

Different Application Procedures of **Land Use** **in Myanmar**



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Introduction

Land use is interpreted as official announcement of objectives and measures of a government regarding maintaining, using and allocation of land resources. Moreover, interests relevant to land and political means and patterns concerning with allocation of power and right of usage of resources related to land between government and the ultimate owner, the people of land resources in using land are clearly mentioned.

The natural resources related to land, forest, water and fisheries which are the livelihoods of Myanmar citizens are for accessibility and sustainability for the people. Accessibility to natural resources related to land, forest, water and fisheries is for building livelihoods in rural areas, social participation and maintenance of culture and groups.

Throughout various eras, land is managed either by groups or types in Myanmar. If land is classified by groups, there are 3 groups, (1) land applicable under farm land, (2) land covered by forests and trees, (3) other land and there are (22) by types. It is found that that (22) types of land are managed by respective ministries with (67) laws, rules and directives. (22) Types of land are as follow –

- (1) Paddy land
- (2) Dry land
- (3) *Kine/Kyoon* land
- (4) Orchard land
- (5) Nipa Palm land
- (6) Up land
- (7) Protected forests, protected public forests,
- (8) Virgin forest
- (9) Virgin land
- (10) Mines land
- (11) Pasture land
- (12) Railroad land
- (13) Road land
- (14) Irrigation land
- (15) River, stream, underwater land

- (16) Swamp land
- (17) Factory land
- (18) Residential land within urban land
- (19) Village land
- (20) Airfield land
- (21) Lands such as religious land cemetery
- (22) Remaining other lands

If (22) types of lands are classified into groups, No (1) to No (6) falls under farm land, No (7) to No (9) fall under land covered by forests and trees and No (10) to No (22) fall under other land (OA).

In the National Land Use Policy, land types and land classes are classified based on the following average land type groups –

- (a) Agricultural land (Basically included all land uses such as, cultivating seasonal crops or seasonal crops and industrial crops, breeding livestock, land-based fisheries and agricultural support whether currently used or uncultivated for all purposes aimed for agriculture)
- (b) Forest land (aimed to include all land area which will be designated as permanent forest area within the country)
- (c) Other land (included vacant, fallow and virgin land that can be managed by the government which are not designated yet as agricultural land and forest land including town land, village land, religious land and public owned land)

In this book, it will be presented in 3 parts based on the (3) land types included in the National Land Use Policy. The 3 main parts which will be presented in this book are –

Part (1) Application procedures of agricultural land

Part (2) Application procedures of forest land

Part (3) Application procedures of other land

Since this book is written as stepping stone for accessibility of law, it is not a book written as legal references. Since the authors of the book are not legal experts, there will be needs and weaknesses. Therefore, please understand if needs and weaknesses are found and recommendations can be given to respective persons if there are recommendations.

Authors of the book

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Objectives

1. For the farmers to understand the steps of application in applying various land types in Myanmar easily. To easily understand the procedures which are currently adopted
2. For the farmers to be able to study collectively not only their rights but also the Dos and Don'ts in applying various types of land
3. To be able to know the processes which will be carried out by respective departments on the processes of land permits

Part (1)

Application procedures of agricultural land

Farmland means land defined as low land (paddy land), upland (Ya), silty land(Kine/Kyun), hillside cultivation land (Taungyar), perennial crops land, nipa palm land(Dhani), garden land or horticultural land or alluvial land. In this expression, housings, religious buildings and precincts within town boundary and village boundary and communal land which are not used for agriculture are not included.

Low Land (Paddy Land) means land on which paddy is mainly cultivated and carried out so as to retain water after obtaining the water for cultivation by natural or artificial means.

Alluvial Land means unstable land submerged under water and altered soil texture and structure by yearly water current.

Silty land(Kine/Kyun) means stable land submerged under water and does not alter soil texture and structure by yearly water current.

Hillside cultivation land (Taungyar) means land cultivated in rotation of the land without cultivating permanently on the same place where trees and bushes are cleared on hills, hill sides and high lands.

Right to use the farmland means The State, being the original of all Land, right to use the farmland means to cultivate and use the land by keeping in possession in accord with this law, laws, regulations and by-laws issued under this Law in order to improve agricultural production of the farmland. However the right for extraction of natural resources such as gems, minerals, petroleum and gas above and below the ground are excluded.

Farmer means a person who corresponds with any of the followings:

- (i) A person who personally works or who has been personally and continuously working the agriculture or livestock breeding or both by using the land as his main livelihood;
- (ii) A person who personally supervises the agriculture or livestock breeding or both by using the land in respective year as his main livelihood
- (iii) A person who personally works or who supervises throughout the course of business by capitalizing the investment in order to produce seasonal crops, horticultural crops, perennial crops or commercial livestock breeding by using the land;
- (iv) A person who participates in businesses relating to agriculture and livestock breeding by using the land;
- (v) A person who produces and sells seedlings, seeds, breeds and offspring by himself by using the land for agriculture, livestock breeding and the production connecting to them;

Farm land use permit means the certificate issued as per the Farm Land Law to give the right to work on Farm land.

(a) Application of farm land use certificate (form-7) (5 types of form-7)

(1) Application of form-7 for the farm land that is currently allowed to use

Types of land that can be applied

Low land (paddy land), upland (Ya), silty land(Kaing Kyun), perennial crops land, nipa palm land(Dhani), and garden land or horticultural land

Person/ organization that can apply

If it is a person,

- The household which has the right to use the farmland shall be the household of the farmer or the member of the household;
- The head of the household or the member of that household or the guardian of that household who has the right to use the farmland shall be the one who legally carrying out the Land, at present, in accordance with laws in force before this law comes into force;
- He shall be the legal beneficiary in accord with this Law or in accord with the provisions of the rule carried out under this Law after enacting this Law;
- He shall attain the age of 18 years;
- He shall be a citizen, an associate citizen or a naturalized citizen

If it is an organization,

- It shall be the government department, governmental organization, nongovernmental organization, company or association which has the right to use the farmland.

Process of application

(1) An organization having the right to work on Farming shall apply to the township department office through ward/village tract farm land management committee by getting free form(1) of right to work on farm land of possession at the ward/village tract administration office and filled up completely.

