


Content

Title :	Directions for Inspecting Facilities Permitted in Agriculture Land of the Leasing National Non-public Use Land 
Date :	2023.06.20
Legislative :	<p>10.Revision of Decree No. 11240007740 by the National Property Administration, MOF on June 20, 2023</p> <p>9.Revision of Decree No. 10940009770 by the National Property Administration, MOF on October 27, 2020</p> <p>8.Revision of Decree No. 10740007750 by the National Property Administration, MOF on October 16, 2018</p> <p>7.Revision of Decree No. 10640008550 by the National Property Administration, MOF on November 9, 2017</p> <p>6.Revision of Decree No. 10540002820 by the National Property Administration, MOF on March 30, 2016</p> <p>5.Revision of Decree No. 10440012350 by the National Property Administration, MOF on August 26, 2015</p> <p>4.Revision of Decree No. 10440004180 by the National Property Administration, MOF on March 25, 2015</p> <p>3.Revision of Decree No. 10240002340 by the National Property Administration, MOF on February 8, 2013</p> <p>2.Revision of Decree No. 10100225681 by the National Property Administration, MOF on August 9, 2012</p> <p>1.Promulgated of Decree No. 10040032353 by the National Property Administration, MOF on November 29, 2011</p>
Content :	<p>Article 1</p> <p>These Directions are specifically formulated to facilitate branch offices (hereinafter referred to as the executive authority) of the National Property Administration of the Ministry of Finance in reviewing and permitting the construction of agricultural facilities on national leased farmland and lands used for agricultural (including class B grass and forest), animal husbandry, forestry, aqua(culture) purposes (hereinafter collectively referred to as national land leased for agriculture).</p> <p>Nonetheless, it was stipulated that national land leased for agriculture which the 37.5% Arable Rent Reduction Act may be applied shall be handled in accordance with the Act and are not subject to these Directions.</p> <p>The aforementioned agricultural land is within the scope of Article 2 of the Regulations for Examining the Application of Structuring Farming Facilities on Agricultural Land (hereinafter referred to as the Application Examining Regulations).</p> <p>Article 2</p> <p>If permissions were not granted for the construction of farmhouses on national land leased for agriculture, lessees are allowed to apply for the construction of agricultural facilities, in accordance with the Application Examining Regulations while maintaining the use of the land as specified in the lease agreement. Permissions will be granted based on results of the</p>

review conducted by the competent authority of the municipality or county (city) or the township (city/district) office (hereinafter referred to as the competent agriculture authority) which such authority was delegated to.

Article 3

The types of agricultural facilities referred to in these Directions are as follows:

1. Agricultural production and marketing facilities.
2. Forestry facilities.
3. Aquiculture facilities.
4. Animal husbandry facilities.
5. Green energy facilities may be set up on the roofs of the agricultural facilities mentioned in the preceding four paragraphs (hereinafter referred to as green energy roof facilities).

Article 4

Unless otherwise stipulated by the competent authorities of the municipalities or counties (cities), the utilization of temporary facilities that are agricultural production-related facilities on national land leased for agriculture without a fixed foundation and may be used without permission shall still obtain consent of the executive authorities. Other agricultural facilities and details of permitted uses shall be handled in accordance with Attachments 1, 2, 4, and 5 attached to the Application Examining Regulations according to the uses stipulated in the lease agreement.

Article 5

In cases of joint ownership of the national land leased for agriculture, upon the co-owners' negotiation of the separation of management, the national portion of the land may be permitted to be utilized as agricultural facilities.

Article 6

For national land leased for agriculture that were not leased in their entirety, unless such lands comply with Paragraph 1, Article 7 of the Application Examining Regulations, the total area taken up by the agricultural facilities constructed under permission shall not exceed 40 percent of the total area of the land leased. The area for the permitted construction of agricultural facilities shall be determined by multiplying the area for each type of agricultural facilities as stipulated in the Application Examining Regulations by the ratio of the leased land to the total area of the land.

