

# **Implementation Measures of Sichuan Province on the "Land Administration Law of the People's Republic of China"**

*(Adopted at the 12th Meeting of the Standing committee of the  
V<sup>th</sup> People's Congress of Sichuan Province on December 10, 1999)*

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## **Chapter One General Provisions**

### **Article 1**

This Implementation Measures is enacted for the purpose of strengthening land administration, protecting and developing land resources, making rational use of land, effectively protecting cultivated land and promoting sustainable development of the Province, in accordance with the "Land Administration Law of the People's Republic of China " (hereafter referred as the "Land Administration Law"), the "Implementation Regulation of the Land Administration Law of the People's Republic of China " (hereafter referred as the "Implementation Regulation") and other laws and regulations, taking into account of the practical situation of Sichuan Province.

### **Article 2**

The Province implement a system of control over the purposes of land use in accordance with law.

The people's government at all levels shall formulate their own overall plans for land utilisation within their jurisdiction, in which the purposes of land use shall be defined. It shall strictly restrict conversion of land for agriculture to land for construction, keep a control over the total land area for construction and give special protection to cultivated land.

All units or individuals shall use land in strict compliance with the purposes of land use defined in the overall plans for land utilisation.

### **Article 3**

The Province implement, in accordance with law, a system of compensated use of state-owned land in the form of assignment of right to the use of land, land lease, conversion of land value into investment, etc., with the exception of the land of which the right to the use is allocated by the state in accordance with the provisions of law.

### **Article 4**

The land administration department-in-charge of the Provincial people's government shall be responsible for unified land administration and supervision over the land throughout the Province. The land administration department-in-charge of the people's governments of the municipality, region, county and prefectural administrative office shall be responsible for the unified administration and supervision over land within their own jurisdiction. In the municipalities, which consist of districts, the land locating in the urban planning zones shall be put under the unified administration and supervision of the land administration department-in-charge of the municipal people's government.

The land administration departments-in-charge at higher level shall conduct professional guidance over those at lower level. The appointment and removal of the leading official of the land administration at the lower level shall be done after the consultation with the land administration department-in-charge at the higher level. The land administration personnel of the township (town) shall be under the unified management of the land administration department- in charge of the people's government at the county level.

The township (town) people's government shall perform relevant duties defined by and in accordance with laws of land administration.

## **Chapter Two Ownership of Land and Rights to the Use of Land**

### **Article 5**

The ownership of state-owned land and peasants collectively owned land shall be defined in accordance with provisions of the Land Administration Law and other relevant laws and regulations.

### **Article 6**

The Province shall implement, in accordance with law, a registration and record system on land ownership and land use right.

The people's government at or above the county level is the authority designated by law to conduct land registration and record, to confirm land ownership and land use right and to issue certificates of land ownership and land use rights. The land administration department-in-charge at or above the county level is responsible for detailed implementation.

### **Article 7**

The registration and certificates for the land that is peasant collectively owned and such land to be used for purpose of non-agricultural construction shall be recorded and issued in accordance with Article 4 of the Implementation Regulation.

### **Article 8**

The certificate of use right to the state-owned land shall be registered and issued pursuant to the following provisions:

(1) The application for land use right by the Provincial government agencies and Province owned undertakings (including the agencies or undertakings of the central government based in Sichuan Province) that lawfully obtained the right to use the state-owned land shall be submitted and registered with the land administration department-in-charge of the Provincial people's government. The certificate of land use right shall be issued by the Provincial people's government after the verification by the Provincial land administration department-in-charge. The Provincial people's government may delegate to the local people's government of the locality of the land to register and issue the certificate of right to use the state-owned land.

(2) The application for land use right by the municipal (prefectural and regional) government agencies and municipality (prefecture and region)-owned undertakings that lawfully obtained the right to use the state-owned land shall be submitted and registered with the land administration department-in-charge of the municipal (regional) people's government. The certificate of land use right shall be issued by the municipal (regional) people's government after the verification by the municipal (regional) land administration department-in-charge. The municipal (regional) people's government and the prefectural administrative office may delegate to the local people's government of the locality of the land to register and issue the certificate of right to use the state-owned land.

(3) The application for land use right by the county or below the county government agencies and undertakings that lawfully obtained the right to use the state-owned land shall be submitted and registered with the

land administration department-in-charge of the county people's government. The certificate of land use right shall be issued by the county people's government after the verification by the county land administration department-in-charge. However, the district (equal to the level of county) people's government, in accordance with the delegation by the municipal people's government, is responsible for registration on the use of the state-owned land within its jurisdiction.

(4) With regard to those trans-administration construction projects (e.g. reservoir), the managers and users of such projects shall apply to the land administration department-in-charge at the common higher level for registration to obtain the right to use the state owned land.

## **Article 9**

Ownership or the right to use forest land or grassland and the right to use water surfaces or tidal flats for purpose of aquaculture shall be confirmed respectively in accordance with relevant provisions of the "Forestry Law of the People's Republic of China", the "Grassland Law of the People's Republic of China and the "Fisheries Law of the People's Republic of China".

