



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

Administrative Order No. 03
Series of 2009

SUBJECT: RULES AND PROCEDURES GOVERNING THE CANCELLATION OF REGISTERED CERTIFICATES OF LAND OWNERSHIP AWARDS (CLOAs), EMANCIPATION PATENTS (EPs), AND OTHER TITLES ISSUED UNDER ANY AGRARIAN REFORM PROGRAM

PREFATORY STATEMENT

Republic Act (RA) No. 6657, as amended by RA No. 9700, Executive Order (EO) No. 229, Presidential Decree (PD) No. 27, EO No. 228 and RA No. 3844, as amended by RA No. 6389 prescribes the manner of acquisition, re-distribution and award of agricultural lands to qualified farmer-beneficiaries. The awards of land to qualified beneficiaries are evidenced by titles, such as Emancipation Patents (EPs), Certificates of Land Ownership Award (CLOAs) and other titles.

The titles generated and distributed pursuant to the agrarian reform program form an integral part of the property registration and enjoy the same respect accorded to other modes of acquiring title to lands.

However, taking into account the detailed procedure in the generation of these titles, flaws and issues may arise resulting to the erroneous issuance of the defined titles. As a consequence, titles of this nature shall be cancelled but only on grounds discussed and in accordance with the manner prescribed hereunder, strictly observing the provisions of PD 1529 providing that certificates of title shall not be subject to collateral attack, and the same can be altered, modified or cancelled only through a direct proceeding.

Pursuant to Section 9, fourth paragraph of RA No. 9700, the cancellation of the registered EPs, CLOAs and other titles issued under any agrarian reform program are within the exclusive and original jurisdiction of the Secretary of DAR.

**ARTICLE I
GENERAL PROVISIONS**

SECTION 1. Coverage. – These rules and procedures shall apply to all cases involving the cancellation of registered Certificate of Land Ownership Award (CLOAs) Emancipation Patents (EPs), and other titles issued by DAR under any agrarian reform program.

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SECTION 2. *Statement of Policies.* – The cancellation of CLOAs, EPs and other titles issued by DAR pursuant to agrarian reform laws shall be governed by the following policies:

- (a) The State recognizes the indefeasibility of CLOAs, EPs and other titles issued under any agrarian reform program.
- (b) The State recognizes that CLOAs, EPs and other titles erroneously issued do not attain indefeasibility.
- (c) Cancellation of registered CLOAs, EPs and other titles issued under any agrarian reform program shall be strictly regulated and may be allowed only in the manner and conditions prescribed hereunder.

SECTION 3. *Definition of Terms.* – As used in this Administrative Order, the terms enumerated are defined as follows:

- (a) Cancellation – refers to the process of cancelling the CLOA, EP or other titles. It does not include correction of entries in the CLOA, EP or other titles issued under any agrarian reform program.
- (b) Case Control Number – refers to the number assigned by the Regional Office to the petition for cancellation received for monitoring purposes and determination of case folders actually transmitted by the Regional Office to the Office of the Secretary. The Case Control Number shall be separate and distinct from the docket numbers assigned to ALI cases. Every case folder completed and transmitted shall be deemed an output of the Regional Office for accomplishment purposes.
- (c) Cause of Action – is the fact or combination of facts which affords a party a right to judicial interference in his behalf.
- (d) Comment - refers to the response of the respondent by either admitting or denying the allegations in the petition and supported by his affidavit or documentary evidences.
- (e) Final Order or Resolution - is one that disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing else to be done but to enforce by execution what has been determined by the court, quasi-judicial body or tribunal.
- (f) Exclusive Jurisdiction – it is the power to adjudicate a case to the exclusion of all other courts, bodies or tribunals.
- (g) Formal Offer of Documentary Exhibits – strictly includes the offer of marked exhibits.

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- (h) Indispensable Party – is a party in interest without whom no final determination can be had of an action and who shall be joined either as petitioner or defendant. The absence of an indispensable party renders all subsequent actions of the court, quasi judicial body or tribunal null and void for want of authority to act, not only as the absent parties but also to those present.
- (i) Investigation Proceeding – is the process of validating the allegations in the petition and the comment.
- (j) Marking of Documentary Exhibits – the process of identifying the document in support of the petition or comment.
- (k) Original Jurisdiction – that conferred on, or inherent in a court or body, in the first instance.
- (l) Quasi-Judicial Power – is a term which applies to the action, discretion, etc. of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial power.
- (m) Regional Office – refers to Office of the Regional Director or Office of the Regional Legal Division.

