

**[DAR ADMINISTRATIVE ORDER NO. 06, S. 2003,
December 18, 2003]**

**RULES AND PROCEDURES GOVERNING LEASEHOLD
IMPLEMENTATION ON TENANTED AGRICULTURAL LANDS**

PREFATORY STATEMENT

The history of the law on leasehold tenancy is a progression from one of election and limited operation to one of compulsion and comprehensive application. Under Section 14 of Republic Act (R.A.) No. 1199, which became operative on 30 August 1954, tenants have the right to choose a leasehold tenancy arrangement.

R.A. No. 3844, which took effect on 8 August 1963, declared agricultural share tenancy as contrary to public policy and was thereby abolished.

Section 4 of R.A. No. 6389 automatically converted agricultural share tenancy throughout the country to agricultural leasehold, R.A. No. 6389, however, did not repeal Section 35 of R.A. No. 3844 which exempted certain landholdings (fishponds, saltbeds, and lands principally planted to citrus, coconuts, cacao, coffee, durian, and other similar permanent trees).

The Comprehensive Agrarian Reform Law (CARL) or R.A. No. 6657, which took effect on 15 June 1988, expressly repealed Section 35 of R.A. No. 3844. The significant implications of this evolution of the law are as follows:

1. The abolition of share tenancy now covers all agricultural landholdings without exceptions;
2. Leasehold tenancy is no longer just an option which exists by operation of law; and
3. Agricultural leasehold can be a preliminary step to land ownership. Hence, all share-crop tenants were automatically converted into agricultural lessees as of 15 June 1988, whether or not a leasehold agreement had been executed.

In accordance with these developments of the law, Section 12 of R.A. No. 6657 mandates the Department of Agrarian Reform (DAR) to determine and fix the lease rentals within retained areas and areas not yet acquired for agrarian reform in accordance with Section 34 of R.A. No. 3844.

Pursuant to the DAR's mandate to protect the rights and improve the tenurial and

economic status of farmers in tenanted lands, and its efforts to provide for an effective mechanism that shall implement leasehold and improve the method for determining and fixing lease rentals, as well as deal with external factors such as the prevailing practice and stance of landowners to deny the existence of tenancy relations whenever possible, the rules and procedures governing agricultural tenancy and leasehold implementation are hereby codified, modified and amended as follows:

ARTICLE I GENERAL PROVISIONS

SECTION 1. Coverage - These rules and procedures shall apply to all tenanted agricultural lands, including but not limited to:

1.1 Retained areas under Presidential Decree (P.D.) No. 27 and R.A. No. 6657.

1.2 Tenanted agricultural lands not yet acquired for distribution under the Comprehensive Agrarian Reform Program (CARP).

1.3 All other tenanted lands which may be validly covered under existing laws, including but not limited to:

1.3.1 Tenanted landholdings that may be within the purview of Department of Justice (DOJ) Opinion No. 44-1990 but tenancy was established prior to reclassification and actual use remains agricultural after reclassification. Such landholdings are coverable under the leasehold system unless and until the DAR issues an exemption order and the tenant/s receive/s the disturbance compensation as provided in the said exemption order.

1.3 2 All other tenanted landholdings that may otherwise qualify for exemption or exclusion from CARP coverage, for as long as actual use remains agricultural. Such landholdings are coverable under the leasehold system unless and until the DAR issues an exemption or exclusion order and the tenant/s receive/s the disturbance compensation as provided in the said exemption or exclusion order.

SECTION 2. Definition of Terms - In the implementation of comprehensive leasehold operations, the following are the commonly used terms:

2.1 Agricultural Land - As one of the six essential elements of agricultural tenancy, it means "land devoted to any growth, including but not limited to crop lands, salt beds, fish ponds, idle land and abandoned land" (R.A. No. 3844, Section 166 (1). It refers to "lands devoted to or

suitable for the cultivation of the soil, planting of crops, growing of trees, raising of livestock, poultry, fish or aquaculture production, including the harvesting of such farm products, and other farm activities and practices performed in conjunction with such farming operations by person whether natural or juridical.

2.2 Agricultural Leasehold Contract - A formal tenurial arrangement reduced into writing between a lessor-landholder and lessee-farmer where the former consents to the latter's personal cultivation in consideration for a fixed rental either in money or produce or both.

2.3 Agricultural Leasehold Relation - It is limited to the person who furnishes the landholding, either as owner, civil law lessee, usufructuary, or legal possessor, and the person who personally cultivates the same (R.A. No. 3844, Section 6).

2.4 Agricultural Lessee - A person who, by himself and with the aid available from within his immediate farm household, cultivates the land belonging to, or possessed by another, with the latter's consent for purposes of production, for a price certain in money or in produce or both. It is distinguished from civil lessee as understood in the Civil Code of the Philippines. (R.A. No. 3844, Section 166(2)).

2.5 Agricultural Lessor - A person, natural or juridical, who, either as owner, civil law lessee, usufructuary, or legal possessor, lets or grants to another the cultivation and use of his land for a certain price (R.A. No. 3844, Section 166 (3)).