## **Article 10**

The Provincial, municipal and regional people's government and prefectural administrative office, after the issuance of the certificate for the use of state-owned land, shall notify the county people's government of the locality of the land.

The county people's government shall be responsible for record, protection and management of the state-owned land of which the use right is not yet confirmed.

## **Article 11**

Any change to be lawfully made with regard to land ownership, land use right and the purposes of land use, the party must, within 30 days of relevant change, submit the application, together with the official approval of such change, for changing the registration to the land administration department-in-charge at or above the county people's government. The competent registration authority shall change the registration, issue new land certificate or change the current land certificate pursuant to law.

Due to the lawful transfer of the buildings, structures and other attachments on the surface of the land, that causes the change of the land use right, the party shall submit, within 30 days of the lawful acquisition of the ownership of the buildings, structures and other attachments, the application for change of land registration to the land administration department-in-charge at or above the county people's government. The competent registration authority shall change the registration, issue new land certificate or change the current land certificate pursuant to law.

## **Article 12**

Any lawful withdrawal of land use right shall be registered by the competent registration authority that will cancel the relevant land registration.

## **Article 13**

The lawfully registered ownership of land and right to the use of land shall be protected by law and may not be infringed upon by any units or individuals.

It is prohibited to forge, alter or transfer the certificate of land ownership or land use right.

## **Article 14**

The land administration department-in-charge at or above the county people's government shall implement an inspection system on land certificate pursuant to relevant provisions of the state.

## **Article 15**

Disputes over land ownership or land use right shall be resolved pursuant to relevant provisions of the "Land Administration Law". Disputes over land ownership or land use right arising between Provincial government agencies, Provincial undertakings (including the undertakings of the central government based in Sichuan Province) and other units shall be settled by the Provincial people's government. Disputes arising between municipal (prefectural and regional) government agencies, municipal (prefectural and regional) undertakings and other units (not including Provincial government agencies, Provincial undertakings, and undertakings of the central government based in Sichuan Province) shall be settled by the municipal (regional) people's government and prefectural administrative office.

Disputes not included in the scope of the preceding paragraphs shall be settled by the county people's government. Disputes between individuals and disputes between individuals and units shall be settled by the township people's government or by the county or above the county people's government.

Disputes of trans-administration nature over land ownership or land use right shall be settled by the common higher people's government.

If the party refuse to accept the decision made by the relevant people's government, it may apply for an administrative review or bring an action at the People's Court.

Before a dispute over land ownership or land use right is resolved, no party may alter the status quo in which the land is being used.

## **Chapter Three Overall Plans for Land Utilisation**

### **Article 16**

People's governments at all levels shall draw up overall plans for land utilisation for their own administrative areas pursuant to the provisions of the "Land Administration Law" and other relevant procedures and rules.

In the overall plans for land utilisation of the municipal, regional, county and township people's government and prefectural administrative office, the total land area for construction shall not exceed the control norm set in the plan of the people's government at the next higher level and the total land area of cultivated land and basic farmland reserved shall not be lower than the control norm set in the overall plan for land utilisation of the people's government at the next higher level.

### **Article 17**

The Provincial overall plan for land utilisation shall be made and submitted to the State Council for approval by the Provincial people's government that will organise the land administration department-in-charge and other relevant departments and agencies for making the plan.

The overall plans for land utilisation of the capital city of Chengdu, the cities of over one million population and other cities earmarked by the State Council shall be made and submitted to the State Council for approval after examined and permitted by the Provincial people's government by the municipal people's government that will organise the land administration department-in-charge and other relevant departments and agencies for making the plan.

The overall plans for land utilisation outside the scope of paragraphs 1 and 2 of this Article shall be made and submitted to the next higher level till finally to the Provincial people's government by relevant municipal people's government that will organise the land administration department-in-charge and other departments and agencies at the same level for making the plan. The overall plans for land utilisation of township (town) shall be made by township (town) people's government and submitted to municipal (which consists of districts), regional people's government or the prefectural administrative office for approval, but those plans of the township earmarked by the Provincial

people's government shall be submitted to the next higher level till finally to the Provincial people's government for approval.

#### **Article 18**

Once the overall plan for land utilisation is approved, it shall be strictly implemented. No units or individuals are allowed to change the plans without authorisation. If certain changes are necessary, they should be done in accordance with Article 26 of the "Land Administration Law" and Article 12 of the "Implementation Regulation".

#### **Article 19**

People's government at all levels shall draw up the annual land use plans within their jurisdiction in accordance with the overall plans for land utilisation, the national economic and social development plans and actual conditions of land used for construction and land being utilised.

The procedures for making and examination of annual land use plans is the same as that for overall plans for land utilisation. Once the annual land use plans are approved and notified to the lower levels, they shall be strictly implemented.

People's governments at all levels shall exercise close supervision over the plans for land utilisation and keep control over the total area of land to be used for construction.

