

Content

Title : Regulations Governing the Exchange of National and Private Land in 921 Earthquake Disaster Affected Area **Ch**

Date : 2003.08.06

Legislative : 1.Promulgated of Decree No. 8900022565 by the Ministry of Finance on September 1, 2000
2.Revision of Decree No. 0900003637 by the Ministry of Finance on February 21,2001
3.Revision of Decree No. 0920022061 by the Ministry of Finance on August 6,2003

Content : Article 1

These Regulations are formulated in accordance with Paragraph 5, Article 36 of the Provisional Act Governing the Reconstruction After 921 Earthquake (hereinafter referred to as “this Act”).

Article 2

If the private construction land which was originally used for construction in the disaster affected area has been changed to non-construction land and the owner of the site has not been allocated with public housing or other housing built by the government after the disaster, he/she may apply for an exchange with the neighboring national non-public construction land.

If a condominium is damaged by an earthquake resulting in the deaths of its residents, and within four years of the occurrence of the earthquake, the original building on its site has been dismantled, and the building site cannot be reconstructed by means of urban land consolidation, zone expropriation, urban renewal, or any other means, and the owner of the site has not been allocated public housing or other housing built by the government after the disaster, he/she shall apply mutatis mutandis to exchange it with the neighboring national non-public construction land, under Article 37 of this Act.

Article 3

The executive agencies referred to in this Act are subsidiaries of the National Property Administration, Ministry of Finance. The executive agencies may, if necessary, commission the municipal and county (city) government to assist with related operations.

Article 4

Terms used in this Act are defined as follows:

1. Originally used for construction: This refers to the land that has been under the usage prior to the disaster, or the original building that has been damaged or dismantled due to the earthquake.
2. Construction land: Land within the urban planning area that is legally available

for construction use and land in non-urban areas that is used for A, B, C, or D types of construction.

3. Non-construction land: Land other than the construction land referred to in the preceding paragraph.
4. Neighboring national non-public construction land: This refers to the national non-public construction land which is located in the same municipality or city, or in the same or adjacent township/city in the same county, and which is not occupied or leased out, and has no intended use.
5. Exchange: The mutual transfer of land ownership.

Article 5

The exchange procedures handled by the executive agencies are as follows:

1. Announce the acceptance of application.
2. Site investigation.
3. Examination.
4. Select national land available for exchange.
5. Valuation.
6. Prepare a list to notify.
7. Convene a coordination session.
8. Report to the National Property Administration, Ministry of Finance for approval.
9. According to the approval results, handle land partition, registration of exchange of ownership, and reciprocal delivery of land and other matters.

Article 6

The applicant may apply for exchange individually or jointly, and shall submit the following documents when applying:

1. Application form.
2. Identification documents of the applicant.
3. Damage or demolition certificates for original buildings damaged or dismantled by earthquakes issued by the municipalities, city governments, or township/city offices. However, the certificate is exempted if the building has been used prior to the disaster.
4. Certificate proving that no public housing or other housing built by the government has been allocated after the disaster.
5. Land Registration Transcript.
6. Cadastral Map Transcription.
7. Proof of zoning of land use or designated classifications of land use prior to and after the change. However, it is exempted if it has been recorded in the land registration transcript.
8. Certificate of assessed present value of the land as stated in the latest period prior to the disaster. However, it is exempted if it has already been recorded in the land

registration transcript.

9. Other documentary proofs.

The application form referred to in Subsection 1 of the preceding paragraph shall state the current status of private land use, the setting of other rights, and its handling methods.

For the application under Paragraph 2, Article 2, it is exempted from submitting the proof of the zoning of land use or designated classifications of land use after the change under Subsection 7 of Paragraph 1.

Where only part of the private construction land has been changed to non-construction land, the registration of subdivision according to zoning of land use or designated classifications of land use shall be completed before applying for exchange.

Article 7

For private land under application for exchange, the ground objects thereon shall be dismantled and vacated prior to the application for exchange. However, if the owner of the ground objects is willing to donate them to the nation with the consent of the National Property Administration, Ministry of Finance, this restriction will be exempted.

The private land and the constructional improvements on the land with other rights shall be canceled before applying for the exchange. However, if the owner of the other rights agrees to cancel the other rights at the same time when applying for the exchange registration, this restriction will be exempted.

He/she shall terminate the lease agreement or exclude the private land and the ground objects which are leased, occupied or in dispute before applying for the exchange.

Article 8

When the executive agencies accept the application for exchange, they shall process the receipt numbers respectively, register them in detailed statements, and schedule a date to investigate the private land to be exchanged together.

