

Measures of Beijing Municipality for Implementing the Law of the People's Republic of China on Specialized Farmers Cooperatives

(Adopted at the 14th Meeting of the Standing Committee of the 13th People's Congress of Beijing Municipality on November 20, 2009)

Contents

Chapter I General Provisions

Chapter II Establishment and Operation

Chapter III Guidance and Services

Chapter IV Support and Promotion

Chapter V Legal Liability

Chapter VI Supplementary Provisions

Chapter I General Provisions

Article 1 These measures are formulated for the purpose of implementing the Law of the People's Republic of China on Specialized Farmers Cooperatives and in light of the actual circumstances of this Municipality.

Article 2 These Measures are applicable to the establishment, production and operation of specialized farmers cooperatives and the relevant regulation and administration, guidance, support and services within the administrative area of this Municipality.

Article 3 Specialized farmers cooperatives are mutual-help economic organizations joined voluntarily and managed in a democratic manner by the producers and operators of the same kind of farm products or by the providers or users of services for the same kind of agricultural production and operation on the basis of rural household land contract system.

Specialized farmers cooperatives mainly served their members, offering such services as purchasing the means of agricultural production, marketing, processing, transporting and storing farm products, and providing technologies and information related to agricultural production and operation.

Article 4 Specialized farmers cooperatives shall observe the following principles:

- (1) Their members are mainly farmers;
- (2) They aim to serve their members, working for the common interests of all the members;

(3) The members join the cooperatives voluntarily and are free to withdraw from them;

(4) The members are equal in status and democratic management is practiced; and

(5) Profits are to be distributed mainly in proportion on the volume (amount) of the transactions effected between the cooperatives and their members.

Article 5 Specialized farmers cooperatives shall engage in production and operation according to law, act in good faith, and observe social and business ethics.

Article 6 The people's governments at the municipal and the district or county level shall integrate the promotion of the development of specialized farmers cooperatives into the development of agriculture and relevant industries in their respective areas, enhance overall coordination, innovate in the working mechanism, promptly organize the competent administrative departments for agriculture and other relevant departments and organizations to make policies, intensify the support of funding, technology and human resources, implement the preferential policies in finance and taxation and improve the system for socialized agricultural services.

The people's governments at the town or township level and sub-district offices shall support the development of local specialized farmers cooperatives, publicize the relevant policies, develop the implementation measures and provide services for the establishment and activities of production and operation of specialized farmers cooperatives.

Villagers' committees and collective economic organizations in villages shall offer support and assistance in the establishment and activities of production and operation of specialized farmers cooperatives according to law.

Article 7 The people's governments at the municipal and the district or county level shall commend and reward the units and individuals with outstanding achievements in promoting the development of specialized farmers cooperatives.

Chapter II Establishment and Operation

Article 8 The producers and operators of the same kind of farm products or the providers or users of services for the same kind of agricultural production and operation on the basis of rural household land contract system in this Municipality who voluntarily join together to engage in the following activities of production and operation according to law may apply to establish a specialized farmers cooperative:

(1) industry of planting or breeding;

(2) marketing, processing, transportation and storage of farm products;

(3) agricultural leisure tourism and folklore tourism;

(4) farmers' cottage craft;

(5) agricultural machinery operation services;

(6) agricultural technology services;

(7) other mutual-help activities of agricultural production and operation carried out according to law.

For establishment of a specialized farmers cooperative, an application for establishment registration shall be made to the administrative department for industry and commerce at the district or county level in the locality and the business license of the specialized farmers cooperative as a legal person be obtained according to law.

Where in accordance with the provisions of laws or administrative regulations or the provisions of the State Council, certain items within the business scope of a specialized farmers cooperative are subject to approval before registration, such approval document shall be submitted.

Article 9 For establishment of a specialized farmers cooperative, the charter shall be developed according to law, and for the development of the charter, the model charter of a specialized farmers cooperative of this Municipality may be referred to.

A specialized farmers cooperative shall improve its internal management systems and perform the agreements in its charter.

Article 10 Farmers shall account for at least 80 percent of the members of a specialized farmers cooperative.

