



Republic of the Philippines  
**DEPARTMENT OF AGRARIAN REFORM**  
 Elliptical Road, Diliman, Quezon City  
 Tels. 99-70-31 to 39

**ADMINISTRATIVE ORDER NO. 5**  
**Series of 1993**

**SUBJECT: RULES AND PROCEDURES GOVERNING**  
**AGRICULTURAL LEASEHOLD AND THE**  
**DETERMINATION OF LEASE RENTAL FOR**  
**TENANTED LANDS**

**I. PREFATORY STATEMENT**

The history of the law on leasehold tenancy could be seen as a progression from one of election and limited operation to one of compulsion and comprehensive application.

Under Section 14 of R.A. 1199, which became operative as early as 30 August 1954, the tenant already had the right to choose a leasehold tenancy arrangement.

By virtue of R.A. 3844 which took effect on 8 August 1963, agricultural share tenancy was declared to be contrary to public policy and was, thereby, abolished. This was further strengthened in Sec. 4 of R.A. 6389 which provided that agricultural share tenancy throughout the country shall be automatically converted to agricultural leasehold.

Under Sec. 35 of R.A. 3844, however, certain landholding were exempted such as fishponds, saltbeds, and lands principally planted to citrus, coconuts, cacao, coffee, durian, and other similar permanent trees. This provision of the law was expressly repealed by the Comprehensive Agrarian Reform Law or R.A. 6657 which took effect on 15 June 1988.

The significant implications of this evolution of the law are thus: (1) the abolition of share tenancy now covers all agricultural landholdings without exception; (2) leasehold tenancy is no longer just an option which exist by election, it exist by operation of law, and (3) agricultural leasehold can be a preliminary step to land ownership. Hence, all share-crop tenants were automatically converted in to agricultural lessees as of 15 June 1988, whether or not a leasehold agreement has been executed.

In accordance with these developments of the law, Sec. 12 of R.A. 6657 mandates the Department of Agrarian Reform (DAR) to determine and fix the lease rentals within retained areas and areas not yet acquired for agrarian reform in accordance with Sec. 34 of R.A. 3844.

**II. DEFINITION OF TERMS**

**A. AGRICULTURAL LESSEE** - a person who, by himself and with the aid available from within his immediate farm household, cultivates the land belonging to, or possessed by, another with the latter's consent for purposes of production, for a price certain in money or in produce or both. It is distinguished from civil law lessee as understood in the Civil Code of the Philippines.

All references to the lessee in the masculine gender form (him or his) shall also be construed to refer to lessees in the feminine gender form (her)

**B. AGRICULTURAL YEAR** - the period of time required for raising

I. An agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the proper tribunal in judgment that is final and executory for causes provided by law. However, the non-payment of the rental due to crop failure to the extent of seventy-five percent as a result of a fortuitous event, shall not be a ground for dispossession, although the obligation to pay the rental due that particular crop is not thereby extinguished. (Sec. 36 (6), R.A. 3844)

J. If capital improvements are introduced on the farm not by the lessee to increase its productivity, the rental shall be increased proportionately to the consequent increase in production due to said improvements. The cost of the capital improvement, including interest thereon, will be determined, and the number of years shall be fixed within which the increase in rental shall be paid.

K. The leasehold agreement shall be in writing, preferably using the attached leasehold agreement form (Annex "A") duly notarized and registered with the Municipal Treasurer's Office and annotated at the back of the transfer Certificate of Title on file with the register of Deeds. Refusal of any party to sign a leasehold contract shall not affect the tenant's status as lessee.

L. Existing leasehold agreements shall be respected provided that the agreed lease rental do not exceed the maximum provided by law. For the purpose of determining compliance, these agreements shall be subject to the Municipal Agrarian Reform Officer's (MARO) periodic review.

