

Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

ELLIPTICAL ROAD, DILIMAN, QUEZON CITY • TELS. 928-7031 TO 39

ADMINISTRATIVE ORDER NO. 06
Series of 1998

**SUBJECT: RULES AND REGULATIONS GOVERNING THE
ACQUISITION AND DISTRIBUTION OF COMMERCIAL
FARMS UNDER DEFERMENT**

I. PREFATORY STATEMENT

Section 11 of R.A. No. 6657, as amended by Sec. 3 of R.A. No. 7881 provides that commercial farms shall be subject to immediate compulsory acquisition and distribution after ten (10) years from effectivity of the Comprehensive Agrarian Reform Law (CARL). It further provides that during the ten-year deferment period, the Government (DAR) shall initiate steps necessary to acquire the lands upon payment of just compensation for the land and the improvements thereon, preferably in favor of organized cooperatives or associations, which shall thereafter manage the land for the worker-beneficiaries.

In line with expiration of the ten-year deferment period provided for under the CARL, these rules and regulations governing the acquisition and distribution of deferred commercial farms are hereby prescribed.

II. DEFINITION OF TERMS

For purposes of these rules and regulations, the following terms are herein defined as follows:

- A. Commercial Farms - private agricultural lands devoted to saltbeds, fruit farms, orchard, vegetables and cut-flower farms, and cacao, coffee and rubber plantations as defined in Section 11 of R.A. No. 6657.
- B. Commercial Farm Deferment - the postponement of coverage under CARP of lands utilized for large-scale agricultural production, for a period of ten years reckoned from June 15, 1988 for already productive farms at the time, or from the start of commercial production for commercial farms still in their gestation period as of June 15, 1988.
- C. Qualified Agrarian Reform Beneficiaries - farmers or farmworkers who possess the requisites stipulated under Section 22 of R.A. 6657 for ARBs, and who may therefore be awarded Certificates of Land Ownership Award (CLOAs), or other proof of ownership or possession of the land.

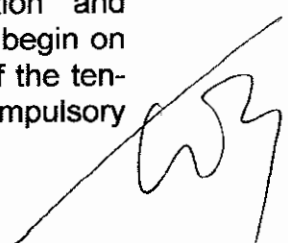


"Tulong-tulong sa pagsulong"



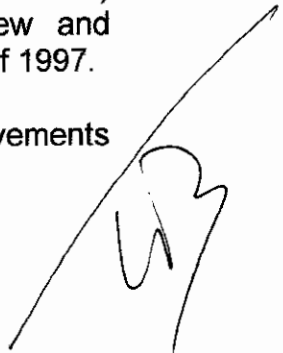
- D. Agrarian Reform Beneficiaries Cooperative or Association - duly registered cooperative or association composed exclusively of ARBs in a commercial farm.
- E. Institutional Development - a process consisting of a set of interrelated and interdependent activities geared towards the building and strengthening of Agrarian Reform Beneficiaries' Organizations that will facilitate the establishment of self-reliant Agrarian Reform Communities. There are generally four (4) phases of Institutional Development: Social Preparation, Organizational Building, Capability Building, and Enterprise Development and Alliance Building.
- F. Social Preparation - the phase of Institutional Development wherein the solid foundation of Agrarian Reform Beneficiaries' (ARBs) Organization is established. This is the phase where activities preparatory to actual organizing are undertaken such as Community Consultations, Formulation of Plans of Action, and the definition of responsibilities of the ARBs, DAR, NGO and others involved in the Institutional Development Process.
- G. Enterprise Development and Alliance Building - the phase of Institutional Development which focuses on enhancing organizational capability, widening the support base, and sustaining operations (i.e. improving farm management arrangements and productivity systems, and generating resources). Economic improvement and the sustainability and viability of the Commercial Farms are the basic objectives of this phase.
- H. Gestation Period - the period which begins from the time the crop/commodity is first planted or raised until the time the crops bear fruit or produce is harvested. (A.O. 16-88)
- I. Farmworker - a natural person who renders service for value as an employee or laborer in an agricultural enterprise or farm regardless of whether his compensation is paid on a daily, weekly, monthly or "pakyaw" basis. The term includes an individual whose work has ceased as a consequence of, or in connection with, a pending agrarian dispute and who has not obtained a substantially equivalent and regular farm employment. (Section 3(g) of R.A. 6657)

III. POLICY STATEMENTS

- A. Pursuant to the provisions of Sec. 11 of R.A. 6657, as amended by Sec. 3 of R.A. 7881, deferred commercial farms shall be automatically subject to immediate compulsory acquisition and distribution upon the expiration of the ten-year deferment period or prior to the termination of the ten-year period when the DAR determines that the purpose for which the deferment was granted no longer exists.
- B. For commercial farms already in commercial production and operations as of June 15, 1988, the deferment period shall begin on said date and end on June 15, 1998. After the expiration of the ten-year deferment period, the farm shall then be subject to compulsory acquisition and distribution by the DAR.
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However, commercial farms established before June 15, 1988, but which were not yet in commercial production and operation at the time, the ten-year deferment period shall commence at the end of the gestation period for the said crop or commodity as determined by DAR.