ARTICLE II CAUSE OF ACTION

SECTION 4. Causes of Action. – No petition for cancellation shall be filed unless it has been determined and ruled with finality by the DAR Secretary or the Courts that:

(a) The land subject matter of the CLOA, EP or other title under agrarian reform program is found to be:

1. The retention area of the landowner;
2. Excluded from the coverage of CARP, PD No. 27 or other agrarian reform program;
3. Exempted from the coverage of CARP, PD No. 27 or other agrarian reform program;
4. Outside of the authority of the DAR to dispose and award, as the same falls within the authority of the DENR to distribute;



5. Consist in the erroneous issuance of the said title resulting from the defect or lacking in documentation (DNYP or DNYD generated titles but not yet distributed).

(b) The CLOA or EP holder is found to have:

1. Misused or diverted the financial and support services;
2. Misused the land;
3. Materially misrepresented his basic qualifications as agrarian reform beneficiary;
4. Illegally converted into other uses the awarded the land;
5. Sold, transferred, conveyed the awarded land to other person;
6. Defaulted in the payment of obligation for three (3) consecutive years in the case of Voluntary Land Transfer/Direct Payment Scheme;
7. Failed to pay the amortization for at least three (3) annual amortizations;
8. Neglected or abandoned the awarded land; and
9. Circumvented the laws related to the implementation of the agrarian reform program.

ARTICLE III PROCEDURES

SECTION 5. *Who may file the Petition for Cancellation.* – The verified petition for cancellation shall be filed by any of the following persons:

- (a) Owners of private agricultural lands who were granted retention;
- (b) Owners of private agricultural lands whose lands had been declared as exempted or excluded from the coverage of RA No. 6657, as amended, and PD No. 27;
- (c) Qualified farmer-beneficiaries who have been determined as legally entitled in the generated and issued CLOA;
- (d) Re-allocatees and transferees of the awarded land; or



- (e) Provincial Agrarian Reform Officer (PARO) in his official capacity for the purpose of correcting erroneously issued CLOAs or EPs which are registered but not yet distributed.

SECTION 6. *Documentary Requirements.* – In support of the verified petition for cancellation, the petitioner shall also submit in duplicate the following official documents:

- (a) Certified true copy of the final and executory Order and Resolution;
- (b) Certificate of Finality;
- (c) Owner's duplicate copy or certified photocopy by the Register of Deeds of the CLOA or EP or other title sought to be cancelled;
- (d) Official receipt showing proof of payment of filing fee; and
- (e) Any other legal documents that may support the petition for cancellation.

SECTION 7. *Where to File the Petition for Cancellation.* – The verified petition for cancellation, together with the documentary requirements, shall be filed with the Regional Office of the place where the land covered by the CLOA, EP or other title is located

SECTION 8. *Filing Fees.* – A filing fee of P1,000.00 shall be paid by the petitioner to the DAR cashier, except if the petitioner is the government or its official or employee in the exercise of their official function.

SECTION 9. *Assignment of Case Control Number.* – Upon receipt of the verified petition, the Regional Office shall assign a Case Control Number to the petition received for monitoring purposes.

SECTION 10. *Issuances of Notice.* – The Regional Office shall, as much as possible within five (5) days from receipt of the verified petition, issue a Notice to Comment attaching therewith copy of the petition and attachments or annexes, and expressly requiring the respondent/s to controvert the allegations of the petition by filing a Comment in writing.

SECTION 11. *Services of Notice.* – The Notice to Comment together with the petition and attachments shall be served by personal service or by registered mail.

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SECTION 12. *Comment Required.* – The respondent/s must file a sworn Comment to the petition.

SECTION 13. *Time to File Comment Not Extendible.* – The respondent/s must file the Comment within a period of fifteen (15) calendar days from receipt of Notice. The time to file Comment shall not be extended.

SECTION 14. *Conduct of Investigation Proceedings.* – The Regional Office shall, as much as possible within ten (10) days from receipt of the Comment, proceed to conduct an investigation proceeding aimed at evaluating the allegations in the petition and comment filed and validating the official documents attached in the petition. The conduct of investigation proceedings shall include the following:

- (a) ***Submission of Memorandum.*** The Regional Office shall require the parties to submit their respective memorandum within fifteen (15) days from notice.
- (b) ***Marking of Documentary Exhibits.*** – The Regional Office shall call the parties in a meeting to mark their documentary exhibits.
- (c) ***Formal Offer of Marked Documentary Exhibits.*** – The marked documentary exhibits shall be formally offered within five (5) days from marking.

SECTION 15. *Investigation Report.* – Upon termination of the conduct of investigation proceedings, the Regional Office shall, as much as possible within five (5) days, prepare an Investigation Report reflecting therein the proceedings conducted.