Where a farmer is a member of a specialized farmers cooperative, his household register for agriculture population shall serve as the certification of his identity as its member; those without the household register for agriculture population who have the certificates of their right to contracted management of land of this Municipality may apply for going through the formalities for joining a cooperative as farmers with their own resident identity cards and the certificates of their right to contracted management of land of this Municipality or the identification certificates issued by villagers' committees or residents' committees.

Article 11 Where specialized farmers cooperatives voluntarily join together to form a new mutual-help economic organization, an application for establishment registration may be submitted to the administrative department for industry and commerce and the business license of a specialized farmers cooperative as a legal person be obtained.

Article 12 A specialized farmers cooperative shall start an account for each member.

Article 13 A member of a specialized farmers cooperative may make his capital contributions in

currency or do so by contributing such non-currency property as material objects, intellectual property rights that can be evaluated in currency and can be transferred according to law.

Article 14 The charter of a specialized farmers cooperative shall make provisions on the amount and forms of capital contribution by its members; and its members shall make capital contributions as provided for in the charter and the amount of contributions shall be recorded in its members' accounts.

The forms of contribution, amount of capital contributed by each member and the total amount of capital contributions made by their members of a specialized farmers cooperative shall be clearly specified in a complete list of capital contributions, which shall be confirmed by signature or seal of all members that make the capital contributions.

Article 15 The membership assembly of a specialized farmers cooperative shall be composed of all of the members. It is the organ of power of the cooperative and shall exercise the functions and powers according to law.

Where the number of members of a specialized farmers cooperative exceeds 150, a conference of members' representatives may be organized according to the stipulations of the charter, which may, according to the stipulations of the charter, exercise part or all of the functions and powers of the membership assembly.

For a conference of members' representatives organized, the number of representatives shall not be less than 30 percent of the total membership; where the number of members exceeds 500, the number of representatives shall not be less than 20 percent of the total membership. The ways of selecting the representatives for a conference of members' representative shall be prescribed in the charter.

Article 16 Where a specialized farmers cooperative with less than 150 members set up a board of directors, an executive supervisor or a board of supervisors, generally there shall be not less than three members in the board of directors and at least one executive supervisor; for a cooperative with 151 to 500 members, generally there shall be not less than five members in the board of directors and not less than three members in the board of supervisors; and for a cooperative with over 500 members, generally there shall be not less than seven members in the board of directors and not less than five members in the board of supervisors.

Article 17 A specialized farmers cooperative shall establish a financial management system according to law. The financial management system shall clearly specify the financial authorities and responsibilities of the membership assembly, the director-general, directors and managers and be subject to the review and approval of the membership assembly.

A specialized farmers cooperative shall set up a position accountability system for financial staff to clarify the responsibilities and authorities of the relevant positions.

A specialized farmers cooperative may either set up a position of in-house accountant or

entrust its accounting to an accounting service institution.

Article 18 A specialized farmers cooperative shall carry out their independent accounting and final account for every fiscal year on time according to the financial and accounting systems of specialized farmers cooperatives.

Before profit distribution or return at the end of a year, a specialized farmers cooperative shall accurately calculate the incomes and expenditures of the whole year; clear up properties, credits and debts and truthfully and wholly record them into its members' accounts.

Article 19 The profits of the year left after the losses are made up for and the common reserve funds are drawn shall be the distributable profits of a specialized farmers cooperative.

The distributable profits of a specialized farmers cooperative shall be returned to the members in proportion to the volume (amount) of the transactions effected between the members and the cooperative, and the total amount returned shall not be less than 60 percent of the distributable profits; the rest shall be distributed pro rata to the members on the basis of the capital contributions and shares of common reserve funds and the members' average quantified shares of the assets accumulated from subsidies directly given by the government and donations made by other persons to the cooperative. The specific measures for distributing the distributable profits shall be prescribed in the charter or determined by the membership assembly.

The plans for annual profit distribution shall be approved by the membership assembly before its implementation.

Article 20 At the termination of a membership, a specialized farmers cooperative shall, in the manners and within the time limit as stipulated in the charter, return to the member the amount of the capital contributions and his shares of the common reserve funds recorded in his account; and it shall return to him the distributable profits earned prior to the termination of his membership qualifications according to law.