#### **Article 20**

The people's government at or above the county level shall include the implementation of the annual land use plans in their report on implementation of the plan for national economic and social development to be delivered to the people's congress at the same level and to the people's government and the land administration department-in-charge at the next higher level.

### **Chapter Four Protection of Cultivated Land**

#### **Article 21**

People's governments and their leading officials at all levels shall be examined annually pursuant to the their responsibilities of targets which incorporate the protection of cultivated land. It is strictly restricted to convert cultivated land into non-cultivated land.

#### **Article 22**

The Province applies a system of compensation for the cultivated land used for other purposes pursuant to law.

The units that will lawfully use the cultivated land for the purpose of non-agricultural construction shall be responsible for reclaiming the same amount and quality of cultivated land area as they use pursuant to the provisions of the "Land Administration Law" and the "Implementation Regulation". If the conditions for such reclamation do not exist or if the quality of the reclaimed land fails to meet the requirements, the units shall pay reclamation fee for cultivated land which is one times to twice as much as the total amount of the land compensation fee for cultivated land plus resettlement fee. The reclamation fee for cultivated land shall be included into the total investment budget of the respective construction projects.

The land administration department-in-charge people's of the local peoples government that gives the approval for converting agricultural land to non-agricultural use shall collect the reclamation fee for cultivated land when giving the approval. The fund so collected shall be put into a separate account and exclusively used for the purpose of reclamation of new cultivated land.

#### **Article 23**

The units that use the cultivated land and reclaim land by themselves pursuant to the approval of reclamation shall put a deposit of reclamation fee for cultivated land at the land administration department-in-charge according to the standard set in paragraph of Article 22 of this law. The deposit together with the interest of reclamation fee shall be returned to the units if the reclaimed land is accepted after examination. The deposit shall not be returned if the reclaimed land fails to satisfy the relevant requirements.

The deposit of reclamation fee for cultivated land by the units shall be put into a separate account that is subject to financial supervision and auditing.

#### **Article 24**

If the reclamation conducted on the state-owned land, the ownership is not changed. The cultivation on such land may be carried out by units or individuals. If the reclamation conducted on the peasant collectively owned land, the ownership is not changed. The cultivation on such land shall be arranged by the respective peasant collective economic organisation.

#### **Article 25**

The people's government at or above the county level shall make plans for land reclamation and conduct inspection over the units and individuals that use cultivated land and reclaim land pursuant to the plans or organise them to reclaim land pursuant to the plans.

The newly reclaimed land shall be, in accordance with relevant provisions, examined and accepted, of which the detailed measures shall be made by the Provincial land administration department-in-charge together with other relevant department and agencies.

#### **Article 26**

People's governments at all levels shall strictly implement the overall plans for land utilisation and annual land use plans. The municipal and regional people's government and prefecture administrative office shall take necessary measures to ensure that the total area of cultivated land within their jurisdiction is not reduced. In the area where there is a reduction of total cultivated area, the Provincial people's government shall order the respective local government, within a time limit, to organise to reclaim the same amount and quality of cultivated land reduced. The reclaimed land shall be accepted after examination by the land administration department-in-charge of the Provincial people's government together with the Provincial agricultural department-in-charge. With regard to the land designated as the basic farmland, the agricultural department-in-charge together with the land administration department-in-charge shall set up standards for different grades of farmland and issue grading certificate. In the areas lacking land reserves and cannot reclaim enough land to make up for the amount of the cultivated land used for additional construction projects, the application for reduction or exception of land reclamation within their jurisdiction or arrange land reclamation in areas within other jurisdiction shall be submitted to the Provincial people's government for approval.

#### **Article 27**

The Province shall apply a system of protection of basic farmland pursuant to law. The people's government at or above the county level, pursuant to the overall plans for land utilisation, the provisions of the "Land Administration Law " and the "Implementation Regulation", shall designate protected areas of basic farmland that shall be placed under strict protection and administration.

#### **Article 28**

It is prohibited for any units and individuals to leave cultivated land idle or let it lie waste. Where a piece of cultivated land, for which formalities of examination and approval have been gone through for the use for non-agricultural construction projects but is not used for one year, a fee at the rate of RMB 10 yuan to 30 yuan per square meter shall be applied to the land left idle. Where a piece of cultivated land that is not used for two years running, the

land use right of the relevant units or individuals shall be withdrawn without any compensation by the people's government at or above the county level.

Land in the area covered by urban planning, the right to use the land which is assigned for development of real estate but left idle shall be dealt with in accordance with relevant provisions of the "Law of the People's Republic of China on the Administration of the Urban Estate".

