropriation of agricultural land, with special protection measures for arable land.

Thailand

Like many other Asian countries, Thailand is rapidly urbanising, and the market mechanism regulates all land transactions. However, for projects managed by the Government, compensation is carried out by listening to people's opinions and calculating the compensation price.

Compensation price depends on each region and each project. If a project is of national strategic importance, the State will calculate the compensation rate at a higher price than the market price.

1.2.2. Regarding land use planning and agricultural land accumulation

Germany

Today, land accumulation and concentration is mainly a tool for integrated rural development, aiming to improve economic, ecological and social conditions simultaneously. There are

possibilities to carry out land accumulation and concentration through different procedures: i) standard land accumulation and concentration; ii) voluntary land exchange; iii) land accumulation and concentration to implement large-scale public projects; iv) simplify the accumulation and concentration of land; and (v) speed up land accumulation and concentration. In practice, three types of land accumulation and concentration (i to iii) are carried out.

Serbia

Contrary to Germany, the planning and accumulation of agricultural land in Serbia is being restarted, but the efficiency is unclear. Land accumulation and concentration stopped in 1990 with the collapse of the Socialist Federal Republic of Yugoslavia and the fragmentation of agricultural land due to privatization.

Although considerable effort has been made to promote land accumulation in the 2013-2016 period, the results have been modest. Among 43 projects of land accumulation and concentration that have been deployed since 2006, only five projects have been implemented by registering property rights with the real estate management agency until 2019. The remaining projects are waiting for legal proceedings on unresolved property issues. After the settlement, these projects can register the plan of land accumulation and concentration.

In the case of Serbia, some reasons have made the planning and accumulation of agricultural land to become difficult: i) the level of detail in the legal provisions on land accumulation and concentration; ii) the legal provisions on the specific allocation in land accumulation and concentration activities are outdated; iii) participants do not volunteer or do not have the ability to make a financial contribution to land accumulation and concentration projects along with the lack of supervision of procedures while appeals take a long time to make decisions. In addition, there are not sufficient members for the committee for the city's land accumulation and limited capacity of surveying organizations; iv) slow approval for funding from competent state agencies, leading to inability to sign contracts for construction works following the program of land accumulation and concentration; and v) cumbersome procedures in the cadastral registration process that take longer time.

China has a relatively clear and effective policy on land use planning. Chinese law stipulates that the State has the right and responsibility for devising land use planning nationwide and at each local administration according to territorial administrative units. For urban land, the State conducts management by planning. A city master planning is a comprehensive, long-term, strategic and direct scheme for economic and social development for municipal construction works. The law also stipulates that planning at a lower level must comply with central planning and must be approved by competent authorities before it can be implemented.

Thailand

Thailand has a relatively strict agricultural land planning policy that ensures the suitability of each type of tree and encourages the application of advanced technologies and organic agriculture. As a result, the northeast region of Thailand is well suited for the crops in the highlands.

Following is the agricultural structure in the northeast: food accounts for 88% of the cultivated area (including wet rice, upland rice, soybeans, cassava, and maize), perennial cash crops (rubber,



eucalyptus, timber) teak) and fruit trees (sweet tamarind, mango, custard apple, banana, orange, lychee) occupy 11% of the cultivated area; the remaining area is used for growing speciality plants, vegetables and flowers (accounting for 1%). The government's planning has been deployed at eight organic farming villages, each developing a type of agricultural product based on the region's strengths and soil characteristics.

1.2.3 Policies on taxes, fees and agricultural land prices

Serbia

Apart from fragmentation and difficulties in agricultural land management in Serbia, the country's anti-tax and agricultural land fee system is also ineffective. Serbia levies a relatively high rental tax (20% of the rental value) which discourages formal registration of leases.

This has led to the fact that the existing laws have protected no stakeholders. As a result, the farmland market is underdeveloped, failing to connect people who don't have this personal relationship and want a long-term deal. The rental market is also uncompetitive as far as state land is concerned.

