

Content

Title :	Implementation Regulations Governing the Granting of National Marginal Aquaculture Land <b>Ch</b>
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Legislative :	1.Promulgated of Decree No. 14643 by the Ministry of Finance on April 28, 1995 2.Revision of Decree No. 87002328 by the Ministry of Finance on February 24, 1998 3.Revision of Decree No. 88029650 by the Ministry of Finance on December 13, 1999 4.Revision of Decree No. 0900016718 by the Ministry of Finance on July 12, 2001 5.Revision of Decree No. 0910002593 by the Ministry of Finance on February 20, 2002
Content :	<p><b>Article 1</b></p> <p>These Regulations are formulated in accordance with Paragraph 2, Article 46 of the National Property Act.</p> <p><b>Article 2</b></p> <p>The competent authorities (units) of the relevant business referred to in these Regulations shall be determined as follows:</p> <ol style="list-style-type: none"><li>1. Regarding the recognition of water conservation, national land security and nature conservation, it shall mean the Council of Agriculture, Executive Yuan at the central government level, the Construction Bureau of the municipal government at the municipal level, and the Agriculture Bureau (Division) or the Construction Bureau of the county (city) government at the county (city) level.</li><li>2. Regarding the recognition of environmental protection, it shall mean the Environmental Protection Administration, Executive Yuan at the central government level, the Department of Environmental Protection of the municipal government at the municipal level, and the Department of Environmental Protection of the county (city) government at the county (city) level.</li><li>3. Regarding the recognition of government plans for public infrastructure, it shall mean the competent ministries, councils, agencies, departments, and bureaus in charge of each relevant enterprise at the central government level, the provincial government at the provincial level, the competent divisions and bureaus in charge of each relevant enterprise of the municipal government at the municipal level, and the county (city) government at the county (city) level.</li><li>4. Regarding the recognition of government plans for developing new urban areas, new communities, and urban planning, it shall mean the Ministry of the Interior at the central government level, the Public Works Department or the Department of Urban Development of the municipal government at the municipal government</li></ol>

level, and the Public Works Department or the Construction Bureau of the county (city) government at the county (city) level.

5. Regarding the recognition of government plans to develop new ports and scenic areas, it shall mean the Ministry of Transportation and Communications at the central government level, the Department of Transportation or the Construction Bureau of the municipal government at the municipal level, and the Construction Bureau of the county (city) government at the county (city) level.

6. Regarding the recognition of government plans to develop industrial parks, it shall mean the Ministry of Economic Affairs at the central government level, the Construction Bureau of the municipal government at the municipal level, and the Public Works Department or the Construction Bureau of the county (city) government at the county (city) level.

7. Regarding the recognition of the operation and management of national parks, it shall mean the Ministry of the Interior.

8. Regarding the inventory, review, and evaluation of the granted marginal aquaculture land, the National Property Administration, Ministry of Finance is responsible for drafting a handling opinion suggesting granting or public use.

9. Regarding the investigation, announcement, approval, survey, and registration of the granted land, it shall mean the Ministry of the Interior at the central government level, the Department of Land Administration of the municipal government at the municipal level, and the Division (Bureau) of Land Administration and Land Office of the county (city) government at the county (city) level.

For the purpose of handling the matters referred to in the preceding paragraphs, the central competent authorities may set out the relevant operation rules.

The municipal or county (city) government shall form a task force for granting the public land in the process of handling the granting, whose organizational guidelines are defined by the municipal or county (city) government.

### Article 3

National marginal aquaculture land refers to land intended for aquaculture use, which has completed the general registration and has been designated as aquaculture land in accordance with the laws, and which has been granted before September 24, 1976 under the laws. However, the land that has any one of the following conditions is not allowed to be granted.

1. Located in the urban planning areas.
2. The government plans to develop the area into a new urban area, new community, new harbor, scenic area, industrial park, or for other non-aquaculture use.
3. The government plans to use it for public infrastructure or self-development.
4. Impacting water conservation, national land security, nature conservation or environmental protection.
5. Impacting the operations and management of national parks.

## 6. Lands reserved for indigenous people.

### Article 4

If the unregistered land has been granted in accordance with the laws prior to September 24, 1976, and is not subject to any of the conditions mentioned in the preceding Article, the lessee thereof may apply for registration in accordance with the provisions of these Regulations.

After the registration of the cadastral survey, if the land referred to in the preceding paragraph has been designated as non-aquaculture land in accordance with the provisions, it is not allowed to be granted.

