Farmland Law

(Pyidaungsu Hluttaw Law No.11 of 2012)

Day of 8th Waxing of Tagu 1373 ME

(30th March, 2012)

The Pyidaungsu Hluttaw enacted this Law.

CHAPTER I.

NAME, ENFORCEMENT AND DEFINITIONS

1. This Law shall be called the Farmland Law.
2. This Law shall enforce on the date as the President of the Republic of the Union of Myanmar may, by notification, direct.
3. The following expressions contained in this Law shall have the meaning given here under:
    (a) "farmland" means designated lands as; paddy land; ya land; kiang land; perennial plant land; dhani land; garden land; land for growing of vegetables and flowers; and alluvial island. In this expression, it does not include land situated within any town or village boundary used for dwelling, religious building and premises, and public - owned land which is not used for agriculture purpose;
    (b) "paddy land" means land mainly grow for rice paddy, rain fed or irrigated.
    (c) "alluvial island" means land has flooded yearly and it's land texture and location can vary in accord with water channel.
    (d) "right for farming " is defined that as the State is original owner of all lands, giving permission for farming in conformity with this law and bylaw, rule and regulation of this law so that agricultural production capacity develop, excluding exploring gems, mines, petroleum, gas and natural resources below and above ground;
    (e) "agriculturist" means any person who is in compliance with any one of the following conditions:-
        (1) is or was engaged in agriculture (or) livestock breeding (or) both as his principal means of livelihood (or) ;
        (2) supervises the land use for agriculture (or) livestock breeding (or) both as his principal means of livelihood during years concerned;
        (3) invests capital and engages directly or supervises in the production of seasonal crops, orchard, perennial crops (or) commercial livestock breeding as his principal means of livelihood (or);
        (4) engaged in agriculture (or) livestock breeding;

(5) using farmland for producing (or) breeding and selling of sapling, seed, and breeding in for agriculture production and livestock breeding purposes;

(f) "agricultural household " means a group of persons related by blood or marriage, living together as a household of whose head thereof, who shall be an agriculturist ;

(g) "head of household" means any principal member of a household who leads the household activities;

(h) "repair to gain progress by building" means raising values of land at present land owner's expense or one currently using land's expense or with his or her working power. The amendment also comprises place for one who works agricultural process or buildings, canals, dams, lakes, wells, embankments, roads and other facilities, excluding, but, land clearing works and procedures not for perpetual development;

(i) "guardian" is defined as one who was vested with authority to keep under-age person or lunatic or their possessions by authoritative court;

(j) "peasant organization" is the one that is formed to help rural development in conformity with law;

(k) "Ministry" means the Ministry of Agriculture and Irrigation;

(l) "Department" means the Settlement and Land Records Department;

CHAPTER II.

RIGHT FOR FARMING

4. A person who has the permission of right to use farmland shall have to apply for getting the Land Use Certificate to the Township Land Records Department Office passing it through the relevant Ward or Village Tract Farmland Management Body.
5. With respect to Section 4 of this law, the Office of Township Land Records Department shall scrutinize and submit the cases of right to use farmland to the relevant Township Farmland Management Body.
6. The Township Farmland Management Body shall issue the Land Use Certificate to the following person or organization with respect to existing farmland on the day of enforcement date of this law, by the approval of District Farmland Management Body, after paid the prescribed registration fees and registered at the Township Land Records Department's Office:
   (a) If a person who has right for farming shall be;
      i. an agricultural household (or) member of the household;
      ii. head of the household (or)a member of the household (or) guardian who is legally holding and working the land in accordance with existing land law, before this law has been enacted;
      iii. the legal beneficiary either in accordance with this law or rules deriving from this law after its enactment ;
      iv. completed the age of eighteen years;

v. a citizen or guest-citizen or naturalize-citizen

(b) If an organization; Government Department (or) Government Organization (or) Non Government Organizations (or) Company shall had been right for farming.

