

LAND CONTRACT IN RURAL AREAS LAW

Law of the People's Republic of China on Land Contract in Rural Areas

(Adopted at the 29th Meeting of the Standing Committee of the Ninth National People's Congress on August 29, 2002 and promulgated by Order No. 73 of the President of the People's Republic of China on August 29, 2002)

Contents

Chapter I General Provisions

Chapter II Household Contract

Section 1 Rights and Obligations of the Party Giving out the Contract and of the Contractor

Section 2 Principles and Procedures for Contracting

Section 3 Term of Contract and the Contract

Section 4 Protection of the Right to Land Contractual Management

Section 5 Circulation of the Right to Land Contractual Management

Chapter III Contract in Other Forms

Chapter IV Settlement of Disputes and Legal Responsibility

Chapter V Supplementary Provisions

Chapter I

General Provisions

Article 1 In accordance with the Constitution, this Law is enacted for the purposes of stabilizing and improving the two-tier management system that combines centralized and decentralized management on the basis of household contractual management, granting to the peasants long-term and guaranteed land-use right, safeguarding the legitimate rights and interests of the parties to land contracts in rural areas, and promoting the development of agriculture and rural economy and social stability in the countryside.

Article 2 For purposes of this Law, land in rural areas includes the arable land, forestlands and grasslands owned collectively by the peasants and by the State and used collectively by the peasants according to law, as well as other lands used for agriculture according to law.

Article 3 The State applies the contractual management system in respect of land in rural areas.

Land contract in rural areas shall take the form of household contract within the collective economic organizations in the countryside, while such land in rural areas as barren mountains, gullies, hills and beaches, which are not suited to the form of household contract, may be contracted in such forms as bid invitation, auction and public consultation.

Article 4 The State protects, in accordance with law, the long-term stability of the relationship of land contract in rural areas.

After the land in rural areas is contracted, the nature of ownership of the land shall remain unchanged. The contracted land may not be purchased or sold.

Article 5 Members of the collective economic organizations in rural areas shall, according to law, have the right to undertake rural land contracts with their own collective economic organizations that give out the contracts.

No organizations or individuals may deprive the members of the rural collective economic organizations of their right to undertake contracts or illegally restrict such right.

Article 6 In undertaking land contracts in rural areas, women shall enjoy equal rights with men. The legitimate rights and interests of women shall be protected in contract. No organizations or individuals may deprive their rights to land contractual management, which they are entitled to, or infringe upon such right.

Article 7 In land contract in rural areas, the principles of openness, fairness and impartiality shall be adhered to and the relationship of interests among the State, the collective and the individual shall be correctly handled.

Article 8 In undertaking land contract in rural areas, laws and administrative rules and regulations shall be observed, and the rational development and sustainable use of land resources shall be maintained. Without approval granted according to law, no contracted land may be used for non-agricultural development.

The State encourages the peasants and the rural collective economic organizations to increase their input in land, improve soil fertility and expand the capacity of agricultural production.

Article 9 The State protects the legitimate rights and interests of the owners of the collective land and the right of the contractors to land contractual management, which no organizations and individuals may infringe upon.

Article 10 The State protects the circulation of the right to land contractual management, which is effected according to law, on a voluntary basis and with compensation.

Article 11 The competent administrative departments for agriculture and forestry under the State Council shall, in compliance with their respective functions and duties defined by the State Council, be responsible for providing guidance to the administration of the contracting of land in the rural areas throughout the country and to the administration of the contracts. The competent administrative departments for agriculture and forestry under the local people's governments at or above the county level shall, in compliance with their respective functions and duties, be responsible for administration of the contracting of the rural land within their own administrative areas and the administration of the contracts. The township (town) people's governments shall be responsible for the administration of the contracting of the rural land within their own administrative areas and of the contracts.

Chapter II

Household Contract

Section 1

Rights and Obligations of the Party

Giving out the Contract and of the Contractor

Article 12 Where the land owned collectively by the peasants belongs, in accordance with law, to collective ownership by the peasants in a village, contracts shall be given out by the collective economic organization of the village or the villagers committee; where the land is already owned collectively by the peasants of more than two rural collective economic organizations in a village, contracts shall be given out respectively by the said organizations or villagers groups in the village. Where contracts are issued by the rural collective economic organizations or villagers committees in a village, the ownership of the land owned collectively by the peasants of the collective economic organizations in the village shall remain unchanged.

Where rural land owned by the State but is used collectively by the peasants according to law, contracts shall be issued by the rural collective economic organizations, villagers committees or villagers groups that use such land.