SECTION 16. *Case Folder Build Up.* – In addition to the Investigation Report, the Regional Office is also charged to prepare completely the case folder, ensuring that the same shall contain the following:

- (a) Verified petition;
- (b) Verified comment;
- (c) Certified copy of final and executory order and resolution;
- (d) Certified copy of order of finality;
- (e) Certified true copy of EP or CLOA or other title;
- (f) Memorandum;
- (g) Marked documentary exhibits;

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- (h) Investigation Report;
- (i) Minutes of Investigation Proceedings; and
- (j) Others

SECTION 17. *Pagenating/Indexing of Case Records.* – The Regional Office, prior to the forwarding of the case folder, shall undertake to sequentially number all the pages contained in the case folder. A Table of Contents shall be prepared and attached in the case folder.

SECTION 18. *Transmittal of Case Folder to OSEC.* – The Regional Office shall prepare a Transmittal Letter accompanying the case folder particularly stating therein the parties involved and the number of pages contained by each of the case folder. Thereafter, the Regional Office shall forward the case folder to the Office of the Secretary (OSEC) as much as possible within fifteen (15) days from the last submission of Memorandum.

SECTION 19. *Docketing of Case.* – Upon receipt of the Case Folder, the OSEC shall assign for each case a docket number to fully account the actual number of case folders and the date the same was received. For this purpose, the OSEC shall maintain a Docket Book containing the docket numbers assigned for each case, the details of the petition, and the date the case folder was received.

SECTION 20. *Referral of Case to Usec LAO.* – After the case folder has been docketed, the Office of the Secretary shall, as much as possible within five (5) days from docketing, refer the case folder to the Undersecretary (Usec) for Legal Affairs Office (LAO).

SECTION 21. *Review Proceedings.* – The Usec LAO, as much as possible within thirty (30) days from receipt of the case folder shall review the case folder and confirm the allegations in the Petition and Comment, validate the documentary evidences formally offered and comprehensively review the case folder prepared by the Regional Office.

SECTION 22. *Findings and Recommendation.* – The Usec LAO, as much as possible within five (5) days from the termination of the review proceedings shall prepare his findings and recommendation.

SECTION 23. *Transmittal of Case Folder with Findings and Recommendation to the Secretary.* – The Usec LAO shall, as much as possible within five (5) days from completion of recommendation shall transmit the case folder together with the findings and recommendation to the Secretary.

SECTION 24. *Conduct of Hearing.* – The Secretary, when he deemed needed, shall conduct hearing of the case and receive evidences in addition to those formally offered at the Regional Office. For this purpose, the Office of the Secretary is mandated to keep an official record of the proceedings conducted and the same shall form part of the case folder.

SECTION 25. *Decision.* – The Secretary, after having been satisfied that both parties have fully substantiated their respective causes of action and defenses, shall render a decision by issuing an Order.

SECTION 26. *Release of Decision.* – The Office of the Secretary shall release copy of the decision to the parties and their counsel by registered mail.

SECTION 27. *Immediate Relief.* – On instances where any of the parties committed acts inimical to the interest of the farmer-beneficiary during the pendency of the case, upon motion duly supported by affidavit of merit, a Temporary Restraining Order or Status Quo Order may be issued by the Secretary. The Temporary Restraining Order shall be valid for twenty (20) days from receipt of notice.

ARTICLE IV GROUNDS FOR DISMISSAL

SECTION 28. *Dismissal of Petition.* – The petition for cancellation may be denied on the following grounds:

- (a) Non-presentation of the original copy of CLOA, EP, or other title sought to be cancelled;
- (b) Non-submission of the official documents referred to under Section 6 hereof;
- (c) Failure to prove cause of action; or
- (d) Failure to pay docket fees.

ARTICLE V MOTION FOR RECONSIDERATION

SECTION 29. *Motion for Reconsideration.* – A party may file one (1) motion for reconsideration of the final Order and may do so within a period of fifteen (15) calendar days from receipt of the of the challenged final order. The

pendency of the motion for reconsideration shall stay the execution of the challenged order.

SECTION 30. *Comment on Motion for Reconsideration.* – The OSEC shall, as much as possible within ten (10) days from receipt of the motion for reconsideration, issue an Order requiring the other party to comment on the motion filed. The said party shall be given a non-extendible period of ten (10) days from receipt of the Order to file the required Comment.

SECTION 31. *Evaluation of Merits of the Motion.* – The OSEC shall refer the Motion for Reconsideration and the Comment to the Usec LAO for evaluation. The Usec LAO shall, after determination of the merits of the Motion for Reconsideration and Comment, submit to the Secretary his findings and recommendation.

SECTION 32. *Resolution of the Motion for Reconsideration.* – The Secretary, after an independent appreciation of the issues raised in the Motion for Reconsideration and the opposition averred in the Comment including the findings and recommendation of the Usec LAO, shall resolve the motion by issuing a Resolution.

