Content

Title：	Directions for the Lease of National Non-public Use Land for Private Tombs Ch
Date：	2016.10.14
Legislative：	1.Promulgation of Decree No. 10540010640 by the National Property Administrator, Ministry of Finance on October 14, 2016
Content：	Article 1 The Directions for the Lease of National Non-public Use Land for Private Tombs (the Directions) are established for regional branches of the National Property Administration, Ministry of Finance (hereinafter referred to as the Leasing Authority) to process the lease of national non-public use land for private tombs in accordance with Article 42 of the National Property Act (the Act) and the Regulations for the Lease of National Non-public Use Real Estate (the Regulations). Article 2 If the following circumstances are met, national non-public use land for private tombs may be leased in accordance with Subparagraph 2, Paragraph 1, Article 42 of the Act: 1. Where no circumstance specified in any subparagraph under Paragraph 1, Article 21 of the Regulations occurs. 2. Where the tomb is a grave or mausoleum (including family tomb or family tower) with an owner. 3. Where the mortuary service authority has no specific re-interment plans. 4. Where the land does not belong to a cemetery. The Leasing Authority shall ask the mortuary service authority to confirm whether there are specific re-interment plans. If the mortuary service authority fails to check within the given time limit, make clear, or make specific remarks and, upon a second inquiry, still makes no response, the Leasing Authority may proceed to approve the lease directly. Article 3 When applying to lease national non-public use land in accordance with Subparagraph 2, Paragraph 1, Article 42 of the Act, an applicant shall submit the drawings and materials compiled by government agencies before July 21, 1993, or other documents issued by government agencies or state-owned enterprises, proving the time of utilization, unless the Leasing Authority may verify the time of utilization. When an applicant submits the drawings and materials compiled by government agencies before July 21, 1993 to prove the time of utilization of national non-public use land, they will be overlaid with cadastral maps to confirm the utilization of national non-public use land for private

tombs. If there is no disproving information,
they will be used to certificate the time of utilization of private tombs.
Where the drawings and materials referred to in the preceding paragraph are insufficient to prove the time of utilization of national non-public use land for private
tombs by overlaying with cadastral maps, an applicant may seek to obtain the results of graphical interpretation from government agencies at his/her expense, and submit
the results, along with the drawings and materials, to prove the time of utilization.

Article 4
An applicant shall submit a document proving that he/she is the handler, and follow the directions below:
1. Where the tombstone contains the name of the deceased and the person who erected the monument:
(1) The person who erected the monument may separately or jointly declare that he/she is the handler or submit a document issued by the
mortuary administration authority proving the relationship between the deceased and the applicant.
(2) Where not all the persons who erected the monument apply to lease the land, an applicant shall declare that he/she shall deal with the rights and obligations
with other persons who erected the monument or right holders at his/her own discretion.
(3) Where an heir of the person who erected the monument applies to lease the land, Items 1 and 2 shall apply.
2. Where the tombstone does not contain the name of the deceased but contains the person who erected the monument:
(1) The person who erected the monument may separately or jointly declare that he/she is the handler or submit a certificate of identity issued by the mortuary
administration authority.
(2) Items 2 and 3 of the preceding subparagraph shall apply.
3. Where the tombstone contains the name of the deceased and the person who erected the monument is unknown: The deceased’s spouse, lineal relative by blood, or sibling may apply to lease the land (with a household registration transcript or other identification documents submitted) and declare in the way specified under the first subparagraph.
4. Where the tombstone contains neither the name of the deceased nor the person who erected the monument: An applicant shall separately or jointly declare that he/she is the handler and deal with the rights and obligations with other right holders at his/her own discretion.

Article 5
The scope of national non-public use land leased for private tombs in accordance with Subparagraph 2, Paragraph 1, Article 42 of the Act shall be limited to the tombs
themselves and other auxiliary facilities used along with the tombs.
The scope of national non-public use land referred to in the preceding

paragraph shall include national non-public use land where other auxiliary facilities of the tombs that are owned by the handlers and not located on national non-public use land are located.
The scope of national non-public use land leased for private tombs referred to in the first paragraph shall be verified by the survey form.