M. At all times, the lessor shall respect the rights of the lessee to have peaceful possession and enjoyment of the land and to deal with millers and processors and attend to the issuance of quedans and warehouse receipts for the produce due him (Sec. 23 (4), RA 3844). Any act by the landowner or any person representing him in violation hereof shall be prima facie evidence of dispossessing the lessee of the landholding.

N. If the landowner refuses to accept the provisional lease rental on account of disagreement, the lessee shall deposit the contested lease rental with the nearest Land Bank of the Philippines (LBP) Office in a trust account in the name of the landowner if the payment is in cash, or in a designated bonded warehouse if the payment is in kind, with written notice given to the MARO and the landowner.

**IV. COVERAGE**

These Rules shall apply to all tenanted agricultural lands including but not limited to the following:

- A. Retained areas under R.A. 6657 and P.D. 27; and
- B. Tenanted agricultural lands not yet acquired for distribution under CARP pursuant to R.A. 6657.

**V. EFFECTIVITY OF LEASEHOLD**

A. Leasehold arrangements covered by this order took effect on the first agricultural year immediately following the conversion to leasehold, as follows:

1. Tenanted rice and corn lands, as of 10 September 1971, the effectivity of RA 6389;
2. Tenanted sugar lands, upon the election by the tenant, or as of 15 June 1988, by operation of R.A. 6657, whichever is sooner; and
3. All other tenanted agricultural lands by agreement of the parties or as of 15 June 1988, whichever is sooner.

B. The agricultural leasehold relationship shall be valid until it is extinguished on the following grounds:

1. Abandonment of the lessee without the lessor's knowledge;

copra, the deductible items are:

- a) The cost of harvesting, which shall include picking and piling;
- b) The cost of loading and hauling; and
- c) The cost of processing, which shall include husking, splitting, scooping, and drying.

If the final product is green nuts, the deductible items above shall be used except for the cost of processing. If the final product is husked nuts, the costs in items 2.a and 2.b and the cost of husking shall be used.

3. The lease rental for coconut lands shall not be more than twenty five (25) percent of the average normal harvest for the preceding three (3) calendar years less the value of the deductible items pursuant to Sec. VI-B (2) of this Administrative Order. (see Sample Computation, Annex "D")

4. In case there is large-scale replanting in the coconut area initiated by the lessor which may affect the normal coconut production in particular and the leasehold arrangement in general, a new lease rental may be computed proportionate to the decrease in production.

**VII. PROCEDURES**

**A. Identification Phase**

The MARO shall identify all landholdings still under share tenancy as of the effectivity of R.A. 6657, and list the landowner and the share tenant thereon, with the assistance of the Barangay Agrarian Reform Committee (BARC), and people's organizations/non-government organizations (POs/NGOs) that are present in the area.

**B. Determination and Fixing of Rental**

The MARO shall schedule the mediation conference and formally invite the landowner and the lessee(s), using the prescribed forms contained in Annexes "E" and "E-1" with notice to the BARC. Priority shall be given to those represented by peasants' organizations. The voluntary application by any lessor or lessee for the fixing of the rental shall likewise be immediately acted upon.

The MARO with the assistance of the BARC or in the absence thereof, the Barangay Council concerned, shall jointly conduct the mediation conference between the landowner and the lessee(s) for the purpose of fixing the lease rental. The MARO shall, within thirty (30) days from application, fix the lease rental in accordance with these rules and regulation. For this purpose the following steps shall be undertaken:

1. Both parties shall be required to submit production data or any evidence as proof of the average normal harvest, including the cost of deductible item(s), during the three (3) agricultural years immediately preceding. In the absence of the foregoing production data or documents, the production data released by the proper government agency (e.g., the Philippine Coconut Authority in the case of coconut production) may be accepted as basis.
2. Notice for the mediation conference shall be given to the lessee and to the lessor or his administrator or overseer for the farm. On the basis of the documents and/or evidence presented or as gathered by them, the MARO, with the assistance of the BARC, shall proceed with the computation of the lease rental applying the formula prescribed under these rules.
3. In the event any party fails to appear during the scheduled conference despite notice, the MARO, in addition to mailing the notice at the last known address of the parties, shall cause the posting of two successive notices (seven days apart) at the Municipal Hall, the Barangay Hall and the

