

## 英譯法規內容

法規名稱(Title) : Cadastral Clearance Act

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Amended on June 3, 2015

法規內文(Content) :

Chapter I General Provisions

Article 1

The Act is enacted to perfect cadastral management, ensure land rights, and promote land use.

Article 2

The authority concerned as referred to in the Act shall be the Ministry of Interior of the Central Government; the Municipal Governments, and the County (City) Government.

The registration authority as referred to in the Act shall be Land Administration Office of municipality or county (city) ; Where there is no Land Administration Office, it refers to the municipal or county (city) authority for land registration authority.

Article 3

In order to investigate cadastral registration in which the contents of rights are incomplete or inconsistent with the existing laws and regulations, after clarifying the content of rights and ownership, the authority concerned shall register again. Those in which the content of rights and ownership cannot be clarified shall be auctioned or dealt with. Except as otherwise provided in the Act, the investigative procedures are as follows:

1.to investigate cadastre.

2.to notice the following:

(1)the land to be cleared up.

(2)the authorities to accept the report or application for registration.

(3)the period for declaration or application for registration.

- 3.to accept declaration.
- 4.to accept the application for registration.
- 5.to review and notice the findings.
- 6.to register and issue a certificate of rights.
- 7.to deal with change or others.

The notice of the preceding paragraph 2, shall be done by the municipal or county (city) authority concerned, and the period is ninety days. Except as otherwise provided in the Act, the period of declaration or the application for registration is one year.

#### Article 4

The municipal or county (city) authority concerned shall investigate within its jurisdiction the land cadastre of articles 17 to article 33 within a certain period. The regulations concerning investigative period, scope, classifications, procedures and other related matters shall be prescribed by the central authority concerned.

#### Article 5

For one of those situations following below, before noticing the land to be cleared up according to subparagraph 2 of paragraph 1 of article 3, the municipal or county (city) authority concerned shall consult organs concerning taxes, household administration, civil affairs, land administration, courts and others; where it can pinpoint the land proprietors or interested party, it shall inform them in addition to the notice:

- 1.registered in the name of a club or a combination during the Japanese colonial period.
- 2.registered in the name of the deity worship associations.
- 3.the name or address registered is incomplete or mismatched in the general land registration or prior to the termination of battleground administration of Kinmen and Matsu area.

#### Article 6

After the registration authority accepts application for registration, it shall begin to review immediately. For those shall be corrected by the review, it shall inform the applicant to make corrections within six months.

## Article 7

For one of those situations following below, the registration authority shall dismiss in writing :

- 1.those shall not be registered according to law.
- 2.a dispute of private rights arises between the proprietors and obligor of the registration or between either or both of them and related parties.
- 3.those cannot be corrected, or failing to make corrections.

For those dismissed according to the subparagraph 1 and subparagraph 3 of the preceding paragraph, the applicant if dissatisfied may file an appeal according to law; for those dismissed according to the subparagraph 2 of the preceding paragraph, the applicant shall file a suit to the Court with jurisdiction within three months from the next day upon receipt of the dismissal notice.

## Article 8

Upon review as correct after acceptance of registration, except for those land stipulated in articles 19 to 26 and article 34 to 39 shall be registered immediately, the registration authority shall notice for three months for the remaining land.

## Article 9

The related party of the land rights can file, in writing and with proving documents, an objection to the registration authority within the period of notice of the preceding article; upon review as land rights dispute, the registration authority concerned shall transfer to the municipal or county (city) authorities concerned for mediation.

Dealing with the mediation of the preceding paragraph, the Municipal or county (city) authority concerned shall apply *mutatis mutandis* the Land Law Article 34-2. Those who refused to accept the decision of mediation may file a suit to the Court with jurisdiction within thirty days from the next day upon receipt of the notice of mediation decision; for those cases with no suit filed before the deadline, it shall be dealt with according to the original mediation decision.