### Article 5

Except for those stipulated in Article 6, the objects for granting the national marginal aquaculture land are those who had acquired the lease of the national marginal aquaculture land prior to September 24, 1976, and were still leasing the land at the time of the promulgation of these Regulations, those who had renewed their leases in accordance with the laws, or those who had their inheritors inherit the leases.

If the lessee referred to in the preceding Paragraph has any one of the following conditions prior to the announcement of the granting after the promulgation of these Regulations, the replacement bestowee under a renewed lease agreement may be included as eligible for the granting:

1. The lessee, due to aging and frailty, whose lineal blood descendant or family member of the same household who is under the common household domicile is presently cultivating and utilizing the land and has renewed and continued the lease in accordance with the laws.

2. In case of death of the lessee, his/her inheritor will inherit the lease.

If there is any outstanding rent or compensation for the occupying period for the use of the national marginal aquaculture land leased under the preceding two Paragraphs, they should be paid up to the leasing authority before applying for the granting of the land.

### Article 6

Where cooperative farms or other agricultural-related organizations (hereinafter referred to as agricultural organizations) have leased national marginal agricultural land before September 24, 1976, the land administration agency shall terminate the lease with the lessee and, in accordance with the provisions, re-enter into a lease with the members of the cooperative farms and agricultural organizations, and grant the land to the members of the cooperative farms and agricultural organizations who were using the land at the time of the promulgation of these Regulations.

The status of the members of the cooperative farm or agricultural organization stipulated in the preceding Paragraph shall be confirmed by the cooperative farm or agricultural organization.

#### Article 7

The granted area under these Regulations shall be based on the original leased area of the bestowee who applies for it.ð ò

However, if the actual area used by the bestowee who applies for it does not correspond to the leased area due to terrain restrictions or a partial lease within a parcel of land, the following rules shall govern.

1. In the event that the actual used area does not reach the leased area, the bestowee who applies for it may apply for bestowal according to the actual used area after he/she agrees to terminate the lease based on the fact that the leased area exceeds the actual used area.
2. In the event that the actual used area exceeds the leased area by less than ten percent, the granted area will be handled based on the actual used area.
3. In the event that the actual used area exceeds the leased area by more than ten percent, the granting shall be handled in accordance with the leased area plus ten percent, and the remaining portion shall be reclaimed and dealt with separately; however, if the remaining portion of the area is less than one hectare, it shall be granted instead of being reclaimed.

For the granted area exceeding the leased area in Subparagraphs 2 and 3 in the preceding Paragraph, the leasing authority shall charge compensation calculated according to the occupying period as follows,

1. From the month when the application for bestowal is processed, he/she will be charged until start of use. However, the maximum period is limited to five years.
2. From the month following the month in which the application for bestowal is processed until one month prior to the month in which the bestowee being granted the land.

#### Article 8

The land value of the granted land shall be calculated on the basis of the assessed present value of the land as in 1990. If a portion of the land does not have the assessed present land value in 1990, the land value shall be calculated based on the land value of the section to which the land belongs, or by reference to the assessed present land value of the adjacent land in 1990, and shall be amortized at an annual interest rate of three percent per annum for fifteen years in two equal annual installments. However, the bestowee may pay off the land price ahead of time. The payment of the land price for each installment referred to in the preceding Paragraph shall be made within thirty days since the date the bestowee being notified the payment.

#### Article 9

Prior to handling the granting of national marginal aquaculture land, the preliminary works shall be carried out in accordance with the following procedures:

1. The National Property Administration, Ministry of Finance shall conduct an

inventory of the national marginal aquaculture lands that were granted before September 24, 1976, which were still under lease at the time of the promulgation of these Regulations, prepare a detailed list of information, review and evaluate after submitting it to the competent authorities for reviewing and remarking opinions as stipulated in Article 2, then prepare the drafting of a list of the granted national marginal aquaculture land (including information on the land and the lessee) along with the relevant illustrations, and submit it to the Public Land Granting Examination Committee of the Ministry of the Interior for examination.

2. After the Public Land Granting Examination Committee of the Ministry of the Interior has examined the decision, the detailed list of information shall be returned to the National Property Office, Ministry of Finance and report to the Ministry of Finance for approval.

3. Upon completion of the disposition procedures under the law by the National Property Administration, Ministry of Finance, the detailed list of granted national marginal aquaculture land shall be submitted to the municipal or county (city) government where the land is located to handle the granting.