- C. Landowners may voluntarily offer their commercial farm for sale to the government during the deferment period. However, commercial farms for which Notices of Coverage and Field Investigation Reports have already been issued by DAR may no longer be voluntarily offered for sale.
- D. Commercial Farms (CFs) shall be distributed and titled according to the provisions of the second paragraph, Sec. 29 of R.A. 6657, which provides that lands shall be distributed directly to the individual worker-beneficiaries. However, in case it is not economically feasible and sound to divide the land, it shall be owned collectively by the worker-beneficiaries who shall form a farmworkers' cooperative or association. The land may be titled under the name of the said cooperative, provided however, that all the names of the beneficiaries shall be annotated at the back of the Certificate of Land Ownership award (CLOA) as co-owners of the subject land.
- E. In the case of commercial farms planted to high value crops (e.g., banana, rubber, pineapple, palm oil, etc.) and which require a high level of technology, management and capitalization, the ARBs shall organize into a duly registered cooperative/association.
- F. The PARC, through the CARP implementing agencies, non-government organizations and agribusiness firms, shall provide the necessary support services in the form of credit assistance, infrastructure facilities development, production technologies, institutional development and strengthening, with emphasis on organizational and enterprise development which shall continue even after the expiration of the ten (10) year deferment period.
- G. The guiding principle in the compensation or valuation of deferred commercial farms *may* be the amount agreed upon with the landowner at the time of acquisition by the DAR-LBP, and in accordance with the criteria provided for in Sections 17 and 18, and other pertinent provisions of R.A. 6657, as implemented by A.O. 5, Series of 1998 and its amendments. Any improvements introduced in the commercial farms found out to be necessary in the effective operation of the farm shall be valued by the Land Bank of the Philippines (LBP) as provided under pertinent Administrative Issuances.
- H. Valuation of lands planted to commercial crops (e.g. rubber, banana, pineapple, etc.) shall have separate and distinct valuation factors, to include valuation of permanent improvements (movable and immovable) to be formulated by the DAR-LBP composite policy review and formulation group, pursuant to Joint Special Order 493, Series of 1997.
- I. The landowner shall not be compensated or paid for the improvements introduced by the farmer-beneficiaries or by the government.



- J. The landowner shall retain his share of any standing crops or fruits unharvested at the time the DAR shall take possession of the land under Section 16 of R.A. 6657 and shall be given a reasonable time to harvest the same, pursuant to Section 28 of R.A. 6657.

For purposes of determining standing crops for banana farms, those bagged and ready for harvesting as of the field investigation shall be considered standing crops. For other crops, the practice of the industry shall be followed.

- K. Payment of land amortizations by the ARBs shall be based on Section 26 of R.A. No. 6657, as implemented by pertinent administrative Orders of the DAR.

- L. In cases where the agrarian reform beneficiaries are not yet ready or are still incapable of managing or operating the commercial farm, they may hire the services of plantation managers through the cooperative. However, the agrarian reform beneficiaries or their cooperative, in coordination with the Bureau of Agrarian Reform Beneficiaries Development (BARBD), through the PARO, shall exert all efforts in adopting and transferring the necessary technology and skills required to operate the commercial farm and sustain its productivity.

- M. As a general rule, the DAR shall distribute the commercial farms to qualified agrarian reform beneficiaries according to the order of priority provided under Section 22 of R.A. 6657 and its pertinent implementing guidelines. In the listing of qualified ARBs, the DAR shall be guided by the following order of priority:

1. Regular farmworkers - natural persons who are employed in a permanent basis by an agricultural enterprise;
2. Seasonal farmworkers - natural persons who are employed on a recurrent, periodic or intermittent basis by an agricultural enterprise or farm, whether as permanent or non-permanent laborers, such as "pakyaw", "dumaan", "sacada", and the like; and
3. Other farmworkers - farmworkers who do not fall under paragraphs "h" and "l" of Section 3 of R.A. 6657.

Workers involved in processing and technical employees working directly or indirectly in the production and post-production aspect of the commercial farm shall be deemed to form part of the term "regular farmworkers". To be qualified for the award of the land, the applicant-farmer must possess all the qualifications and none of the disqualification provided for under this Order

- N. Beneficiaries shall not be more than the proportion of one (1) ARB to three (3) hectares, which is the maximum award ceiling as provided by Section 25 of R.A. 6657, nor less than one ARB to one (1) hectare, to ensure gainful, productive and sustainable livelihood on the awarded lands.

