

LAO PDR NATIONAL UXO/MINE ACTION STANDARDS (NS)



Chapter Eleven

Released Land Handover Procedures

National Regulatory Authority for
the UXO/Mine Action Sector in Lao PDR

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Released Land Handover Procedures

1. Introduction

Once land has been put through a UXO clearance process it should be released for use as soon as possible. However, before land is released for use there are some important tasks which must be completed. Boundaries are to be marked, accurately surveyed and recorded; a formal handover of the land to the land owners/users or other relevant authority is to be carried out, and all relevant information about the task is to be collated and forwarded to the national authority.

The Lao PDR National Regulatory Authority (NRA), as the authority for the control and regulation of UXO/mine action in Lao PDR, is responsible for detailing the requirements for the handover of land released from UXO clearance operations in Lao PDR and for ensuring that clearance organisations comply with these requirements.

2. Scope

This chapter describes the requirements and procedures for the release of land for use after UXO clearance in Lao PDR.

Additional requirements for the release of land after mine clearance operations are included in **Chapter 12 of NS, Mine Clearance Operations**.

3. Defining Released Land

Released land is land that has been identified for clearance, subjected to survey or clearance in accordance with the relevant chapters of these NS, and released to the land owners/users or other relevant authority for its intended use. Released land is not necessarily cleared land.

To be categorised as released land, land must have been formally handed over in accordance with the procedures included in this chapter of NS.

3.1. Surveyed Land Not Released

In some cases, land may be surveyed, identified as requiring clearance, but for whatever reason not included on current work plans. This land would have been assessed as not safe for its intended use and not released.

In such situations there is the possibility that land owners/users or local authorities may mistakenly think that because some work has been done on the land that it is safe for use. To avoid this possibility, clearance organisations carrying out survey; not including the land on work plans but also not releasing the land for use; are to ensure that land owners/users or relevant local authorities are informed of the reasons why the land is not being cleared; and are not left under any misapprehension that the land is safe to use.

4. Release of Land for Use

Land identified for clearance may only be released for use by a clearance organisation once survey or UXO clearance has been carried out in accordance with the standards and procedures laid down in these NS.

Released land must always be subject to a completion survey and a Completion Survey Report filled out and submitted to the NRA. Released land must also have a handover certificate completed in accordance with the requirements of this chapter of NS.

5. Residual Liability

Residual liability concerns the liability of a clearance organisation if a UXO incident occurs on an area of land released by the organisation. For the purposes of these NS an incident is “an event that gives rise to an accident or has the potential to lead to an accident”.¹ An accident does not have to occur for an event to be classified as an incident.

Before any liability can be apportioned, land must have been formally released by a clearance organisation in accordance with the requirements of this chapter of NS.

5.1. Authority of the NRA in Determining Liability

The authority of the NRA to control and regulate UXO/mine action in Lao PDR is covered in Articles 2 and 3 of the Lao PDR Prime Ministers decree 33/PM of 17/3/2004 on the establishment of the NRA for the UXO Programme in Lao PDR.

This decree gives the NRA the authority to regulate the activities of UXO/mine action organisations. Implicit in this decree is the authority of the NRA to direct further clearance to be carried out on land released that does not meet quality requirements.

The decree does not give the NRA the authority to apportion any further liability in respect of UXO clearance, including the liability for compensation for injuries to persons or damage to property that may have occurred as a result of UXO clearance requirements not being met.

5.2. Apportioning Residual Liability

In Lao PDR, no liability is to be apportioned to a clearance organisation unless an incident has been formally investigated in accordance with **Chapter 23 of NS, Reporting and Investigation of UXO/Mine Action Incidents**, and the investigation concluded that clearance requirements were not achieved.

Any further liability will only be determined by following the due legal processes in accordance with the applicable national legislation of Lao PDR.

For UXO clearance carried out under contract or some other formal agreement, the degree of residual liability should be specified in the contract or agreement.

When a formal investigation identifies that a clearance organisation failed to achieve clearance requirements, or in the case of land released through the survey process, apply a sufficient level of diligence, the NRA may, under the provisions of these NS, conduct further external QM checks on the organisation concerned and if necessary, suspend an organisations accreditation agreement until any deficiencies are rectified.

6. Released Land Handover Procedures

6.1. Land to be Handed Over

The following categories of land are to be formally handed over in accordance with the requirements of this chapter of NS:

- a. All land that has been systematically cleared of UXO by clearance organisations, irrespective of the specified clearance requirements or the intended use of the land.

1. Definitions from IMAS 04.10.

- b. All land that has been surveyed in accordance with the requirements of **Chapter 6 of NS, Survey** and designated as not requiring clearance before the land can be used for its intended use.

An area of land identified for clearance may have parts that are released through survey and parts released after full clearance. The release of the separate parts of the area may not occur at the same time. When this occurs separate handovers are required.

6.2. Handover Preliminary Requirements

Prior to land being handed-over, the following preliminary actions are to be carried out:

- a. The boundaries of the released land are to be marked and the markings linked by survey to a permanent Reference Point (RP) and Bench Marks (BMs). All marking is to be in accordance with **Chapter 4 of NS, Marking Systems**.
- b. A completion survey is to be conducted by the clearance organisation and a Completion Survey Report filled in, including a detailed sketch map of the site. The completion survey is to be carried out in accordance with **Chapter 6 of NS, Survey**.
- c. A handover certificate is to be prepared by the clearance organisation concerned. Details of what must be included on a handover certificate is covered in section 7 below. This includes a signed and dated formal declaration by a responsible authority from the clearance organisation as to the clearance requirements achieved for the released land.