Article 13 The party giving out the contracts shall enjoy the following rights:

- (1) giving out contracts for the rural land owned by the collective to which the party belongs or owned by the State but is used by the said collective according to law;
- (2) exercising supervision over the rational use and protection of the land by the contractor in keeping with the purpose of use agreed upon in the contract;
- (3) stopping the contractor from damaging the contracted land and agricultural resources; and
- (4) other rights provided for by laws and administrative rules and regulations.

Article 14 The party giving out the contract shall have the following obligations:

- (1) maintaining the right of the contractor to land contractual management, and refraining from illegally modifying and revoking the contract.
- (2) respecting the contractor's right to make its own decision on production and operation, and refraining from interfering with the normal production and operation conducted by the contractor according to law;
- (3) providing the contractor services in respect of production, technology, information, etc. as agreed upon in the contract;
- (4) carrying out the overall plan for land use worked out by the people's government of the county or township (town) and making arrangements for the construction of agricultural infrastructure within its own collective economic organization; and
- (5) other obligations provided for in laws and administrative rules and regulations.

Article 15 The contractor of a household contract shall be the peasant household of the collective economic organization concerned.

Article 16 The contractor shall enjoy the following rights:

- (1) enjoying in accordance with law the rights to use the land contracted, to reap the yields and to circulate the right to land contractual management, and the right to make its own decision regarding the arrangements for production and operation as well as the disposition of the products;

(2) enjoying in accordance with lawful right to obtain appropriate compensation for the contracted land that is requisitioned or occupied according to law; and

(3) other rights provided for in laws and administrative rules and regulations.

Article 17 The contractor shall have the following obligations:

(1) keeping or using the land for agricultural purposes, and refraining from using it for non-agricultural development;

(2) protecting and rationally using the land in accordance with law, and refraining from causing permanent damage to the land; and

(3) other obligations provided for in laws and administrative rules and regulations.

Section 2

Principles and Procedures for Contracting

Article 18 The following principles shall be abided by in the contracting of land:

(1) when arrangements are made for undertaking contracts in accordance with relevant provisions, members of the same collective economic organization shall, according to law and on an equal footing, exercise the right to contract land, and they may, of their own free will, give up such right;

(2) democratic consultation, fairness and equitableness;

(3) in accordance with the provisions of Article 12 of this Law, the contracting plan shall, according to law, be subject to consent by not less than two-thirds of the members of the villagers assembly of the collective economic organization concerned or of the villagers' representatives; and

(4) the contract procedures conform to the provisions of law.

Article 19 Land shall be contracted out in accordance with the following procedures:

(1) a contract-working team shall be elected by the villagers assembly of the collective economic organization concerned;

(2) the contract-working team shall, in accordance with the provisions of laws and administrative rules and regulations, draw up and announce its contracting plan;

(3) convening, according to law, the villagers assembly of the collective economic organization concerned to adopt the contracting plan through discussion;

(4) making known to the public arrangements for the implementation of the contracting plan; and

(5) concluding the contract.

Section 3

Term of the Contract and the Contract

Article 20 The term of contract for arable land is 30 years. The term of contract for grassland ranges from 30 to 50 years. The term of contract for forestland ranges from 30 to 70 years; the term of

contract for forestland with special trees may, upon approval by the competent administrative department for forestry under the State Council, be longer.

Article 21 The party giving the contract shall sign a written contract with the contractor.

A contract shall, in general, include the following clauses:

- (1) the names of the party giving out the contract and the contractor, and the names and domiciles of the responsible person of the party giving out the contract and the representative of the contractor;
- (2) the name, location, area and quality grade of the contracted land;
- (3) the term of contract and the dates of beginning and end;
- (4) the purpose of use of the contracted land;
- (5) the rights and obligations of the party giving out the contract and the contractor; and
- (6) liability for breach of the contract.

Article 22 A contract shall go into effect as of the date of its conclusion. The contractor shall obtain the right to land contractual management as of the date the contract goes into effect.

Article 23 Local people's governments at or above the county level shall issue to the contractor the certificate of the right to land contractual management, or the certificate of forestry ownership, etc., and have them registered, thus confirming the right to land contractual management.

For the issuance of the certificates of the right to land or forestland contractual management, etc., no fees shall be collected except for the cost of the certificates, which is to be collected in accordance with relevant provisions.

Article 24 After a contract goes into effect, the party giving out the contract may neither modify nor revoke the contract due to the change of the representative for the party giving out the contract or the responsible person concerned, or due to the split or merger of the collective economic organization.