Article 6
When an applicant is qualified to lease national land for tombs, the Leasing Authority shall enter into a lease with the applicant.

Article 7
Rent shall be calculated according to the standards for national rental base rent. No rent discounts are applicable.

Article 8
The lease term shall be governed by the national building land regulations. The Leasing Authority shall set the expiry date of the lease term.

Article 9
When national non-public use land is let out, the following shall be agreed on in the lease:
1. A lessee shall not make a request to purchase or set other rights in accordance with Paragraph 1, Article 49 of the Act.
2. A lessee shall not add, renovate, rebuild, or build the tombs on the ground or other facilities, nor shall he/she apply for the issuance of land use right consent to the above construction activities.
3. If a lessee must apply to the mortuary service authority to repair the tombs in its original form, he/she shall obtain the Leasing Authority's consent beforehand.
Construction is not allowed before the repair is approved by the mortuary service authority.
4. A lessee shall not sublet all or part of the leased land, transfer the lease rights, or otherwise provide the land for utilization by others, or apply for transfer of
ownership.
If a
lessee violates the agreement
referred to in the second subparagraph of the preceding paragraph, the Leasing Authority shall act in accordance with Paragraph 2, Article 37 of the Regulations. When deciding to terminate the lease, the Leasing Authority may request a default penalty from
the lessee in accordance
with Paragraph 2, Article 36 of the Operation Directions for Leasehold of National Non-public Use Real Estate
before recovering the leased land for re-leasing. The same shall apply to a violation of the agreement referred to in the third subparagraph of the preceding paragraph.
If a
lessee violates the agreement
referred to in the fourth subparagraph of the first paragraph, the Leasing

Authority shall terminate the lease.

Article 10
When applying for the replacement of the lessee by another handler for exchange of a lease, an applicant shall fill in the application form (with the original lessee's lease chop or seal and the seal certificate attached) and submit the same together with the following documents:
1. The original lease.
2. Documents specified in Article 4. If there are two new lessees or more and only some of them are able to apply for the replacement of the lessee for exchange of a lease, some of the new lessees may represent (the Representative Lessees) to agree on the following for exchange of the lease in the name of all of the new lessees:
1. The Representative Lessees shall be jointly and severally liable for matters stipulated in the lease that a lessee shall bear.
2. In case of a dispute over the leasehold, the Representative Lessees shall be solely liable.

Article 11
When a lessee dies during the lease, the heir shall, within six months from the starting date of the inheritance (extension may be granted for reasons not attributable to the heir or upon approval of responsible authorities) fill in the application form and submit the same together with the following documents to apply for exchange of the lease:
1. The original lease.
2. A photocopy of the household registration transcript recording the ancestor's death.
3. A photocopy of the heir's current household registration transcript;
4. The genealogical list of inheritance.
5. The disclaimer of right to inheritance (if any), along with the court approval letter.
6. Declaration of land utilization for private tombs.
7. The estate dividing agreement sealed and the seal certificate.
The genealogical list of inheritance referred to in the fourth subparagraph of the preceding paragraph shall be marked with the following and signed or sealed: "The
applicant shall be liable for any omission or error that causes damage to others."
If there are two heirs or more, making it impossible for all of the heirs to apply for exchange of a lease in accordance with the first paragraph, some of the heirs may
represent to apply for exchange of a lease in the name of all of the heirs in accordance with the second paragraph of the preceding article.

Article 12
When the ashes (skeletal) in a private tomb on the national non-public use land have been excavated after the lease or the mortuary service authority asks a lessee for reinterment and the lessee has completed re-interment, the Leasing Authority may terminate the lease and ask the lessee to

	dismantle or vacate the non-national buildings and land improvements or buried waste and return the leased land after it is restored to its original state. The lessee shall not claim any compensation from the Leasing Authority. The same shall apply to a lessee who has completed re-interment in accordance with other regulations. Article 13 Unless otherwise specified by the Directions, national non-public use land shall be leased for private tombs in accordance with the Operation Directions for Leasehold of National Non-public Use Real Estate and the regulations governing the lease of national building lands under the Guidelines for Leasing National Non-public Use Real Estate.

Data Source：Ministry of Finance, R.O.C. Laws and Regulations Retrieving System