(2) Ward/village tract farm land management committee shall send the application of rules (3) or (4) with the recommendation to the township department office within (30) days of receiving the application.

(3) Township department office -

(a) It shall open the dossier of farm land right to work, and issue notice (form-2) for the objection with firm evidence, on the application within 15 days of receiving the application.

- (b) The notice for objection (form-2) shall be posted at the township department office and ward/village tract administration office where the farm land situated.
 - (c) When notifying under sub-rule (a) is shall be mentioned to object within (30) days.
- (4) Township department office, when receiving the application, shall do the following within objection period -
- (a) To fill up the form (3) of application list in connection with fact of the application.
 - (b) To fill up the assessment (Form-4) in connection with right to work on land with the following fact after assessment
 - (1) Whether the applicant is (18) years of age or not
 - (2) Whether a citizen or not.
 - (3) Whether compliant with section-6c of farm land law or
 - (4) If the applicant is in legal possession of inheritance before the existence of farm land law, whether if contains the recommendation of ward/village tract farm land management committee or not.
 - (5) Whether the settlement no, lot no, area and land class mentioned in the application is compliant with the record and map of township department office or not
 - (c) If the Facts of sub-rule (b)(5)is found to be not compliant, field measurement and approval shall be made with the farmer of adjacent land and ward/village tract administrator, of the actual land position.
- (5) The township department office, in connection with the application of right to work on land made by more than one person for a piece of land submitted by the ward/village tract farm land management committee, it shall be conducted as follow after performing per rule-6-
- (a) To fill up the registration of application to work on farm land with the facts of application.
 - (b) The following to be scrutinized other than fact of rule -7
 - (i) Whether the evidence of right to work on the applied farm land is firm or not.
 - (ii) Whether work or not on the applied farm land, if any break period although worked, if any farm evidence for the break period or not.
 - (iii) Whether it is in the list of area worked by each farmer in the ward/village tract kept by the concerned ward/village tract.
 - (iv) Whether it is applied by cheating without being someone who has got the right to work.

- (c) If it is applied by cheating without being someone who has got the right to work action shall be taken as per existing law.
- (6) (a) If any objection to the application for right to work on land, township department office shall send the concerned document together with the objection to concern ward/village tract farm land management committee for enquiry and submission within (7)days of the receiving objection.
- (b) When getting the letter under sub-rule (a), the ward/village tract farm land management committee shall submit the result of enquiry to the township department office within (7) days of receiving the letter from township department office.
- (7) Township department office, when receiving the letters under rule-9(b), shall send the dossier of right to work on farm land with recommends to the concerned township farm land management committee, within (30) days of receiving the submission.
- (8) The township farm land management committee, when receiving the dossier of right to work on farm land under rule-10, it shall be scribed and submitted on to the district farm land management committee within (7) days of receiving dossier.
- (9) The district farm land management committee, when receiving the dossier of right to work on farm land under rule-11, it shall be decided after the scrutiny, whether the application is allowed or rejected within (15)days of receiving the dossier, it shall be sent to the township department office.
- (10) Township department office –
- (a) According to the letter of permit from district farm land management committee the person who get the right to work on farm land shall be made to pay the registration fees to the account section of the department by registering in the list of those who get the right to work on farm land, (form-5) and sent it to the township farm land management committee.
- (b) After registering the objective person in the form-6 of those who are objected the right to work on farm land according to the letter of district farm land management committee and submitted to the township farm land management committee.
- (11) The township farm and management committee, in compliant with the letter of district farm land management committee -
- (a) The form (7) of the farm land work permit certificate shall be issued to the person who has got the right to work on farm land.
- (b) The letter of objecting to work on farm land in form-8 shall be sent to the person whose application to get the right to work on farm land.

Duration taken

- 134 days (if there are no objection) about 5 months
- 141 days (if there is objection)

Cost

- Only Registration fees 500 Kyats is paid for one holding.

Rules to be followed by the person who received farm land work permit (form-7)

1. Shall carry out the farmland as prescribed in this Law;
2. Shall pay land revenue and other taxes levied by the ministry relating to the farmland;
3. Shall register in the relevant Township Department by paying the stamp duty and registration fees for the contract stipulated by the department in carrying out sale, mortgage, lease, exchange and gift of the right to use the farmland;
4. Shall register in the relevant Township Department in accord with the stipulations when the right to use the farmland is obtained by inheritance in accord with the existing law;
5. Shall have the right to mortgage the right to use the farmland only for the purpose of investment for cultivation and shall mortgage it in the Government Bank or the Bank recognized by the government;
6. Shall not trespass and carry out without being granted by the relevant Administrative Body of the farmland;
7. Shall not use the farmland by other means without permission;
8. Shall not change the originally cultivated crop with other kind of crop, without permission;
9. Shall not be fallow the farmland without sufficient reason; if a reason arises to fallow the farm land, it must be reported to the township farm land management committee through the ward/village tract farm land management committee where land is located;
10. Shall not sell, mortgage, lease, exchange or gift the farmland during the period before having the right to use the farmland or during the period the dispute arises relating to the right to use the farmland;
11. Anyone concerned with farm land must follow the order which is laid down in accordance with law by various levels of farm land management committee;
12. The person who has the right to use the farmland shall not sell, mortgage, lease, exchange or gift on the whole or part of the right to use the farmland without permission of the Government to any foreigner or any organization in which the foreigner is included.

(2) Application of form-7 for the reclaimed/ requisitioned farm land

Types of land that can be applied

- (a) Lands that are requisitioned of farm land work permit
- (b) Farm lands that are occasionally reclaimed by the state

Process of application

- (1) The farm land management committee delegated by the central farm land management committee shall proclaim to the public to apply for getting the right to work on farm land by those wishing to get the right to work on the farm land requisitioned and on the farm land reclaimed occasionally by the state.
- (2) When proclaiming as such, anyone wishing to get right to work on farm land of the requisitioned farm land and the farm land, reclaimed farm land and, the farm land, reclaimed occasionally by the government, he shall apply to the township department office by getting free the application to work, on farm land (form-1) and filling it completely at the concerned ward/village tract administration office.
- (3) The township department office, in connection with the application, shall scrutinized the following facts -
 - (a) If it is a person -
 - (i) Whether he is 18 year age or not.
 - (ii) Whether a citizen or not.
 - (iii) Doing agriculture by using the farm land.
 - (iv) Normally domiciling in the ward/village tract unless any extra ordinary cause.
 - (v) Being able to followed the regulation designated by the higher farm land management committee.
 - (b) If it is organization -
 - (i) Being able to work on the farm land with objective of wishing to work agriculture.
 - (ii) Being circumstantially able to work the agriculture as the essential vocation.
 - (iii) Being able to observe the regulation stipulated serially from the superior farm land management committee.
- (4). The township department office shall submit the finding with the recommendation to the township farm land management committee within (7) days of receiving the application.

