

## POLAND

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### Executive Order on State Possession of Farm Lands

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[Executive Order of the Council of Ministers dated 16 July on the state treasury taking possession of real estate comprising farms at the request of the owners entitled to retirement benefits or by virtue of social insurance for farmers]

[Text] As of 14 July -- the date of issue No. 65 of DZIENNIK USTAW [Dz.U.] -- the Executive Order of 16 July 1991 of the Council of Ministers concerning the transfer to the State Treasury of ownership of the real estate comprising farms at the request of the owners entitled to retirement pensions or annuities from the Farmers' Social Security Fund has become effective. Below is the complete text of this Order.

Pursuant to Article 58, Paragraph 4, of the law of 20 December 1990 on Farmers' Social Security (Dz.U., No. 7, Item No. 24, and No. 45, Item No. 199, 1991), the following is hereby ordered:

Paragraph 1. This Executive Order defines the procedural rules and guidelines in cases referred to in Article 58, Paragraph 1, of the law of 20 December 1990 on Farmers' Social Security (Dz.U., No. 7, Item No. 24, and No. 45, Item No. 199, 1991), hereinafter referred to as "the law."

Paragraph 2.1. In his application for transfer of ownership of real estate to the State Treasury, the owner should describe said real estate by specifying the location, registration number, and the surface area of the lots whose ownership is to be transferred.

2. The application should be accompanied by:

- 1) Proof of ownership, and if the real estate is entered in a land register, the actual extract from that register.
- 2) A copy of the final ruling acknowledging the right to a retirement pension or an annuity from Farmers' Social Security.
- 3) A declaration to the effect that no agreement has been concluded with the heir, pursuant to Article 84 of the law, concerning the farm which includes the real estate specified in the application.
- 4) A declaration listing the encumbrances linked to the operation of the farm and their monetary value.

Paragraph 3.1. If the real estate is jointly owned, the transfer of title thereto to the State Treasury can take place only with the consent of the other co-owners, unless their consent is not required pursuant to a valid judicial ruling.

2. The declaration referred to in Paragraph 2, Subparagraph 2, Points 3 and 4, should be

submitted by all co-owners. The proper agency for real estate sales at the State Land Fund, hereinafter referred to as "the agency," may waive this requirement in cases in which reaching an agreement with a co-owner is extremely complicated.

Paragraph 4. If it is not yet established that it is impossible to sell the real estate specified in the application at a price at least equal to that determined in accordance with the rules of the State Land Fund governing the sales of real estate, the application submitted pursuant to the requirements specified in Paragraphs 2 and 3 represents the basis for initiating the activities envisaged in the regulations issued on the basis of Article 47, Paragraph 3, of the law.

Paragraph 5.1. Before issuing a transfer-of-ownership ruling, the agency of the State Land Fund makes public, by posting for 14 days in the gmina office building and in other customary places notices containing information on the possibility of offering to the applicant proposals for the acquisition of real estate at a price to be determined by the concerned parties. Before posting the notice, the agency shows it to the applicant for transfer of ownership.

2. The provisions of Subparagraph 1 do not apply if the owner submits a declaration to the effect that he is interested in having the real estate transferred to the ownership of the State Treasury without trying to find a buyer at a price higher than the price he or she may obtain from the State Treasury.

3. In the event that it is learned that the real estate can be sold at a price higher than that payable under Paragraph 6, the agency of the State Land Fund immediately notifies accordingly the applicant and names the eventual buyer.

4. In performing the activities referred to in Subparagraphs 1 and 3 the agency of the State Land Fund specifies to the applicant the deadline for reporting the intention to sell the real estate through an agreement with a third party, upon advising that in the event no such report is received, it shall take steps to transfer ownership of the real estate to the State Treasury.