2.6 Agricultural Year - The period of time required for raising a particular agricultural product, including the preparation of the land, sowing, planting and harvesting of crops and, whenever applicable, threshing of said crops: *Provided, however,* That in case of crops yielding more than one harvest from planting, "agricultural year" shall be the period from the preparation of the land to the first harvest and thereafter, from harvest to harvest. In both cases, the period may be shorter or longer than a calendar year (R.A. No. 3844, Section 166 (4)).

2.7 Auxiliary crop - Any product raised other than the crop to which the cultivation of the land is principally devoted in each agricultural year, and excluding the produce of the homelot (R.A. No. 2263, Section 2 (5) (r)).

2.8 Crop Diversification - The practice of growing two or more different kinds of crops in one area for a given period to maximize the whole area.

2.9. Deductible Items - Allowable list of costs subtracted from the computed gross normal harvests and which costs are utilized for seeds and the cost of harvesting, threshing, loading, hauling, and processing, whichever is applicable.

2.10. Homelot - A lot suitable for dwelling with an area of not more than three percent (3%) of the area of the landholding provided that it does not exceed one thousand (1,000) square meters and that it shall be

located at a convenient and suitable place within the land of the landholder, to be designated by the latter, where the tenant shall construct his dwelling. However, incomes from vegetables, poultry, pigs, other animals, minor industry products raised or produced within the homelot, shall accrue to the tenant exclusively.

2.11 Immediate Farm Household - The members of the family of the lessee and other persons who are dependent upon him for support and who usually help him in his farming activities.

2.12 Indiscriminate Cutting - The felling of trees that tends to materially affect the productivity of the farm.

2.13 Inter-cropping - The practice of simultaneously growing two or more crops in between the principal crop.

2.14 Landholder - A person, natural or juridical, who, either as owner, civil law lessee, usufructuary, or legal possessor, lets or grants to another the use or cultivation of his land for a consideration either in shares under the share tenancy system, or a price certain or ascertainable under the leasehold tenancy system.

2.15 Normal Harvest - The usual or regular produce obtained from the land when it is not affected by any fortuitous event like drought, earthquake, volcanic eruption, and the like.

2.16 Proven Farm Practices - Sound farming practices generally accepted through usage or officially recommended by the Department of Agriculture (R.A. No. 3844, Section 166 (11)).

2.17 Share Tenancy - The relationship which exists whenever two persons agree on a joint undertaking for agricultural production wherein one party furnishes the land and the other his labor, with either or both contributing any one or several of the items of production, the tenant cultivating the land personally with the aid of labor available from members of his immediate farm household, and the produce thereof to be divided between the landholder and the tenant (R.A. No. 3844, Section 166 (25)).

2.18 Tenant - A person who himself and with the aid available from within his immediate farm household, cultivates the land belonging to, or possessed by another, with the latter's consent for purposes of production, sharing the produce with the landholder under the share tenancy system, or paying to the landholder a price certain or ascertainable in produce or in money or both, under the leasehold tenancy system (R.A. No. 1199, Section 5 (a)).

SECTION 3. Policies and Governing Principles - In the implementation of the agricultural leasehold operations in the country, the following are the governing policies and principles:

3.1 All share tenancy arrangements are contrary to public policy and are deemed automatically converted to agricultural leasehold as of 15 June 1988 by operation of law.

3.2 Agricultural leasehold shall be based on a tenancy relationship. The following are the essential elements of agricultural tenancy:

3.2.1 Parties are the landholder and the tenant:

3.2.2 Subject is the agricultural land;

3.2.3 There is consent freely given, either orally or in writing, express or implied;

3.2.4 The purpose is agricultural production;

3.2.5 There is personal cultivation; and

3.2.6 Compensation, either in terms of shares in the harvest payment of a fixed amount in money and/or produce.

3.3 The agricultural leasehold relation under this A.O. shall not be extinguished by mere expiration of the term or period in leasehold contract nor by the sale, alienation or transfer of the legal possession of the landholding. In case the agricultural lessor sells, alienates or transfers the legal possession of the landholding, the purchaser or transferee thereof shall be subrogated to the rights and substituted to the obligations of the agricultural lessor pursuant to Section 10 of R.A. No. 3844.

3.4 Cultivation is not limited to the plowing and harrowing of the land, but also the husbanding of the ground to forward the products of the earth by general industry, taking care of the land and fruits growing thereon, fencing of certain areas, and the clearing thereof by the gathering dried leaves and cutting grasses. In coconut lands, cultivation includes clearing the landholding, gathering of coconuts, their pilings, husking and handling as well as the processing thereof into copra, although at times with the aid of hired laborers.

3.5 The consideration for the lease of riceland and land devoted to other crops shall not be more than the equivalent of twenty-five percent (25%) of the average normal harvest during the three (3) agricultural years immediately preceding the date the leasehold was established after deducting the amount used for seeds and the cost of harvesting, threshing, loading, hauling, and processing, whichever are applicable (R.A. No. 3844, Section 34, 1st clause).

If the land has been cultivated for a period of less than three (3) years, the initial consideration shall be based on the average normal harvest during the preceding years when the land was actually cultivated, or on the harvest of the first year in the case of newly-cultivated lands, if that harvest is normal (R.A. No. 3844, Section 34, 1st proviso).

After the lapse of the first three (3) normal harvests, the final consideration shall be based on the average normal harvest during these