



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

Administrative Order No. 11
Series of 1990


(1)
SUBJECT: RULES AND PROCEDURES GOVERNING THE EXERCISE
OF RETENTION RIGHTS BY LANDOWNERS AND AWARD
TO CHILDREN UNDER SECTION 6 OF R.A. 6657.

I. PREFATORY STATEMENT

Section 6 of R.A. 6657 provides that the landowner may retain not more than five (5) hectares of agricultural land and shall have the right to choose the area to be retained, which as far as practicable shall be compact and contiguous. Each child of the landowner may be awarded three (3) hectares provided he is at least 15 years old and is actually tilling or directly managing the farm. Landowners whose lands have been covered by P.D. 27 shall be allowed to keep the area originally retained by them thereunder. Similarly, owners of original homesteads, or their direct compulsory heirs, who still own these original homesteads at the time of the approval of R.A. 6657 can retain the same areas as long as they continue to cultivate them. The tenants in the area selected for retention by the landowner shall have the option to choose, within one (1) year from the time the landowner manifests his choice of the area for retention, whether to remain therein as a leaseholder or be a beneficiary in another agricultural land of the same landowner with similar or comparable features.

II. POLICY STATEMENT

- A. A landowner whose landholdings are covered under CARP may retain an area of not more than five hectares thereof. In addition, each of his children, whether legitimate, illegitimate, or legally adopted, may be awarded an area of not more than three (3) hectares provided that the child was at least 15 years of age as of the effectivity of R.A. 6657 on June 15, 1988, and that the child was actually tilling the land or directly managing the farmholding from June 15, 1988 up to the filing of the application for retention and /or at the time of the acquisition of the landholding under CARP.
 - B. The landowner has the right to choose the area to be retained by him which shall be compact and contiguous and which shall be least prejudicial to the entire landholding and the majority of the farmers thereon.
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- C. The landowner has the obligation to cultivate directly or through labor administration, and thereby make productive, the area he retains.
- D. In case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein as lessee, or be a beneficiary in the same or another agricultural land with similar or comparable features. The tenant must exercise this option within the period of one (1) year from the time the landowner manifests his choice of the area for retention.
- E. In case the tenant chooses to remain in the retained area, he shall be considered a leaseholder and shall lose his right to be a beneficiary under CARP.
- F. For marriages covered by the Civil Code, in the absence of an agreement for the judicial separation of property, spouses who own only conjugal properties may retain a total of not more than five hectares from such properties. However, if either or both of them are landowners in their own respective rights (capital and/or paraphernal), they may retain not more than five hectares from their respective landholdings. In no case, however, shall the total retention of such a couple exceed 10 hectares (Refer to Table 1).
- G. For marriages covered by the New Family Code, which took effect on 03 August 1988, a husband owning capital property and/or a wife owning paraphernal property may retain not more than five hectares each provided they executed a judicial separation of properties prior to entering into marriage. In the absence of such an agreement, all properties (capital, paraphernal and conjugal) shall be considered to be held in absolute community, i.e., the ownership relationship is one, and, therefore, only a total of five hectares may be retained (Refer to Table 1).
- H. In all cases, the security of tenure of the farmers or farmworkers on the land prior to the approval of R.A. 6657 shall be respected. Furthermore, actual tenant-tillers in a landholding shall not be ejected or removed therefrom.
- I. The provisions on preemption and redemption under R.A. 3844, as amended, shall apply to the lessee.
- J. The original homestead grantees or direct compulsory heirs who still own the original homestead at the time of the approval of RA 6657 may retain the same area as long as they continue to cultivate the said homestead.
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III. APPLICATION FOR RETENTION

A. Who May Apply

Any person, natural or juridical, who owns agricultural lands with an aggregate area of more than five hectares may apply for retention (use Ret. Form No. 1). However, a landowner who exercised his right of retention under PD 27 may no longer exercise the same right under RA 6657. Should he opt to retain five hectares in his other agricultural lands, the seven hectares previously retained by him shall immediately be placed under CARP coverage.