- (5) Township farm land management committee, shall submit the submission after re-scrutinizing to the district farm land management committee as per the priority arrangement with recommend within (7) days of receiving the submission –

If it is a person -

- (i) A farm worker without farm land and without capital.
- (ii) Although working agriculture, being short of farm land
- (iii) Although working agriculture, requiring farm land to expand work.

(b) If it is on organization -

- (i) Being able to work agriculture as major profession.
- (ii) Being able to implement the modern mechanized farm land system.
- (iii) Having the condition to work agriculture on farm land, and being able to support the regional development

- (6) The district farm land management committee, when receiving the dossier of right to work on farm land scrutinized and submitted by the township farm land management committee, shall send the decision of permit or objection on the application of right to work on farm land after re-scrutinizing to the township department office within (15) days of receiving of the said dossier of work.

(7) The Township department office -

- (a) According to letter of permit from district farm land management committee, the person who get the right to work on farm land shall be made to pay the registration fees to the account section of the department by registering in the list of those who get the right to work on farm land (form-5) and sent it to the township farm land management committee.
 - (b) The person who is denied because of the letters from district management committee, shall be registered in the registration -6 of those denied to work on farm land, and submitted to the township farm land management committee.
- (80) The township farm land management committee, in compliant with the letter of district farm land management committee

(a) The permit certificate of the right to work on farm land form-7 shall be issued to the person who gets the right to work on form land.

(b) The objection letter for the right to work on farm land (form-8) shall be sent to the person denied of application to get the right to work on farm land.

Duration taken

- About (30) days

(3) Application of form-7 for the farm land received by transfer

Process of application

- (1) (a) If the right to work on farm land is transferred by selling, exchanging or giving, the transferor and transferee shall sign the deed by paying stamp duty in front of the concerned ward/village tract farm land management committee where the said farm land situate.
(b) The deed made under sub-rule (a) shall be registered at the concerned township department office within 120 days of so signing the deed.
- (2) The person receiving by selling, exchanging or giving of the right to work on farm land
 - (a) For the change of name who get the right to work on farm land, application shall be put up to the township department office by filling in application form (9) to change the name of person getting the right to work on farm land.
 - (b) When applying under sub-rule (a) the original permit certificate of the right to work on farm land together with registered sale deed shall be submitted.
- (3) Township department office, after making enquiry by opening the dossier of the right to work on farm land for the application, shall submit the dossier with recommend to township farm land management committee within (7) days of receiving the said application.
- (4) Township farm land management committee, by scrutinizing the dossier of right to work on farm land submitted under rule-26 shall inform the township department office of changing of the name who get the right to work on farm land within (15) days of receiving the said dossier.
- (5) (a) The township department office shall submit the dossier to township farm land management committee within (7) days of registration after registering in the list of person who get the right to work on farm land by paying the registration fees to the account of the department by the person who get the right to change name within 15 days of receiving the letter of name change by the person who get the right to work on farm land from township farm land management committee.
(b) When receiving submittal under sub-rule (a), the township farm land management committee shall issue the certificate of right to work on farm land to the application. It shall be reported to the district farm land law management committee of the said completed matter.

Duration taken

- About (30) days

(3) Application of form-7 for the inherited farm lands

Type of land that can be applied

- Inherited farm land

Person/ organization that can apply

- Person who has the right to inherit the farm land

Process of application

- (a) The inheritor of right to work on farm land shall apply to the township department office to change the name of the person who get the right to work on farm land with (form-9) by attaching the inheritance certificate and the certificate of the original right to work on farm land together with the application.
- (b) The Township department office -
 - Shall issue the notice of objection (form-2(a)) for making objection by any person with the farm evidence, in connection with the application of changing the name of the person who get right to work on farm land within (15) days of receiving the said application by opening the dossier of right work on farm land together with the application as per rule (29).
 - The objection notice (form-2(a)) shall be posted at the township department office and the ward/village tract administration office where the farm land situated.
 - When making notice under sub-rule (a), it shall be mentioned that the objection can be made within (30) days of posting the said notice.
- (c) The Township department office, in connection with the application to change the name of person who get the right to work on farm land, -

It there is any objection -

- (i) If it is found to be the objection with firm evidence, the dossier shall be submitted to the township farm land management committee with the recommend that the application to change the name of person who get the right to work on farm land, should be rejected.
- (ii) If it is found that the objection is without firm evidence, the dossier shall be submitted to the township farm land management committee with the remark that the application of name change should be allowed.

If there is no objection –

the dossier should be allowed with the remark that the application of name change should be allowed.

- (d) Township farm land management committee shall inform to the township department office within (15) days of receiving dossier to allow the name of person who get the right to work on farm land or to be objective in connection with the submittal.
- (e) Township department office in connection with the application to change name,
 - Shall submit the dossier to township farm land management committee within (7)days after registering in the list of person who get the right to work on farm land (form-5) by making the applicant to pay the registration fees to the department account within (15)days of receiving the letter.
 - If receiving letter of objection the dossier shall be submitted to township farm land management committee within (7) days of registering in the list of person objective to get the right to work on farm land (form-6).
- (f) Township farm land management committee
 - The permit certificate of work on farm land (form-7) shall be issued to the applicant who is in the list of persons who get the right to work on farm land (form-5). The district farm land management committee shall be reported of the completion of this.
 - The applicant who is recorded in the list of person who are denied application of right to work on farm land (form – 6)shall be informed with the letter of objection to the application of right to work on farm land (form-8). The said matter of completion shall be reported to district farm land management committee.
 - In connection with the issue of the permit certificate to work on farm land and informing the letter of objection to the right of work farm land, it shall be performed by the township department office within (15) days of receiving submittal.