China

China does not have a stable and indefinite form of land allocation. Chinese law stipulates that the State collects money when allocating land, and land users must pay enough land use fees to the State to exercise their rights; The State considers land allocation to collect money as an important measure to generate budget revenue to meet capital needs for development.

In China, land used directly for agricultural, forestry, livestock and fishery purposes is exempt from tax.

1.2.4. Land use management policy

In Germany, there is an act on the acquisition and sale of agricultural and forestry land to secure the development of the sector, especially to conserve nature and the environment and ensure food security amid the risk of people selling off agro-forestry land.

The act stipulates that the acquisition and sale of a certain land area (depending on local regulations) requires a license from the government through a rigorous process to determine the legal entity's responsibility and its representative, both administratively and criminally, concerning the granting of a license.

In China, the State also discourages the conversion of the purpose from agricultural to non-agricultural use. Accordingly, almost all taxes have been applied if the transfer of the agricultural land use right involves a conversion from agricultural land to development land. Non-agricultural land will also not be exempt from land use tax like agricultural land.



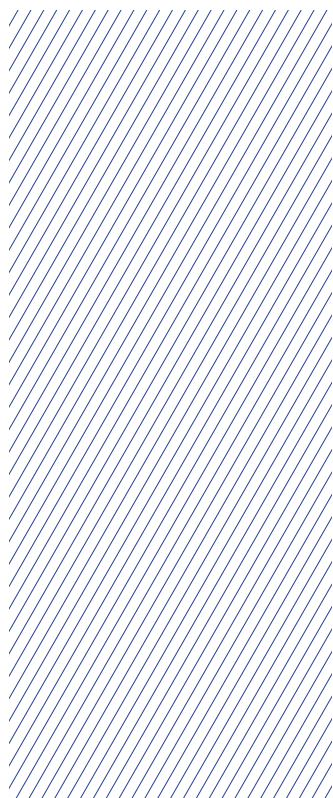


Part

2

Assessment of the implementation of agricultural land management

2.1. Implementation of Agricultural land management policy



2.2.1. Land allocation, land lease, land registration, issuance of land use right certificates, conversion of agricultural land to other purposes

Thanks to the diversification of land use rights, more forms of agricultural land use right transactions appear; transfer, lease, and capital contribution between individuals, cooperatives and enterprises. Land accumulation is encouraged through the mechanism of capital contribution by the value of land use rights. The fragmentation in agricultural production is therefore lessened.

The measuring and planting of boundary markers are carried out relatively seriously. As a result, administrative procedures related to land and the granting of land use rights certificates are simplified, with up to 97.6% of the area being certified for the first time.

2.2.2. Planning and plans for agricultural land use

According to data from the Ministry of Natural Resources and Environment in 2018, 4.12 million hectares (about 12%) is the area specialising in rice cultivation, 3.76 million hectares higher than the requirement for rice cultivation land to be kept and protected. Agricultural land throughout the country shall be used following



the planning for the right purposes economically and efficiently, meeting the demand for comprehensive agricultural development in a modern, efficient and sustainable manner. In addition, specialised farming areas for large-scale export products are also established, such as rice-growing areas in the Red River and Mekong River deltas, and coffee-growing areas in the Central Highlands and the southeast region.