A landowner who owns five hectares or less or lands which are not yet subject of coverage based on the schedule of implementation provided in Section 7, RA 6657 may also file an application for retention for the purpose of issuance of a Certificate of Retention.

B. Venue of Filing

Any duly completed application for retention may be filed with any DAR Office (BLAD, RARO, PARO/MARO). If filed in an Office other than the MARO, the application shall be forwarded to the MARO having jurisdiction over the landholding.

C. Criteria/Requirements for Retention and Award

1. The land is a private agricultural land;
2. The area chosen for retention shall be compact and contiguous and shall be least prejudicial to the entire landholding and the majority of the farmers thereon;
3. The landowner must execute an affidavit as to the aggregate area of his landholding;
4. The landowner must submit a list of his children who were fifteen (15) years old or over as of June 15, 1988 and who have been actually cultivating or directly managing the farm since June 15, 1988.

D. Period Within Which to Exercise the Right of Retention

1. Under Compulsory Acquisition (CA)

The right of retention and the possibility of award to children, where applicable, must be availed of by the landowner within a period of sixty (60) days from the date of receipt of Notice of Coverage from the DAR that his landholding is subject to compulsory acquisition. Failure to respond within

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the specified period and after due notice would mean that the landowner waives his right to choose which area to retain.

2. Under Voluntary Offer to Sell (VOS)

The right of retention may be exercised at the time the land is voluntarily offered for sale. The VOS should indicate the landowner's choice of retained area, which should be not more than five (5) hectares, plus the area/s to be awarded to the qualified children. These areas should be specifically identified and segregated from the portion covered by the VOS.

A landowner who voluntarily offered his retained area for CARP coverage may be allowed to withdraw his offer.

IV. OPERATING PROCEDURES

A. The Municipal Agrarian Reform Officer (MARO) shall:

1. Through a Notice of Coverage, inform the landowner concerned that his landholding is subject of acquisition under CARP, and that he may exercise his right of retention over his total properties and that his qualified children may be awarded not more than three hectares each.
2. Determine whether or not original homestead grantees or their direct compulsory heirs still own and actually cultivate the homestead.
3. Conduct field verification and investigation of the following (Ret. Form No. 2):
 - a. Landholding of the landowner in relation to his application for retention;
 - b. Qualifications of the applicants and their children as their compulsory heirs;
 - c. Tenants, farmworkers and/or actual occupants.
4. Identify the tenants opting to be beneficiaries in another landholding with similar or comparable features of the same landowner.
5. Identify the tenants opting to be leaseholders, and execute corresponding leasehold contracts in accordance with pertinent guidelines (Administrative Order No. 4, Series of 1989).

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6. Prepare a Retention Folder to include his findings and recommendations and submit this to the PARO.
- B. The Provincial Agrarian Reform Office (PARO) shall:
1. Review and evaluate the report and recommendation submitted by the MARO.
 2. If the documentation of the folder, is in order, forward the same, together with his findings and recommendations, to the RARO for appropriate action. Otherwise, return the same to the MARO.
- C. The Agrarian Reform Regional Director shall:
1. Review and evaluate the report and recommendations of the PARO.
 2. Approve or disapprove the application for retention. If the decision is approval, issue Certificate of Retention (Ret. Form No. 3). Otherwise return the same to the PARO for appropriate action.
 3. If the application for retention is approved, forward the certificate of retention and the Retention Folder to PARO.
- D. Upon receipt of the Retention Folder, the PARO in coordination with the LMB-DENR, shall segregate the appropriate retained area. The DENR shall furnish the RARO four (4) copies for distribution to PARO, ROD, LO's, MARO, etc.
- E. For tenants who opt to become beneficiaries on another land, the MARO shall facilitate the necessary land transfer.
- F. On the basis of the owner's duplicate copy of title, approved segregation plan and technical description, the PARO shall request the ROD to prepare two separate titles all in the name of the landowner for (1) the landholding covered by compulsory acquisition, voluntary offer to sell or voluntary land transfer/direct payment scheme, as the case may be, and (2) the landowner's retained area.
- G. The decision of the Regional Director approving or disapproving the application of the landowner for the retention and award shall become final after fifteen (15) days upon receipt of the decision, unless an appeal is made to the DAR Secretary.