**B. AGRICULTURAL YEAR** - the period of time required for raising a particular product, including the preparation of the land, sowing, planting and harvesting of crops and, whenever applicable, threshing of said crops: Provided, however, That in case of crops yielding more than one harvest from one planting, "agricultural year" shall be the period from the preparation of the land to the first harvest and thereafter from harvest to harvest. In both cases, the period may be shorter or longer than a calendar year.

**C. IMMEDIATE FARM HOUSEHOLD** - the members of the family of the lessee and other persons who are dependent upon him for support and who usually help him in his activities.

**D. PROVEN FARM PRACTICES** - sound farming practices generally accepted through usage or officially recommended by the Department of Agriculture for a particular type of farm.

**E. NORMAL HARVEST** - the usual or regular produce obtained from the land when it is not affected by any fortuitous event like drought, earthquake, volcanic eruption, and the like.

**F. INDISCRIMINATE CUTTING** - the felling of trees that tend to materially affect the productivity of the farm.

### III. POLICIES AND GOVERNING PRINCIPLES

Pursuant to Sec. 12 of R.A. 6657, and in order to fully implement the provisions of R.A. 3844, as amended, on agricultural leasehold, the following policies and principles are hereby issued:

**A. Agricultural leasehold shall be based on a tenancy relationship. Such relationship exist when the following requisites are all present:**

1. The parties are the landowner and the tenant;
2. There is consent by the landowner for the tenant to work on the land--either conveyed verbally or in writing, expressly or impliedly;
3. The subject land is agricultural in nature;
4. The purpose is agricultural production;
5. There is personal cultivation on the part of the tenant, when he does it in person and/or with the aid of labor within his immediate farm household; and
6. There is sharing of harvest or there is a consideration for the lease of the land in an amount certain in money or in produce, or both.

[Rafael Gelos vs. The Honorable Court of appeals and Ernesto Alzona G.R. No. 861860, May 8, 1992; Yolanda Caballes vs. DAR. et. al., G.R. No. 78214, December 5, 1988, 168 SCRA 247]

**B. Cultivation is not limited to the plowing and harrowing of the land, but also the husbanding of the ground to forward the products of the earth by general industry, the taking care of the land and fruits growing thereon, fencing of certain areas, and the clearing thereof by gathering dried leaves and cutting of grasses. In coconut lands, cultivation includes the clearing of the landholding, the gathering of the coconuts, their piling, husking and handling as well as the processing thereof into copra, although at times with the aid of hired laborers.**

[Coconut Cooperative Marketing Association, Inc., (COCOMA) vs. Court of Appeals, Nos. L-46281-83, August 19, 1988, 164 SCRA 568; Wenceslao Hernandez vs. Hon. Intermediate Appellate Court et. al., G.R. 74323, September 21, 1990, 189 SCRA 758].

**C. Under agricultural leasehold, the lessee shall have physical possession and enjoyment as well as management of the farm (c.f. Sec. 23, RA 3844)**

**D. The lease rental to be paid by all agricultural lessees shall not be more than the equivalent of twenty-five (25%) of the average normal harvest during the three (3) agricultural years**

1. **Abandonment of the lessee without the lessor's knowledge;**
2. **The lessee voluntarily surrenders the landholding after giving notice to the lessor three months in advance. (Sec. 8, R.A. 3844); or**
3. **The lessee has no successors pursuant to Section 9, R.A. 3844, as amended in the event he dies or becomes permanently incapacitated.**