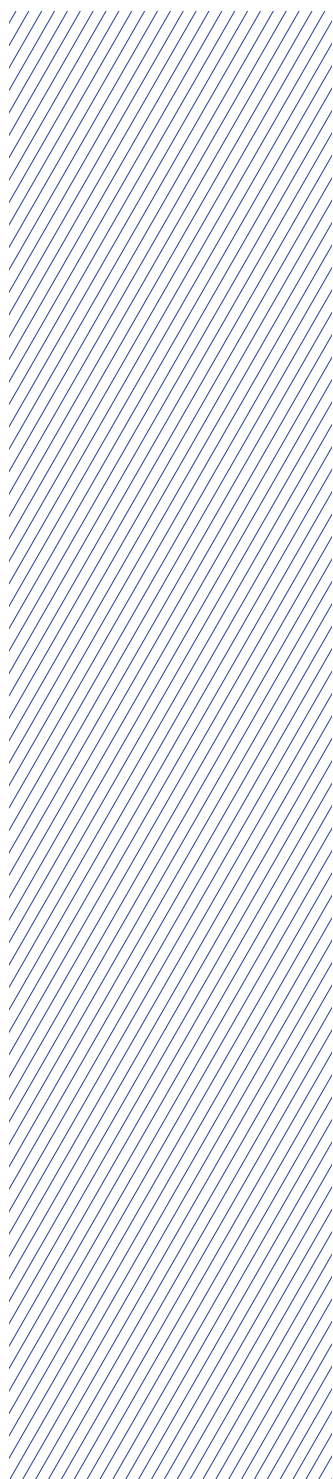
The process of appraising the conversion of land use purpose is carried out in a relatively strict manner as the Ministry of Agriculture and Rural Development coordinates with the Ministry of Natural Resources and Environment to appraise the content of converting the land use purpose for rice cultivation and submits it to the Prime Minister for approval before the competent People's Committee decides on this.

2.2.3. Regulations on land use management

The planning of paddy land has been strictly implemented but still facilitates structural transformation, especially from inefficient rice cultivation to other annual crops and aquaculture. As a result, rice production is still increasing every year, ensuring food security in the country and for export.

The planning of the aquaculture area is deployed and regulated in a clear manner while the aquatic industry has been developed, focusing mainly on farming high-value products. As a result, the aquaculture area has been increasing over the years, reaching 1.3 million hectares by 2020.

2.2. Evaluating relevant stakeholders' perceptions of agricultural land use and management



2.2.1. Perceptions of people and businesses about land use and management

Publicity and transparency in policy-making: Land use planning and plans; compensation price for land recovery

According to the survey results of PAPI, during the 2016-2021 period, the publicity and transparency index in Vietnam's policy-making and publicity of land use master plans tended to decrease from 1.72 points in 2016 to 1.3 points in 2021.

It can be seen that since the promulgation of the 2016 Law on Access to Information, there have not been improvements in the criteria for publicity and transparency in policy-making in general and information on land use planning in particular.

Less than 15% of the respondents said that they know about the local master plan for land use, but only about 4% have the opportunity to give opinions on the master plan for residential land use. Although the 2016 Law on Access to Information has been implemented, citizens do not gain insights into their rights to access information, so they are still afraid when requesting information from the state authority.

Agricultural land acquisition

The percentage of households whose land has been acquired has decreased since 2021. In addition, the survey shows that the number of people reporting about their agricultural land confiscated is at the lowest level since 2011.

This may be because many economic activities have been halted due to the impact of the Covid19 pandemic or because the 2013 Land Law limits land acquisition in cities and provinces. Only about 2% of respondents reported that their residential land was acquired. Since it becomes more challenging to acquire residential land, investors look for agricultural land. Though the recovered agricultural land rate was stable between 2019-2022, farmers remain more disadvantaged.

Public administrative procedures and land-use-right certificates

People's perspective: the level of user satisfaction with public service in 2016 was rated 3.7 points on a 4-point scale. In the following years, this level gradually increased, but there was no breakthrough. By 2021 this level reached 3.83 points.

The ratings show that the level of people's satisfaction over the year has not changed significantly. To meet people's expectations, local authorities should provide local civil servants with training on performing public administrative procedures and communication and behavioural skills. For example, returning recipients their land-use-right certificates on time, minimising and demolishing intermediaries in issuing the certificates.

Businesses' perspective: Public service relating to land receives the most complaints from businesses, with 35% dissatisfying with the service in 2019 and 28.92% in 2021. This could be attributed to the Government's effort to reform administrative procedures through which administrative steps have been cut significantly to create favourable conditions for people and businesses.