V. EFFECTIVITY

This Administrative Order shall take effect ten (10) days after publication in two (2) national newspapers of general circulation. All orders, circulars, memoranda and rules and regulations inconsistent herewith are hereby revoked, cancelled or modified accordingly.

Diliman, Quezon City, August 30, 1990.


BENJAMIN T. LEONG
Secretary

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Table 1. Guide for Retention Limits for Spouses Without Valid
Agreement for Judicial Separation of Properties
(in hectares)

	Capital Property	Paraphernal Property	Conjugal Property	Maximum Retention
A. Marriages Covered by the Civil Code				
Case 1	0	0	30	5
Case 2	10	10	30	10
Case 3	10	0	30	10
Case 4	3	0	30	8
Case 5	0	30	0	5
Case 6	0	30	3	8
Case 7	3	4	30	10
Case 8	0	4	30	9
B. Marriages covered by the New Family Code				
				5

† The agreement to be valid should have been executed prior to 15 June 1988 or the date of marriage whichever comes later.

Ret. Form No. 1

APPLICATION FOR RETENTION

(Date)

The Regional Director
Department of Agrarian Reform

Thru: The MARO

S i r :

I have the honor to apply for the retention of _____
() hectares more or less, pursuant to Sec. 6 of RA 6657.

The landholding which I chose to retain is a portion of my landholding with a total area of _____ () hectares, more or less, covered by OCT/TCT/TD Nos. _____ registered in my name by the Register of Deeds and the Municipal/Provincial Assessor's Office of _____ and _____, respectively.

For and in behalf of my qualified children, I further apply for the awarding of the three (3) hectares out of my subject landholdings they are actually tilling/managing, to wit:

<u>Name of Children</u>	<u>Age</u>	<u>Actual Area Tilling/Managing</u>
1)		
2)		
3)		

In support of my application, I am submitting the aforecited documents for verification, evaluation and consideration.

It is hoped that the corresponding Certificate of Retention shall be issued at the earliest possible time.

Very truly yours,

(Landowner)
Name & Signature

Att. a/s

Note: Please omit Par. 3 above if not applicable.

INVESTIGATION REPORT ON RETENTION

A. BASIC INFORMATION

- a.1 Name of Landowner: _____
a.2 Postal Address : _____
a.3 OCT/TCT No. : _____ (Pls. attach)
Survey Lot No. : _____ (Pls. attach)
Total Area : _____ Hectares

a.4 Location of Property: _____
(Bgy.) (Mun.) (Prov.)
a.5 Total Area applied for retention: _____

B. FINDINGS:

- b.1 Specific location chosen by LO to be retained.
(Please attach a sketch plan and indicate technical description).

b.2 Actual occupants who opted to stay in the retained area:
- | Name | Area |
|------|------|
| 1) | |
| 2) | |
| 3) | |
- (Pls. use separate sheet if necessary).
- b.3 Actual occupants who opted to be outside the retained area but in the same landholding:
- | Name | Area |
|------|------|
| 1) | |
| 2) | |
| 3) | |
- b.4 Actual occupants who opted to transfer to another landholding:
- | Name | Area |
|------|------|
| 1) | |
| 2) | |
| 3) | |

C. RECOMMENDATION:

CERTIFIED TRUE AND CORRECT:

_____ and _____
ART MARO
Name & Signature Name & Signature
Date: _____ Date: _____

D. ACTION TAKEN: (Please state recommendation/objection)

PARO
Name & Signature

E. ACTION TAKEN: (Please state separate recommendation/
objection)

Reg'l. Director