### VI. SPECIFIC POLICIES FOR LANDS PRIMARILY DEVOTED TO SUGARCANE AND COCONUT

#### A. SUGARCANE LANDS

1. In order to improve progressively the condition of the lessee, and as part of the leasehold arrangement, the lessee shall have the following rights to be exercised by him personally or through a duly registered cooperative/farmers' association of which he is a bonafide member:
  - a) To enter into a contract with the sugar central/millers for the milling of the sugarcane grown on the leased property.
  - b) To be issued a warehouse receipt (quedan) or molasses storage certificate by the sugar central for the manufactured sugar, molasses and other by-products.
  - c) To have free access to the sugar central's factory facilities, and laboratory for purposes of verifying and/or verifying records and procedures in the processing of sugarcane through professional representation.
  - d) To be furnished a weekly statement of cane and sugar account showing, among other things, the tonnage of the delivered cane and analysis of the crusher juice.
  - e) To be given thirty (30) days notice in writing before the sugar and other by-products are sold through public auction.
  - f) To be provided with the standard tonnage allocation by the miller/sugar central.
2. **The determination of the average normal harvest to be used in computing the lease rental in sugarcane lands shall be based on the following:**
  - a) **If the leasehold relationship existed before 15 June 1988, the effectivity of R.A. 6657, the average normal harvests of the three agricultural years immediately before the date the leasehold relationship was established shall be used.**
  - b) **If the leasehold relationship was established on 15 June 1988 by operation of R.A. 6657, the average normal harvests of the three (3) agricultural years immediately preceding the said date shall be used.**
  - c) **If the land has been cultivated for less than three years prior to June 15, 1988, the provisions of Section III (E) shall apply.**
3. **An agricultural year for sugarcane shall be understood to mean the period from land preparation to harvesting. Ratoning (from trash burning to harvesting) shall likewise be considered as one agricultural year.**
4. **The leasehold agreement (see Annex "B") shall include both the sugarcane products (sugar) and by-products (molasses), and the lease rental shall be computed based on VI (6) hereof.**
5. **The lease rental of the land shall be paid in an amount certain in money or in produce, or both, as may be agreed upon by the parties. Such rental shall be paid after the exact produce shall have been determined using the Certificate of Quedan and molasses storage certificate issued by the sugar central/miller.**
6. **The lease rental for sugarcane lands shall be not more than twenty five (25%) percent of the average normal harvest less the value of the cost for seeds/cane points, harvesting (cutting), loading, hauling and/or trucking fee, and cost of processing, pursuant to Sec. 34 of R.A. 3844. (See Annex "C", Sample Computation)**
7. **The agricultural lessee shall not be required to assume,**

cause the posting of two successive notices (seven days apart) at the Municipal Hall, the Barangay Hall and the place where the land is located. The second notice shall be posted at least ten (10) days prior to the scheduled conference. Compliance with these requirements is sufficient for the MARO to fix the rental on data gathered by him/her or presented by the other party.