Duration taken

- About (30) days

(3) Application of form-7 for re-designated farm land from vacant, fallow and virgin land

Type of land that can be applied

- Farm land which are re-designated as vacant, fallow and virgin land

Process of application

- Step (1) Any person who get the right to work on vacant, fallow and virgin land from the vacant, fallow and virgin land central management committee may apply to the central farm land management committee to designate the as farm land from vacant, fallow and virgin land (form-10) with the photos showing the stable working condition after the crop wise plantation and harvest as per the regulation stipulated under vacant, fallow and virgin land management law, or vacant, fallow and virgin land worked or used by him.
- Step (2) When applying, it shall be submitted the recommend of scrutinization of vacant, fallow, virgin land management support team of Naypyitaw council or region/state, together with the information that the reclamation process have been completed as per the said rules.
- Step (3) The central farm land management committee shall inform the application for re-designating the vacant, fallow, virgin land as the property of person who get the right to work or use after scrutinizing and allows as applied to the Nay Pyi Taw Council or region/ State farm land management committee.
- Step (4) The Nay Pyi Taw Council or region/State farm land management committee/when receiving information shall inform to township department office through district/ township farm land management committee.
- Step (5) The Township department office -
- (a) When receiving letter, the dossier shall be opened for the reclamation of farm land from, vacant, fallow, virgin soil.
 - (b) After opening the dossier, shall submit to township farm land management committee after making the applicant to pay document registration fees to the department account the department account and registering fees to the department account the department account and registering in the list of person who get right to work on farm Land.
- Step (6) Township farm land management committee, when receiving submittal under rule-39 (b) shall issue farm land work permit (from -7) to the applicant after reclaiming the farm land from vacant, fallow, and virgin land.

A rural farmer family who get the right to work plantation,

- Step (1) After completion of reclamation periods of vacant, fallow virgin area work, shall apply to Nay Pyi Taw council or region/state farm land management committee to designate the vacant, fallow

and virgin as farm land application (form-10) by attaching the photos describing the condition of crop wise plantation in harvest completion.

Step (2) When applying as such, the scrutinizing recommendation of Nay Pyi Taw Council or region/state vacant, fallow and virgin land management support committee together with for the reclamation as farm land under the provision of rule with the completion report.

Step (3) Nya Pyi Taw Council or region/State farm land management committee shall inform to the township department office through concerned district and township farm land management committee district and township farm land management committee that the application for reclamation of vacant, fallow, and virgin land as that of the applicant has been scrutinized and permitted.

(Step (4) Township department office -

(a) When receiving the letter, shall open the dossier for reclamation of vacant, fallow and virgin land as farm land.

(b) After opening the dossier shall make the applicant to reclaiming vacant, virgin land to pay registration fees to the department account and registered in the list of person who get right to work on farm land (form-5), in submitted to township farm land management committee.

Step (5) Township farm land management committee when receiving submittal, shall issue permit certificate of right to work on farm land (form-7) to the applicant after reclaiming vacant, fallow and virgin land as farm land.

The investors or the organizations which included investment that are permitted to work land under the law of foreign investment,

- When the plantation of allowed vacant, follow and virgin land are stable, the central farm land management committee may de-designate the said vacant, fallow, and virgin land as farm land with the approval of Pyidaungsu Government.

Duration taken

- Not mentioned specifically in the rule.

(b) Application of right to work on farm land by other means

Projects that can apply

- Use of farm land by other means can be applied to establish the housing complex for the increasing population in families in the rural and urban locations and for hospital, dispensary, library, street, bridge, rural market, religious, building, cemetery and other necessary building concerning with development of rural living standard.
- Use of farm land by other means can be applied for the rural development project or for the urban development project drawn by Nay Pyi Taw Council or region / state government experts and approved by concerned Union ministry and sent to central farm land management committee in advance to establish the housing complex for the increasing population in families in the rural and urban locations.
- When transforming from manual farming to mechanized modern farming for the development of agriculture sector, use of farm land by other means can be applied for necessary building for keeping farming machinery, construction of rice mills, silo and ware house for storage crop for the construction of necessary infrastructure.

Conditions where use of farm land by other means can be applied

- If it is school, the approval of union education ministry and availability of fund.
- If it is for health unit, hospital and dispensary, the approval of union health ministry and availability of fund.
- If it is for religious building, the approval of union ministry of religious affairs, and availability of fund.
- If it is for other matters, the approval of concerned union ministry and availability of fund.

Process of application

Step (1) Anyone who wants to use farm land by other mean should send the application (form-14) to use farm land by other means to township department office.

Step (2) The township department office (30) days of receiving application, shall scrutinize the following

-

- (a) The condition of land applied.
- (b) Titleship.
- (c) Condition of plantation.
- (d) Location of building to be built.
- (e) Submission of date and method of using the applied land.

(f) The recommend of concerned ward / village tract farm land management committee regarding the applied land.

(g) Whether it is attached with the approval of concerned government / organization for the application using land by other mean by department and work units.

(h) Whether it is submitted with the condition of using the adjacent land together with the location site plan map of the applied land and adjacent land.

(i) The scrutinized remark of the ward / village tract farm land management committee.

Step (3) Township department office, in connection with the application, for using farm land by other mean shall submit the dossier of application to use farm land by other means with recommend to the township farm land management committee.

Step(4) Township farm land management committee, when getting submittal shall submit the dossier with the following scrutinization to the Nay Pyi Taw Council or region / state farm land management committee through district farm land management committee within (15) days of receiving the said submittal.

(a) Whether the applied land area to be used by other means is the least necessity of land area for the ward to be used.

(b) Whether it can affect the plantation presently worked adjacent to the applied land area.

(c) Whether it can affect the drainage of water way used for plantation work.

(d) Whether it can affect street, agricultural products work used by the public.

(e) Whether the applied work can be completed within the applied method in period.

(f) Whether it contain the admission made by the applicant himself that it may be used in the method applied.

Step (5) Nay Pyi Taw council region / state farm land management committee, regarding the submittal shall -

(a) Regarding the application to use paddy and by other means be dossier together with recommend shall be submitted to the central farm land management committee within (30) days of receiving the submittal.