## **Article 29**

Units or individuals that wish to develop state-owned barren hills, wastelands or waste tidal flats within the land area for development of overall plans for land utilisation, the land use right of which is not yet established, for crop cultivation, forestry, animal husbandry or fishery shall submit application in accordance with the following provisions:

1. If one application for development of land area less than 20 hectares (including 20 hectares), the application shall be submitted to the county people's government for approval;

2. If one application for development of land area more than 20 hectares but less than 50 hectares (including 50 hectares), the application shall be submitted to the municipal or regional people's government or the prefectural administrative office for approval;

3. If one application for development of land area more than 50 hectares but less than 600 hectares (including 600 hectares), the application shall be submitted to the Provincial people's government for approval;

4. If one application for development of land area more than 600 hectares, the application shall be submitted to the State Council for approval.

Units or individuals that develop state-owned barren hills, wastelands or waste tidal flats pursuant to the provisions of the preceding paragraphs shall obtain the right to use the land upon non-gratuitous basis. The term for using such land shall not exceed 50 years at the longest. The detailed administration measures shall be made by the Provincial people's government.

## **Article 30**

The application of the units or individuals who do not belong to the rural collective economic organisations but wish to develop peasant collectively owned barren hills, wastelands and waste tidal flats for the purpose of crop cultivation, forestry, animal husbandry or fisheries shall, pursuant to the overall plans for land utilisation, be submitted to the township (town) people's government for approval and to the land administration department-in-charge at the county level for record after obtaining 2/3 majority vote at the village meeting or 2/3 majority votes of the representatives of the peasants.

The application for the development of collectively owned barren hills, wastelands and waste tidal flats for adding to the cultivated land used for construction projects shall be submitted for approval in accordance with the provision of Article 35 of this law.

## **Article 31**

The county and township (town) people's government shall make necessary arrangements, in accordance with the overall plans for land utilisation, for steady all-round improvement and development of the fields, water conservancy, roads, forests, villages and low-yield fields, in order to improve the quality of the cultivated land, to increase the efficient area of cultivated land and to provide better conditions for agricultural production and the ecological system. Among the newly cultivated land by the means of all-round improvement and the medium- and low-yield land so improved, 60% of such land area may be used to offset the compensation target for construction projects that use cultivated land.

The rural collective economic organisations shall be encouraged to improve land fields. The land administration department-in-charge of the county people's government, together with the township (town) people's government, shall organise the rural collective economic organisations to make plans for land improvement that shall be carried out after the approval by the county people's government.

The detailed administration measures for land improvement shall be made by the land administration department-in-charge of the Provincial people's government together with other relevant departments or agencies pursuant to relevant provision of the state.

## **Article 32**

Land users that cause damage to land as a result of digging, subsiding or crumbling under heavy weight shall be responsible for re-cultivating the land in accordance with the relevant provisions of the state. Where conditions do not permit such re-cultivation or the land re-cultivated does not meet the requirements, the user shall pay land re-cultivation fee at the rate of RMB 10 yuan to 20 yuan per square meter. The fee so collected shall exclusively be used for the purpose of re-cultivation.

The re-cultivation fee shall be collected by the land administration department-in-charge of the people's governments at or above the county level.

## **Chapter Five Land to be Used for Construction**

## **Article 33**

All units and individuals that need land for the purpose of construction shall, in accordance with law, use the land within the land area for the purpose of construction of cities, villages and towns designated by the overall plans for land utilisation with the exception of those construction projects of energy, transportation, water resources, mining, military, etc. that have to be located outside the designated land area.

All construction projects shall apply, pursuant to law, for using state-owned land with exception to the projects of the township and village enterprises and houses for the villagers of which application for the use of land owned collectively by the peasants of the rural collective economic organisation as approved, or projects of public utilities and public welfare undertakings of a township (town) and village approved to use the land collectively owned by the peasants collectively.

The units and individuals not belonging to the rural collective economic organisation that will use the land collectively owned by the collective economic organisation for the purpose of construction, they shall obtain the consensus from the relevant collective economic organisation and go through the formalities of land requisition pursuant to law.

## **Article 34**

The constructing unit that will use the state-owned land shall obtain the use right upon consideration with the exception of the land of which the use right may be obtained by means of allocation prescribed by provisions of laws or administrative regulations.

The purpose of the land used for construction approved pursuant to law shall not be altered without authorisation.

## **Article 35**

Where agricultural land is to be used for the purpose of construction, the following formalities of examination and approval shall be gone through in accordance with relevant provisions of the Implementation Regulation:

(1) Within the land area allocated for construction projects by the overall plans for land utilisation of Chengdu, the cities of over one million population and other cities designated by the State Council, with regard to the



projects for construction of road, pipeline or large infrastructure projects approved by the Provincial people's government, or construction projects approved by the State Council, the use of the land for these projects shall be subject to the approval by the State Council.

(2) The application for the use of the land outside of the scope of the preceding paragraph of this Article shall be submitted to the Provincial people's ' Government for approval. But where agricultural land is to be converted to land for construction of projects in order to carry out the overall plans for land utilisation within the scope of the land area designated in the plan for construction projects of village and township (town), the conversion of use of the land shall be subject to the approval of the people's governments, upon the delegation of the Provincial people's government, of municipality, region or prefectural administrative office.

