

**[ DAR ADMINISTRATIVE ORDER NO. 09, S. 1998,  
December 23, 1998 ]**

**RULES AND REGULATIONS ON THE ACQUISITION, VALUATION,  
COMPENSATION AND DISTRIBUTION OF DEFERRED  
COMMERCIAL FARMS**

Pursuant to Sections 11 and 49 of Republic Act (RA) No. 6657, the "Comprehensive Agrarian Reform Law of 1988", and in view of the expiration on June 15, 1998 of the 10-year deferment period for commercial farms, the rules and regulations governing their acquisition, valuation, compensation and distribution are hereby promulgated as follows:

**ARTICLE I  
General Provisions**

*SECTION 1. Coverage.* — This Administrative Order shall apply to all commercial farms as defined under Section II of RA 6657, as amended by Section 3 of RA 7881.

*SECTION 2. Statement of Policies.* — The acquisition, valuation, compensation distribution, operation and management of deferred commercial farms shall be governed by the following policies:

- a. All commercial farms whose deferment expired as of June 15, 1998 shall be subject to immediate acquisition and distribution under the Comprehensive Agrarian Reform Program (CARP). Those whose deferments have yet to expire will be acquired and distributed only upon expiration of their respective deferment periods as originally determined by the Department of Agrarian Reform (DAR), or earlier if the DAR determines that the purpose for which it was deferred no longer exists and revokes its deferment;
- b. As a general rule, acquired commercial farms shall be distributed to qualified beneficiaries based on the order of priority prescribed under Section 22 of RA 6657. Those who have worked longest on the land shall be given preference;
- c. The landowner, whether individual or corporate, shall have the right to retention pursuant to Section 6 of RA 6657;
- d. All infrastructure facilities and improvements including buildings, roads, machinery, receptacles, instruments or implements permanently attached to the land, which are necessary and beneficial to the operations of the farm as determined by the DAR, and shall be subject to acquisition upon the recommendation of the agrarian reform beneficiaries (ARBs);
- e. In general, lands shall be distributed directly to individual worker-beneficiaries. However, in case it is not economically feasible and sound to divide the land, then it shall be owned collectively by the worker-beneficiaries who shall form a

workers cooperative or association which will deal with the corporation or business association;

- f. Determination of just compensation for commercial farms shall include not only the land but also the facilities and improvements introduced by the landowner. It may take into account the type of commercial crops planted (e.g. banana, pineapple, rubber) and such other relevant factors consistent with agrarian laws, rules and regulations;
- g. Lands acquired and distributed under compulsory acquisition or voluntary offer to sell shall be paid by the agrarian reform beneficiaries subject to the affordability provisions of Section 26 of RA 6657 and other implementing rules and regulations;
- h. The landowner shall retain his share of any standing crops unharvested at the time the DAR shall take possession of the land and who shall be given reasonable time to harvest the same; and
- i. Beneficiaries of distributed commercial farms shall have full freedom to choose the type of agribusiness venture arrangement that will maintain the economic viability and productivity of the farm, the freedom to market their products or enter into appropriate marketing arrangements, and the freedom to avail of the services of individuals, associations or non-government organizations who will assist them in negotiating for the most advantageous agribusiness venture arrangement, enterprise development, and capability building.

*SECTION 3. Definition of Terms.* — As used in this Order, the following terms shall be defined as follows:

- a. Agricultural Enterprise means the cultivation of the soil, planting of crops, growing of fruit trees, including the harvesting of such farm products, and other farm activities and practices performed by a farmer in conjunction with such farming operations done by reasons another whether natural or judicial (Sec. 3 [b], RA 6657, as amended by Sec. 1, RA 7881).
- b. Build-Operate-Transfer (BOT) Scheme refers to a contractual arrangement entered into pursuant to RA 6957, as amended, whereby the project proponent undertakes the construction, including financing, of a given infrastructure facility and the operation and maintenance thereof for an agreed period of time, but not to exceed twenty-five (25) years, subject to extension.
- c. Commercial Farms are private agricultural lands devoted to salt beds, fruit farms, orchard, vegetables and cut-flower farms, cacao, coffee and rubber plantations (Sec. 11, R.A. 6657, as amended by Sec. 3, R.A. 7881).
- d. Compulsory Acquisition is the mandatory acquisition of agricultural lands, including facilities and improvements necessary for agricultural production, as may be appropriate, for distribution to qualified beneficiaries upon payment of just compensation.
- e. Contract Growing/Growership Arrangement is an agribusiness arrangement whereby the ARBs own the land and commit, either collectively through their cooperative or individually, to produce certain crops for an investor or agribusiness firm that contracts to buy the produce at pre-arranged terms.

