

【Statute Title】 Measures of the People's Republic of China for the Administration of the Certificates of the Right to Contracted Management of Rural Land [Effective]

【法规标题】 中华人民共和国农村土地承包经营权证管理办法 [现行有效]

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Measures of the People's Republic of China for the Administration of the Certificates of the Right to Contracted Management of Rural Land

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中华人民共和国农村土地承包经营权证管理办法

(2003年11月14日 农业部令 第33号)

(相关资料: 部门规章 3 篇 地方法规 33 篇 裁判文书 24 篇 相关论文 2 篇 实务指南)

Article 1 The present Measures are formulated in accordance with the "Law of the People's Republic of China on Contracted Management of Rural Land" in order to stabilize and improve the relationship of contracted management of rural land, defend the contractors' lawful right to contracted management of land, and strengthen the administration of the certificates of the right to contracted management of rural land.

第一条 为稳定和完善农村土地承包关系,维护承包方依法取得的土地承包经营权,加强农村土地承包经营权证管理,根据《中华人民共和国农村土地承包法》,制定本办法。

(相关资料: 实务指南)

Article 2 A certificate of the right to contracted management of rural land is a legal document for the contractor to enjoy the right to contracted management of land after the contract on contracted management of rural land becomes effective, and upon lawful ratification of the State.

The certificate of the right to contracted management of rural land is limited to the use of the contractor only.

第二条 农村土地承包经营权证是农村土地承包合同生效后,国家依法确认承包方享有土地承包经营权的法律凭证。

农村土地承包经营权证只限承包方使用。

(相关资料: 裁判文书 11 篇 相关论文 1 篇 实务指南)

Article 3 If contracting such rural land as cultivated land, parks, barren hills, barren valleys or waste beaches, etc. to engage in planting production activities, the contractor shall, after having lawfully obtained the right to contracted management of rural land, be issued a certificate of the right to contracted management of rural land for the sake of ratification.

If contracting grasslands, water surfaces or beaches to engage in breeding production activities, the contractor's right to contracted management shall be subject to ratification, and a certificate shall be issued in accordance with the "Law of the People's Republic of China on Grasslands", the "Fishery Law of the People's Republic of China" and other relevant provisions.

第三条 承包耕地、园地、荒山、荒沟、荒丘、荒滩等农村土地从事种植业生产活动，承包方依法取得农村土地承包经营权后，应颁发农村土地承包经营权证予以确认。

承包草原、水面、滩涂从事养殖业生产活动的，依照《中华人民共和国草原法》、《中华人民共和国渔业法》等有关规定确权发证。

(相关资料: 裁判文书 1 篇 实务指南)

Article 4 A contractor who undertakes household contracted management shall be issued a certificate of the right to contracted management of rural land by the local people's government at the county level or above.

A contractor who undertakes contracted management by other means shall, after lawful registration, be issued the certificate of the right to contracted management of rural land by the local people's government at the county level or above.

The administrative department of agriculture of the local people's government at the county level or above shall be responsible for archival filing, registration, and issuance of certificates of the right to contracted management of rural land, and other similar specific work, as well.

第四条 实行家庭承包经营的承包方，由县级以上地方人民政府颁发农村土地承包经营权证。

实行其它方式承包经营的承包方，经依法登记，由县级以上地方人民政府颁发农村土地承包经营权证。

县级以上地方人民政府农业行政主管部门负责农村土地承包经营权证的备案、登记、发放等具体工作。

(相关资料: 裁判文书 2 篇 实务指南)

Article 5 The validity period of the right as stated in a certificate of the right to contracted management of rural land shall be in accord with the term of contracted management as stipulated in the lawfully concluded contract on contracted management of land.

第五条 农村土地承包经营权证所载明的权利有效期限，应与依法签订的土地承包合同约定的承包期一致。

(相关资料: 实务指南)

Article 6 The certificate of the right to contracted management of rural land shall contain the following contents:

- (1) name and serial number;
- (2) certificate issuing organ and date of issuance;
- (3) term of contracted management, and the date of beginning and expiry;

- (4) name, location, area and purpose of the contracted land;
- (5) alterations of the right to contracted management of rural land; and
- (6) other particulars necessary to be indicated.