The land inventoried, reviewed, and evaluated referred to in Subparagraph 1 of the preceding Paragraph includes unregistered land as stipulated in Article 4 of these Regulations.

The organizational guidelines for the Public Land Granting Examination Committee of the Ministry of the Interior shall be prescribed by the Ministry of the Interior.

The guidelines for liaison for the preliminary works referred to in the Paragraph 1 shall be prescribed by the Ministry of Finance.

#### Article 10

The procedures for the municipal or county (city) government handling the granting of national marginal aquaculture land shall be as follows:

1. Receive the detailed list of granted national marginal aquaculture land.
2. Announce and notify the acceptance of the application for bestowal.
3. Conduct on-site investigation and confirm the identity of the lessee who is currently utilizing the land.
4. Apply for cadastral survey registration for unregistered land; apply for land revision survey for registered land.
5. Review, approve, and announce the confirmation of the granting.
6. Compile a detailed list of bestowees of national marginal aquaculture land and distribute it to the National Property Administration, Ministry of Finance, the land price collection banks and cooperatives, the land office in charge and the Construction Bureau of the municipal government or the Agriculture Bureau (Division) or Construction Bureau of the county (city) government.
7. Notify the applicant to pay the first installment of the land price and make a written commitment to the restrictions stipulated in Articles 18 to 20 and 22.
8. Issue a certificate of bestowal.

9. After paying the entire land price, apply for the registration of the transfer of the ownership of legated land and notify the bestowee to collect the certificate of land ownership.

#### Article 11

The period during which the municipal or county (city) government of a city or county (city) announces the acceptance of an application for bestowal in accordance with Subparagraph 2 of the preceding Article shall be thirty days.

A lessee who fails to apply for bestowal before the deadline is deemed to have waived his/her right to receive the land.

#### Article 12

When investigating in accordance with Subparagraph 3, Article 10, the municipal or county (city) government shall, in conjunction with the agricultural agencies and leasing authorities (institutions), conduct an investigation on a case-by-case basis, and notify the lessee to come to the site to identify the boundaries with his/her identity documents. If the conditions listed below are met after the investigation referred to in the preceding paragraph, it shall be handled in accordance with the provisions set forth in Paragraph 4 of Article 10.

1. The current user is the same as the lessee listed in the detailed list of granted national marginal aquaculture land.
2. The marginal aquaculture land is currently used for aquaculture.
3. There is no dispute over the boundaries of the leased marginal aquaculture land.
4. There is no dispute on the leasehold of the marginal aquaculture land.

If the results of the investigation do not fulfill any of the conditions referred to in the preceding paragraph, the municipal or county (city) government shall prepare a detailed list stating the current status of the granted national marginal aquaculture land and submit it to the National Property Administration, Ministry of Finance to investigate the matter.

#### Article 13

When a municipal or county (city) government carries out a cadastral survey or land revision survey in accordance with the provisions set forth in Subparagraph 4, Article 10, the leasing authorities (institutions) shall identify the boundaries on the site together with the applicant.

When a municipality or county (city) government carries out the aforementioned cadastral survey or land revision survey, it shall formulate an annual survey plan and conduct the survey in stages and by districts.

#### Article 14

After the municipal or county (city) government has reviewed, approved, and announced the confirmation of the granted land, it shall entrust the land price collection treasury to issue a payment notice for the first installment of the land price in order to notify the applicant to pay the first installment of the land price

within thirty days since the date of the receipt of the notice.

If the applicant pays off the first installment of the land price and makes a written commitment to the restrictions set forth in Articles 18 to 20 and 22, the municipal or county (city) government shall issue a certificate of bestowal within three months.

Applicants who fail to comply with the provisions under Paragraph 1 will be deemed to have waived his/her right to receive the land.

#### Article 15

The bestowee, after paying off the entire amount of the land price, shall submit a copy of his/her identification card, a copy of the household certificate or the household register transcript to the municipal or county (city) government for entrusting the land office in charge to apply for the registration of the transfer of the ownership, and collect the certificate of land ownership by presenting the original certificate of bestowal.

#### Article 16

The bestowee shall be exempted from the payment of rent from the date of the bestowal, but shall be liable for the payment of land value tax or agricultural land tax.