- f. Deferment Period refers to the ten (10) year period counted from the start of commercial production and operation as provided in Sec. 11 of R.A. 6657 whereby the acquisition and distribution of commercial farms has been postponed.
- g. Direct Payment Scheme is a mode of acquiring land wherein direct payment in cash or in kind is made by the ARB to the landowner under terms mutually acceptable to both parties and approved by DAR.
- h. Farmworker refers to 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).
- i. Joint Venture Agreement is an agribusiness venture whereby a company is organized and co-owned by an investor and the agrarian reform beneficiaries through their cooperatives or associations. The investor may provide the management and marketing skills, technology infrastructure, and capital while the ARBs' contribution/participation in the joint venture includes labor, the usufructuary rights to the land, and capital, infusion, if available.
- j. Lease Arrangement is an agribusiness scheme whereby the ARB's, through their cooperative or farmworkers' association, enter into a contract of lease with the landowner/investor. The lessee shall have farm control and operations within an agreed period of time but not to exceed ten (10) years, subject to extension upon mutual agreement of both parties. The lease rental shall not be less than the amortization to be paid by the ARBs to the Land Bank of the Philippines (LBP) pursuant to DAR Administrative Order No. 6, Series of 1998, and other pertinent laws, rules and regulation.
- k. Management Contract is an agribusiness arrangement whereby the ARBs, or their cooperative/organization, hire the services of the landowner or an investor to manage and operate the farm in exchange for fixed wages or commission.
- l. Other Farmworkers are those who does not fall under paragraphs [g], [h] and [i] of R.A. 6657, i.e., the definitions of farmworker, regular farmworker, and seasonal farmworker. (Sec. 3 [j], R.A. 6657).
- m. Regular Farmworker is a natural person who is employed on a permanent basis by an agricultural enterprise or farm (Sec. 3 [h], R.A. 6657).
- n. Seasonal Farmworker is a natural person employed on a recurrent, periodic or intermittent basis by an agricultural enterprise or farm, whether as a permanent or a non-permanent laborer, such as "dumaan", sacada and the like (Sec. [i], R.A. 6657).
- o. Standing Crops refer to the harvestable agricultural produce or a portion thereof (e.g., fruits, sap, root) normally harvested for such particular crop growing on the land at the time DAR takes possession thereof.

- p. Voluntary Offer to Sell is a scheme whereby the landowner voluntarily offers his agricultural land including facilities and improvements necessary for agricultural production, if any, for distribution to qualified beneficiaries.

## **ARTICLE II**

### **Selection of Beneficiaries**

*SECTION 4. Qualifications of Beneficiaries.* — Agrarian reform beneficiaries for acquired commercial farms must have the following qualifications:

- a. They must be at least 18 years old upon filing of application as agrarian reform beneficiary;
- b. They must have the willingness, aptitude and ability to cultivate and make the land productive; and,
- c. They must have been employed in the commercial farm between June 15, 1988 and June 15, 1998 or upon expiration or termination of the deferment: Provided, That farmworkers who have worked longest on the land continuously shall be given priority.

*SECTION 5. Grounds for Disqualification.* — The following shall constitute as grounds for disqualification of potential beneficiaries of acquired commercial farms;

- a. Mandatory retirement;
- b. Optional retirement or resignation: *Provided*, That there is no case filed by the farmworker or prospective beneficiary questioning such retirement or resignation;
- c. Dismissal for cause by final judgment as prescribed under labor laws;
- d. Waiver or refusal to be a beneficiary; or
- e. Violation of agrarian reform laws and regulations as determined with finality after proper proceedings by appropriate tribunal or agency.

*SECTION 6. Procedure for Selection of Beneficiaries.* — The selection of qualified beneficiaries for acquired commercial farms shall subscribe to the following procedures:

a. Beneficiary Screening Committee. — A Beneficiary Screening Committee shall be created composed of the following:

1. Provincial Agrarian Reform Officer (PARO) who shall act as Chairman;
2. Municipal Agrarian Reform Officer (MARO), as member;
3. Provincial Agrarian Reform Coordinating Committee (PARCCOM) Chairman or his duly-authorized representative, as member;
4. Barangay Agrarian Reform Council (BARC) Chairman or his duly-authorized representative from each of the barangays where the subject commercial plantation is situated, as member(s); and

5. Barangay Chairman or his duly-authorized representative, from each of the barangays where the subject commercial plantation is situated, as member(s).

The Beneficiary Screening Committee shall be responsible for the qualification, identification and selection of agrarian reform beneficiaries for acquired commercial farms. In the performance of its tasks, the Committee may invite representatives from the landowners, peoples' or non-government organizations and/or such other groups or entities as may be necessary as resource persons.

b. Notice to Potential Beneficiaries. — Upon effectivity of this Order, the PARO concerned shall post a list of commercial farms whose deferments have already expired together with a notice inviting all interested farmworkers in said commercial farms to be listed as potential beneficiaries, and directing them to submit proofs of their qualifications within 30 days from posting. The posting of the list and notice shall be made in conspicuous places within the subject property, barangay and municipality, where the property is located.

c. Preparation and Posting of Preliminary List. — The Beneficiary Screening Committee shall, upon expiration of 30 days after posting of the list/notice, prepare a preliminary list of potential beneficiaries on the basis of those have filed applications for agrarian reform beneficiary in the prescribed form (Annex 1: Application Form for ARB).

In preparing the preliminary list, the Committee shall consider the following pieces of evidence in deciding whether to include or exclude a potential beneficiary, to wit:

1. Application subscribed and sworn to before any official authorized to administer oaths; showing age, date of birth, residence, length of service, or date of employment among others;
2. Proof of employment; and
3. Such other proofs necessary to establish that the applicant has all the qualifications and none of the disqualifications to be an agrarian reform beneficiary.

The Committee shall then post copies of the preliminary list of beneficiaries in conspicuous places of the subject property, barangay and municipality. The list shall contain an invitation to all interested parties to appear at a public hearing at the designated place and time.

d. Public Hearings. — Within 15 days from the posting of the preliminary list, the Beneficiary Screening Committee shall conduct public hearings for the purpose of examining and cleansing the preliminary list of beneficiaries. As much as practicable, the public hearings shall be conducted after regular working hours at a place to be determined by the Committee preferably outside the commercial farm under acquisition.

The public hearings shall be presided by the Chairman of the Beneficiary Screening Committee with the members thereof in attendance. During the public hearings, any interested party may present proof of disqualification or lack of qualification of any person appearing on the preliminary list. For this purpose, the Committee may, in