## Article 10

Where no objection for the application is filed before the deadline of notice, or the mediation is established, or a decision of court becomes certain, the application shall be registered according to its results.

## Article 11

The land stipulated in articles 17 to article 26, article 32 and 33, for one of those situations following below, except for public facilities, the municipal or county (city) authority concerned shall sell on behalf of the owner by public auction sale:

- 1.no one declares or applies for registration before the deadline.
- 2.a declaration or application for registration is dismissed, and no appeal or suit is filed for the court decision before the deadline.
- 3.the decision of the appeal committee or the court dismisses the case.

For those of the preceding paragraph, the concerning proprietors with good cause, may apply for suspension for the public auction sale.

The rules of the procedure, the suspension requirements and deadlines, the base price set and other matters of the public auction sale of the preceding two paragraphs shall be prescribed by the central authority concerned.

## Article 12

For those land auctioned according to the preceding article, the first right holders to buy and their priorities are as follows:

- 1.the superficiary, dian-holder, emphyteusis.
- 2.the lessee of the base or farmland.
- 3.other co-owner of a property of joint tenancy.
- 4.the land occupier, who have occupied the land more than ten years before the article is enforced and still continue to occupy until the auction.

The order of the first right to buy of the subparagraph 1 of the

preceding paragraph, shall be determined by the order of registration.

#### Article 13

The municipal or county (city) authority concerned shall notice for three months before auction of the land.

The preceding notice shall record the context of the first right to buy of the preceding article, and the notice substitutes the notification of the first right holders to buy. The first right holders to buy who do not declare to buy in writing within ten days after the auction is bid, will be deemed to have waived his first right to buy.

#### Article 14

The municipal or county (city) authority concerned shall establish a special cadastral clearing deposit account for sale proceeds of land in the national treasury, to keep the proceeds of the auction or sale of the land.

The municipal or county (city) concerned shall deposit the proceeds of auction or sale, deducting five percent the cost of administration, 5/1000 cadastral clearing reward and payable taxes, in the deposit account of the preceding paragraph.

The rights holders may apply with proving documents to the municipal or county (city) authorities concerned for distribution of the proceeds within ten years from the depositing date of the proceeds in the deposit account; where upon reviewed as correct, before deadline of three months of notice, no objection is filed, the authority shall distribute the rights holders money of the amount equivalent to the proceeds deducting payable taxes in the preceding paragraph plus real interest to the deposit.

Unless the land rights of Articles nineteen and twenty-six, if the rights holders in the preceding paragraph are dead, part of the heirs may apply for distribution of the proceeds based upon their relative share of the total estate within the time limit for application.

After the end of the period in the third paragraph, if there is surplus fund in the special deposit account after balance, it belongs to the national treasury.

The rules of the deposit, safe keeping, and belongings to the national treasury of cadastral clearing deposit account for sale proceeds of land and the distribution and release of the reward shall be prescribed by the central authority concerned.

#### Article 15

Where the land for public auction sale according to the provisions of Article eleven, is not sold after auctioning twice, the municipal or county (city) authority concerned shall request the registry to register as state-owned.

The rights holders may apply with proving documents to the municipal or county (city) authorities concerned for distribution of the proceeds within ten years from the date when the registration of the registered as state-owned land in the preceding paragraph is completed; where upon review as correct, before deadline of three months of notice, no objection is filed, the authority shall distribute the rights holders money of the amount equivalent to the base price of the second auction of the land deducting payable taxes plus real interest from the date of registering as state-owned land to the deposit. The money needed shall be paid by cadastral clearing deposit account for sale proceeds of land; if insufficient, it shall be paid by the national treasury

Unless the land rights of Articles nineteen and twenty-six, if the rights holders in the preceding paragraph are dead, part of the heirs may apply for distribution of the proceeds based upon their relative share of the total estate within the time limit for application.

#### Article 16

The provisions of article 9 shall be mutatis mutandis applied to the dealing with the objection within notice period of the paragraph 3 of article 14 and the paragraph 2 of the preceding article.