Article 9

The executive agencies shall examine the documents submitted by the applicant on a case-by-case basis; if there are discrepancies that can be rectified, the applicant shall be notified to rectify them within fifteen days; if they are not rectified by the appointed time, the application will be revoked.

Article 10

In the case of exchange pursuant to Paragraph 2, Article 2, the executive agencies, when examining the case, shall request the municipal, county (city) government and other relevant agencies where the private land to be exchanged is located to verify whether there is any redevelopment by means of urban land consolidation, zone expropriation, urban renewal, or any other methods. However, it shall not be subject to this restriction if the executive agencies have already obtained clear

information.

If the private land under application for exchange is found to have any of the conditions stipulated in the preceding paragraph, the executive agencies shall revoke its application.

Article 11

The executive agency shall, in the case of an exchange that meets the requirements, select appropriate national non-public construction land that is above the minimum area of the construction site, evaluate the value of the land, prepare a detailed list of the national land, and notify the applicant to submit an exchange proposal for the exchange within thirty days. However, if the competent authorities in charge of earthquake reconstruction or the municipal or county (city) government determine that it is necessary to conduct exchanges as specific areas, it may be exempted from the selection procedures.

The exchange proposal referred to in the preceding paragraph shall specify the national land descriptions to be exchanged, scopes of rights, locations (with illustrations), and the way to deal with the difference in value between the national and private land.

The municipal or county (city) government shall cooperate in determining whether the national non-public construction site selected under Paragraph 1 meets the minimum area of the construction site.

Article 12

After accepting the exchange proposal submitted by the applicant, the executive agencies shall convene coordination sessions on a regular basis and determine the exchange proposal in the following manner before reporting it to the National Property Administration, Ministry of Finance for approval. However, for cases where coordination is not required, they may be reported directly to the National Property Administration, Ministry of Finance for approval:

1. If a single person applies for the exchange of piece of national land, which can accommodate the exchange case, the executive agencies shall coordinate with the applicant to determine the exchanged locations following the exchange whether after subdivision.
2. If two or more persons apply for exchange of the same piece of national land, which can accommodate all of the exchange cases, the executive agencies shall coordinate the applicants to determine the exchanged locations following the exchange whether after subdivision; if the coordination fails, the decision shall be made by drawing lots.
3. If two or more persons apply for the exchange of the same piece of national land, which cannot accommodate all the exchange cases, the executive agencies shall coordinate with the applicants to determine who to exchange with and the exchanged locations following the exchange, whether after subdivision; if the

coordination fails, the decision will be made by drawing lots.

4. If the applicant is unable to determine the national land to be exchanged in accordance with the submitted exchange proposal, the applicant may choose the land that is not applied for in the detailed list or the remaining national land, and determine the exchange proposal pursuant to the preceding subsections; if the applicant is still unable to determine the exchange proposal, it shall be reserved for the next batch of processing.

If the national land to be exchanged cannot reach the minimum area of the construction site according to the value of the applicant's private land, the applicant shall be exchanged together with other applicants. However, if the competent authorities in charge of earthquake reconstruction or the municipal or county (city) government determines that it is necessary to conduct exchanges as specific areas, it may be exempted from this restriction.

The executive agencies shall notify the applicant of the approval results referred to in Paragraph 1, so he/she can cooperate with the exchange related matters within fifteen days. If he/she fails to cooperate with the exchange related matters by the deadline or refuses to accept the approval results, the executive agencies shall revoke his/her application.

Article 13

The term "equivalent in value" referred to in Paragraph 3, Article 36 of this Act shall mean one of the following situations:

1. The value of private land exchanged is between 80 percent to 120 percent of the national land, the differences in fees shall be made up in cash on the basis of current land value.

2. If the value of private land exchanged in accordance with the proviso of Paragraph 2 of the preceding article is less than 80 percent of the value of national land, the differences in fees shall be made up in cash on the basis of the market value of the land.

The area of national private and land to be exchanged shall be based on the area of the land register at the time of registration of exchange.

In the case that the value of private land is higher than the value of national land, and the executive agency is unable to pay the differences in fees in the same year due to a lack of budget, the agency may, with the consent of the applicant, pay the fees after the budget has been prepared, and interest shall be added to the fees.

Article 14

All tax fees required for the exchange shall be borne by both parties respectively in accordance with the relevant laws and regulations.

Article 15

The format of the forms required for the exchange shall be determined by the National Property Administration, Ministry of Finance.

Article 16

During the period of enforcement of this Act, the executive agencies may handle exchange operations in batches; if an exchange case has been accepted and has not been concluded before the expiration of the period of enforcement of this Act, it may continue to be processed in accordance with the provisions of these Regulations until the case is concluded.

Article 17

These Regulations shall come into force as of the date of promulgation.

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