(3) Where agricultural land is to be converted to land for construction of township (town) designated by the Provincial people's government in the scope of land for township (town) construction, the conversion shall be subject to the approval of the Provincial people's government.

### **Article 36**

Where a specific construction project that needs to use the state-owned land for construction within the scope of the land designated for construction by the overall plans for land utilisation, the plan for land supply shall be submitted to the people's governments of the county, region, municipality and prefectural administrative office for approval with the exception of those projects requiring the special approval of the Provincial people's government delegated by the state and the Province.

### **Article 37**

It is prohibited to encroach on the land used by the state-owned undertakings of agriculture, forestry, animal husbandry, fishery etc. for purpose of production, scientific research and education. Where the land has to be transferred to other units for infrastructure construction under special circumstances, the transfer shall, with the appropriate compensation and resettlement pursuant to the relevant provisions of the state, go through prescribed formalities of examination and approval by law after obtaining the permission of relevant department-in-charge of the Province.

### **Article 38**

Where a specific construction project, of which the use of the land is allocated or used upon consideration, outside the scope of the land used for urban construction designated by the overall plan for land utilisation, the plan for land supply, together with the plan for conversion of agricultural land, the plan for land requisition and the plan for cultivated land complementary, shall be submitted by the people's government of the county or municipality to the Provincial people's government which will further submit to the State Council for approval.

### **Article 39**

Where a specific project that needs to use the state-owned unused land designated by the overall plan for land utilisation, the application shall be made pursuant to the following provision:

(1) The application for the land used for the purpose of the state key construction projects, military projects, construction projects of trans-provincial administration nature and other construction projects regulated by the State Council shall be submitted to the State Council for approval.

(2) The application for the land used for construction projects not included in scope of the preceding paragraph of this Article shall be submitted to the Provincial people's government for approval.

After the use of the land for the projects in the previous paragraphs is approved, adjustment shall be made to the overall plans for land utilisation.

### **Article 40**

Where land requisition approved, compensation shall be made in accordance with the following standards:

(1) Land Compensation Fee -

The compensation fee for requisitioned cultivated land shall be six to ten times the average of the annual output value of the requisitioned land, calculated on the basis of three years preceding such requisition. The compensation fee for other land requisitioned shall be one half of that for cultivated land requisitioned.

(2) Resettlement Subsidy -

Resettlement subsidy for requisitioned cultivated land shall be calculated according to the agricultural population needing to be resettled. The agricultural population needing to be resettled shall be calculated by dividing the area of requisitioned cultivated land by the average area of the original cultivated land per person of the unit the land of which is requisitioned. The standard resettlement subsidies to be divided among members of the agricultural population needing resettlement shall be four to six times the average annual output value of the requisitioned cultivated land calculated on the basis of three years preceding such requisition. However, the maximum resettlement subsidy for each hectare of the requisitioned cultivated land shall not exceed fifteen times its average annual output value calculated on the basis of three years preceding such requisition. The resettlement subsidy for other land requisitioned shall be one half of that for cultivated land requisitioned.

(3) Compensation for Attachments and Young Crops -

Only the actual loss shall be appropriately compensated. The standards for such compensation shall be made by the municipal or regional people's government and the prefectural administrative office and implemented after obtaining the approval by the Provincial people's government.

If the land compensation fee and resettlement subsidy paid in accordance with the provisions of paragraphs (1) and (2) of this Article are still insufficient to enable the peasants needing resettlement to maintain their original living standard, the resettlement subsidy may be increased upon the approval by the Provincial people's government. However, the total land compensation and resettlement subsidy shall not exceed 30 times the average annual output value of the land requisitioned calculated on the basis of three years preceding such requisition.

## **Article 41**

Once the plan for land requisition is approved pursuant to law, it shall be published at the village or the township (town) where the land requisitioned is located by the municipal or the county people's government. Since the date of publication, except for the increase of population by new marriage or new birth, any other newly increased population is not entitled to resettlement and the agricultural crops and economic forests newly planted and the buildings and structures newly constructed shall not be compensated.

## **Article 42**

All the compensation fees and subsidies shall be fully paid within three months of the approval of the plan for compensation and resettlement of the land requisitioned. The administration and use of these funds shall be subject to the following provisions:

(1) The land compensation fee paid to the units of which the land is requisitioned shall be used for production development, employment of the redundant labor as a result of land requisition and living subsidy for those who can not be employed. The use of such funds shall be implemented following the decision taken at the villagers' meeting or the villager representatives' meeting that is subject to the approval of the township (town) people's government.

(2) The compensation for attachments and young crops shall be paid to the individuals or the collective economic organisations respectively in accordance with the ownership of the attachments and crops.

(3) Resettlement subsidy shall be used for the resettlement of the members of the rural collective economic organisations of which the land is requisitioned for their production and resettlement. For those people who need resettlement by the rural collective economic organisation, the resettlement subsidy shall be paid to such rural collective economic organisation that will be responsible for the administering and use of the fund. For those people who need resettlement by other units, the resettlement subsidy shall be paid to the unit that is responsible for resettlement. For those who do not need uniform resettlement, the resettlement subsidy shall be paid to the individuals themselves to be resettled or paid as their insurance with their consent.