Chapter II the clearing up of the land registered in the name of club or combination in the Japanese colonial period

## Article 17

The original right holders or its successors of the land registered in the name of club or combination in the Japanese colonial period, shall apply with proving documents related to the equity or the proportion of investment within the period of application for registration, to the registration authority for correction registration for the rights of original right holders.

The so-called original owner of the preceding paragraph means shareholders or members of combination, or all legitimate heirs on October 24, thirty-four years of the Republic of China.

However, if the shareholders or members are Japanese, the ROC is the original owner.

## Article 18

The land provided in the preceding article, shall be dealt with according to the following manner:

1.where the original right holders and its stock rights or investment ratio have been determined, registered as co-ownership with separate share according to the owner's equity or investment ratio.

2.where the original right holders' stock rights or investment ratio are in whole or in part unknown, the original right holders or their successors shall agree on their shares for unknown portion of the land rights; where the agreement cannot be reached, the shares shall be registered as being equal.

3.where the original right holders' stock rights or investment ratio are in whole or in part unknown, the land rights of the unknown part shall be dealt with according to paragraph 1 of Article 11.

Where there is the case of the proviso of paragraph 2 of the preceding article among the original right holders, the land shall be registered as state-owned according to the proportion of the stock rights or investment of the Japanese.

## Chapter III the clearing up of the land registered

in the name of deity worship associations

#### Article 19

The land of deity worship associations, shall be declared by deity worship associations managers or representatives elected by more than 1/3 of the members or believers, within declaration period, with the following documents, to the municipal or county (city) authority concerned of the location of the land:

- 1.the declaration.
- 2.the history of the deity worship association and the original covenant. Where there is no original covenant, it can be substituted by the certificate of the members of the organization or capital contribution when the deity worship association was set up.
- 3.the roll of current members or believers, the systematic chart of members or believers and all of the household registration transcript of members or believers.
- 4.the registration transcript and detailed list of the land.
- 5.other concerning documents.

Where there are two or more declaration referred to in the preceding paragraph, the municipal, county (city) authority concerned shall inform the parties to coordinate one man to declare within three months. If there is no coordination, the municipal, county (city) authorities concerned shall inform the parties to file an action of confirmation to the court within a month and report directly to the municipal, county (city) authorities concerned. The municipal, county (city) authority concerned shall deal with according to court's decision. All will be dismissed if no suit is filed before the deadline.

Where the land of deity worship association is located in different municipalities or counties (cities), he shall declare to the authorities concerned of municipality or County (City) in which the land area of the land of the deity worship association is the biggest. The authority concerned which accepts the declaration, shall inform other authority concerned of municipality or County (City) in which the land of the deity worship association is located to review jointly.

## Article 20

The municipal or county (city) authority concerned, after reviewing as correct the declaration of deity worship associations according to the provisions of the preceding paragraph, shall notice and display the roll and systematic chart of members or believers and detailed list of the land in the office of township (town, city, district) or village in which the land is located for a period of three months. It shall also leave the copy of notice and the roll and systematic chart of current members or believers and detailed list of the real estate, to the declarer to publish on a local prevailing newspaper for three consecutive days from the date on which the notice is posted, and post the notice for thirty days in the website of the municipal or county (city) authority concerned and the township (town, city, district).

The related party of the land rights can file, in writing and with proving documents, an objection to the municipal or county (city) authority concerned within the period of notice of the preceding paragraph.

The provisions of article 9 shall be mutatis mutandis applied to the objection concerning a dispute of private rights of the preceding paragraph.

## Article 21

The municipal or county (city) authority concerned shall inform the declarer to correct the declaration of deity worship associations according to the provisions of the paragraph 1 of article 19 if attached documents are incomplete within six months; cannot be corrected or no correction being made before the deadline, dismiss the application.