7. After this Law has enacted, the Township Farmland Management Body shall issue the Land Use Certificate to the following person or organization with respect to revoking farmland and land reclamation by the State, with the approval of District Farmland Management Body, after paid the prescribed registration fees and registered at the Township Land Records Department's Office:

(a) If a person shall be;

i. engaged in agricultural process using land

ii. lived in relevant ward or village tract as a resident

iii. completed the age of eighteen years;

iv. a citizen or guest-citizen or naturalize-citizen

(b) If an organization; Government Department (or) Government Organization (or) Non Government Organizations (or) Company shall be actually to work with a will for farming.

8. The Township Farmland Management Body shall issue the Land Use Certificate to a person who receive the right for farming by buying (or) exchanging (or) giving (or) inheritance in accordance with the provision of this Law (and) a person who has got the grant of right to do, (and) right to utilize the vacant, fallow and virgin land may apply in accordance with this Law whenever cultivation is completed, after paid the prescribed registration fees and registered at the Township Land Records Department's Office.

CHAPTER III.

RIGHTS RELATING TO PERMITTED FARMS

9. The following rights shall be enjoyed in connection with the right for farming:

(a) right to have such land in hand , right for farming and gain benefit of such farm;

(b) right to sell, pawn, lease, exchange, or donate , in whole or in part of the right for farming in accord with prescribed disciplines;

(c) disputes arising out of inheritance of farmland shall be decided upon by the law respective court in accord with existing law;

(d) the duration of the right for farming shall continue so long as the stipulated conditions are not breached;

(e) land development operation are to be carried out by doing joint-venture with the investment of rural cooperative association or private investors;

(f) in accordance with Foreign Investment Law, foreigner or organization containing foreigner are to be carried out by doing joint-venture;

10. The provisions under the section 4, 5, 6, 7, 8 and 9 of this law shall not apply to the allocation of alluvial land.

11. The disposal of alluvial land can be effected by means of prescribed rules.

CHAPTER IV.

CONDITIONS IN RESPECT OF THE RIGHT TO WORK FARMLAND

12. The following conditions shall be complied with in respect of the right to work farmland: -
    (a) any person shall work farmland in accordance with the provisions of this law;
    (b) land-tax and other taxes in respect of farmland assessed by the Ministry shall be paid;
    (c) It is needed to register at related department with fee when the process such as selling, pawning, lending, and donation of right to work farmland is carried out, and the prescribed stamped-duty and registration of deed fees shall be paid;
    (d) Whenever inheriting of completely handing over of lands is carried out in accordance with existing law, It is needed to register at related department in accord with prescribed conditions;
    (e) "pawning" is permitted to acquire investment for agricultural production only, by means of pawning the farmland with a government bank (or) authorized bank;
    (f) farmland shall not be worked without the permission of the relevant farm management body;
    (g) farmland is prohibited using for non-agriculture purpose without permission;
    (h) farmland is prohibited to grow other crop from regular crop without permission;
    (i) farmland shall not be fallow without a sound reason;
    (j) during the period of before getting the right for farming or disputing the right for farming, selling, pawning, lending, exchange or donation of right for farming farmland is prohibited;
13. After this Law enacted, whenever land dispute happens, registered farmland at the department can do official solution.
14. A person who has the permission of right for farming should not be sold, pawned, leased, exchanged or donated to any foreigner or organization containing foreigner without the permission of State Government.

CHAPTER V.

FORMATION OF FARM MANAGEMENT BODIES

15. The Union Government may form: -
    (a) The Central Farmland Management Body with the Union Minister for Ministry of Agriculture and Irrigation as a Chairman, Deputy Minister for Ministry of Agriculture and Irrigation as Vice Chairman, Director General for the Settlement and Land

Records Department as Secretary and the relevant government department officials as members of the body;

(b) The Central Farmland Management Body constituted under the above paragraph (a), can be reconstituted when necessary;

16. The Central Farmland Management Body may form:

(a) the following farmland management bodies at various levels

i. Region or State Farmland Management Body;

ii. District Farmland Management Body;

iii. Township Farmland Management Body;

iv. Ward or Village Tract Farmland Management Body;

(b) the farmland management bodies at various levels constituted under the above paragraph (a), can be reconstituted when necessary;

CHAPTER VI.