#### C. Documentation Phase

1. In case of agreement, the rental to be paid as consideration for the lease of land shall be embodied in the prescribed leasehold agreement form which shall be drawn up in five copies in the language or dialect known to the agricultural lessee and signed or thumbmarked by the parties or their duly authorized representatives before two witnesses. In no case shall the rental agreed by the parties exceed the fixed lease rental computed according to the foregoing rules.
  2. Before the parties affix their signatures to the document denominated as Leasehold Agreement, the MARO or any member of the BARC shall explain to the parties the contents thereof, and the policies herein prescribed.
  3. The parties shall acknowledge the execution of the documents before the Municipal Trial Court Judge where the land is situated and the Municipal Treasurer. Each party shall Agreement with the registered Leasehold Agreement. The Provincial Agrarian Reform Officer (PARO) shall cause the annotation of the leasehold agreement at the back of the Transfer certificate of Title on file with the Register of Deeds.
- D. In case of disagreement or non-approval by any of the parties involved in the determination of the lease rental, the MARO shall compute and fix the provisional lease rental in accordance with these rules. The MARO shall comply with the following requirements:**
1. The MARO shall prepare a corresponding Leasehold Documentation Folder which shall contain the following:
    - a) Documents or evidence presented or gathered by the tenant- tiller, landowner, MARO and other parties involved relative to tenurial relationship as well as production data, deductible item (s) provided by law, and other relevant information;
    - b) Minutes of conferences/meetings held for the purpose of establishing tenurial relationship, determining and fixing rental, and resolving conflicts, if any;
    - c) Worksheet forms used in the computation of lease rentals; and
    - d) Investigation Report, if any. A copy of the order for the provisional lease rental shall be sent to the landowner, the lessee, the MARO and the PARO.
  2. On the basis of the documents submitted by the MARO, the PARAD, or in his absence, the RARAD, shall review the provisional lease rental within thirty (30) days from receipt of the leasehold document folder.
  3. Upon motion of the landowner and by order of the PARAD, the lessee shall be required to deposit the provisional lease rental with the nearest LBP Office in a trust account in the name of the landowner if the payment is in cash or in a designated bonded warehouse if the payment is in kind, with written notice given to the MARO.
  4. The provisional lease rental shall continue in force until the matter has been finally resolved.
- E. For immediate and effective implementation on leasehold operation, the PARO and the MARO shall undertake a massive information dissemination campaign.**

#### VIII. RESOLUTION OF PROTEST

Any party who disagrees with the Order of the PARAD fixing the rental may bring the matter to the Adjudication Board at the DAR Central Office within fifteen (15) days from receipt thereof otherwise the Order becomes final and executory.

#### IV. PERIODIC REVIEW

SCRA 568; Wenceslao Hernandez vs. Hon. Intermediate Appellate Court et. al., G.R. 74323, September 21, 1990, 189 SCRA 758].

- C. Under agricultural leasehold, the lessee shall have physical possession and enjoyment as well as management of the farm (c.f. Sec. 23, RA 3844)
- D. The lease rental to be paid by all agricultural lessees shall not be more than the equivalent of twenty-five (25%) of the average normal harvest during the three (3) agricultural years immediately preceding 15 June 1988, after deducting the amount used for seeds and the cost of harvesting, threshing, loading, hauling and processing, whichever is applicable. (see Annex "A- 1", Lease Rental Worksheet)
- E. If the land has been cultivated for a period of less than three (3) agricultural years prior to 15 June 1988, the initial rental shall be based on the average normal harvest during the preceding agricultural years when the land was actually cultivated.

After the lapse of the first three (3) normal harvest, the final rental shall be based on the average normal harvest during these three (3) preceding agricultural years.

If there had been no normal harvest, the estimated normal harvest during the three (3) preceding agricultural years shall be considered as the normal harvest.

- F. The lease rental shall cover the whole farmholding attended to by the lessee. Computation of lease rental shall include both primary and secondary crops existing as of 15 June 1988. Secondary crops which are planted to an aggregate area of half a hectare or less shall not be included in the computation of the lease rental.

Where there are two or more tenants on the same lot, each producing a different crop, they may decide to have joint leasehold agreement or execute separate leasehold agreements, with the owner of the land, whichever is feasible.

- G. Where the rental has been fixed, whether in cash or in kind, such rental shall constitute the consideration for the use of the land and the lessee may diversify and/or plant secondary crops, provided that all the expenses are shouldered by him/her.

- H. The lessor may propose a change in the use of the landholding, from one agricultural use to another, in which case the change shall be agreed upon by the landowner and the lessee.

In case of disagreement, as to the proposed diversification or change from one agricultural use to another, the matter shall be settled by the (Provincial Agrarian Reform Adjudicator (PARAD), or in his absence the Regional Agrarian Reform Adjudicator (RARAD), according to the best interest of the parties concerned.

exact produce shall have been determined using the Certificate of Quedan and molasses storage certificate issued by the sugar central/miller.

