

**[DAR ADMINISTRATIVE ORDER NO. 02, s. 2003,
January 16, 2003]**

**2003 RULES AND PROCEDURES GOVERNING LANDOWNER
RETENTION RIGHTS**

Pursuant to Presidential Decree (PD) No. 27, Section 6 of Republic Act (RA) No. 6657, and in view of the Supreme Court's ruling in *Association of Small Landowners in the Philippines Incorporated versus Secretary of Agrarian Reform* (G.R. No. 78742 [14 July 1989]), the rules and procedures governing the exercise of retention rights under PD 27 and RA 6657 by landowners are hereby revised as follows:

**ARTICLE I
Preliminary Provisions**

SECTION 1. Coverage. — These rules and procedures shall apply to all applications for retention under PD 27 and RA 6657.

SECTION 2. Statement of Policies. — The exercise of retention right by landowners shall be governed by the following policies:

- 2.1. 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 therein.
- 2.2. The landowner shall exercise the right to retain by signifying his intention to retain within sixty (60) days from receipt of notice of coverage. Failure to do so within the period shall constitute a waiver of the right to retain any area.
- 2.3. Upon manifestation of the landowner's intention to retain, he shall indicate the exact location thereof within thirty (30) days from manifestation date. Failure to do so shall authorize the Municipal Agrarian Reform Officer (MARO) to choose said retention area.
- 2.4. The landowner has the obligation to cultivate the land directly or thru labor administration and thereby make the area he retains productive.
- 2.5. In all cases, all rights previously acquired by the tenant farmers under PD 27 and the security of tenure of the farmers or farmworkers on the land prior to the approval of RA 6657 shall be respected. Furthermore, actual tenant farmers in the landholdings shall not be ejected or removed therefrom.
- 2.6. The sale, disposition, lease or transfer of private lands by the original landowner in violation of RA 6657 shall be null and void. Transactions

executed prior to RA 6657 shall be valid only when registered with the Register of Deeds within a period of three (3) months after 15 June 1988 in accordance with Section 6 of RA 6657.

ARTICLE II

Exercise Of Retention Right

SECTION 3. Who May Apply for Retention

- 3.1. Any person, natural or juridical, who owns agricultural lands with an aggregate area of more than five (5) hectares may apply for retention area. 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 (5) hectares in his other agricultural lands, the seven (7) hectares previously retained by him shall be immediately placed under CARP coverage.
- 3.2. A landowner who owns five (5) hectares or less, of land which are not yet subject of coverage based on the schedule of implementation provided in Section 7 of RA 6657, may also file an application for retention and a Certification of Retention shall be issued in his favor.
- 3.3. The right of retention of a deceased landowner may be exercised by his heirs provided that the heirs must first show proof that the decedent landowner had manifested during his lifetime his intention to exercise his right of retention prior to 23 August 1990 (finality of the Supreme Court ruling in the case of Association of Small Landowners in the Philippines Incorporated versus the Honorable Secretary of Agrarian Reform).

SECTION 4. Period to Exercise Right of Retention under RA 6657

- 4.1. The landowner may exercise his right of retention at any time before receipt of notice of coverage.
- 4.2. Under the Compulsory Acquisition (CA) scheme, the landowner shall exercise his right of retention within sixty (60) days from receipt of notice of coverage.
- 4.3. Under the Voluntary Offer to Sell (VOS) and the Voluntary Land Transfer (VLT)/Direct Payment Scheme (DPS), the landowner shall exercise his right of retention simultaneously at the time of offer for sale or transfer.

SECTION 5. Where to File Application. — Any duly completed application for retention may be filed with the office of the Regional Director or the Provincial Agrarian Reform Officer (PARO). The receiving office shall forward the application to the MARO with jurisdiction over the landholding after assigning a docket number.

SECTION 6. Waiver of the Right of Retention. — The landowner waives his right to retain by committing any of the following act or omission:

- 6.1. Failure to manifest an intention to exercise his right to retain within sixty (60) calendar days from receipt of notice of CARP coverage.