Article 25 No State organs or their staff members may, taking advantage of their positions and powers, interfere with the contracting of rural land or modify or revoke contracts.

Section 4

Protection of the Right to Land Contractual Management

Article 26 During the term of contract, the party giving out the contract may not take back the contracted land.

If during the term of contract, the whole family of the contractor moves into a small town and settles down there, the right of the contractor to land contractual management shall, in accordance with the contractor's wishes, be reserved, or the contractor shall be allowed to circulate the said right according to law.

If during the term of contract, the whole family of the contractor moves into a city divided into districts and his rural residence registration is changed to non-rural residence registration, he shall turn his contracted arable land or grassland back to the party giving out the contract. If the contractor fails to turn it back, the party giving out the contract may take back the contracted arable land or grassland.

When during the term of contract, the contractor turns back the contracted land, in which he has made investment, thus increasing its production capacity, or the party giving out the contract takes it back according to law, the contractor shall have the right to obtain appropriate compensation.

Article 27 During the term of contract, the party giving out the contract may not readjust the contracted land.

Where during the term of contract, such special circumstances as natural calamities that seriously damaged the contracted land make it necessary to properly readjust the arable land or grasslands contracted by individual peasant households, the matter shall be subject to consent by not less than two-thirds of the members of the villagers assembly of the collective economic organization concerned or of the villagers' representatives and shall be reported for approval to the competent administrative departments for agriculture, etc. under the relevant township (town) people's government and the people's government at the county level. Where an agreement upon no adjustments is concluded in the contract, such an agreement shall prevail.

Article 28 The following land shall be used for readjustment of contracted land or for contracting out to new inhabitants:

- (1) land reserved, according to law, by collective economic organizations;
- (2) land increased through reclamation according to law, etc.; and
- (3) land turned back, according to law or on a voluntary basis, by contractors; or

Article 29 During the term of contract, the contractor may, of his own free will, turn back the contracted land to the party giving out the contract. Where a contractor wishes to do the same, he shall, six months in advance, inform the party giving out the contract of the matter in written form. Where a contractor turns back the contracted land during the term of contract, he may no longer request to undertake a contract for land within the term.

Article 30 During the term of contract, a woman gets married and undertakes no contract for land in the place of her new residence, the party giving out the contract may not take back her originally contracted land; and where a divorced woman or a woman bereaved of her husband still lives at her original residence or does not live at her original residence but undertakes no contract for land at her new residence, the party giving out the contract may not take back her originally contracted land.

Article 31 The benefits derived from the contract which are due to contractor shall be inherited in accordance with the provisions of the Succession Law.

In case a contractor for forestland is dead, his/her successor may, within the term of contract, continue to undertake the contract.

Section 5

Circulation of the Right to Land Contractual Management

Article 32 The right to land contractual management obtained through household contract may, according to law, be circulated by subcontracting, leasing, exchanging, transferring or other means.

Article 33 The right to land contractual management shall be circulated in adherence to the following principles:

- (1) that consultation on an equal footing, voluntariness and compensation, and no organizations or individuals may compel the contractor to circulate his right to land contractual management or prevent him from doing so;
- (2) that no change shall be made in the nature of the land ownership or the purpose of use of the land designed for agriculture;
- (3) that the term of the circulation may not exceed the remaining period of the term of contract;
- (4) that the transferee shall have the capability for agricultural operation; and
- (5) that under equal conditions, members of the collective economic organization concerned shall enjoy priority.

Article 34 In the circulation of the right to land contractual management, the contractor shall be the subject. The contractor shall have the right to make his own decision, according to law, on whether to circulate the right to land contractual management and on the means by which to circulate the right.

Article 35 During the term of contract, the party giving out the contract may not unilaterally revoke the contract, nor, under the pretext that the minority is subordinate to the majority, compel the contractor to give up or modify his right to land contractual management, nor take back the contracted land by reason of the need to divide the land into "grain rations fields" and "responsibility fields" in order to contract it out through bid invitation, or take back the contracted land to pay off its debts.

Article 36 Such fees as the subcontract charges, rent and transfer charges to be collected for the circulation of the right to land contractual management shall be decided on by the two parties through consultation. Proceeds derived from the circulation shall belong to the contractor, which no organizations or individuals may retain or withhold without authorization.

Article 37 Where the right to land contractual management is circulated by means of subcontract, lease, exchange, transfer or by other means, the two parties shall conclude a written contract. Where transfer is adopted for circulation, the matter shall be subject to consent by the party giving out the contract; and where subcontract, lease, exchange or other means is adopted for circulation, the matter shall be reported to the party giving out the contract for the record.

