



Republic of the Philippines  
**DEPARTMENT of AGRARIAN REFORM**

**ADMINISTRATIVE ORDER**

NO. 07  
Series of 2006

**SUBJECT: AMENDMENT TO DAR ADMINISTRATIVE ORDER NO. 2, SERIES OF 2005, ENTITLED, RULES AND PROCEDURES GOVERNING THE ACQUISITION OF AGRICULTURAL LANDS SUBJECT OF VOLUNTARY OFFER TO SELL AND COMPULSORY ACQUISITION AND THOSE COVERED UNDER EXECUTIVE ORDER NO. 407**

---

**I. PREFATORY STATEMENT**

Reports from provinces with settlement projects that were proclaimed over the years indicate that many settlers therein are now old, with grown-up children who have become professionals and many are living with their respective families away from the farm. These old settlers have fully developed their farms but they are now willing and ready to give up farming and live in retirement. Moreover, these old settlement projects which consist of lots of more than five (5) hectares each have become thriving and progressive communities.

However, Paragraph III.8 of DAR AO 2, Series of 2005 excluded from acquisition and redistribution under CARP lands proclaimed as settlement areas and awarded to settlers or beneficiaries under the settlement program earlier implemented by DAR and its predecessor offices.

In view of the foregoing, this Administrative Order is hereby issued for the purpose to amend Administrative Order No. 2, Series of 2005.

**II. LEGAL BASES**

Section 6 of R.A. No. 6657 laid down the rights of homestead grantees as follows:

"Section 6. Retention limits. – xxx. Provided, further, That original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead."

Pursuant to the above provision, the Supreme Court ruled in the case of *Paris vs Alfeche, et.al* (G.R. No. 139083) that:

“Homesteads are not exempt from the operation of the Land Reform Law . . .

x x x x

x x x x

x x x x

Even under the current primary law on agrarian reform, Republic Act (RA) No. 6657, to which the application of PD 27 is supplementary, petitioner’s lands are subject to land reform.

x x x x

x x x x

x x x x

Indisputably, homestead grantees or their direct compulsory heirs can own and retain the original homesteads, only for “as long as they continue to cultivate” them. That parcels of land are covered by homestead patents will not automatically exempt them from the operation of land reform. It is the fact of continued cultivation by the original grantees or their direct compulsory heirs that shall exempt their lands from land reform coverage.” (emphasis supplied)

DAR Memorandum Circular No. 04, S. of 1991, further provides that:

“The phrase “direct compulsory heir” is understood to mean the surviving spouse of the original homestead grantee or his children and descendants or illegitimate children who must prove their filiation in accordance with the provisions of the Family Code. In the absence of all the foregoing, the surviving parents of said original homestead grantee shall be considered.”

### III. STATEMENT OF POLICIES

1. Paragraph III.8 of DAR AO 2, Series of 2005, is hereby amended to read as follows:

“Lands proclaimed as settlement areas and awarded to settlers or beneficiaries under the resettlement program earlier implemented by DAR and its predecessor offices and covered by Homestead Patents shall be acquired and redistributed under the CARP if the original homestead grantees or direct compulsory heirs no longer continue to cultivate the same, subject to the five (5) hectare retention right of the original homestead grantee or his/her direct compulsory heir/s.”

2. Applications for VOS involving retained areas or those landholdings with an aggregate area of five (5) hectares and below per landowner shall not be accepted. (Paragraph III.2 of DAR AO 2, S. of 2005)
3. A child or direct compulsory heir/s of original homestead grantees shall not qualify as Agrarian Reform Beneficiary/ies (ARB/s) of homestead areas covered under CARP which are no longer cultivated by them.
4. Since the old settlers have already fully developed their farms which have eventually become thriving and progressive communities, they have therefore contributed social and economic benefits on said lands considered as additional factors to determine the valuation thereof which entitle them to the payment of just compensation pursuant to Sec. 17 of R.A. No. 6657.

#### IV. EFFECTIVITY

This Administrative Order amends AO 2, S. of 2005 and takes effect ten (10) days after publication in two (2) newspapers of general circulation. All orders, circulars and other issuances inconsistent herewith are hereby repealed and/or modified accordingly.

Diliman, Quezon City, 8 September 2006.

  
**NASSER C. PANGANDAMAN**  
OIC-Secretary

Published in two(2) National  
Newspaper of General Circulation

- 1.) Manila Times
- 2.) Manila Bulliten

Date of Publication:

September 16, 2006