(4) If the all land of the rural collective economic organisation is requisitioned pursuant to law, where all the agricultural population needs resettlement, the land compensation fee and resettlement subsidy shall be used for resettlement of the population by the unit responsible for resettlement after the land requisitioned. For the properties belonging to the rural collective economic organisation, they shall be recorded, published to the peasants and used for resettlement of the members of the relevant rural collective economic organisations.

No units or individuals are permitted to privately divide, move, misappropriate or withhold the land compensation fee, resettlement subsidy and other relevant funds for the requisitioned land.

### **Article 43**

After the cultivated land is requisitioned, the agricultural tax shall be reduced or exempt. There shall be certain adjustment to the task in the contract for placing orders for gram.

### **Article 44**

After the land is requisitioned, the rural collective economic organisation of which the land is requisitioned may make certain adjustment to the contracting of land within the rural collective economic organisation, if with the consent obtained by 2/3 majority at the villagers' meeting or 2/3 majority at the villager representatives and also subject to the approval of the agriculture department-in-charge of the township (town) people's government. Where the adjustment is not possible, the priority shall be given to the production and living of the peasant household of which the land is requisitioned pursuant to the following provisions:

(1) The peasants shall be encouraged to establish and develop enterprises and businesses.

(2) Pursuant to the ratio between population and cultivated land prescribed by the Provincial people's government, the agricultural household registration of the peasants whose land is requisitioned shall be changed to non-agricultural household registration with the approval following the required procedure. Where all the land of the rural collective economic organisation is requisitioned and the organisation system of such organisations is abolished, all the original agricultural household registration shall be changed to non-agricultural household registration.

(3) For those male peasants who are over 60 years old (including 60 years old) and female peasants who are over 50 year old (including 50 years old) and subject to resettlement, the endowment insurance may be applied pursuant to relevant provisions.

(4) For those peasants who are under 18 years old and subject to resettlement, living subsidies may be paid on lumpsum or instalment basis. The rate of the living subsidies is to be made by the municipal or regional people's government and the prefectural administrative office.

(5) For those male peasants who are between 18 to 60 years old and those female peasants who are between 18 to 50 years old, they may be resettled in units or self-employed.

### **Article 45**

After the land requisition is approved and the compensation and resettlement is made to the party pursuant to law, the land administration department-in-charge of the people's government at or above the county level where the land requisitioned is located shall send notification to the unit of which the land is requisitioned. The relevant unit

shall transfer and shall not refuse or obstruct the hand-over of the land to be requisitioned within the time limits provided in the notification.

#### **Article 46**

The supply of the right to use the state-owned land by means of allocation or assignment shall be arranged, pursuant to the provisions of the "Law of the People's Republic of China on the Administration of the Urban Estate", other relevant laws and regulations.

#### **Article 47**

The supply of the right to use the state-owned land by means of lease, conversion of land value into investment or conversion of land value into shares, of which the contract on the land shall be agreed between land administration department-in-charge of the people's government at or above the county level and the land user. The detailed administration rules shall be made by the Provincial people's government.

#### **Article 48**

The right to use the state-owned land by means of transfer, lease or mortgage, etc. shall be arranged pursuant to the "Law of the People's Republic of China on the Administration of the Urban Estate", other relevant laws and regulations.

The right to use the land collectively owned by the peasants shall not be assigned, transferred or leased for the purpose of non-agricultural construction but with the exception of the shift of land use right due to bankruptcy, merger and other circumstances of the enterprise that lawfully obtained the right to use the land pursuant to the overall plans for land utilisation.

#### **Article 49**

The compensation fee collected for the use of additional land for construction shall be divided, pursuant to relevant provisions of the state, among different levels of the people's governments in the following manner: the central government 30%, the Provincial government 15%, the municipality, prefecture or region 15%, the county 40%. All the fund shall exclusively used for developing cultivated land.

The fees collected from the remunerative use of reserving land and tile measure of administering such fees shall be made and implemented by the Provincial land administration department-in-charge together with the Provincial treasury department submitted to the Provincial people's government for approval.

#### **Article 50**

Where land to be temporarily needed for the use for construction of projects or for geologic prospecting, the matter shall be subject to the approval by the land administration department-in-charge of the people's government at or above the county level. However, if the land temporarily used for state key construction projects and over 10 hectares in one single use, the application shall be submitted to the Provincial people's government for approval. However, if the land to be temporarily used is located within the area regulated by the urban planning, the consent of the municipal planning administration department-in-charge is necessary before the application is submitted for approval.