(b) If it is applying to use farm land except paddy land by other means shall submit the dossier with recommend to the Nay Pyi Taw Council or Region / State government within (30) days of receiving scrutinized facts submitted by serially.

Step (6) If the submittal is approved, Central farm land management committee, the permit order (form-15) to use the paddy land by other means shall be issued.

Step (7) If the submittal is approved, the Nay Pyi Taw Council or Region / State government committee, the permit order (form-15 (a)) to use land except paddy land by other means shall be issued.

Duration taken

- Duration mentioned in the rule is (75) days.

(c) Issuing right of work on alluvial land

Alluvial Land means unstable land submerged under water and altered soil texture and structure by yearly water current.

Tasks to be managed by township farm land management committee in issuing right to work on alluvial land

The Township management committee when managing for the granting of alluvial land

- (a) The nearest village to the alluvial land shall be designated with the approval of district farm land management committee by coordinating with the ward/village tract farm land management committee.
- (b) The Shortest of the fencing of the village nearest to the alluvial land the perimeter line of the land on the alluvial land shall be comparatively considered. The boundary line of the village tract shall not be compared.
- (c) The alluvial land with permanent boundary uncultivable sand banks, reed groves and the forest of elephant grass shall not be included.
- (d) Mapping and calculating after measuring the cultivable land boundary and it shall be based on the calculated area.

The township farm land management committee, when granting the right to work alluvial land -

- (a) The previous year grant of permit shall be considered. But this fact shall not be deemed as basic.
- (b) The landless farmer, land laborers and farm workers who can work agricultural according to the economic revenue inquest from the village designated to be nearest to the alluvial land shall be selected to grant.
- (c) The person selected, it granted to work the alluvial land, grant area per number of people, with the intension of getting profit enjoy by the ordinary farmer of the surrounding area, shall be allocated.
- (d) If the right to work is granted, and the profit enjoyed more than the ordinary farmer of the surrounding area the land less person land laborers and farm workers who can cultivate from the nearest village of the lesser job opportunity shall be supplemented with the area to work.
- (e) The designated area shall be blocked and numbered for a family of farmers.
- (f) The selected family of farmers shall be granted ballot system to the block nearest to their village.

Note – Granting right to work on alluvial land should be based on administrative boundary.

The township farm land management committee, regarding matters of granting right to work alluvial land

- Shall compile the registration (form-17) of those who get the right to work alluvial land.

Rules to be followed by persons who get the right to work alluvial land

(a) Shall pay only land tax without paying registration fees as he get the right to work for one season within a year.

(b) Regarding the right to work alluvial land, notification, order, directive and procedure stipulated by the central farm land management committee and department office shall be followed.

Duration taken

- Not mentioned specifically in the rule.

Note – Right to work regarding hill side cultivation and shifting cultivation is not mentioned specifically in farm land law and rules.

Part (2)

Application procedures of forest lands

Implementing community forestry

Community Forestry means all sustainable forest management and utilization activities, in which the local community itself is involved.

The duration of land lease for the establishment of Community Forest is initially set for (30) years and can extend the duration for 30 years at a time, and as many times as appropriate. If the duration of the land lease is wished to extend, it must submit a formal application to the District Forest Officer through Township Forest officer six months before its termination.

Land types and locations where community forestry can implement

- (1) Reserved Forest
- (2) Protected Public Forest
- (3) Buffer zones of protected areas
- (4) Lands at the disposal of the government
- (5) Forest-covered lands managed by the government organizations
- (6) Natural forests and mangrove forests conserved by the local communities in accord with their tradition

Rights

- Right to inherit
- Right to change user group member list
- Right to change the members of committee
- Right to enjoy exemption of land-lease fee for those community forests
- Right to accept techniques, equipment, and financial supports from local and international organizations
- Right to apply any agroforestry system (s)
- Right to harvest and utilize wood and other forest products systematically
- Right to form independent legal enterprises
- Right to claim compensations for loss of forest trees, crops and other damages due to implementation of other projects in the Community Forest.

Prohibitions

- Utilizing the land allotted for the Community Forest for other purposes/ activities, except for those prescribed in the project
- Selling or renting or mortgaging or handing over or donating of the Community Forest
- Mining of metals, pebbles or stones, sand, gravels and other resources
- Construction of permanent buildings or settlements which are not relevant to the establishment and conservation of the Community Forest
- Planting of crops and trees which are prohibited under the existing laws.

Steps of implementing community forestry

- | | |
|----------|--|
| Step (1) | Forming community forest user group |
| Step (2) | Forming user group management committee |
| Step (3) | preliminary field inspection of the location where community forestry is wished to implement |
| Step (4) | Application form for community forestry certificate (form-a) must be submitted to the District Forest Officer through Township Forest Officer. |
| Step (5) | Field approval of the location applied |
| Step (6) | Preparing management plan – (form-b) must be presented to the District Forest Officer. Management plan can be drawn with the assistance of experts and Forest Department. |
| Step (7) | Issuing community forestry certificate – (the District Forest Officer must issue the (form-c). |
| Step (8) | Implementing community forestry by user group according to management plan |

Part (3)

Application procedures of other lands

(a) Steps of application for right to work on vacant, fallow and virgin lands

Vacant Land, Fallow Land means the land on which agriculture or livestock breeding business can be carried out and which was tenanted in the past and abandoned for various reasons and without any tenant cultivating on it and the lands which are specifically reserved by the State.

Virgin Land means wild land and wild forest land whether on which there are trees, bamboo plants or bushes growing or not, or whether geographically (surface) topography of the land is even or not and being the new land on which cultivation has never been done, not even once. The said expression shall include the lands of forest reserve, grazing ground and fishery which have been legally nullified for the purposes of doing business of agriculture, livestock breeding, mineral production and other businesses permitted by the Government.

Separate Board means the board formed by the Central Committee to inspect cases and matters relating to the rights to work on and utilize vacant, fallow and virgin lands submitted by the Naypyidaw Council or respective Region or State.

Special Board means the board formed by the Central Committee on occasion to inspect the situation regarding implementation of projects on vacant, fallow and virgin lands.