- 6.2. Failure to state such intention upon offer to sell or application under the VLT/DPS scheme.
- 6.3. Execution of any document stating that he expressly waives his right to retain. The MARO and/or PARO and/or Regional Director shall attest to the due execution of such document.
- 6.4. Execution of a *Landowner Tenant Production Agreement and Farmer's Undertaking* (LTPA-FU) or *Application to Purchase and Farmer's Undertaking* (APFU) covering subject property.
- 6.5. Entering into a VLT/DPS or VOS but failing to manifest an intention to exercise his right to retain upon filing of the application for VLT/DPS or VOS.
- 6.6. Execution and submission of any document indicating that he is consenting to the CARP coverage of his entire landholding.
- 6.7. Performing any act constituting estoppel by laches which is the failure or neglect for an unreasonable length of time to do that which he may have done earlier by exercising due diligence, warranting a presumption that he abandoned his right or declined to assert it.

ARTICLE III **Award Of Retention Area**

SECTION 7. Criteria/Requirements for Award of Retention — The following are the criteria in the grant of retention area to landowners:

- 7.1. The land is private agricultural land;
- 7.2. 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 therein;
- 7.3. The landowner must execute an affidavit as to the aggregate area of his landholding in **the entire Philippines**; and
- 7.4. The landowner must submit a list of his children who are fifteen (15) years old or over as of 15 June 1988 and who have been actually cultivating or directly managing the farm since 15 June 1988 for identification as preferred beneficiaries, as well as evidence of such.
- 7.5. The landowner must execute an affidavit stating the names of all farmers, agricultural lessees and share tenants, regular farmworkers, seasonal farmworkers, other farmworkers, actual tillers or occupants, and/or other persons directly working on the land; if there are no such persons, a sworn statement attesting to such fact.

SECTION 8. Retention Area — The area allowed to be retained by the landowner shall be as follows:

8.1. Landowners covered by PD 27 are entitled to retain seven (7) hectares, except those whose entire tenanted rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). An owner of tenanted rice and corn lands may not retain those lands under the following cases:

8.1.1. If he, as of 21 October 1972, owned more than twenty-four (24) hectares of tenanted rice and corn lands; or

8.1.2. By virtue of Letter of Instruction (LOI) No. 474, if he, as of 21 October 1972, owned less than twenty-four (24) hectares of tenanted rice and corn lands but additionally owned the following:

8.1.2.1. other agricultural lands of more than seven (7) hectares, whether tenanted or not, whether cultivated or not, and regardless of the income derived therefrom; or

8.1.2.2. lands used for residential, commercial, industrial or other urban purposes from which he derives adequate income to support himself and his family.

8.2. Landowners affected by PD 27 who filed their applications for retention before 27 August 1985, the deadline set by the DAR AO No. 1, Series of 1985, may retain not more than seven (7) hectares of their landholdings regardless of whether or not they complied with LOI 41, 45, and 52.

8.3. Also entitled to such seven (7) hectare retention area under PD 27 are landowners who filed their application after 27 August 1985 but complied with LOI 41, 45, and 52, which provide for the submission of sworn statements containing the following information:

8.3.1. List of agricultural lands owned by him throughout the country, indicating therein the area and location of each parcel; :

8.3.2. Principal crops to which each parcel of land is devoted. For those areas devoted primarily to rice and/or corn, the landowners shall indicate

8.3.2.1. the portions actually cultivated by tenants; 8.3.2.2. the names of such tenants; and

8.3.2.3. the area tilled by each tenant as of 21 October 1972;

8.3.3. The average gross harvest of each tenant (on a parcel of rice/corn land) during the three (3) crop years immediately preceding 21 October 1972; and

8.3.4. Liens and/or encumbrances, if any, the amounts thereof, and the names and addresses of the parties who have liens and/or encumbrances over such properties as of 21 October 1972.

8.4. Landowners who filed their applications after the 27 August 1985 deadline and did not comply with LOI 41, 45, and 52 shall be entitled only to a maximum of five (5) hectares as retention area.