6.3. On-Site Handover

Whenever possible, clearance organisations are to arrange on-site handovers for released land. This is to be done prior to the submission of task documentation to the NRA. Handovers should involve all stakeholders. These include:

- a. ANRA district office representative, whenever possible.
- b. Local authority representatives, i.e. village leaders or other persons with official capacities in the local area.
- c. The landowners/users, if not included above.
- d. A representative from any organisation involved in the future use of the land.
- e. A clearance organisation representative, normally the clearance supervisor who supervised the task.

Handovers should not be delayed due to the unavailability of any stakeholder.

Boundary markings are to be in place during the handover of the released land.

During the on-site handover the following is to be covered:

- a. The boundaries of the released area; the Turning Points (TPs), and the BMs and RP are to be identified. The landowners/users and local authorities are to be advised that care must be taken to ensure that survey markers are not disturbed.
- b. A description of the work carried out is to be provided:

- (1) If the area was cleared then the depth of clearance and quality of clearance is to be specified. Quality of clearance is to relate to the minimum target UXO searched for. Any limitations on the clearance work carried out for example, required depth of clearance not achieved or areas not cleared are also to be explained.
 - (2) If the area was surveyed and deemed safe for its intended use, the scope and scale of the survey is to be discussed and the rationale for the decision not to carry out full clearance explained.
- c. The residual risk is to be explained. This may include the possibility of UXOs smaller than the minimum target UXO being located within the cleared depth. It is also necessary to explain to the landowners/users that if they wish to dig deeper than any cleared depth, there is a risk involved. If there is a need for further clearance to achieve greater depths than the original tasking, then a further request for clearance will need to be made.
 - d. The landowners/users are to be provided with advice on dealing with any UXOs that pose a residual risk.
 - e. The landowner/user or local authority representative sign and date a formal acknowledgement on the handover certificate that they have been briefed in accordance with the requirements shown in section 7.7 below.

7. Handover Certificate

A handover certificate is used to formally record the handover of released land to the land owner/user or relevant local authority. A handover certificate is required in addition to the Completion Survey Report.

Note: The handover certificate is not intended to duplicate the information contained in the Completion Survey Report. The Completion Survey Report includes detailed survey information about the land being released and records of the UXOs located during the work.

As the handover certificate is required to be read and signed by Lao personnel it must be prepared in the Lao language.

There is no standardised format for a handover certificate. The minimum requirements for information to be included on a handover certificate are included below.

7.1. Personnel Attending the On-Site Handover

The persons present at the on-site handover are to be listed by name and official designation.

7.2. Task Information

Task information is to include:

- a. Locality including the province, district and village name. The village code may be included to aid in identification of the village.
- b. Intended land use.
- c. Team identification details, including the clearance supervisors name.

- d. Start and completion dates of work.

7.3. Clearance Information

A description of the work carried out for example, full clearance of the whole area or survey of a stated amount of land. The depth of clearance and quality of clearance achieved are also to be stated.

When land is released based on survey, the rationale for the decision not to carry out full clearance is to be stated on the handover certificate.

7.4. Specification of Residual Risk

A written statement of the possible residual risk remaining is to be included. This should include the likelihood of encountering UXO smaller than the minimum target UXO.

7.5. Land Use Limitations

A written statement is to be included detailing any limitations on the use of the land for example, digging to depths greater than the clearance depth achieved, or use of land outside the boundaries of the marked area.

7.6. Formal Declaration

A signed and dated declaration by a responsible authority from the clearance organisation that released the land; of the clearance requirements (area covered, depth of clearance and quality of clearance) achieved for the released land.

7.7. Landowner/User/Relevant Authority Acknowledgment

A signed and dated acknowledgement by the land owner/user or other relevant authority that they have been:

- a. Shown the survey markers delineating the boundaries of the released land, and the RP and BMs.
- b. Briefed on the work carried out and clearance requirements achieved.
- c. Briefed on any limitations associated with the future use of the land.
- d. Briefed on the possible residual risk posed with using the land and provided with advice on dealing with any residual risk.

8. Reporting

The Completion Survey Report and handover certificate is to be combined with any other task documentation and submitted to the NRA within one month of the land handover being completed. Other task documentation may include:

- a. Land release documentation when land is released using the risk management approach. **See Chapter 6 of NS, Survey.**
- b. Copies of any survey reports that support the land release documentation.

The acceptance of the **Completion Survey Report** by the NRA head office is the point where the NRA formally accepts the released land.

Details of all the relevant information is to be retained by the NRA and included in the NRA UXO database.

9. Handover of Areas Used for Multiple Item UXO Disposal

Depending on the requirements of the land owner/controlling authority, areas used for multiple item UXO disposal may require to be formally handed over after use. When this is to occur the clearance organisation responsible for the disposal operation is to ensure the following is carried out before the land is handed over:

- a. A thorough check of the entire area is to be made to ensure that no UXO remain.
- b. The area is to be refurbished in accordance with the requirements of the land owner/controlling authority.