In general, the contract for the circulation of the right to land contractual management shall include the following clauses:

- (1) the names and domiciles of the two parties;
- (2) the name, location, area and quality grade of land concerned;
- (3) the term of circulation and the dates of beginning and end;
- (4) the purpose of use of the land concerned;
- (5) the rights and obligations of the two parties;
- (6) the price for the right circulated and the method of payment; and
- (7) liabilities for breach of the contract.

Article 38 Where the parties to the circulation of the right to land contractual management by means of exchange or transfer request registration, they shall apply for registration to the local people's

government at or above the county level. If the above is not registered, no one may oppose the third party acting in good faith.

Article 39 The contractor may, within a certain period of time, subcontract or lease part or all of the right to land contractual management to the third party, but the contractual relationship between the contractor and the party giving out the contract shall remain unchanged.

Where the period in which the contractor lets another person do farm work on his behalf does not exceed one year, a written contract may be dispensed with.

Article 40 Contractors may, for the convenience of farming or for their own needs, exchange between themselves their right to contractual management of the land belonging to the same collective economic organization.

Article 41 Where a contractor has a stable non-agricultural occupation or a stable source of income, he may, with the consent of the party giving out the contract, transfer the total or part of his right to land contractual management to another peasant household engaged in agricultural production and management, and this peasant household shall establish a new contractual relationship with the party giving out the contract, thereupon the contractual relationship on this land between the former contractor and the party giving out the contract is terminated.

Article 42 For the purpose of developing the agricultural economy, the contractors may, of their own free will, jointly pool their rights to land contractual management as shares to engage in cooperative agricultural production.

Article 43 Where the contractor makes investment in his contracted land and thus increases the productive capacity of the land, he shall have the right to obtain an appropriate compensation when his right to land contractual management is circulated according to law.

Chapter III

Contract by Other Means

Article 44 The provisions in this Chapter shall be applicable to such land in the rural areas as barren mountains, gullies, hills and beaches which are not suited to household contract but are contracted through bid invitation, auction, public consultation, etc.

Article 45 Where rural land is contracted by other means, a contract shall be concluded. Matters such as the rights and obligations of the parties and the term of contract shall be determined through consultation by the two parties. Where land is contracted through bid invitation or auction, the contracting fees shall be determined through public competitive bidding and competitive pricing; and where land is contracted through public consultation, etc., the contracting fees shall be determined by the two parties through discussion.

Article 46 Barren mountains, gullies, hills and beaches may directly be undertaken for contractual management by such means as bid invitation, auction and public consultation, or may also be undertaken for contractual management or for joint-stock cooperative management after the rights to land contractual management are converted into shares and distributed to the members of the collective economic organization concerned.

Persons who enter into contracts for barren mountains, gullies, hills and beaches shall abide by the provisions of the relevant laws and administrative rules and regulations, prevent soil erosion and protect the ecological environment.

Article 47 Where rural land is contracted by other means, under equal conditions, the members of the collective economic organization concerned shall have the priority to undertake the contract.

Article 48 Where the party giving out contracts gives out the contracts for rural land to units or individuals other than the ones of the collective economic organization concerned, the matter shall first subject to consent by not less than two-thirds of the members of the villagers assembly, or of the villagers' representatives, of the collective economic organization concerned and it shall be submitted to the township (town) people's government for approval.

Where units or individuals other than the ones of the collective economic organization concerned undertake contracts, the contracts shall be concluded only after examination of the credit position and management capability of the contractors.

Article 49 Where a person enters into a contract for rural land through bid invitation, auction or public consultation and, after registration according to law, obtains the certificate of the right to land contractual management or the certificate of the right to forestland contractual management, his right to land contractual management may, according to law, be circulated through transfer, lease, pooling of rights as shares, mortgage or other means.

Article 50 Where the right to land contractual management is obtained through bid invitation, auction or public consultation and when the contractor is dead, the benefits derived from the contract which are due him shall be inherited in accordance with the provisions of the Succession Law; and within the term of contract his successor may continue to execute the contract.

Chapter IV

Settlement of Disputes and Legal Responsibility

Article 51 Where dispute arises over the contractual management of land, the two parties may settle the dispute through consultation and may request the villagers assembly or the township (town) people's government to help settle the dispute through mediation.

