

[DAR ADMINISTRATIVE ORDER NO. 8, September 30, 1988]

GUIDELINES AND PROCEDURES IMPLEMENTING PRODUCTION AND PROFIT SHARING UNDER REPUBLIC ACT NO. 6657

WHEREAS, Republic Act No. 6657, The Comprehensive Agrarian Reform Law of 1988, which took effect on June 15, 1988, provides these two sections on Production and Profit Sharing:

"Section 13. PRODUCTION SHARING PLAN — Any enterprise adopting the scheme provided for in Section 32 hereof or operating under a production venture, lease, management contract or other similar arrangement and any farm covered by Sections 8 and 11 hereof is hereby mandated to execute within ninety (90) days from the effectivity of this Act a Production Sharing Plan, under guidelines prescribed by the appropriate government agency.

"Nothing herein shall be construed to sanction the diminution of any benefits such as salaries, bonuses, leaves and working conditions granted to the employee-beneficiaries under existing laws, agreements and voluntary practice by the enterprise, nor shall the enterprise and its employee-beneficiaries be prevented from entering into any agreement with terms more favorable to the latter."

"Section 32. PRODUCTION SHARING — Pending final land transfer, individuals and entities owning, or operating under lease or management contract, agricultural lands are hereby mandated to execute a production sharing plan with their farmworkers or farmworkers organization, if any, whereby three percent (3%) of the gross sales from the production of such lands are distributed within sixty (60) days of the end of the fiscal year as compensation to regular and other farmworkers in such lands over and above the compensation they currently receive; provided, that these individuals or entities realize gross sales in excess of five million pesos per annum unless the DAR, upon proper application, determines a lower ceiling.

"In the event that the individual or entity realizes a profit, an additional ten percent (10%) of the net profit after tax shall be distributed to said regular and other farmworkers within ninety (90) days of the end of the fiscal year.

"To forestall any disruption in the formal operation on lands to be turned over to the farmworker-beneficiaries mentioned above, a transitory period, the length of which shall be determined by the DAR, shall be established.

"During this transitory period, at least one percent (1%) of the gross sales of the entity shall be distributed to the managerial, supervisory and technical group in place at the time of effectivity of this Act, as compensation for such transitory managerial and technical functions as it will perform, pursuant to an agreement that the farmworker-beneficiaries and the managerial, supervisory and technical group may conclude, subject to the approval of the DAR."

NOW, THEREFORE, to ensure an orderly and effective implementation of the above provisions, the following Guidelines and Procedures are hereby promulgated for the guidance of all concerned.

SECTION 1. Definition of Terms . — As used in these Guidelines and procedures, the following terms shall have the following respective meanings:

A. Agriculture, Agricultural Enterprise or Agricultural Activity means the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry or fish, 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 persons whether natural or juridical.

B. Agricultural Land refers to land devoted to agricultural activity as defined above and not classified as mineral, forest, residential, commercial, industrial or national park.

C. Farmworker is 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.

1. **Regular Farm-worker** is a natural person who is employed on a permanent basis by an agricultural enterprise or farm.

2. **Seasonal Farm-worker** is a natural person who is 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.

3. **Other Farmworker** is a farmworker who does not fall under paragraphs C, C.1, and C.2.

Managerial or Supervisory Farmworker is a natural person who is employed by an agricultural enterprise or farm vested with powers or prerogatives: (1) to lay down and execute management policies; (2) to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees; and/or (3) to effectively recommend such managerial actions.

E. Technical Farmworker is a natural person employed by an agricultural enterprise or farm, who is highly educated and trained and performs functions in scientific, engineering, medical, teaching and other fields, but who is not vested with managerial or supervisory functions. Example of such employees are: chemists, agronomists, veterinarians, soil analysts and the like.

F. Gross Sales means the total annual revenue from the sale of all agricultural products, in their raw or original state, derived from the land or farm owned, operated under lease, management, production venture, grower or service contract, or other similar arrangement by an agricultural enterprise. Simple post-harvest operations ordinarily done within the farm to preserve or prepare agricultural products for the market, such as drying, salting, smoking or stripping, are considered agricultural activities. In cases where retention right is allowed under Section 6 of R.A. 6657, the amount of gross sales may be reduced by an amount equivalent to such proportion that the retained area bears in relation to total land area.

G. Regular Annual Compensation includes all cash remuneration or earnings regularly paid to an employee by an employer for services rendered within a year, such as salaries, wages, 13th month pay, bonus, allowances, commissions and paid leaves, and other income of similar nature, whether mandated by law or provided by collective bargaining agreement or established company practices, but excludes payment arising from the Production/Profit Sharing provided herein.

SECTION 2. Employers Covered. — Pending final land or corporate stock transfer, the following employers are covered by the mandated Production and Profit Sharing under RA. 6657:

- A. Any enterprise owning or operating agricultural lands under lease, management contract, production venture or other similar arrangement;
- B. Multinational corporations engaged in agricultural activities;
- C. Commercial farms devoted to commercial livestock, poultry and swine raising, aquaculture including saltbeds, fishponds and prawn ponds, fruit farms, orchards, vegetable and cut-flower farms, and cacao, coffee and rubber plantations.

Provided, that the employer realizes gross sales in excess of Five Million Pesos (P5M) per annum. Provided, however, that the Department of Agrarian Reform (DAR), when necessary, may establish a ceiling lower than P5 million per annum.

In the case of individuals or entities with business operations other than agricultural, only the divisions, groups or units involved in agricultural activities are included in the mandated Production/Profit Sharing.

Public lands classified as inalienable and which are under reservation in favor of the Bureau of Prisons but which are now utilized for agriculture by corporations or entities in cooperation with local entities under any system of land tenure, usage, cultivation, or management shall be covered by the Production and Profit Shares