According to enterprises' assessment, the biggest problem lies in the complexity of administrative procedures for land lease and purchase (with 42.5% of enterprises encountering), followed by local land planning, which has not met the development needs of enterprises (39.3%)

2.2.2. Conflicts between the Land Law 2013 and the Laws relating to Agricultural Land Use and Management Policy

Reviewing legal documents on agricultural land management reveals contradictions and overlapping among these documents that cause difficulties for law enforcement agencies. For example, regulating land-use purposes in the Land Law (Article 58) and the Law on Investment is inconsistent. A similar problem occurs with the regulations on terminating investment projects, and land acquisition of the investment project is also inconsistent.

The lack of consistency in the Land Law and Forestry Laws provisions causes difficulties for relevant agencies in managing the special-use forest.

Land types are named differently in the Land Law and Urban Planning Law, so the legal document application faces many difficulties that need amendment and supplement to ensure consistency.

2.3. General assessment of agricultural land management in Vietnam period 2011-2020



Since the enforcement of the Land Law in 2013, there has been important progress in policies which have created favourable conditions for promoting economic development and accelerating industrialisation and modernisation in agriculture and rural areas. Several changes have been introduced, for instance, increasing the term of agricultural land allocation within the limit for households and individuals to 50 years for all types of agricultural land; expanding the quota for receiving the transfer of agricultural land use rights to households and individuals; encourage leasing of land use rights for land concentration; strictly regulate the management and use of paddy and forest land to ensure national food security and environmental protection.

In addition, the policy of concentrating and accumulating land for agricultural production has created conditions for large-scale agricultural production, promoting the agricultural sector's restructuring and improving agricultural land use efficiency. The policy of compensation, support and resettlement for those whose land is acquired has helped stabilise people's lives, especially those directly engaged in agricultural production. This policy was amended and supplemented promptly in line with reality to harmonise the interest of the State, the people whose land is covered and the investors.

Though agricultural land management and related legal documents have been improved, shortcomings remain (e.g. slow land accumulation, shortage of mechanisms for large-scale agricultural production) needed to be resolved to ensure people and businesses' easy accessibility to land for investment and production.

The classification of functions, tasks and powers of ministries, branches and localities in the State management of land still contains many unclear, unsynchronous and inconsistent among the Land Law, the Law on Forestry, the Law on Cultivation, and the Law on Housing. The time to settle administrative procedures on land, especially those related to changing the purpose of land use for implementing investment projects, is still long, directly affecting the production and business of people and enterprises.



Part

3

Orientation and Policy Recommendations

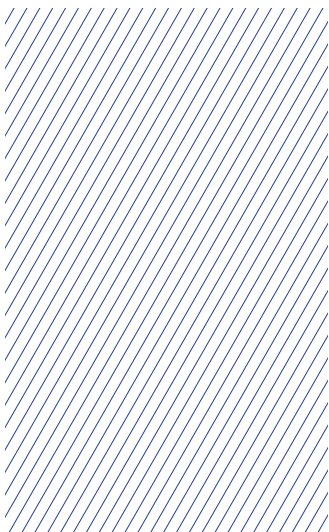
3.1. Regulation on land allocation, leasing, land-use-right certificate issuance, conversion of agricultural land use purposes

- » Remove the limit on receiving agricultural land use rights transfer and use the current transfer quota as a starting point for progressive agricultural land use tax.
- » Regulation on changing land use purposes needs to be revised to be more favourable for land users. For example, instead of stipulating that changing land-use purposes must be approved, it will stipulate the conditions for being allowed to change land-use purposes.
- » Encourage concentration and accumulation of agricultural land for large-scale farming production. Strictly regulate and monitor the minimum size of agricultural land. Support cooperatives and unions of cooperatives to rent agricultural land from individual households.
- » There should be a mechanism for allocating land to cooperatives and unions of cooperatives in the form of undivided assets because cooperatives are not only economic organisations but play an important role in stabilising and supporting their members - farming households, contributing to social security as stated in the Central Party Committee's Resolution NA20/TW dated June 6, 2022.



- » Loosening regulations on recipients of agricultural land-use-right transfer, allowing organisations and individuals with sufficient capital and technology potential to receive the transferred agricultural land from investing in agricultural business according to the plan approved by the authorised body.

