

Regulations for land expropriation for state construction

(Passed at the 192nd Meeting of Administrative Affairs of the Administrative Council on 5 November 1953)

(Approved by the Chairman of the Central People 's Government and promulgated by the Administrative Council on 5 December 1953)

(Rectified at the 58th. Meeting of the General Meeting of the State. Council on 18 October 1957. Approved at the 90th Meeting of the Standing Committee of the People 's Congress on 6 January 1958. Promulgated by the State Council on 6 January 1958)

Article 1: These Regulations are formulated to meet the needs of state construction, and to treat carefully and properly the problems of land expropriation for state construction.

Article 2: When the state builds factories and mines, railways, transportation lines, water conservation, and national defence projects or proceeds with construction of cultural, educational, health and municipal facilities, and others, it is necessary to expropriate land. Land expropriation shall be carried out in accordance with these Regulations.

Article 3: The regulations for land expropriation for state construction should not only conform to the actual needs of state construction to guarantee land required for such purposes, but should also properly look after the production and livelihood of peasants whose land has been expropriated.

If for the time being those whose * land has been expropriated cannot be resettled, land should not be expropriated until such problems are solved, or alternate sites should be expropriated.

Land expropriation for state construction should conform to the principles of using land thriftily. All projects which are not necessary at the present time should not be undertaken. When expropriating land for projects that are to be constructed (the construction unit should calculate meticulously (the amount of land required), strictly limit the planned amount (of land), control the density of buildings, prevent excessive or premature expropriation (of land), and eliminate waste of land. Waste land, poor land and empty land should be as fully utilized as possible. Wherever possible, cultivated land and rich farmland should not be expropriated, or not in large amounts; houses should not be demolished, or not in large numbers.

Article 4: In land expropriation, the amount of land needed (for a certain project) shall be approved by the department authorized to approve the preliminary plan of the project, then the unit using land shall apply for the land in one allotment or in several allotments from the local people's committee at the provincial level; for construction projects using less than 300 mou of land and involving resettlement of less than 30 households (the unit) shall apply

for land allotment from the local people's committee at the county level.

When the unit using land- applies for a land allotment (it) should submit the application forms for land expropriation ((items include) an explanation in detail of the territory, location and the approved amount, and attach (to it) plans for compensating and resettling the persons whose land has been expropriated, documents on the approved preliminary plan of the construction project (to be accompanied with plans)) documentation as to the duration of construction and the written opinion of the people's committee at the levels of county or town of the locality where the land is located.

But for applications for land to be used for railway, highway way and national defence projects, if there is real difficulty in submitting the above-mentioned documents (the need for) their submission may be exempted or postponed, upon the approval of the department which approved the amount of land (expropriated).

Article 5: After allotment of the land, the unit using land, to get Re r with the local people's committee, shall explain it to the people, and announce the various methods of

compensating and resettling those whose land has been expropriated, and give them the necessary time to make preparations. This will enable them to realize for themselves that the land is being expropriated for the benefit of the state and the long-term benefit of the people. Thereafter land expropriation shall be finalized and actual construction work started. If large areas of land have to be expropriated, large numbers of residents or even an entire village resettled, preparatory work among the local people shall be done first, and then the problems involved in land expropriation submitted to the local people's congress for solution.

Article 6: In the event of salvage work or an emergency situation, when there is insufficient time (for the unit) to apply Article 4 and Article 5 of these Regulations in expropriating the required land, work may be started. At the same time an application for land expropriation should be submitted as soon as possible and explanations given to the people (for the land expropriated).

Article 7: In case of land expropriation, arrangements should be made to use state-owned, public-owned land. If no such arrangements can be made or the production and livelihood of those whose land has been expropriated are affected after such arrangements are made, compensation or subsidies should be paid (to them).

The (amount of) compensation for land expropriation shall be jointly determined by "the local people's government, the unit using the land and the person whose land has been expropriated". With regard to general types of land (the amount of compensation) shall be set by the fixed value of production of the last 2 to 4 years; with regard to tea-growing hills, tung tree-growing hills, fish ponds, lillyroot ponds, mulberry gardens, bamboo groves, orchards, reed ponds, or other types of special land, compensation shall be made in a modified form in accordance with the actual conditions.

If houses on expropriated land must be demolished, under the principle of guaranteed housing for the original households, an equivalent type of accommodation shall be provided to the original house owners, or compensation provided in accordance with the principle of fairness and rationality.

(Owners of) wells, trees and agricultural crops on expropriated land shall be provided with compensation in accordance with the principle of fairness and rationality.

Article 8: Compensation of subsidy for expropriated land and compensation for houses, wells, trees and agricultural crops on expropriated land shall be paid by the unit using the land.

When land is expropriated from agricultural producer's co-operatives, compensation or subsidy shall be paid to the co-operatives; when expropriating privately-owned land, comparative fund or subsidy shall be paid to the (land) owner.

(To compensate for) properties and agricultural crops on the land, which belong to the agricultural producer's co-operatives, compensation shall be paid to the co-operatives, for those that belong to the individual, to their owners.

Article 9: When land is expropriated from agricultural producer's co-operatives, if the member's general meeting or the member's congress considers that (the expropriation) does not affect the livelihood of the members, no compensation shall be necessary, and upon the approval of the local people's committee at the hsien (county) level, no compensation shall be paid.

When expropriating land that is used by the agricultural producer's co-operatives and not belonging to the members, if the land owner is not engaged in agricultural production, and does not depend on income from the land for his living, no compensation shall be paid, but approval (for expropriating the land) must be given by the individual.

Article 10: In the expropriation of houses and their foundations within urban areas, if the house and the foundation belong to the same person, no separate compensation shall be made for the foundation; if they belong to two different persons, the owner of the foundation shall be compensated according to his living conditions.