6. The lease rental for sugarcane lands shall be not more than twenty five (25%) percent of the average normal harvest less the value of the cost for seeds/cane points, harvesting (cutting), loading, hauling and/or trucking fee, and cost of processing, pursuant to Sec. 34 of R.A. 3844. (See Annex "C", Sample Computation)
7. The agricultural lessee shall not be required to assume, directly or indirectly, any part of the rent, or other considerations which the agricultural lessor is under obligation to pay third persons for the use of the land. (Sec. 31, R.A. 3844)
- Any contract by which the agricultural lessee is required to accept a loan or to make payment(s) in kind shall be contrary to law, morals or public policy. (Sec. 15, R.A. 3844)
- The agricultural lessor may mortgage expected rentals. (Sec. 29, R.A. 3844)

8. Notwithstanding the above provisions of the law and any contract of mortgage existing between the landowner-planter and financial institutions to the contrary, it is unlawful for the landowner-planter to mortgage to any entity (e.g., banks or any financial institution) that part of the produce which is due to the agricultural lessee.

If the landowner incurred loans from a bank or any financial institution, such bank can only attach the fixed lease rental due to the landowner. It shall be unlawful for the bank or any financial institution to withhold the quedan covering the portion of the crop due to the lessee.

9. The DAR shall encourage the sugarcane farmer-lessee to establish associations or cooperatives which shall assist them or directly deal with the millers, processors, transport operators, and financial and banking institutions. The DAR shall likewise assist farmer-lessees to secure milling accommodations and/or membership in sugar planter associations.

#### B. COCONUT LANDS

1. The indiscriminate cutting of coconut trees shall be deemed a prima facie evidence to dispossess the tenant of his landholding.

In order to rebut this presumption, the following are required:

- a) written consent of the tenant; and  
b) certification by the Philippine Coconut Authority (PCA) or a resolution from the Municipal Board, allowing the cutting for valid reasons.

2. The application of the allowable deductible items in coconut shall depend on the final product. If the final product is

4. The provisional lease rental shall continue in force until the matter has been finally resolved.

- E. For immediate and effective implementation on leasehold operation, the PARO and the MARO shall undertake a massive information dissemination campaign.

#### VIII. RESOLUTION OF PROTEST

Any party who disagrees with the Order of the PARAD fixing the rental may bring the matter to the Adjudication Board at the DAR Central Office within fifteen (15) days from receipt thereof otherwise the Order becomes final and executory.

#### IX. PERIODIC REVIEW

The DAR shall immediately and periodically review and adjust the rental structure for all leasehold arrangements regardless of crops, in all regions, taking into account the following considerations:

- A. The effect of the use of fertilizer and other related expenses as a cost of production, and its impact on the rental structure;  
B. The rate of compliance with the leasehold arrangements; and  
C. The impact of leasehold on the quality of life of the beneficiaries and agricultural productivity.

#### X. TRANSITORY PROVISIONS

Immediately upon the effectivity of this administrative order:

- A. The DAR-Field Operations Group (DAR-FOG) shall make an inventory of existing sugar milling contracts and review the same for compliance with these rules and regulations. The DAR-FOG shall also exert best efforts in effecting an orderly transition from tenancy to leasehold, specially in the sugar areas, with respect to amendment, revision or phaseout of existing milling contracts, provision of credit support and the like.

- B. The DAR Adjudication Board, its Provincial and Regional Adjudicators shall act expeditiously on all pending motions for the release of the proceeds of milling operations, which have been deposited in trust for the landowner and tenant, in order to increase the productivity of the sugar areas.

#### XI. EFFECTIVITY

This Administrative Order shall take effect ten (10) days after its publication in two (2) national newspapers of general circulation. All other Orders, Circulars, Memoranda and Rules and Regulations, or portions thereof inconsistent herewith are hereby revoked, canceled, or modified accordingly.

Quezon City, 3 May, 1993.

  
ERNESTO D. GARILAO  
Secretary