If a lessee of a national land leased for agriculture applies to transfer

part of his/her land lease rights to a third party after he/she has applied for the use of agricultural facilities in accordance with the Application Examining Regulations and has completed the construction, and if the part of the leased land that is currently being used for agricultural facilities is still in compliance with the foregoing provisions after the transfer, the executive authority shall grant the transfer of the lease rights. In order to maintain the use of the national land leased for agriculture for its original purpose, lessees of such land may perform soil and water conservation treatment and maintenance in accordance with soil and water conservation related laws and regulations. Lessees may also prepare a soil and water conservation plan (or a simplified soil and water conservation declaration statement) in accordance with Article 12 of the Soil and Water Conservation Act, submit it to the competent authority of soil and water conservation for review and approval, and implement such plan under the supervision of the competent soil and water conservation authority. In this case, a consent for the use of the land issued by the executive authority is exempted (i.e., the land use consent form as prescribed in Paragraph 5, Article 4 of the Application Examining Regulations). In cases where conditions in the proviso of Paragraph 2, Article 6 of the Forestry Act are met, handling shall be performed in accordance with Article 18 of the Act. The lessee shall bear the costs generated from the aforementioned operations. The executive authority has no obligation to provide any compensation in the event when the lease is revoked, terminated, or cancelled.

Article 7

When a lessee of national land leased for agriculture applies for the construction of agricultural facilities, he/she should attach the following documents to the executive authority and apply for the issuance of a land use consent certificate:

1. Facility plan: Specifying the type, location, land area covered, height, and the schematic diagram of the facility to be constructed.
2. Application form (refer to the format of Attachments 1 and 2).

If the facilities listed in Attachments 1, 2, 4, and 5 of the Application Examining Regulations have already been constructed on the national land leased for agriculture, the lessee shall attach the documents as stipulated in the preceding paragraph to file a supplemental application for a land use consent certificate.

Article 8

If the lessee has not violated any other terms of the lease except for non-payment of rent and compensation for the occupying period (both excluding the outstanding installments), and while maintaining the utilization of

facilities for its original agreed usage in the lease agreement, the executive authority may issue two copies of the land use consent certificate (in format as stated in Attachments 3 and 4). One copy will be given to the lessee while the other will be filed with the lease agreement for future reference. The valid period of the certificate shall not be longer than a year and the end of such period shall not be later than the lease expiration date. The same applies to lessees who are filing a supplemental application for such certificate in accordance to Paragraph 2 of the preceding article.

If the agricultural facilities listed in the preceding land use consent certificate are required to apply for a building permit in accordance with the provisions of the relevant construction laws and regulations, the lessee shall be issued an additional copy of the land use consent certificate to apply for a building permit from the competent construction authority.

Upon issuance of the land use consent certificate, the executive authority shall inform the competent agricultural authority of the issuance, and if application for building permit is required for the agricultural facilities in accordance with the provisions of the relevant construction laws and regulations, the executive authority shall also inform the competent construction authority to inform the executive authority when an administrative penalty is imposed, and shall stipulate the following in the special terms of the lease agreement:

1. The construction of agricultural facilities shall comply with the content of the land use consent certificate issued by the competent agricultural authority. The leasing authority may order lessees of the land to resume the use of the land to its original purpose as stated in the land use consent. In the event that agricultural facilities were constructed and a land use consent certificate was obtained from the lease authority, yet the use permission of such facilities wasn't applied at the competent agricultural authority within one year time after obtaining the aforementioned certificate; or in the event where the competent agricultural authority rejected the land use proposal; or in the event that the construction of the agricultural facilities did not comply with the competent authority's land use consent; or the lessee fails to use the facilities for their designated purpose as stated in the consent; in events where land use consents were revoked by the competent agricultural authority. If the lessee fails to resume the use of land to its original purpose, the leasing authority may terminate the lease and vacate the national land, and the removal costs shall be borne by the lessee.
2. The ownership of the agricultural facilities shall not be transferred separately. If the lessee needs to transfer the ownership of the agricultural facilities to a third party, the lessee shall transfer the

ownership together with the lease right, and shall comply with the provisions of Paragraph 2 of Article 6 and seek the prior leasing authority; if the lessee fails to do so, the leasing authority shall terminate the lease.

Article 9

After obtaining a land use consent certificate, the lessee shall, within one-year time, apply to the agricultural authority in charge of the area where the land is located for permission to use the land in accordance with the method of permission to use the land. Those who are involved in the construction of buildings should apply for a building permit in accordance with relevant laws and regulations on construction.

After the application for permitted use has been reviewed and approved by the competent agricultural authority, the lessee shall inform the executive authority of the approval. For an application that was reviewed and approved, the lessee shall submit the contents approved by the competent agricultural authority (including the facility plan) and photos of the constructed facilities, a copy of the building permit (lessees exempt from building permit application in accordance with construction related laws and regulations are excused from submitting a copy of building permit) to the executive authority for future reference.