Where the parties are not willing to have it settled through consultation or mediation or consultation or mediation is not successful, they may apply to an arbitral body in charge of rural land contracts for arbitration, or directly bring a suit in the People's Court.

Article 52 Where the parties are not satisfied with the arbitral ruling made by the arbitral body in charge of rural land contracts, they may bring a suit in the People's Court within 30 days from the date they receive the ruling in writing. If they fail to file a suit before expiration of the prescribed time limit, the written ruling shall thereupon become legally effective.

Article 53 Any organizations or individuals that infringe upon the contractor's right to land contractual management shall bear civil responsibility.

Article 54 Where the party giving out the contract commits one of the following acts, it shall bear such civil responsibilities as desisting from the infringement, returning the original articles, restoring the original state, forestalling damages, eliminating dangers and compensating losses:

- (1) interfering with the right to decision-making for production and management enjoyed by a contractor according to law;
- (2) taking back or readjusting the contracted land in violation of the provisions of this Law;
- (3) compelling a contractor to circulate his right to land contractual management or preventing a contractor from doing so;

(4) circulating the right to land contractual management by compelling a contractor to give up or modify his right to land contractual management on the pretext that the minority is subordinate to the majority;

(5) taking back the contracted land by reason of the need to divide the land into "grain rations fields" and "responsibility fields" in order to contract out the land through bid invitation;

(6) taking back the contracted land to pay off its debts;

(7) depriving women of the right to land contractual management that they enjoy according to law or infringing on such right; and

(8) other acts infringing upon the right to land contractual management.

Article 55 Any agreements in a contract concluded against the will of a contractor or in violation of the relevant compulsory provisions of laws and administrative rules and regulations against the taking back and readjusting of the contracted land shall be invalid.

Article 56 Where a party fails to perform the obligations in a contract or the obligations it performs are at variance with the ones agreed upon, it shall, in accordance with the provisions in the Contract Law of the People's Republic of China, bear responsibility for breach of the contract.

Article 57 Any circulation of the right to land contractual management by a contractor under the compulsion of an organization or individual shall be invalid.

Article 58 Any organization or individual that, without authorization, detains or withholds the proceeds derived from the circulation of the right to land contractual management shall return such proceeds.

Article 59 Any unit or individual that, in violation of the regulations on land administration, requisitions or occupies land or embezzles or misappropriates the compensations paid for the land requisitioned, which constitutes a crime, it/he shall be investigated for criminal responsibility in accordance with law; and if damages are caused to others, it/he shall bear such responsibilities as paying compensation for the damages.

Article 60 Where a contractor, in violation of law, uses the contracted land for non-agricultural development, the relevant competent administrative department of the local people's government at or above the county level shall, according to law, impose punishment on him.

Where a contractor causes permanent damages to the contracted land, the party giving out the contract shall have the right to put a stop to it and to demand the contractor to compensate the losses entailed.

Article 61 Where a State organ or its staff member, taking advantage of its/his positions and powers, infringes upon the right to land contractual management by interfering with rural land contract, modifying or revoking a contract, interfering with the right to decision-making for production and management that a contractor enjoys according to law, or compelling a contractor to circulate his right to land contractual management or preventing him from doing so, which causes losses to the contractor, it/he shall bear such responsibilities as paying compensation for the losses; if the circumstances are serious, the organ at the next higher level or the unit the staff member belongs to shall give administrative sanctions to the persons directly responsible; and if the offence constitutes a crime, criminal responsibility shall be investigated according to law.

Chapter V

Supplementary Provisions

Article 62 Where, before the implementation of this Law, contracts have already been concluded in accordance with the regulations of the State on rural land contract, including those the term of which is longer than what is provided for in this Law, such contracts shall continue to be valid after the implementation of this Law, and such land contracts shall not be renewed. Where the certificate of the right to land contractual management or the certificate of the right to forestland contractual management has not been issued to contractors, it shall be issued retroactively.

Article 63 Where, before the implementation of this Law, land has already been reserved, the area of such reserved land may not exceed five percent of the total area of the arable land of the collective economic organization concerned. If the area is less than five percent, the area of the reserved land may not be increased.

Where, before implementation of this Law, no land is reserved, no land may be reserved after the implementation of this Law.

Article 64 The standing committees of the people's congresses of the provinces, autonomous regions and municipalities directly under the Central Government may, in accordance with this Law and in light of the actual conditions of their administrative areas, work out measures for implementation of this Law.

Article 65 This Law shall go into effect as of March 1, 2003.

Notice: All Rights Reserved to the Legislative Affairs Commission of the Standing Committee of the National People's Congress.