## Article 22

When no objection is filed before the deadline, or mediation is established, or a decision of court becomes certain, for the declaration of deity worship associations according to the provisions of the paragraph 1 of article 19, the municipal or county (city) authority concerned shall immediately return to the declarer the roll and systematic chart of current members or

believers and detailed list of the land of the deity worship associations after stamping verification seal and inform registration authority.

#### Article 23

Where there are changes, omissions, or mistakes after the roll and systematic chart of current members or believers and detailed list of the land of the deity worship associations being stamped verification seal by the municipal or county (city) authority concerned, the managers, members, believers, or interested party of the deity worship associations with more than half of the members or believers' written consent may apply, stating reasons and attaching concerning documents, for correction.

After reviewing as correct, the municipal or county (city) authority concerned which accepts the application in preceding paragraph, shall notice for thirty days and inform the registration authority. If there is no objection, the authority concerned shall correct the roll of current members or believers or detailed list of the land, and inform the registration authority after correction.

The provisions of article 9 shall be mutatis mutandis applied to the objection concerning a dispute of private rights of the preceding paragraph.

#### Article 24

After receipt of the roll and systematic chart of current members or believers and detailed list of the land of the deity worship associations being stamped verification seal by the municipal or county (city) authority concerned, the declarer shall deal with according to one of the following ways within three years:

1. to apply the land of the deity worship associations change of name registration as the juridical person being owner, when more than half of the members or believers agree in writing to establish a juridical person according to law.
2. to apply the land of the deity worship associations registered as the property of joint tenancy or individual ownership of current members or believers, according to covenant or more than half of the members or believers' written consent.

When the declarer does not deal with according to the preceding paragraph, the municipal or county (city) authority concerned shall request land registration authority concerned to register as the property of joint tenancy of equal separate share of the current members or believers, according to the roll of current members or believers.

#### Article 25

The land of deity worship associations, being cleared up according to concerning law prior to the enforcement of the Act, which is still registered in the name of a deity worship association after the enforcement of the Act, shall deal with according to the provisions of paragraph 1 of the preceding article within three years from the date of enforcement of the Act; if no dealing with before the deadline, the municipal or county (city) authority concerned shall deal with according to the provisions of paragraph 2 of the preceding article.

#### Article 26

The land, registered not in the name of a deity worship association, of the nature and fact of deity worship associations prior to the enforcement of the Act, when the declarer provides written consent or other certifiable proving documents that more than half of current known members or believers agree to deal with as the case of deity worship associations, apply *mutatis mutandis* the provisions of this chapter.

### Chapter IV the clearing up of land rights other than ownership

#### Article 27

The land right, registered before December 31, thirty-eight years of the Republic of China and with one of the following situations, shall be noticed for a period of three months by the registration authority, and if there is no objection filed before the deadline, shall be directly registered of cancellation:

1.a pledge of immovable property registered as dian or temporary dian.

2.a cultivating right

3.a lending right

4.other registration not in the name of statutory property rights.

The provisions of article 9 shall be mutatis mutandis applied to the dealing of the objection within the period of notice of the preceding paragraph.

#### Article 28

A mortgage registered before December 31, thirty-eight years of the Republic of China, which the landowner may apply for registration of cancellation, shall be noticed for a period of three months by the registration authority, and if there is no objection filed before the deadline, shall be registered of cancellation.

The provisions of article 9 shall be mutatis mutandis applied to the dealing of the objection within the period of notice of the preceding paragraph.

The landowners shall be liable for damages of the mortgagee who has sustained loss caused by registration of cancellation of the preceding paragraph 1.

#### Article 29

A superficies registered before December 31, thirty-eight years of the Republic of China, without a definite duration, and the right holder's domicile being unknown or the right holder being missing, and no building improvements or other work on the land, which the landowner may apply for registration of cancellation, shall be noticed for a period of three months by the registration authority, and if there is no objection filed before the deadline, shall be registered of cancellation.

The provisions of article 9 shall be mutatis mutandis applied to the dealing of the objection within the period of notice of the preceding paragraph.