After the termination of a membership, a specialized farmers cooperative shall, at the end of the accounting year, averagely quantify the shares of the assets accumulated from subsidies directly given by the governments recorded in the account of this member to the existing members of the cooperative.

Article 21 The specialized farmers cooperatives shall disclose the operations to their members.

The major operational decisions of the specialized farmers cooperatives, the receipt and use of the assets accumulated from subsidies directly given by the governments and donations made by other persons as well as other matters involving the members' immediate interests shall be disclosed to their members.

The specialized farmers cooperatives shall disclose the operational and financial status to their

members at the end of the accounting year and accept the members' supervision.

Article 22 The executive supervisors or the board of supervisors shall be responsible for the financial supervision and internal auditing of the specialized farmers cooperatives and the auditing results shall be reported to the membership assembly.

The membership assembly may entrust relevant auditing bodies with the annual auditing, special auditing and office-term shift auditing and outgoing auditing on the financial affairs of the cooperative.

The specialized farmers cooperatives shall accept and offer cooperation to relevant government agencies to carry out the audit supervision on the directly subsidized funds from the governments.

Article 23 The specialized farmers cooperatives shall submit statistics and financial statements according to the relevant provisions of the State and this Municipality.

Article 24 The specialized farmers cooperatives shall intensify training for the members to enhance their awareness on law, cooperation and self-discipline and improve their production skills and operation level.

Article 25 Where a dispute occurs between a specialized farmers cooperative and its members, negotiations shall be carried out to settle the dispute according to the charter and the relevant agreements; where negotiations fail, an application may be made to the operation and management institution of rural cooperative economy for mediation or a lawsuit directly filed to the people's court.

Chapter III Guidance and Services

Article 26 The people's governments at the municipal and the district or county level shall set up a joint conference system for promoting the development of specialized farmers cooperatives that is attended by the relevant departments and institutions to study and coordinate the solution of the major issues in the development of specialized farmers' cooperatives.

Article 27 The competent administrative departments for agriculture at the municipal and the district or county level shall be responsible for the following work of providing guidance, support and services to the formation and development of specialized farmers cooperatives:

- (1) Making specific policies on guiding and supporting the development of specialized farmers cooperatives;
- (2) Providing relevant policy consultation, collecting and issuing the relevant information;
- (3) Guiding and assisting specialized farmers cooperatives in the work of agricultural

standardization, quality and safety of farm products, authentication application, brand cultivation, product marketing and market exploration;

(4) Carrying out activities of model demonstration, promotion and exchanges for specialized farmers cooperatives; and

(5) Other works that will help specialized farmers cooperatives to be better structured and improve the ability of self-service, risk resistance and market competition.

Article 28 The operation and management institution of rural cooperative economy at the municipal and the district or county level shall be responsible for the following work of providing guidance and services to the formation and development of specialized farmers cooperatives:

(1) Guiding specialized farmers cooperatives in developing charters and establishing sound mechanisms of internal operation and management systems of finance and accounting;

(2) Guiding specialized farmers cooperatives in applying for construction projects; and

(3) Carrying out statistics monitoring and personnel training for specialized farmers cooperatives.

The operation and management institution of rural cooperative economy at the district or county level may provide services of consultation, guidance and registration agency for the establishment of specialized farmers cooperatives.

Article 29 The administrative departments for industry and commerce, finance, development and reform, commerce, taxation, science and technology, State-owned land resources, planning, environmental protection, traffic, landscaping and afforestation, water affairs, tourism, intellectual property rights and quality and technical supervision at the municipal and the district or county level shall provide guidance, support and services to the formation and development of specialized farmers' cooperatives in accordance with their respective duties and responsibilities.

Supply and marketing cooperatives, agricultural product trade associations, science and technology associations and other relevant units or organizations shall provide guidance, support and services to relevant specialized farmers cooperatives.

Article 30 The administrative departments for industry and commerce shall incorporate the information on specialized farmers cooperatives into the basic database of legal persons of this Municipality and universally provide relevant departments and organizations with the services of share and exchange of the basic data.

The administrative departments for agriculture, industry and commerce, etc. shall strengthen communication and coordination, and set up and improve a inter-department mechanism of

information exchange and share.