- O. The existence of labor-related problems between the landowner and the farmworkers shall in no case deter or delay the process of land acquisition and distribution of the commercial farm.
- P. The Barangay Agrarian Reform Committee and the Provincial Agrarian Reform Committee shall be involved in the selection and identification of qualified agrarian reform beneficiaries. The BARC representative, PARCCOM representative and the PARO shall form a qualification committee to be chaired by the PARO for purposes of determining the qualified ARBs.

IV. SELECTION, QUALIFICATION AND IDENTIFICATION of Agrarian Reform Beneficiaries. For purposes of this Administrative Order, the following procedure shall govern the selection, qualification and identification of agrarian reform beneficiaries:

- A. Notice of Coverage and Invitation for Listing of Beneficiaries. Upon the effectivity of this Order, the Provincial Agrarian Reform Officer shall issue Notices of Coverage over deferred commercial farms under his/her jurisdiction and shall cause the posting of said notice in conspicuous places in the property, barangay and municipality/ies where the property is located. In addition, the PARO shall also cause the posting in the same places of a Notice of Invitation for all interested to be listed as Potential Agrarian Reform Beneficiaries.

All parties interested to be included in the First List as potential agrarian reform beneficiaries shall be entertained. In addition, all farmworkers employed by the deferred farm as of June 15, 1997 shall automatically form part of the First List;

- B. Posting of the First List of Potential Agrarian Reform Beneficiaries. Within thirty (30) days from the posting of the Notice of Coverage and Invitation to be Listed as Potential Agrarian Reform Beneficiaries, the PARO shall again cause the posting of the Notice of the First List in the property, barangay and municipality where the property is located, inviting the public to comment on the qualification and/or disqualification of the persons named in the First List. The Notice of the First List shall also invite all interested persons to participate in a public hearing to be scheduled not later than fifteen days from the date of the posting of the First List. Should it be necessary, the PARO may schedule a series of public hearings which must all be completed within thirty days from the Posting of the Notice of the First List. The comments of all interested parties on the qualifications and disqualification shall be under oath, oral or in writing, and shall be submitted not later than the date of the public hearing for the qualification of beneficiaries.

For purposes of this Order, the PARO is hereby authorized to administer oaths.

- C. Public Hearing for the Qualification and Disqualification of Persons in the First List for Purposes of Preparing the Second List. The Screening Committee shall conduct public hearings on the qualifications and disqualification of ARBs. During the hearings, the following guidelines shall be observed.

1. Qualifications of Beneficiaries.

a. General Qualifications. All Agrarian Reform Beneficiaries must be:

- 1) At least eighteen (18) years old as of June 15, 1988;
- 2) Willing and capable to till the land; and
- 3) Residing in the municipality where the property is located for at least one year before June 15, 1998.

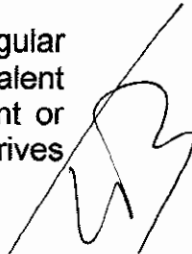
For purposes of proving the above, the following shall be considered sufficient proof:

- 1) Age -- birth or baptismal certificate
- 2) Willingness and Capacity --at least two sworn statements, oral or in writing, without any contrary statement. Should there be a contrary statement, the same shall be resolved by a vote of a majority of the BARC representative, PARCCOM representative and PARO representative;
- 3) Residence -- Community Tax Certificate and/or a certification from the barangay chairperson responsible for the applicant's alleged place of residence.

Questions on the general qualifications of potential agrarian reform beneficiaries shall be determined with finality by the Screening Committee composed of the BARC, PARCCOM and PARO representative.

- b. Specific Qualifications. In addition to letter "a" above, to qualify as agrarian reform beneficiary, the applicant must have been employed in the property being covered for at least one year after June 15, 1988 and before June 15, 1998 and such employment must pertain to agricultural production or post-production work (processing/bagging);

2. Disqualification of Agrarian Reform Beneficiaries. To qualify for the award of land under the CARL, the applicant-farmer must not possess any of the disqualification listed below:

- a. Retirement from the service or voluntary resignation, provided this was not attended by coercion and/or deception and no case questioning said retirement or voluntary resignation by the applicant as of the date of approval of this Order;
 - b. Dismissal from the service for cause without any case filed questioning said dismissal as of the approval of this Order or the dismissal of whom has been affirmed by the proper entity of government;
 - c. Obtaining a substantially equivalent and regular employment. For this purpose a "substantially equivalent and regular employment" shall mean any employment or profession from which the applicant farmer derives
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- c. income equivalent to the income of a regular farmworker in the deferred farm for at least one year before June 15, 1998;
- d. Retrenchment from the farm with receipt of separation pay and which retrenchment has not been appealed or questioned in the proper government entity as of the approval of this Order;
- e. Waiver of right to become an agrarian reform beneficiary for value and which waiver has not been questioned in the proper government entity as of the approval of this Order;
- f. Refusal to be listed as an agrarian reform beneficiary and to provide pertinent information as requested by the DAR from notice, which shall be construed as unwillingness on the part of the potential beneficiary to be listed; and
- g. Commission of any violation of the agrarian reform laws or related issuances.