The landowners shall be liable for damages of the superficiary who has sustained loss caused by registration of cancellation of the preceding paragraph 1.

Chapter V the clearing up of land rights registered of restriction and unknown rights

#### Article 30

The landowner may apply for registration of cancellation of an attachment, provisional appropriation, provisional disposition registered before December 31, thirty-eight years of the Republic of China; the registration authority shall notice for a period of three months, and if there is no objection filed before the deadline, shall register of cancellation.

The provisions of article 9 shall be mutatis mutandis applied to the dealing of the objection within the period of notice of the preceding paragraph.

The landowners shall be liable for damages of the creditor who has sustained loss caused by registration of cancellation of the preceding paragraph 1.

#### Article 31

The land of joint tenancy, and the co-owners' total right of ownership being not equal to 1, unless the registration authority may directly register of correction according the proving documents about original registration reason or other qualified proving materials, shall be applied by one of the co-owner, with the consent of more than half of the co-owners whose scope of ownership being incorrect and whose ownership shares being more than half of the total shares, for correction within the period of application of registration.

When no application of registration of correction is filed according to the preceding paragraph, the authority concerned shall directly register of correction according to the new scope of right calculated by concerning co-owners' percentage of registered shares.

The registration of corrections according to the provisions of the preceding two paragraphs, can be dealt with without the consent of the proprietor of other estate, and not be refrained by registration of restriction.

#### Article 31-1

Whereas the scope of land ownership's right of the registering

party was registered as blank at the general land registration and now it has been registered as blank, the rights holders should apply for registration of rectification within the period of application registration, unless the registration authority directly makes registration of rectification based on the proving documents regarding original registration reason or other qualified proving materials.

Where there is more than one rights holder in the preceding paragraph, it should be consented by over half of the rights holders, and applied for registration of rectification by one of the rights holders.

Where the application is not following the provisions of the preceding two paragraphs, the registration agency shall directly make registration of rectification, and recalculate the new scope of the rights after announcing publicly for three months unless there is objection filed during the public announcement period.

1. If the registering party is only one, “the scope of rights being registered as blank” is whole.
2. If the registering party is more than one, “the scope of rights being registered as blank” shall be divided equally by number of the registering party.

“The scope of rights being registered as blank” in the preceding paragraph is defined as the remaining rights which whole scope of rights deducts part of registered scope of rights.

The provisions of Article nine shall be *mutatis mutandis* applied to the dealing of the objection within the period of notice of the third paragraph.

The registration of rectification based on the provisions of the first to third paragraphs, can be dealt with without the consent of the holders of other rights, and not be refrained by registration of restriction.

#### Article 32

The land right already registered, except for articles 17 to 26 and article 33, which the name or address registered is incomplete or mismatched in the general land registration or prior to the termination of battleground administration of Kinmen and Matsu area, shall be applied by the proprietor or interested

party, with proving documents, for registration of correction within the period of application of registration.

#### Article 33

The land right registered not in the name of natural persons or juridical person or fund-raising temple registered according to law, except for articles 17 to 26 and article 35 and the registered holder of title being ancestral worship associations or of the nature and fact of ancestral worship associations, shall be applied by the interested party, with proving documents, for registration of correction within the period of application of registration.

### Chapter VI the clearing up of land of the temple or religious organization

#### Article 34

The land registered originally in the name of the temple or religious organization, the name registered of change of other person before October 24, thirty-four years of the Republic of China, which is managed, used or profited by the temple or religious organization in the beginning, shall be declared, with consent of the registered holder of title or his successors, by the temple or religious organization with proving documents, to the municipal or county (city) authority concerned for issue of certificate within the period of declaration. Within thirty days from the date when getting the certificate, it shall apply for registration of change of name.

The temple or religious organization which declares for issue of certificate according to the provisions of the preceding paragraph, shall be an fund-raising temple registered according to law or a juridical person when declaring.