Paragraph 6.1. The price of the real estate whose ownership is transferred to the State Treasury is fixed at 25 percent of its appraised value based on the corresponding application of the price criteria binding on the day the ruling is issued, as defined in the regulations governing the sales of the real estate of the State Land Fund, with the proviso of Subparagraphs 2 and 3.

2. When appraising the value of real estate, no allowance is made for any local reductions in the legal fees involved. The price determined pursuant to Subparagraph 1 may not, however, exceed the price ensuing from the application of such reductions.

3. The price determined in accordance with Subparagraphs 1 and 2 is reduced by the amount of the liens on the real estate concerned, as shown in the land register.

Paragraph 7. After calculating the price pursuant to Paragraph 6 but before issuing the transfer-of-ownership ruling, the agency of the State Land Fund specifies to the parties concerned a seven-day time limit for perusing the documents relating to the calculation and reporting any reservations.

Paragraph 8. The ruling to transfer ownership to the State Treasury specifies in particular the data on discrete real estate parcels as according to the corresponding entries in the land register, if such entries exist, and it also describes the individual land plots according to the existing land records (inclusive of data on location and surfacr area) as well as the price to be paid for the real

estate and the manner in which it was calculated and the terms and conditions for the transfer of ownership.

Paragraph 9. If ownership cannot be transferred to the State Treasury for reasons concerning the original owner (or co-owner), the latter is responsible for the expenses of the related geodetic survey and of the appraisal of real estate in accordance with the pertinent provisions of the code of administrative proceedings. In all other cases these expenses are borne by the State Treasury.

Paragraph 10.1. The final ruling on the transfer of real estate to the ownership of the State Treasury is the basis for the payment to the previous owner (or co-owners) of the price ensuing from that ruling. The payment is disbursed by the agency of the State Land Fund within 14 days from the day on which the ruling becomes final.

2. If by the day on which the payment is to be disbursed the price per quintal of rye (a mandatory criterion for appraising the worth of the real estate of the State Land Fund) is higher, the authorized previous owner is paid, within 30 days from the day on which he or she receives the compensation, an additional monetary payment proportional to the increase in that price. The agency of the State Land Fund determines ex officio, in a separate ruling, the amount of that additional payment.

3. In the event of a delay or postponement of the payment of the compensation or of the additional payment, the authorized previous owner is entitled to receive interest on the money owed him or her.

Paragraph 11.1. If the encumbrance whose value was taken into account pursuant to Paragraph 6, Subparagraph 3, when determining the value of the real estate, had expired after the ownership of the real estate was transferred to the State Treasury, the person (or persons) authorized to receive compensation is (are) entitled to a monetary equalization payment equal to the value of that encumbrance considered when determining the amount of the price to be paid for the real estate. This does not apply to cases in which the encumbrance expires owing to the ending of the State Treasury's or gmina's payments or because the creditor's claim is met by the State Treasury.

2. The right to the equalization payment referred to in Subparagraph 1 and the amount of that payment is determined by the State Land Fund agency in the form of a ruling issued on the request of the owner. The provisions of Paragraph 10, Subparagraphs 1 and 3, apply accordingly.

Paragraph 12.1. If the ruling to transfer the title to real estate to the State Treasury is issued before 1 January 1992, the payment of the compensation is made not later than by 20 March 1992, upon adjusting its size pursuant to Subparagraph 2; the ruling contains appropriate instructions.

2. The value of the compensation referred to in Subparagraph 1 is reappraised in accordance with the indicator of the quarterly cost-of-living increase in retirement pensions applying for the quarter during which 30 days have expired since the ruling to transfer the title to real estate was issued, and with the indicators of the cost-of-living increase mandatory for the successive quarters until the first quarter of 1992 inclusively.

3. The State Land Fund agency determines ex officio, in the form of a separate ruling, the new value of the compensation payment for real estate, as adjusted to the cost-of-living indicator. The disbursement of that payment is not governed by the provisions of Paragraph 10, Subparagraph 3.

Paragraph 13. This Executive Order takes effect on the day of its publication.