ARTICLE VI APPEAL

SECTION 33. *Who May Appeal.* – Only the aggrieved party or his successor-in-interest may appeal the final Order or Resolution within fifteen (15) calendar days from receipt of notice of the challenged Order or Resolution.

SECTION 34. *When to Appeal.* – The appellant(s) may appeal by filing of Notice of Appeal within a period of fifteen (15) days from receipt of the notice of decision or denial of motion for reconsideration.

SECTION 35. *Where to file an Appeal.* – The Notice of Appeal shall be filed with the Office of the Secretary or directly with the Office of the President, furnishing copies thereof to all adverse parties, together with payment of the requisite appeal fees to the cashier of either the DAR or Office of the President.

SECTION 36. *Perfection of Appeal.* – The appeal is perfected upon filing of the Notice of Appeal and upon payment of appeal docket fee within the reglementary period to appeal.

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SECTION 37. *Judicial Appeal.* – In case where the appellant opts to elevate his appeal directly to a judicial forum, the governing procedure shall be the pertinent provisions of the Rules of Court.

ARTICLE VII POWERS OF THE SECRETARY

SECTION 38. *Powers of the Secretary.* – The Secretary shall have the power to summon witnesses, administer oaths, take testimony, require submission of reports, compel the production of books and documents and answers to interrogatories and issue subpoena, and subpoena duces tecum and to enforce its writs through sheriffs or other duly deputized officers. The Secretary shall likewise have the power to punish direct and indirect contempts in accordance with Section 50 of RA No. 6657, as amended.

ARTICLE VIII FINALITY AND EXECUTION

SECTION 39. *Finality.* – Order and/or Resolution shall become final and executory after all parties have received an official copy thereof; after the lapse of fifteen (15) calendar days from the date of receipt of the last recipient of an official copy thereof; and there is no motion for reconsideration nor appeal therefrom.

SECTION 40. *Order of Finality.* –As much as possible within fifteen (15) days from the date of finality of the Order or Resolution, the Office of the Secretary shall issue a Certificate of Finality.

SECTION 41. *Execution.* – Execution shall issue automatically as a matter of course upon finality of the order or resolution. The Office of the Secretary, after the issuance of Certificate of Finality, may, upon motion or motu proprio, issue a Writ of Implementation directing the Registry of Deeds to cancel the CLOA, EP or other titles issued by DAR pursuant to agrarian reform program.

ARTICLE IX FINAL PROVISIONS

SECTION 42. *Case Records are Public Documents.* – Subject to the provisions of DAR Memorandum Circular No. 25, Series of 1995, records of a case are public documents.



SECTION 43. Confidentiality of Information. – Subject to the provisions of DAR Memorandum Circular No. 10, Series of 2007, confidential information shall not be disclosed.

SECTION 44. Transitory Provision. – This Administrative Order shall govern all cases for cancellation of registered CLOAs, EPs and other titles issued under any agrarian reform program filed on or after its effectivity.

Except those deemed submitted for resolution, all cases involving the cancellation of registered CLOAs, EPs and other titles issued under any agrarian reform program which are pending with the DARAB Board or Adjudicator on June 30, 2009 shall be referred to the Office of the Secretary as much as possible within thirty (30) days upon effectivity of this Administrative Order.

SECTION 45. Repealing Clause. – This Administrative Order modifies or repeals all orders, circulars, rules and regulations and all other issuances or portions thereof that are inconsistent herewith.

SECTION 46. Separability Clause. – Any judicial pronouncement declaring as unconstitutional any provision of this Administrative Order shall not affect the validity of the other provisions not affected thereby.

SECTION 47. Effectivity. – This Administrative Order shall take effect on 01 July 2009 and shall be published in at least two (2) national newspapers of general circulation, pursuant to Section 31 of RA No. 9700.

Diliman, Quezon City, 15 October 2009.


NASSER C. PANGANDAMAN
Secretary

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1. Manila Bulletin
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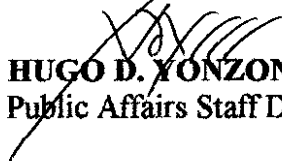


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CERTIFICATION

This is to certify that Administrative Order No. 3, Series of 2009 entitled **“RULES AND PROCEDURES GOVERNING THE CANCELLATION OF REGISTERED CERTIFICATES OF LAND OWNERSHIP AWARDS (CLOAs), EMANCIPATION PATENTS (EPs) AND OTHER TITLES ISSUED UNDER ANY AGRARIAN REFORM PROGRAM”** is published today, Wednesday, 21 October 2009 at Manila Bulletin and Manila Times newspapers.

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