Person/ organization that can apply

- (a) Myanmar citizen investors
- (b) Government departments, government organizations and non-government organizations
- (c) Those who have been exempted by the relevant ministry in accordance with Section 14 of the 1987 Transfer of Immovable Property Restriction Law
- (d) Investors with the rights to carry out joint-ventures with a government department or any government organization according to the Foreign Investment Law
- (e) Investors with the rights to carry out joint-ventures with Myanmar citizen investors according to the Foreign Investment Law
- (f) Government departments, government organizations and non-government organizations which are Responsible for landless farmers, smallholder farmers or resettlement and recovery projects

Smallholder farmers and landless farmers can apply for vacant, fallow and virgin lands within the country if they want right to work and utilize for agriculture and livestock and businesses related to these.

Types of business that can be applied for right to work and utilize and application forms to be used in application

- (a) Application form for the right to cultivate seasonal crops, industrial plants, perennial plants, and orchard produce (Form – 1)
- (b) Application form for the right to utilize land to carry out livestock farming (Form – 2)
- (c) Application form for the right to utilize land to carry out mining projects (Form – 3)
- (d) Application form for the right to utilize land to carry out other government approved legal projects (Form – 4)

Committees to be applied according to acres for the business that can be applied

- (a) land area more than 300 acres for agriculture, land area more than 50 acres for livestock and mining and other businesses that are allowed by government in accordance with law must be applied to the Central Committee for the management of Vacant, Fallow and Virgin Lands.
- (b) Land area up to 300 acres for agriculture, land area up to 50 acres for livestock must be applied to the respective Naypyidaw, state or regional committee for the management of vacant, fallow and virgin lands.

Application forms must be collected at the following department offices in application –

- (a) (Form-1) to apply for up to 300 acres of land area for agriculture of smallholder farmers and (form-2) to apply for up to 50 acres of land area for livestock can be collected at Township Department of Agriculture Land Management and Statistics Office.
- (b) (Form-1) to apply for more than 300 acres of land area for agriculture and (form-2) for more than 50 acres of land area for livestock can be collected at District Department of Agriculture Land Management and Statistics Office.

One of the following maps issued by respective township office must be attached with the application

-

- (a) if located in a region where a field map is available, 2 copies of a map drawn from the field map according to the scale used in the current year: 16 inches = 1 mile
- (b) if a field map is unavailable, 2 copies of a temporary sketch map drawn according to the scale of 1 inch = 1 mile (or) 1: 50000

Specifications regarding the right to work and utilize on vacant, fallow and virgin lands

- (1) The central committee must approve only after scrutinizing whether applicant is currently working or not in accordance with law in approving the right to work on and utilize vacant, fallow and virgin lands for the following businesses. In doing so –
 - (a) In Agriculture, for cultivation of perennial plants, orchard produce, seasonal crops, and industrial seasonal plants, 300 acres of land area and above not exceeding 3000 acres each time can be allowed. If after actual implementation of the project on 75 per cent of the area permitted, a further extension of land not exceeding 3000 acres can be allowed each time, with up to a total of 30,000 acres in successive extensions.
 - (b) In livestock –
 - (1) An area not exceeding 1000 acres for farming fish, shrimp and crab can be allowed.
 - (2) If livestock breeding,
 - (aa) An area not exceeding 2000 acres for raising buffaloes, cows, and horses can be allowed
 - (bb) An area not exceeding 500 acres for raising sheep and goats can be allowed
 - (cc) an area not exceeding 300 acres for raising chickens, ducks, pigs, quails can be allowed
 - (3) If livestock not applicable under (1) and (2), a suitable area of land can be allowed.
 - (c) For mining projects, it can be allowed, in coordination with the Union Government Mining Ministry.
 - (d) For mining projects, it can be allowed, in coordination with the Union Government Mining Ministry.
- (2) The respective committee must approve only after scrutinizing whether applicant is currently working or not in accordance with law in approving the right to work on and utilize vacant, fallow and virgin lands for agriculture, livestock and businesses related to those. In doing so –
 - (a) In Agriculture, for cultivation of perennial plants, orchard produce, seasonal crops, and industrial seasonal plants, 300 acres of land area and above not exceeding 3000 acres each time can be allowed. If after actual implementation of the project on 75 per

cent of the area permitted, a further extension of land not exceeding 3000 acres can be allowed each time, with up to a total of 30,000 acres in successive extensions.

(b) An area of land not more than 50 acres can be approved for rural farmers and persons who wish to implement smallholder agriculture and livestock.

(3) Regarding the period allowed in granting the right to work on and utilize vacant, fallow and virgin lands, the central committee shall –

(a) In agriculture –

(1) If perennial plants and orchard produce, a period not exceeding 30 years from the date of granting permission is allowed. (for the business that wish to extend after the allowed period is expired, a period not exceeding 30 years can be allowed in successive extensions.)

(2) if seasonal crops or industrial seasonal plants, an indefinite period is allowed as long as prescribed rules are observed.

(b) In livestock, it can be allowed for a period not exceeding 30 years from the date of granting permission. (for the business that wish to extend after the allowed period is expired, a period not exceeding 30 years can be allowed in successive extensions.)

(c) For mining projects, a period stipulated by the Myanmar Mining Law can be allowed, in coordination with the Union Government Mining Ministry.

(d) For other government approved legal projects, permission can be granted through coordination with the relevant Ministry of the Union Government.

(4) Regarding the period allowed in granting the right to work on and utilize vacant, fallow and virgin lands, the central committee shall –

(a) In agriculture –

(1) If perennial plants and orchard produce, a period not exceeding 30 years from the date of granting permission is allowed. (for the business that wish to extend after the allowed period is expired, a period not exceeding 30 years can be allowed in successive extensions.)

(2) if seasonal crops or industrial seasonal plants, an indefinite period is allowed as long as prescribed rules are observed.

(b) For rural farmers and persons who wish to implement smallholder agriculture and livestock, a period not exceeding 30 years from the date of granting permission is allowed. (For the businesses that wish to extend after the allowed period is expired, a period not exceeding 30 years can be allowed in successive extensions.)

- (5) The Central Committee may, when the investors granted under the foreign investment law or organization consisting of the investors granted under the foreign investment law, apply for obtaining the right to cultivate or utilize the vacant, fallow and virgin lands, permit after scrutiny only the businesses which are unable to be carried out by the citizens.