If a lessee arbitrarily constructed agricultural facilities after obtaining a land use consent certificate, yet the use permission of such facilities wasn't applied at the competent authority within the valid period; or in the event where the competent agricultural authority rejected the land use proposal, the lessee shall be dealt with in accordance with the provisions of Subparagraph 1 of Paragraph 3 of the preceding article.

Article 10

In the event that lessee has filed a supplemental application for the land use consent certificate in accordance with Paragraph 2 of Article 7, the executive authority has issued such certificate to the lessee, yet the lessee fails to apply for the permission to use the land by the valid date of the certificate, or in the event when the competent agricultural agency has failed to complete the revision and approval of the permission to use such land by the valid date of the certificate, a new land use consent certificate with a validity period of six months may be reissued to supplemental application for such certificate made by lessees where the reasons are stated clearly and on-site inspection was carried out jointly by the executive authority and the lessee confirming that the current conditions of use comply with those set out in the original land use consent certificate, with no construction expansion or other breaches of lease agreements.

If it is discovered during the on-site inspection carried out jointly by the executive authority and the lessee that, the current conditions of use does not comply with those set out in the original land use consent certificate, with construction expansion or other breaches of lease agreements, the executive authority may demand the lessee resume the use of such land to its original designated purpose by a certain date. The deadline for the resumption may be extended once for no more than three months depending on the situation. Lessees who fail resume the use of land to its original designated purpose shall be dealt with in accordance with the provisions of Subparagraph 1 of Paragraph 3 of Article 8.

Article 11

If a national farmland is leased for use by the lessee as an animal husbandry facility from the start of the lease, or if the executive authority agrees that the lessee may use the land as an animal husbandry facility, and the lessee has already used the land as an animal husbandry facility in accordance with the agreement, then the lessee has been engaged in owner-cultivation (cultivation done by the landowner himself/herself) and has not violated the lease agreement. If it is agreed from the start of the lease that the lessee may use the land as an animal husbandry facility, the lessee shall file a supplemental application in accordance with these directions.

Article 12

When a lessee of leased national afforestation land applies for the construction of, or files a supplemental application for a constructed, laborer lodging and ancillary construction facilities (toilets, water towers, and rain shades), or a temporary forest road for afforestation or logging operations, such application shall comply with the following circumstances and shall obtain the consent of the executive authority so that a consent for the use of the land issued by the executive authority in accordance with the provisions of Article 8 is exempted:

1. Laborer lodging and ancillary construction facilities (toilets, water towers, and rain shades)

(1) Cases where laborer lodgings are newly constructed:

i. Land that falls within the scope of national forest to be transferred to the Forestry Bureau for management shall be handled by the executive authority in accordance with the principles for transferal of national forests to the Forestry Bureau.

ii. Land that is not within the scope of national forest to be transferred to the Forestry Bureau shall be handled in accordance with Attachment 5.

(2) Cases where a supplemental application is filed for constructed laborer lodgings: Handle in accordance with Attachment 5.

2. Forest roads for forestry operations, unless located within a certain distance from a tap water source quality protection area, a drinking water source quality protection area, a drinking water intake point, in nature protection (reserve) zones, or forest recreation area where construction of forest roads is prohibited, shall be handled in accordance with the following measures:

(1) The width of the forest road for forestry operations shall not exceed three meters wide, and surface of the road shall not be paved with asphalt or cement.

(2) The facilities of the forest road for forestry operations shall comply with the provisions in Paragraph 2 of Article 9 of the Forestry Act, which stipulates that operation must "not impair geological stability, national security and forestry", and does not affect the forest administration and forest protection.

(3) The applicant shall not claim any rights and shall be responsible for all safety and maintenance responsibilities when the establishment of a forest road for forestry operations is approved.

(4) Upon approval for the establishment of a forest road for forestry operations, the applicant shall prepare a soil and water conservation plan (or a simplified soil and water conservation declaration statement) in accordance with Article 12 of the Soil and Water Conservation Act, submit it to the competent authority of soil and water conservation for review and approval, and implement such plan under the supervision of the competent soil and water conservation authority.

Article 13

For approvals granted in accordance with the previous article for lessees' application for the construction of, or lessees' supplemental application for constructed laborer lodging and ancillary construction facilities (toilets, water towers, and rain shades), the executive authority shall stipulate in the special terms of the lease agreement that "The lessee shall construct or has already constructed a laborer lodging and ancillary construction facilities (toilets, water towers, and rain shades) in accordance with Article 12 of the 'Directions for Reviewing and Permitting the Construction of Agricultural Facilities on National Agricultural Land'. The leasing authority may terminate the lease in any event of violation."