DUTIES AND AUTHORITY OF THE CENTRAL FARMLAND MANAGEMENT BODY

17. The duties and authority of the Central Farmland Management Body are prescribed as follows:

(a) to prescribe the duties and authority of the farmland management bodies at various levels for the Region or State, District, Township and Ward or Village Tract;

(b) to give guidance and control in respect of registration the right for farming, issuing the Land Use Certificate, giving the right for farming and solving land dispute;

(c) to give guidance and control in respect of selling, pawning, leasing, exchange and donation the right for farming;

(d) revoking the right for farming in accordance with this Law under the section 19 subsection (c) and (d), section 31 and section37;

(e) to scrutinize and approve the submission of Region or State Farmland Management Body in respect of using the farmland to be required for human settlements and housing in rural and urban area in which population and household are increasing ;

(f) to scrutinize and approve the submission of Region or State Farmland Management Body in respect of using the farmland to be required for school, health center, hospital, clinic, library, bazaar, cemetery, and other buildings to develop social life of the rural people;

(g) to scrutinize and approve the submission of Region or State Farmland Management Body in respect of using the farmland to be required for agricultural sector development transition from primitive farm to modernize farm mechanization in which warehouse, rice mill, silo, godown, farm road and other buildings were needed to be established;

(h) to give guidance and control in respect of the allocation of alluvial land and prescribe the policy relating to right for farming;

(i) to give guidance and control in respect of shifting Taungya cultivation;

(j) to perform the duty assigned by Union Government in respect of farmland periodically;

18. In accordance with the provisions of this law, the Central Farmland Management Body may delegate authority to the appropriate Farm Management Body for the purpose of farmland valuation in respect of local conditions and current prices related to registration of deeds, transfer of the right for farming which shall be compulsory registered at the office of relevant department in the presence of witness of the Ward or Village Tract Farm Management Body.

CHAPTER VII.

TAKING ACTION ON BREACH OF CONDITIONS

19. If the conditions prescribed in section12 of this law are not met in all or anyone, the Farmland Management Body appointed by the Ministry in this behalf shall, after making enquiry in accordance with the rules made under this Law, decide one or more than one of the following orders:
    (a) to be paid the prescribed fine;
    (b) to be utilized the farmland in the prescribed manner;
    (c) to be evicted from farmland;
    (d) to be removed the buildings which were built on farmland without permission;
20. If whosoever having the right for farming under this law, fails to obey the order issued by the Farmland Management Body in accordance with this law under section 19, shall accuse to the respective court after the deadline-date is over.
21. Whosoever who having the right for farming under this law, fails to pay revenue levied by the Ministry, recovery shall be made of such revenue under the law as if it were an arrear of land revenue.

CHAPTER VIII.

DECIDING LAND DISPUTES IN RESPECT OF THE RIGHT FOR FARMING AND APPEAL

22. Land disputes in respect of the right for farming shall be decided by the Ward or Village Tract Farmland Management Body, after opening the case file and making actions such as enquiry and hearing about the land disputes.
23.
    (a) Whosoever may appeal to the respective Township Farmland Management Body against within 30 days from the date of decision made by the Ward or Village Tract Farmland Management Body in accordance with the section 22 of this law ;
    (b) Township Farmland Management Body may approve (or) revise (or) cancel the decision made by the Ward or Village Tract Farmland Management Body;

24.

(a) Whosoever may appeal to the respective District Farmland Management Body against within 30 days from the date of decision made by the Township Farmland Management Body in accordance with the section 23 subsection (b)of this law;

(b) District Farmland Management Body may approve (or) revise (or) cancel the decision made by the Township Farmland Management Body;

25.

(a) Whosoever may appeal to the respective Region or State Farmland Management Body against within 60 days from the date of decision made by the District Farmland Management Body in accordance with the section 24 subsection (b)of this law;

(b) Region or State Farmland Management Body may approve (or) revise (or) cancel the decision made by the District Farmland Management Body;

(c) the decision made by the Region or State Farmland Management Body is final;

CHAPTER IX.