Note – Not mentioned specifically for lands conserved according to the traditional customs of ethnic people in vacant, fallow and virgin lands management law and rules.

During the period of notification, the Township Department Office shall examine the following points:

- (a) Whether the applicant is eligible in accordance with this law
- (b) Regarding the applied vacant, fallow and virgin lands –
 - (1) Whether the lands are in fact vacant, fallow and virgin lands
 - (2) Whether there is a holder currently utilizing the land
 - (3) Whether there is any encroachment on the land
 - (4) Whether the right to work on or utilize the land had been granted in the past
 - (5) whether more than one applicant has applied for the vacant, fallow and virgin land or a part of the land
- (6) Whether it is located 2 miles from village premises boundary
- (c) Whether the applicant has the means to work on or utilize the vacant, fallow and virgin lands
- (d) Whether the vacant, fallow and virgin lands are suitable for the purpose mentioned in the application
- (e) Whether the environment will be affected
- (f) Whether the applied vacant, fallow and virgin lands are free from involvement with the lands managed by respective enterprises, departments or organizations, and whether the projects of these enterprises, departments or organizations will be affected.

Permission for right to work on and utilize vacant, fallow and virgin lands that can be granted by the central committee and the respective committees

(a) Permission granting the rights to cultivate seasonal crops and industrial seasonal plants

(Form – 11)

(b) Permission granting the rights to cultivate perennial plants and orchard produce (Form – 12)

(c) Permission granting rights to utilize land for livestock farming (Form - 13)

(d) Permission granting rights to utilize land for mining projects (Form – 14)

(e) Permission granting rights to carry out other government approved legal projects (Form - 15)

(f) Permission granting the rights to cultivate small scale cultivation of perennial plants and orchard produce (Form – 12(a))

Guarantee and Land Tax

the person who has the rights to work on or utilize vacant, fallow and virgin lands, shall deposit the guarantee fees in accordance with the following rules, in the Myanmar Agricultural Development Bank in the township located nearest to the vacant, fallow and virgin lands:

(a) For agricultural projects –

(1) K 3000 (three thousand kyats) per acre if the rural farmer or family wishes to implement a manageable project on less than 50 acres or less.

(2) K 10000 (ten thousand kyats) per acre if the land for the business project exceeds 50 acres.

(b) For livestock breeding projects, K 10000 (ten thousand kyats) per acre.

(c) For mining projects, K 10000 (ten thousand kyats) per acre.

(d) For other government approved legal projects, K 10000 (ten thousand kyats) per acre.

In order to effectively collect taxes or revenues for the state through the utilization of vacant, fallow and virgin lands, the Central Committee shall instruct the person given the rights to work on or utilize vacant, fallow and virgin lands to pay land tax according to the rates below, and according to the kind of crops or projects, for the utilization of the said lands and arrange for the relevant department to supervise and collect the tax:

(a) For agricultural projects –

(1) If the land is for perennial plants, K 3000 (three thousand kyats) per actual cultivated acre;

2) If the land is for orchard produce, K 2000 (two thousand kyats) per actual cultivated acre;

(3) If the land is for seasonal crops or industrial seasonal plants, K 1000 (one thousand kyats) per actual cultivated acre.

(b) For livestock breeding –

(1) If the land is utilized for farming fish, shrimps and crab, K 3000 (three thousand kyats) per acre;

(2) If the land is utilized for raising animals, K 1000 (one thousand kyats) per acre.

(c) For land utilized for mining projects, K 5000 (five thousand kyats) per acre.

- (d) For other government approved legal projects, tax rates prescribed in co-ordination with the relevant Ministry of the Union Government.
- (c) Tax rates resulting from a revision of the above rates, if necessary, based on changes in currency value, with the approval of the Union Government.

Rules and regulations to be observed by those who were granted rights to work and utilize on vacant, fallow and virgin lands

Those who are granted rights to work on and utilize vacant, fallow and virgin lands shall -

- (a) Only carry out the approved project, and business activities related to it.
- (b) Carry out their project on the vacant, fallow and virgin lands within four years from the date rights are granted. The Central Committee can amend the period that was expired either by natural disaster or unstable condition.
- (c) Vacant, fallow and virgin lands which are granted right to work and utilize cannot be mortgaged, gifted, sold or leased without the permission of the union government.
- (d) Pay land tax in full for the vacant, fallow and virgin lands that they have gained the right to work on or utilize.
- (e) Comply with the rules regarding the right to work on and utilize vacant, fallow and virgin lands set out by the Central Committee.
- (f)) Not extract or mine any other natural resources found above and below the surface of the vacant, fallow and virgin lands which they have obtained the rights to utilize.
- (g) When resources are found in the land that is allowed and required land area out of land allowed is requisitioned to extract commercially by the state, it must be returned to the union government as instructed.

(b) Applying grant land/ lease

Grant land means a land that is allowed by the government with a period of time. On the other hand – lands which are granted by the government to reside, to build building, and to carry out matters such as business, education and health (such as short term and long term).

(1) Application process of grant land/ lease

Documents to be included in applying to District General Administrative Department by the applicant

–

- (a) Application – (Name of applicant, National Registration Number, address, occupation are filled in the designated form with 500 Kyat stamp)
- (b) To put 500 Kyat stamp on Land register form (105, 106) of Township Department of Agriculture Land Management and Statistics
- (c) Evidence of possession of land
 - (1) Land granting order issued by the respective authority (or)

- (2) Sale contract (or)
- (3) Deed of gift (or)
- (4) Deed of inheritance (or)
- (5) Quitclaim deed (or)
- (6) Affidavit of title, deed (or)
- (7) Other evidence of possession (if presentable under an existing law)
- (d) Surrounding map of Township Department of Agriculture Land Management and Statistics
- (e) Ward map of Township Department of Agriculture Land Management and Statistics
- (f) Household registration copy, National Registration Card copy
- (g) Front photo, side photo, back photo of building (or)
- (2) Sets of BP, BQ and pledge to build within (1) year

Tasks to be carried out by District General Administrative Department

- (a) Scrutinizes whether the information is completely included in the application or not and opens a dossier.