If there are more than one registered holders of title of paragraph 1, the consent of more than half of the Co-owners and whose ownership shares being more than half of the total shares is required.

Where the registered holder of title of paragraph 1 is natural person who is missing or whose domicile is incomplete, or is the

club or combination which do not apply for corrections according to Article 17 and is lack of roll of shareholders or members of combination, the land may be declared, with proving documents, by the temple or religious organization which certifies that when the real right holder asserts rights, it will return the land and be liable.

Where the registered holder of title of paragraph 1 is a juridical person or an unincorporated association, after exerting right of consent, it shall declare to the business authority concerned for reference.

#### Article 35

Where the land is registered in the name of the spirits or the temple or religious organization not registered according to law, and is now used by fund-raising temple or religious corporation registered according to law, and the registered holder of title and the temple or religious corporation now using the land can be proved to be identical, the temple or religious corporation registered according to law, shall declare, with proving documents, to the municipal or county (city) authority concerned where the land is located for issue of certificate within the period of declaration. Within thirty days from the date when getting the certificate, it shall apply to registration authority concerned for registration of change of name.

#### Article 36

After accepting the declaration according to the provisions of the preceding two paragraphs, the municipal or county (city) authority concerned shall deal with following procedures below:

1. after reviewing as correct, shall immediately notice for three months.
2. where no objection for the application is filed before the deadline of notice, or the mediation is established, or a decision of court becomes certain, shall immediately issue the certificate and inform the registration authority.

The provisions of article 6, article 7 and article 9 shall be mutatis mutandis applied to the dealing of the review and the objection within the period of notice of the preceding paragraph.

### Article 37

Where the land is registered in the name of the spirits or the temple or religious organization not registered according to law, and is now used by fund-raising temple or religious corporation registered according to law, and the registered holder of title and the temple or religious corporation now using the land cannot be proved to be identical, the temple or religious corporation now using the land, may apply to the municipal or county (city) authority concerned where the land is located for selling on behalf of the owner, by the price of announced current assessed land value, to the temple or religious corporation, within the period of declaration.

### Article 38

After accepting the buying of land according to the provisions of the preceding article, the municipal or county (city) authority concerned shall deal with following provisions below:

1. after reviewing as correct, shall immediately notice for three months.
2. where no objection for the application is filed before the deadline of notice, or the mediation is established, or a decision of court becomes certain, shall immediately inform the temple or religious corporation which buying the land to pay the price within a deadline.
3. after being paid the price, shall issue the certificate of transfer of title of the land and inform the registration authority.

The provisions of article 6, article 7 and article 9 shall be mutatis mutandis applied to the dealing of the review and the objection within the period of notice of the preceding paragraph.

### Article 39

Where the land was transferred to the temple or religious organization in the Japanese colonial period, and was not registered of transfer or was forfeited by Japanese government after transfer, and was registered as public land prior to the enforcement of the Act, and the temple or religious organization has managed, used or profited the land since the Japanese

colonial period, and the temple is fund raising temple registered according to law, and the religious organization is juridical person registered according to law, the temple or religious juridical person may apply for a gift of the land of the scope of actually managing, using or profiting to the land administration authority within the period of declaration. The rule of qualifications, procedures, documents to be attached, review, the limitation of using and profiting the gifted land and other regulatory matters shall be prescribed by the Executive Yuan. The land, to be applied for a gift according to the provisions of the preceding paragraph, is only for the land not for public facilities.

The land to be dealt according to the provisions of paragraph 1, shall not be regulated by article 25 of Land Act.

#### Chapter VII Supplementary Provisions

##### Article 40

The expense of dealing with cadastral clearance, except for other provisions in the Act, the central authority concerned shall budget for paying the expenses required.

##### Article 41

The clearing up of the registered building improvements shall apply *mutatis mutandis* the provisions of the Act.

##### Article 42

The enforcement rules of the Act shall be prescribed by the Central authority concerned.

##### Article 43

The amended clauses of this Act shall be in force from the date of promulgation.