#### **Article 51**

A rural collective economic organisation that wishes to set up enterprise by using the land for construction designated as such in the township (town) overall plan for land utilisation, or does so with other units or individuals by investing the land use right as shares or through other forms of joint operation or build township (town) or village public utilities or public welfare projects, the application shall be made and submitted for approval in accordance with the following provisions:

(1) The application for the use of land less than 1 hectare (including 1 hectare) of a project shall be submitted to the county people's government for approval. However, if the land is located within the land area of urban planning, the application is subject for the approval of the municipal people's government.

(2) The application for the use of land more than 1 hectare but less than 2 hectares (including 2 hectares) of a project shall be submitted to the municipal people's government and prefectural administrative office for approval. However, the Chengdu Municipality and the people's governments in the autonomous regions for minority nationalities are competent to give approval to the land area more than 1 hectare but less than 4 hectares (including 4 hectares).

(3) If the land area is over the scope of the preceding paragraph (2) of this Article and other projects that need the approval by the Provincial people's government, the application shall be submitted to the Provincial people's government for approval.

If the use of the land is related to the use of agricultural land, the application shall be, pursuant to Article 35 of this law, firstly subject to examination and approval for conversion of agricultural land to other uses.

The land arranged and used by the rural collective economic organisation must be in conformity with the overall plans for land utilisation.

The standards for the land used by different township and village enterprises and their scale of land use shall be subject to the relevant regulations to be made by the Provincial land administration department-in-charge together with other relevant departments.

## **Article 52**

For villagers, one household can only have one house site that shall not exceed the limits prescribed. The standard for house site is 20-30 square meters per person. The household that has less than 3 persons shall be calculated as 3 persons. The household of 4 persons shall be calculated as 4 persons. The household of over 5 persons shall be calculated as 5 persons. However, the limits of house sites for the villagers in autonomous regions for minority nationalities may exceed the above standard of which the detailed standards shall be made by the relevant people's governments of autonomous regions or autonomous counties for minority nationalities.

The land area used by newly extending the house site shall be calculated together with the original house site. The new house site that wholly uses other land than agricultural land, the limits of land area may be increase to a certain extent, however, the new part shall not exceed 30 square meters per household at maximum.

## **Article 53**

Villagers who wish to build houses shall be in conformity with the overall plans for land utilisation of the township (town). Where the old house site may be used, new site shall not be approved. Where a new site is necessary, the villager shall submit the application, with the agreement of the rural collective economic organisation and the verification of the township (town) people's government, to county people's government for approval. However, if it is related to use agricultural land, the procedures and formalities provided by Article 35 of this law shall be applied.

Where a vacancy of old house site is caused by the moving of the villager, the land shall be returned to the land owner who will make uniform arrangement for its use. Where the land that can be for re-cultivated shall be re-cultivated.

Application for other house sites made by villagers who have sold or leased their houses shall not be approved.

## **Chapter Six Supervision and Inspection**

## **Article 54**

The Province shall implement, pursuant to law, land administration, supervision and inspection system. Land supervision and inspection shall be conducted according to the principle of being lawful, prompt and accurate.

The land administration department-in-charge and the land supervision and inspection institutions shall carry out their duties pursuant to law. No units, organisations or individuals are allowed to refuse or obstruct the performance of the duties by the personnel of the land administration, supervision and inspection.

#### **Article 55**

Land supervision and inspection personnel shall be familiar with their profession and provisions of the laws and regulations of land administration and other relevant laws and regulations. They shall be devoted to their duties and impartial in enforcing the laws.

The land supervision and inspection personnel shall perform their duties only after they have undergone appropriate professional training, satisfactorily passed the examination and have obtained the professional certificate.

#### **Article 56**

In performing their duties of supervision and inspection, the personnel of land administration department-in-charge of the people's governments at or above the county level shall be competent to take the following measures:

(1) to require the unit or individual under inspection to provide documents and materials related to land ownership or land use right in order to examine them or have them duplicated;

(2) to require the unit or individual under inspection to make explanations on questions concerning land ownership or land use right,

(3) to enter the venue of the land illegally used by the unit or individual under inspection to conduct survey;

(4) to order the unit or individual that illegally used the land to terminate the acts that are in breach of laws and regulations of land administration;

(5) to take photos during the process and at the venue if there is a service by leaving rejected legal processes of administrative penalty at the place of abode.

#### **Article 57**

In performing their duties, the land administration department-in-charge of the people's governments at or above the county level shall have the following competence:

(1) With regard to the regulatory documents that are made by the people's government at lower level and are conflicting to the provisions of the land administration laws and regulations, the land administration department-in-charge at higher level shall report and suggest to the people's government at the same level to order the people's government at lower level to amend or repeal those documents;

(2) With regard to the regulatory documents which are conflicting with the provisions of the land administration laws and regulations made by the land administration department-in-charge at lower level, the land administration department-in-charge at higher level shall order the land administration department-in-charge at lower level to amend or repeal those documents;

(3) With regard to the failure to perform statutory duty by the land administration department-in-charge at lower level, the land administration department-in-charge at higher level is competent to urge the lower level to perform its duty pursuant to law;

(4) With regard to the specific administrative act of the land administration department-in-charge at lower level which is illegal or obviously inappropriate, the land administration department-in-charge at higher level is competent to order the lower level to correct or repeal such act pursuant to law;

(5) Where the land administration department-in-charge at lower level fails to impose administrative penalties on violators as required by the provisions of the Land Administration Law, the Implementation Regulations and this Implementation Measures, the land administration department-in-charge at higher level shall be competent to order the former to decide on imposition of administrative penalties or directly impose the penalties itself and give administrative sanctions to the leading official of the former in accordance with the provisions of Article 33 of the Implementation Regulation.