No compensation shall be paid for the expropriation of non-productive empty land within urban areas.

Article 11: Before the unit using land proceeds with surveying and investigating the land for which, it is applying for expropriation, approval must first be obtained from the local people's committee and its owner. If losses to the owner were incurred by the surveys and the investigations, appropriate compensation shall be paid.

Article 12: When a construction project is in progress, the unit using the land or the construction unit needing to use or expropriate land beyond the territory already expropriated, for storage yards, construction materials and transportation lines, after obtaining approval from the local people's committee and the land owner, may rent or borrow (the land). When losses are incurred by construction work in progress on unexpropriated land, the unit using the land or the construction unit shall compensate the land owner.

Article 13: With regard to peasants who need to be looked after as a result of land expropriation, the local people's committee at the village, town and county level shall be responsible for placing them in agriculture whenever possible; if this is not possible, the labour department, the department of civil administration and others of the local people's committee at the county level, together with the unit using land shall devise means to place the peasants in other sectors in the same locality if it is impossible to place them in agriculture or other sectors in the same locality, emigration (of the peasants) shall be organized. Organization of emigration shall be the responsibility of the people's committees at the county level in both the emigrating district and the immigrating district. The unit using land shall be responsible for paying the expenses for emigration.

Article 14: All ownership of expropriated land is held by the state. The unit using land shall prepare two copies each of the plans of the land expropriated and submit them to the local county or the municipal people's committee to be placed on record. One of these copies shall then be retained by the county or the municipal people's government for inspection, and the other retained by the unit using land.

Article 15: With regard to expropriated land, if the land or part of the land is not used by the unit using the land due to a change of plan or other reasons, the land or the unused portion shall be returned to the local people's committee at the county level which shall allot (it) to other units using land or to the peasants for cultivation.

For expropriated land which is not used temporarily for one cropping season, the condition that the use of the land for construction is not hampered, (the land) shall be given to the peasants to continue cultivation. With regard to land on which agricultural crops are growing, whenever possible (it) shall not be used until after the harvest.

Article 16: When, graves on expropriated land need to be removed, the local people's committee shall notify the owner of the grave to remove it. Appropriate amounts of funds (for removal and reburial) shall be paid by the unit using the land; proper arrangements (for the burial) shall also be made in accordance with local custom. Graves without an owner shall be relocated by the unit using the land. The local people's committee shall assist in finding land for reburial if no (suitable) site is available. The local people's committee at the county level shall be notified concerning the removal of the graves of martyrs.

If there are any archaeological remains, famous places of scenic value and historical relics that are worthy of preservation within the area expropriated, the unit using the land and the construction unit, together with the cultural department of the people's committee at the county level shall be responsible for making proper arrangement for their preservation.

Article 17: With regard to water sources, aqueducts, transportation and other (similar facilities) which have a close relationship to production and the livelihood of the people, the unit using the land or the construction unit together with the local people's committee, shall make proper arrangement (for their protection) while the construction project is in progress. (These facilities) should not be recklessly interrupted or damaged.

Article 18: With regard to state owned and public lands that are required for state construction, (the authorities or unit concerned) shall apply for their allocation in accordance with Items 4 and 5 of these Regulations, and shall provide appropriate explanations to the people.

When allotting state owned and public land cultivated by the peasants, appropriate subsidy shall be provided by the unit using the land according to their living conditions.

With regard to compensation for the properties and the agricultural crops on the land, and resettlement of the peasants who originally cultivated the land, (the unit using the land) shall separately make arrangements in accordance with Items 7 and 13 of these Regulations.

Where there are allocations of state owned, public land being used by government offices, military units, enterprises, schools, people's organizations and other units, with regard to the problems of the removal and rebuilding of houses and foundations on the land originally used by the above units, arrangements shall be negotiated among the local people's committee at the county level, the unit applying for use of the land and the unit originally using the land, with strict adherence to the principles of restricting use of land or houses and of curtailing expenditure of state revenue. Whenever possible, the unit originally using the land shall solve the problem by itself. If this cannot be done, the unit originally using the land shall make arrangements, or exchange houses (with other units); if this cannot be done, appropriate compensation shall be paid by the unit applying for use of the land.

Article 19: With, regard to persons who rely on income from operating enterprises on public land for public benefit, if after this category of land is expropriated and (the operators) need to continue operation but have no access to operating funds, the local people's committee shall disburse funds, according to the nature of the enterprise, from the operating budget of the senior department of the enterprise; if disbursement is not possible, a report shall be promptly submitted to the people's committee at the senior level for solution.

Article 20: Joint state and private enterprises, cooperative's trusts, supply and marketing co-operatives, handicraft producer's co-operatives and people privately operating enterprises for public benefit who require land may apply to the local people's committee at the county level.

After approval arrangements shall be made in accordance with these Regulations.

Article 21: People's committees above the county level and the senior department of the unit using land shall constantly supervise and inspect the conditions of use of the expropriated land. If there are infringements of these Regulations by the unit using the land and the construction unit, including waste of land or damage to the interest of the people, these situations should be promptly corrected and responsibility for serious cases should be investigated, and treated firmly. All unused and unnecessarily expropriated land shall be promptly retrieved.

At a fixed time the people's committee above the county level shall submit reports on the conditions and problems of land expropriation.

Article 22: In accordance with these Regulations and the concrete conditions of the locality, the people's committee at the provincial level shall formulate regulations for application and report to the GAC, to be placed on record.

In accordance with the concrete conditions of the locality and with reference to the basic principles of these Regulations, the self-governing departments of all ethnic autonomous areas shall formulate regulations for land expropriation of their local districts; also a modified form of these Regulations may be applied to land expropriation (in ethnic autonomous areas) .