"The lessee shall not demand an assigned house number and register residency with such address, and shall not change the purpose of use, otherwise the lessee tacitly and unconditionally agrees that the leasing authority may terminate the lease." "Upon termination of the lease, the lessee must unconditionally dismantle the laborer lodging constructed, and shall not seek any compensation from the leasing authority."

Article 14

For approvals granted in accordance with Article 12 for the lessees' establishment of forest roads for afforestation or logging operations, the executive authority shall stipulate in the special terms of the lease agreement that "The lessee shall construct or has already constructed temporary forest roads required for afforestation or logging operations in accordance with Article 12 of the 'Directions for Reviewing and Permitting the Construction of Agricultural Facilities on National Agricultural Land'. The leasing authority may terminate the lease in any event of violation." "Upon completion of the afforestation or logging operations, all forest roads established must be closed so as to allow afforestation and restoration. Otherwise, the leasing authority shall terminate the lease."

Article 15

Lessees that meet the requirements of the Paragraph 2 of Article 9 may apply for the installation of green energy roof facilities unless otherwise stipulated by law. Before applying for permission to use in accordance with Article 28 of the Application Examining Regulations, lessees shall attach the following documents to the executive authority and apply for the issuance of a land use consent certificate:

1. Green energy roof facility plan: Specifying the type, location, land area covered, height, and the schematic diagram of the facility to be constructed.
2. Application form (refer to the format of Attachment 6).

Article 16

When the executive authority accepts an application by a lessee to set up green energy roof facilities, such authority may issue a land use consent certificate (in the form of Attachment 7) in accordance with the provisions of Paragraphs 1 and 2 of Article 8.

Upon issuance of the land use consent certificate, the executive authority shall inform the competent agricultural authority of the issuance, and if application for building permit is required for the green energy roof facilities in accordance with the provisions of the relevant construction laws and regulations, the executive authority shall also inform the competent construction authority to inform the executive authority when an administrative penalty is imposed, and shall stipulate the following in the special terms of the lease agreement:

1. The construction of green energy roof facilities shall comply with the content of the land use consent certificate issued by the competent agricultural authority. The leasing authority may order lessees of the land to restore such land to its original condition as stated in the land use consent. In the event that a land use consent certificate was obtained, yet the use permission wasn't applied at the competent agricultural authority

for more than a year; or in the event where the competent agricultural authority rejected the land use proposal; or in the event that the construction of the facilities did not comply with the competent authority's land use consent; or the lessee fails to use the facilities for their designated purpose as stated in the consent; in events where land use consents were revoked by the competent agricultural authority, the leasing authority shall demand the lessee to restore the leased premises back to their original state within a certain period of time. If the lessee fails to restore the land to its original condition, the leasing authority may terminate the lease and vacate the national land, and the removal costs shall be borne by the lessee.

2. The green energy roof facilities shall not affect the use of agricultural facilities and shall be used in conjunction with agricultural operations.

Article 17

After obtaining the land use consent certificate for green energy roof facilities in accordance with the preceding Article, the lessee shall follow the procedures stipulated in Paragraphs 1 and 2 of Article 9. For those who are exempted from application for miscellaneous licenses by law, lessees shall progress in accordance with the Standards for Installing Renewable Energy Facilities Exempt from Miscellaneous License, attach a copy of the official letter from the competent construction authority of the place where the land is located and a copy of the consent of the competent energy authority for filing to the executive authority as a record for future reference.

In the event that a lessee obtains a land use consent certificate and a situation as stated in the lease agreement stipulated in the Paragraph 2 of the preceding Article arises, such situation shall be handled in accordance with the agreement.

Article 18

National land leased for afforestation situated on land designated for forestry purposes or land that has not been designated for a certain purpose are defined as **land subject to forestland control by law**. In order to implement soil and water conservation treatment and maintenance in accordance with Paragraph 3, Article 6 of these Directions, lessees shall obtain consent of the executive authority to the application by means of an official letter (in the form of Attachment 8), and then apply for the implementation of soil and water conservation treatment and maintenance on the land designated for forestry purposes to the competent authority of the municipality, county (city) within one year time. The competent authority of the municipality, county (city) shall review and approve the application

in accordance with the provisions of Paragraph 2, Article 6 of the Forestry Act, and then report to the competent authority of the central government for approval, in conjunction with the competent land administration authority of the central government.

Article 19

The executive authority shall keep an inventory of the national land leased for agriculture for which a land use consent certificate has been issued, and conduct random inspections of the use of agricultural facilities every year according to actual needs.

Attachments : Attachment 1.odt
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