COMPENSATION AND INDEMNITY

26. Notwithstanding any provision contained in any other existing law, the Central Farmland Management Body must be coordinated with acted for suitable compensation and indemnity in the case of repossession of farmland either in the interest of the State or in the interest of the public. Confiscated farms are to be compensated without any lose. If farm is upgraded with building, it is required to compensate for such building.
27. Whosoever shall not be entitled for getting compensation, if the right for farming or farmland was revoked by the Central Farmland Management Body in accordance with this Law under the section 17 subsection (d).

CHAPTER X.

UTILIZATION OF FARMLAND

28. In respect of application for permission to grow other crop from regular crop :-
    (a) The Central Farmland Management Body shall give permission to grow other crop on paddy land ,after scrutinize the prescribed condition while rice is the main staple crop of the State and not to diminish the rice sufficiency;
    (b) The respective Region or State Farmland Management Body Shall give permission to grow other crop on farmland except paddy land, after scrutinize the prescribed condition;
29. In the long-term national interest of the State, the respective implemented Ministry shall be utilized the farmland for the Project, by the permission of the Cabinet of the Union Government after getting the remarks of the Central Farmland Management Body.

30. In respect of the application to utilize the farmland for other purposes in the interest of the public:-
    (a) The Central Farmland Management Body shall give permission to utilize the paddy land for other purposes, with the recommendation of the Region or State Farmland Management Body;
    (b) The respective Region or State Government shall give permission to utilize the farmland for other purposes except paddy land, with the recommendation of the Region or State Farmland Management Body;
31. The Central Farmland Management Body shall confiscate the farmland if the farmland is not start to use within six months in the prescribed manner from the date of permission order in accordance with the section 30 of this law, or not completed within the prescribed period.

CHAPTER XI.

FARMLAND ADMINISTRATION

32. In confiscating farms in the interests of nation, it is a must to confiscate required least measurement of farm. It is necessary to implement projects within prescribed period as soon as possible. If projects are terminated, farms are to be given back to original legitimate farm owner (person/organization) who has right for farming.
33. Except order or summons of the Union Government or authorities appointed by the Union Government, pasture land and common village land are to remain unchanged.
34. In respect of right to do (or) right to utilize land of vacant, fallow and virgin land which was permitted by the Central Committee for the Management of Vacant, Fallow and Virgin land, for Agriculture purpose, and Livestock Poultry Farming and Aquaculture purposes, shall be considered as stable cultivated farmland under this law when crop production is stable.

CHAPTER XII.

CRIME AND PENALTIES

35. Anyone who has right for farming fails to comply with an order issued by the farm management body in accordance with the section 19, (or) decision of land dispute under this Law, shall be sentenced with imprisonment for a term which may at least six months to maximum two years with fine which may at least three hundred thousand kyat to maximum five hundred thousand kyat.
36. Anyone whomsoever that fails to comply with an order issued in accordance with the section 19 of this law shall be sentenced with imprisonments for maximum years states in section 35 of this law, if he/she has same punishment before.

37. Anyone who has right for farming breach the prohibited states in section 14 of this law, shall be sentenced with imprisonment for a term which may at least one year to maximum three years with fine which may not less than under one million kyat, and then money and materials with relate to crime shall be forfeited to the State.

CHAPTER XIII.

GENERAL PROVISIONS

38. "Agriculturists associations" are allowed to organize in accordance with the laws enacted for improvement of the socio economy of farmers.
39. Every member of the Farm Management Body at various levels constituted under this law shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.
40. No suit, prosecution or other proceedings shall lie in court against any member of Farm Management Body at various levels for action carried out in conformity with this law or rules and regulations of this law.
41. Prosecution in accordance with section 37of this law shall be deemed as Police case.
42. To undertake the provisions of this law: -
    (a) The Ministry may issue the necessary rules and regulations with approval of the Union Government;
    (b) The Central Farmland Management Body and the Department may issue necessary notifications, orders, directives and procedures;
43. This law revoked the following laws:-
    (a) 1953 Land Nationalization Act;
    (b) 1963 The Disposal of Tenancies Law;
    (c) 1963 The Agriculturist's Rights Protection Law;

I hereby signed in accordance with the Constitution of the Republic of the Union of Myanmar.

U Thein Sein

The President

The Republic of the Union of Myanmar

Unofficial Translation by UN-Habitat