Section (11) of Lower Burma Town and Village Lands Act and section (62) of Upper Burma Land and Revenue Act

- (b) Scrutinizes whether documents and evidences are complete or not in the application and sends the dossier to Township General Administrative Department.

Tasks to be carried out by Township General Administrative Department

- (a) The following tasks must be carried out regarding the dossier sent by the District General Administrative Department –

- (1) Sending the dossier to Department of Agriculture Land Management and Statistics to scrutinize land history
- (2) Land history check report and land lease fees calculation form presented by the Township Department of Agriculture Land Management and Statistics
- (3) Report (remark) of Township Department of Agriculture Land Management and Statistics
- (4) Objection notice ((14) days after the notice according to section 19(1) (2) of Lower Burma Town and Village Lands Act

- (5) Pledge of tax payment by the applicant
- (6) Testimony of neighbors
- (7) Recommendation of ward administrator
- (8) Meeting minutes of the management committee of District General Administrative Department
- (9) Field inspection record of township administrator
- (10) Inspection report of township administrator and photo record
- (11) Recommendation of clearance from road by respective department (for example- Municipal department, road department)
- (12) To obtain recommendation related to business
(For example- Fire department, forest department, health department)

(b) The dossier along with the information mentioned shall be presented to the District General Administrative Department.

Tasks to be re-scrutinized by District General Administrative Department

(a) Following tasks shall be carried out regarding the dossier presented by the Township General Administrative Department –

- (1) Whether the documents and evidences are complete or not
- (2) Meeting minutes of the management committee of District General Administrative Department
- (3) Field inspection record of district administrator to check if map survey is correct or not
- (4) Inspection report of district administrator and photo record

(b) If the land applied is less than (1) acre, grant/ land lease will be issued in accordance with procedure by District General Administrative Department.

(c) If the land applied is more than (1) acre, the dossier is presented to the Regional General Administrative Department along with information included in paragraph (1) and, with its approval, grant/ land lease will be issued by district administrator.

Tasks to be scrutinized by Regional General Administrative Department

- (a) Whether the dossier presented by the Township General Administrative Department is complete or not
- (b) If the land applied is from (1) acre to (5) acre and complaint to procedure, grant/ land lease will be issued by district administrator with the approval of regional administrator.
- (c) If the land applied is more than (5) acre, the dossier will be presented to General Administrative Department (Head Office) with the remark of regional government.
- (d) If the approval is obtained from head office of Regional General Administrative Department shall inform the District General Administrative Department.

Duration taken

- (a) Below (1) acre - (40) days
- (b) From (1) acre to (5) acre - (60) days
- (c) Above (5) acre - (81) days

Exception Only if it is clear from ownership dispute and remark of respective departments and documents are complete, the process can be carried out within the days mentioned above and more time will take in re-evaluation if there are objection, dispute and remark of departments and documents are incomplete.

(2) Application process of tax exempted religious land grant

Although tax exempted religious land were applied to deputy commissioner in the past, it shall be applied to township administrator now.

1. If any religious organization wishes to build monastery, pagoda and rest house built on scared premises designated as tax exempted religious land, following tasks shall be carried out –

- (a) The applicant shall apply through pagoda trustee or religious organization or abbot.
- (b) 50 Pya stamp shall be put on the application.
- (c) (1) front photo and (10 side photo of the constructed or building models of monastery and rest house shall be attached.
- (d) (2) evidence maps drawn by Township Department of Agriculture Land Management and Statistics shall be attached. Out of (2) maps, (1) map shall have 2 Kyats office revenue stamp.
- (e) If the land that wishes to build religious buildings is land that is currently owned or freehold land, a copy of the deed that is made by the land owner at the registry office that the land is relinquished permanently to the government shall be included.

- (f) If the land is grant land, the letter of relinquishment by the person registered in the grant to the government shall be included.
- (g) When application and attached documents are obtained, it shall be entered in register and opened a dossier and sent to township administrator. The township administrator shall send the dossier to Township Department of Agriculture Land Management and Statistics to remark on land history, land types and tax applicable.
- (h) Payment slip of payment of (20) times of land tax shall be included.
- (I) When land history reply of Township Department of Agriculture Land Management and Statistics is obtained, objection notice that objection can be made within (15) days if objection is wished to be made.
- (j) When the objection notice expired, township administrator shall made field inspection according to the section (14) of Lower Burma Town and Village Lands Act.
- (k) Recommendations of ward/ village tract, township, regional Sangha Maha Nayaka Committee
- (l) Recommendations of township, district and regional department of religious affairs
- (m) Field inspection report and recommendations from ward/ district administrators
- (n) Recommendation from regional government
- (o) If approval of General Administrative Department (Head Office) is obtained, the district administrator shall issues the tax exempted grant in accordance with section (50) of Lower Burma Town and Village Lands Act and section (52) of Upper Burma Land and Revenue Act.

Note – Regarding religious land grant, if it is not more than (1) acre, district administrator can issue it and if it is more than (1) acre, director general, General Administrative Department can issue it.

Legal References

- (1) Farmland law
- (2) Vacant, Fallow, and Virgin Lands Management Law
- (3) 1876 Lower Burma Land and Revenue Act
- (4) 1898 Lower Burma Town and Village Lands Act
- (5) 1889 Upper Burma Land and Revenue Act
- ((6) Forest Law
- (7) Community forestry implementation procedures
- (8) Rules and notices related to land

Green Peasant Institute (GPI)

Green Peasant Institute (GPI) is a civil society organization which is providing assistance on the challenges of farmers in accordance with existing laws along with the farmers.

Main activities of (1) Giving legal awareness to the public, (2) promoting agricultural technique, office skills and personal skills to the public and (3) advocacy to the stakeholders for legal and policy reforms are laid down, it was founded in October 2012 and network with local farmers, union level government departments and organizations, local government organizations, other civil society organizations, international organizations, and members of the parliament and working on the affairs of farmers. In doing so, it has formed community level civil societies systematically and promoted their capacities.

On February 16th 2016, it has received regional level organization registration with registration no 2/Irrawaddy/008. To implement community works broadly, it is trying to achieve union level organization registration.

At the moment, it has opened office at No (856), Kantharyar Road, Kinmalin Kyun Ward, Pathein, Irrawaddy Region.

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