#### Article 17

If a part or all of the land bestowed for marginal aquaculture is unavailable for use due to force majeure before the land price is paid off by the bestowee, the bestowee shall apply to the municipal or county (city) government for examination and verification, and upon approval of the municipal government or approval of the Ministry of the Interior after the county (city) government has reported it, the unusable portion of the land may be reduced or exempted from the land price payable since the date of the report is filed.

For those who are exempted from the payment of land price referred to in the preceding Paragraph, the municipal or county (city) government will revoke his/her bestowal and withdraw his/her certificate of bestowal. However, for those who are exempted from paying only a part of the land price for several pieces of land, the original certificate of bestowal will be amended with notes and be returned; the amount of the land price paid will be returned without interest.

#### Article 18

If the bestowee has any one of the following conditions before acquiring the land ownership by paying off the land price, the municipal or county (city) government shall reclaim the land and deal with the matter separately.

1. Death without inheritors.
2. Due to relocation or change of career, so that he/she is unable to continue the bestowal.

The amount of land price paid for the land reclaimed referred to in the preceding paragraph shall be returned in one lump sum without interest by the municipal or

county (city) government, except for cases of the death of the bestowee without inheritors, which will be subject to the Civil Code.

The land reclaimed in accordance with Subparagraph 2, Paragraph 1 may be disposed of by the bestowee within a limited period of time, or the municipal or county (city) government may make special improvements on the assessment of price in order to compensate for the loss.

#### Article 19

If any one of the following conditions exists before the bestowee pays off the land price and acquires the land ownership, the municipal or county (city) government shall revoke the bestowal and reclaim the land.

1. Any person who applies for bestowal by using a false or assumed name.
2. Any person who assigns or leases the land.
3. Any person who violates the permission of usage and fails to make corrections within the deadline after being notified.
4. Any person who fails to cultivate the land by himself/herself.

In the case of revocation of bestowal and reclamation of land in accordance with Subparagraph 2 of the preceding Paragraph, the amount of land price paid will not be returned. In the case of revocation of bestowal and reclamation of land under the remaining paragraphs, the amount of land price paid will be returned in one lump sum without interest.

In the case of revocation of bestowal and reclamation of land in accordance with Subparagraph 2, Paragraph 1, no compensation will be made for special improvements or ground objects. In the case of revocation of bestowal and reclamation of land in accordance with the remaining paragraphs, ground objects shall be disposed of by the bestowee within the time limit, and if they are not disposed of by the deadline, the municipal or county (city) government may directly remove them without any compensation.

#### Article 20

If the bestowee fails to pay the land price of the subsequent installments after the first installment, he/she will be charged a default penalty based on the land price payable for the current installment in accordance with the following provisions.

1. If the overdue period is less than one month, an additional two percent will be charged.
2. If the overdue period is more than one month but less than two months, an additional five percent will be charged.
3. If the overdue period is more than two months but less than three months, an additional ten percent will be charged.
4. If the overdue period is more than three months, an additional fifteen percent will be charged.

If the payment is overdue for four months, the bestowal may be revoked and the

land may be reclaimed, the amount of the land price paid will be returned in one lump sum without interest, and any special improvements to the land or ground objects will be handled in accordance with the provisions set forth in Paragraph 3, Article 18.

The payment of land prices for the granting shall be collected by national banks and cooperatives, municipal banks and cooperatives and their branches, and remitted fully to the National Treasury.

The National Property Administration, Ministry of Finance shall include the funds that are required by the National Property Administration, Ministry of Finance and the municipal or county (city) government to handle the granting in the budgets.

#### Article 22

The land may not be transferred until five years after the date the bestowee pays off the land price and acquires ownership of the land.

No change shall be made to the use of the land within five years after the bestowee acquires ownership of the land, except for zone expropriation or expropriation by the government for the purpose of implementing national economic policies or for public use.

#### Article 23

The guidelines for handling for applying the granting in accordance with these Regulations shall be prescribed by the municipal government with jurisdiction and reported to the Ministry of the Interior for record at municipal level; they shall be prescribed by the Ministry of the Interior at the county (city) level.

#### Article 24

The granting of national marginal aquaculture land within the slopeland shall be governed by these Regulations. The treatment and maintenance of soil and water conservation, the registration of transfer after the bestowal, etc., shall be mutatis mutandis governed by the Regulations for the Granting of Public Slopeland.

#### Article 25

The granting of aquaculture land in municipalities, counties (cities) and townships may be governed by the provisions of these Regulations.

#### Article 26

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