D. Preparation of the Second List and a Waiting List. From the public hearing, a Second List of Potential Agrarian Reform Beneficiaries shall be prepared. This will contain the names of all persons who possess the qualifications and none of the disqualification mentioned above. A Waiting List shall also be prepared covering all persons whose disqualification cannot be determined for the following reasons:

1. The specific qualification cannot be finally determined because of conflicting statements or inability to determine the nature of work;
2. There is still a pending case with the proper government entity on the question of dismissal, retrenchment, voluntary resignation/separation or waiver;
3. There is a question on whether there is a substantially equivalent and regular employment;
4. There is a question on whether there is a valid refusal to be listed as potential beneficiary; and
5. There is a question on whether there is a violation of agrarian laws and rules.

The Waiting List shall be forwarded to the Regional Director for final determination of the qualification and disqualification of ARBs within fifteen days from receipt of such transmittal. In the determination of the qualification of the applicants in the waiting list, the Regional Director shall exercise his/her sound discretion, taking into account the general principles of agrarian legislation and substantial evidence.

The Order of the Regional Director is appealable to the Undersecretary for Operations but said appeal shall not stay the execution of the Order.

E. Prioritizing Beneficiaries. Where there is a need to prioritize the beneficiaries from the Second List and the Resolved Waiting List due to the insufficiency of the land to be awarded, the Order of priority under Section 22 of RA 6657 shall be applied.

If, after applying the Order of priority under Section 22 is applied, there is still insufficient lands for distribution, those who own any agricultural land or non-agricultural land from which he/she derives adequate income shall be de-listed. For purposes of this Order, adequate income refers to the that amount considered as the income required to be considered outside of the poverty line.

If after applying all the above the land is still found to be insufficient, a public raffle shall be conducted.

- F. Preparation of Masterlist of Qualified Agrarian Reform Beneficiaries. After procedures A-E are complied with, the Masterlist of Agrarian Reform Beneficiaries shall be prepared and posted in the same places mentioned in this Order.

Any appeal from this Masterlist shall be filed with the Undersecretary for Operations but shall not stay the execution of the coverage of the property.

- G. In all cases, the Provincial Officer, Regional Director, or the Undersecretary for Operations shall exert all effort to arrive at a resolution of the ARB identification issue that is acceptable to most or all parties.

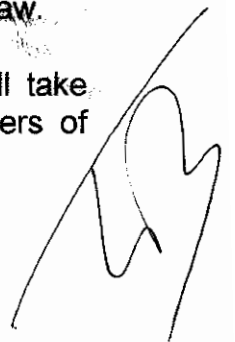
V. AGRIBUSINESS SCHEMES. The adoption of agribusiness schemes for ARBs and prospective investors to enter into agri-business venture arrangements on lands under CFD and for other lands already awarded to the farmer-beneficiaries, pursuant to section 44 of R.A. No. 6657, as amended by Section 3 of R.A. No. 7905 and as authorized by PARC Executive Committee Policy Order No. 01, Series of 1997 shall be encouraged.

VI. TASK FORCE ON CFD. To facilitate the process of acquisition, land compensation, distribution, monitoring of commercial farms as well as the social preparation of ARBs, a Task Force on Commercial Farms Coverage shall be created in all Provincial Agrarian Reform Offices where CFDs exist.

VII. MONITORING AND REPORTING. For monitoring purposes in the implementation of these guidelines, the Provincial Task Force shall render a quarterly report to the DAR Central Office Task Force of CFD, copy furnished the MARO and DARRO concerned.

VIII. PENALTIES AND SANCTIONS. Any person/s who knowingly or willfully violate/s or prevent/s the implementation of these rules and regulations shall be liable under Section 74 of R.A. 6657 and other penalties provided for by law.

IX. EFFECTIVITY/REPEALING CLAUSE. This Administrative Order shall take effect ten (10) days after its publication in two (2) national newspapers of general circulation pursuant to Section 49 of R.A. No. 6657.



All orders, circulars and other issuances inconsistent herewith are deemed repealed, amended or modified accordingly.

Approved in Diliman, Quezon City on May 4, 1998.



ERNESTO D. GARILAO
Secretary

Published in Two (2) National Newspapers
of general circulation:

1. MANILA STANDARD
2. MANILA TIMES

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