Article 31 This Municipality shall incorporate specialized farmers cooperatives into the business credit system and carry out supervision on specialized farmers cooperatives according to the status of credit.

Article 32 For industrial and commercial registration and tax registration of a specialized farmers cooperative, the registration authority shall not charge fees.

Chapter IV Support and Promotion

Article 33 The people's governments at the municipal and the district or county level shall promote the development of a new-type socialized service system for agriculture, support various organizations of socialized agricultural services in providing marketing, technology dissemination, talent introduction, supply of agricultural materials, agricultural information, rural finance and insurance and other services for the development of specialized farmers cooperatives.

Article 34 The people's governments at the municipal and the district or county level shall allot funds to give priority support to the following projects for specialized farmers cooperatives:

- (1) construction of bases of standardized agricultural production;
- (2) construction of facilities for processing, storage and marketing of farm products;
- (3) quality standards for farm products and their authentication, and package, brand cultivation and marketing relating to farm products;
- (4) purchase of agricultural machinery and transporting equipment for farm products;
- (5) information services, technology dissemination, talent introduction and training; and
- (6) Other prioritized support projects.

The people's governments at various levels of this Municipality shall carry out supervision over the use of the funds for supporting specialized farmers cooperatives.

Article 35 A specialized farmers' cooperative with any one of the following circumstances shall not be incorporated into the scope of financial support by the State and this Municipality:

- (1) The volume (amount) of transactions effected between the members and the cooperative is less than 50 percent of the total volume (amount) of transactions;
- (2) The distributable profit is not lawfully returned to the members according to the volume (amount) effected between the members and the cooperative; or

(3) Democratic management is not implemented according to law resulting in adverse impacts.

Article 36 The specialized farmers cooperatives may independently apply for and undertake agricultural construction projects, agricultural science and technology projects and other government supported construction projects for the development of agriculture and rural economy.

The relevant departments shall intensify guidance and service for the specialized farmers cooperatives undertaking the government supported construction projects for the development of agriculture and rural economy.

Article 37 This Municipality shall improve the market circulation system for farm products, strengthen the construction of infrastructure for storage, circulation and information so as to improve the market environment for the sale of farm products.

The competent administrative departments for commerce and agriculture at the municipal and the district or county level shall take measures to organize, direct and support specialized farmers cooperatives to build a linkage with the market so as to provide convenience and information consultation services for the farm products produced by specialized farmers cooperatives to enter into the market.

Enterprises for processing, marketing and exhibition of farm products are encouraged to build a direct linkage with specialized farmers cooperatives to conduct processing, marketing and exhibition for farm products produced by specialized farmers cooperatives.

Article 38 An enterprise for production, processing and marketing of farm products as well as other enterprise with distribution channels, production and processing techniques and ability of exploration and innovation may jointly with farmers initiate a specialized farmers cooperative or join a specialized farmers cooperative to drive the development of the specialized farmers cooperative.

Leading enterprises in agricultural industrialization and specialized farmers cooperatives shall be directed to set up a stable interest linking mechanism through cooperation in capital and labor to share the interests in such aspects as production, processing, storage and marketing of farm products.

Leading enterprises in agricultural industrialization shall be encouraged to provide various services on technology, information and means of agricultural production for specialized farmers cooperatives and their members.

Article 39 Institutions of higher education, secondary vocational schools and scientific research institutes shall be encouraged to carry out technological cooperation with the specialized farmers cooperatives in this Municipality. Demonstration bases for scientific research and experiment set up by relying on the specialized farmers cooperatives shall enjoy relevant policy

preferential treatment.

Article 40 The specialized farmers cooperatives shall enjoy preferential treatment in taxation prescribed by the State in respect of agricultural production, processing, circulation, services and other economic activities involving agriculture.

Article 41 The policy-oriented financial institutions shall adopt diversified means to provide credit services to the specialized farmers cooperatives. The commercial financial institutions shall be encouraged to provide credit services and financial support to the specialized farmers cooperatives.

For the relevant loans applied by specialized farmers cooperatives that meet the requirements of the competent administrative departments for finance and agriculture at the municipal level, the competent department for finance shall grant interest subsidies according to the purpose of projects and actual needs.