## **Article 58**

In performing their duties pursuant to law, the land supervision and inspection personnel shall present the certificate for supervision and inspection and wear the uniform symbol for land supervision and inspection.

## **Chapter Seven Legal Responsibility**

## **Article 59**

Where an act in breach of this law, if it is covered by the Land Administration Law and the Implementation Regulation, shall be punished in accordance with relevant provisions.

## **Article 60**

In case of failure to register the land ownership or land use right, in breach of provisions of this law, the land administration department-in-charge at or above the county level shall order the relevant party to register within the time limits prescribed.

## **Article 61**

In case of refusal to accept the inspection of the land certificate by the land administration department-in-charge in breach of the provisions of this law, the land administration department-in-charge at or above the county level shall order the relevant party to accept the inspection within the time limits prescribed.

## **Article 62**

Where the party obtains the land registration by using false documents or altering or forging the land registration document, the land administration department-in-charge at or above the county level shall cancel the registration and impose a penalty of more than RMB 5000 yuan but less than 50000 yuan.

## **Article 63**

Where the party that has been compensated and resettled pursuant to law, in the case of land requisition and land use for construction, still refuses to move, the land administration department-in-charge at or above the county level shall order the party to move within time limits prescribed. In case of failure to move within the time limits, upon the approval of the people's government at or above the county level, it shall impose an involuntary move out of the land and may impose a penalty of more than RMB 3000 yuan but less than RMB 20000 yuan.

## **Article 64**

Where a villager who does not re-cultivate the land of the original house site or refuses to give the land to the rural collective economic organisation for uniform arrangement due to the move and building of the new house, the land administration department-in-charge at or above the county level shall order the villager to return the land and demolish the original buildings, structures and other facilities.

## **Article 65**

Where a project having occupied and having constructed on the basic farmland illegally, the land administration department-in-charge at or above the county level shall order the relevant party to terminate the construction. In failure to do so, it may seize the construction equipment and materials, order it to return the land and to demolish the building.

## **Article 66**

Where a villager illegally construct the building that occupies more land than what is approved, the land administration department-in-charge at or above the county level shall, pursuant to Article 77 of the Implementation Regulation, to demolish the building. If it is impossible to demolish it, the building locating on illegally occupied land shall be confiscated.

## **Article 67**

Where the land is used not for the purpose approved the land administration department-in-charge at or above the county level shall order the party to make correction within time limits. Failed to do so, the party shall be ordered to return the land and pay a penalty of more than RMB 10 yuan but less than 30 yuan per square meter.

## **Article 68**

Where the land administration department-in-charge and its personnel illegally register the land, the competent authority shall cancel the land registration and impose administrative sanctions to the leading official of the department and the person directly responsible for the act. In case of damage so caused, the responsible persons shall pay compensation pursuant to law.

## **Article 69**

Where the people's government at or above the county level and other relevant departments, in violation of the overall plan for land utilisation, alter the purpose of land use without authorisation, or give approval to land requisition and land use more than what is allowed in the annual land use plan, the competent authority shall cancel the document for approval and impose administrative sanctions to the relevant leading officials and person directly responsible for the breach.

## **Article 70**

In case of an act, in violation of this law, which is serious enough to constitute a crime, it shall be investigated for criminal responsibility in accordance with law by the judicial institution.

## **Article 71**

Where an official of the land administration department-in-charge who neglects his or her duty, abuses the power or conduct malpractice for personal gains, if the violation constitutes a crime, he or she shall be investigated for criminal responsibility in accordance with law. Where such violation is not serious enough to constitute a crime, he or she shall be given administrative sanctions in accordance with law.

## **Article 72**

If a party refuses to accept the administrative penalty, he or she may apply for administrative review or bring an administrative action. If the relevant party, within the time limits, neither applies for review, nor brings an action, nor fulfils the obligation arising out of administrative penalty, the authority which made the decision of penalty shall apply to the People's Court for enforcement.

Construction units or individuals, who refuse to accept the order on demolition or confiscation, they may, within 15 days of receiving the demolition order, bring an action at the People's Court. In case of failure of bringing



such an action or demolish by himself or herself within the time limits, the authority that made the decision on penalty shall, pursuant to law, apply to the People's Court for enforcement. The violator shall bear the cost.

## **Chapter Eight Supplementary Provisions**

### **Article 73**

This law shall be implemented on the date of its publication.