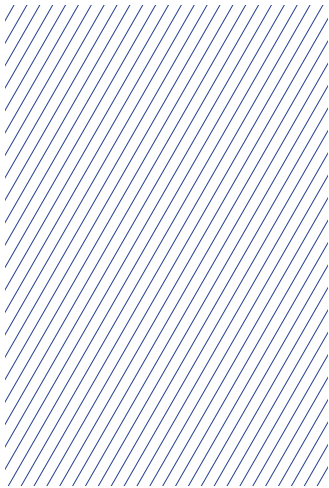
3.2. Agricultural land planning



- » The development and implementation of the planning, as well as the adjustment of the master plan, need to be open and transparent. Therefore, the land database must be digitalised, synchronised, shared among government agencies, and made public on portals according to Information Disclosure Law 2016.
- » Completing policies on land accumulation, land allocation and land lease in formulating the masterplan.
- » Ministries/ branches and provinces need to review and ensure the consistency and synchronisation between local general planning and agriculture development plans. Land use planning should be done according to administrative levels: national - regional – provincial – district levels following the Law on Planning.

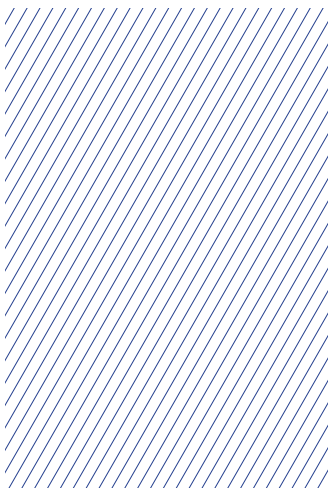


3.3. Policy on taxes, fees and agricultural land price



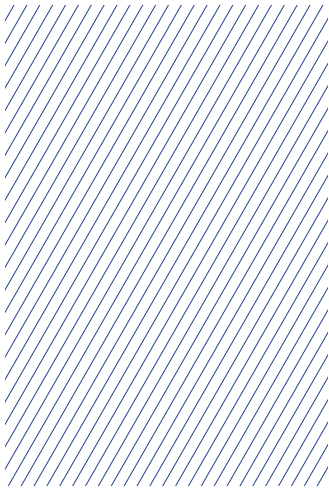
- » Renovating land valuation: there are different types of fees and land being priced differently, e.g. land renting fee, compensation prices, and income tax of those having land-use-right transferred. Therefore, it is necessary to develop independent land valuation organisations to improve accountability, publicity, and transparency in land valuation.
- » Property tax should be applied shortly to encourage efficient use of resources without resorting to administrative tools while simultaneously synchronising taxes, especially agricultural land-use tax. Agricultural land use tax is being exempted or reduced for most land users according to the Resolutions of the National Standing Committee that need to be amended. Tax exemption should not be applied widely and instead, taxing the organisations and individuals holding land-use rights for agricultural production of great value. Tax exemption limit must be applied.

3.4. Land-use management



- » Allowing individuals, not just farming households, to receive the transfer of paddy-field use right given it is planned.
- » It is necessary to improve the institution more uniformly and predictably regarding protecting farming land, especially paddy fields. Accordingly, authorities' responsibilities at all levels in protecting and improving agricultural land fertility must be defined in planning and applying advanced technology.
- » Regularly organise dialogues with people and businesses to promptly identify inadequacies in property registration, protect property rights in general, rights related to farming land in particular, and generate appropriate support to people and businesses using agricultural land.

3.5. Completing legal documents on agricultural land management



- » Reviewing and identifying shortcomings, inappropriateness, overlaps and differences in legal documents regulating property and property rights and agricultural land use rights, thereby amending and supplementing specific contents to ensure consistency and synchronisation among legal provisions.
- » The Ministry of Natural Resources and Environment (MoNRE), in collaboration with the Ministry of Agricultural and Rural Development, should take the lead in reviewing and evaluating the legal documents to identify problems and improve the legal system relating to agricultural land.
- » To complete the legal system of agricultural land management, it is crucial to refer to good international practices in building and enforcing the laws on property and property rights.