The social guarantee agencies shall be encouraged to engage in the business of loan guarantee for the specialized farmers cooperatives. The policy-oriented guarantee institutions supported by the government shall provide guarantee services to the specialized farmers cooperatives.

Article 42 The specialized farmers cooperatives may organize their members to conduct internal mutual financial assistance according to law to solve the financial difficulties in agricultural production and operation encountered by their members.

Article 43 The policy-oriented agricultural insurance institutions shall develop the insurance products that fit the characteristics of specialized farmers cooperatives.

The policy-oriented and commercial insurance institutions shall be encouraged to provide agricultural insurance services to farmers through specialized farmers cooperatives.

Article 44 The people's governments at various levels of this Municipality shall adopt measures to encourage various types of talents to work for specialized farmers cooperatives. Graduates from institutions of higher education who work for farmers' cooperatives shall enjoy the relevant preferential treatment.

The experts in agricultural technology and other types of excellent talents shall be supported in strengthening cooperation with specialized farmers cooperatives in forms of consultation and training.

Various types of scientific and technical personnel shall be encouraged to provide technical services to specialized farmers cooperatives.

Article 45 The construction of production bases of farm products, places for agricultural machinery services, large-scale breeding farms, protected agriculture and other relevant projects shall comply with the overall land use planning and urban and rural planning; The

relevant land for such projects which is not hardened by the use of construction materials or not destroyed in spite of the use of construction materials and easy for reclamation shall be managed as the land for agricultural facilities.

For the land used by specialized farmers cooperatives to construct permanent structures such as buildings for processing, storage and refrigeration of farm products, personnel training and buildings for management and living attached to protected agriculture, where collectively owned rural land for construction is used, the overall land use planning and rural and urban planning shall be complied with and the procedures for use of land for collectively owned enterprises in town or townships shall be gone through; where agricultural land is used, procedures of examination and approval for agricultural land use conversion shall be gone through.

Water and power used by specialized farmers cooperatives for planting and breeding as well as the primary processing, storage and refrigeration of farm products conducted by the members shall be charged according to the pricing standards on water and power for agricultural production as prescribed in the relevant provisions.

Article 46 Where the specialized farmers cooperatives apply for authentication on pollution-free farm products, green food, organic food, marks of origin, geographical indication and trademarks, the relevant government departments and organizations shall provide guidance, support and assistance.

Article 47 This Municipality shall incorporate the construction of information platform for specialized farmers cooperatives into the system of informationalization across the Municipality and provide relevant services of information on production and operation by means of information technology to specialized farmers cooperatives and their members.

Chapter V Legal Liability

Article 48 Where the State administrative organs, institutions with administrative responsibilities or their working staff commit any one of the following acts, the corresponding administrative sanctions shall be imposed on the persons in charge with direct responsibility and other persons with direct responsibility according to the seriousness of circumstances;

(1) illegally intervening with the production and operation of specialized farmers cooperatives and their members;

(2) taking into his own possession, misappropriating and withholding the properties of specialized farmers cooperatives and their members or those that should belong to specialized farmers cooperatives and their members;

(3) illegally impose fees on or apportioned expenses to specialized farmers cooperatives and their members;

(4) compelling specialized farmers cooperatives and their members to accept paid services; or

(5) other acts of neglecting duties, abusing powers or engaging in illegalities for personal gains or by fraudulent means that infringe upon the legitimate rights and interests of specialized farmers cooperatives and their members.

Where any act listed in the preceding paragraph constitutes a crime, criminal liability shall be investigated for by the judicial organ; where any loss is caused to specialized farmers cooperatives, civil liability shall be borne according to law.

Article 49 A specialized farmers cooperative which develops production and operation in violation of law shall be handled by the relevant departments for agriculture, industry and commerce or quality and technical supervision according to law.

Article 50 A manager of a specialized farmers cooperative who takes into his own possession, misappropriates or shares the properties of the cooperative and its members shall be investigated for legal liability according to law.

Article 51 A member of a specialized farmers cooperative who breaches the charter and financial management system of the cooperative resulting in property losses to the cooperative or other members shall bear civil liability according to law.

Chapter VI Supplementary Provisions

Article 52 These Measures shall be effective as of March 1, 2010.