第六条 农村土地承包经营权证应包括以下内容:

- (一) 名称和编号;
- (二) 发证机关及日期;
- (三) 承包期限和起止日期;
- (四) 承包土地名称、坐落、面积、用途;
- (五) 农村土地承包经营权变动情况;
- (六) 其他应当注明的事项。

(相关资料: 实务指南)

Article 7 In the event of household contracting, the following procedures shall be followed in the issuance of certificates of the right to contracted management of rural land:

(1) After the contract on contracted management of land becomes effective, the contract issuing party shall, within 30 working days, submit in duplicate the proposal on the contracted management of land, the details on the contractor and the contracted land, the agreement on contracted management of land, and other documents to the administrative department of rural management of the township (town) people's government.

(2) The administrative department of rural management of the township (town) people's government shall conduct preliminary examination on the documents submitted by the contract issuing party. If the documents conform to the provisions, they shall be subject to timely registration and tabulation, and the township (town) people's government shall propose a written application to the local people's government at the county level or above for issuance of the certificate of the right to contracted management of rural land; while if the documents fail to conform to the provisions, they shall be supplemented within 15 working days.

(3) The administrative department of agriculture of the local people's government at the county level or above shall verify the application documents submitted by the township (town) people's government. If the application documents conform to the provisions, it shall work out a registration book on the certificate of the right to contracted management of rural land, and report to the people's government at the same level for issuance of the certificate of the right to contracted management of rural land; while if the application documents fail to conform to the provisions, it shall notify the township (town) people's government in writing to make supplements.

第七条 实行家庭承包的,按下列程序颁发农村土地承包经营权证:

(一) 土地承包合同生效后,发包方应在 30 个工作日内,将土地承包方案、承包方及承包土地的详细情况、土地承包合同等材料一式两份报乡(镇)人民政府农村经营管理部门。

(二) 乡(镇)人民政府农村经营管理部门对发包方报送的材料予以初审。材料符合规定的,及时登记造册,由乡(镇)人民政府向县级以上地方人民政府提出颁发农村土地承包经营权证的书面申请;材料不符合规定的,应在 15 个工作日内补正。

(三) 县级以上地方人民政府农业行政主管部门对乡(镇)人民政府报送的申请材料予以审核。申请材料符合规定的,编制农村土地承包经营权证登记簿,报同级人民政府颁发农村土地承包经营权证;申请材料不符合规定的,书面通知乡(镇)人民政府补正。

(相关资料: 裁判文书 3 篇 实务指南)

Article 8 Whoever contracts for rural land by means of bid invitation, auction, public negotiation, etc. shall apply for a certificate of the right to contracted management of rural land in light of the following procedures:

(1) After the contract on contracted management of land becomes effective, the contractor fills out the application letter for registration of the certificate of the right to contracted management of rural land, and submits it to the administrative department of rural management of the people's government of the township (town) where the contracted land is located.

(2) The administrative department of rural management of the township (town) people's government conducts preliminary examination on the qualifications of the contract issuing party and of the contractor, the contract issuing procedures, the term of contracted management, the purpose of use of the contracted land, etc., and affixes its opinions of preliminary examination on the application letter for registration of the certificate of the right to contracted management of rural land.

(3) The contractor brings the application letter for registration of the right to contracted management of rural land, which has been approved by the township (town) people's government after preliminary examination, and to apply to the local people's government at the county level or above for registration of the certificate of the right to contracted management of rural land.

(4) The administrative department of agriculture of the local people's government at the county level or above verifies the application for registration. If the application documents conform to the provisions, it shall work out a registration book on the certificate of the right to contracted management of rural land, and report to the people's government at the same level for issuance of the certificate of the right to contracted management of rural land; while if the application documents fail to conform to the provisions, it shall notify the applicant in writing to make supplements.

第八条 实行招标、拍卖、公开协商等方式承包农村土地的，按下列程序办理农村土地承包经营权证：

（一）土地承包合同生效后，承包方填写农村土地承包经营权证登记申请书，报承包土地所在乡（镇）人民政府农村经营管理部门。

（二）乡（镇）人民政府农村经营管理部门对发包方和承包方的资格、发包程序、承包期限、承包地用途等予以初审，并在农村土地承包经营权证登记申请书上签署初审意见。

（三）承包方持乡（镇）人民政府初审通过的农村土地承包经营权登记申请书，向县级以上地方人民政府申请农村土地承包经营权证登记。

（四）县级以上地方人民政府农业行政主管部门对登记申请予以审核。申请材料符合规定的，编制农村土地承包经营权证登记簿，报请同级人民政府颁发农村土地承包经营权证；申请材料不符合规定的，书面通知申请人补正。

（相关资料：裁判文书 2 篇 实务指南）

Article 9 The registration book on the certificate of the right to contracted management of rural land shall record the basic contents of the right to contracted management of rural land. The particulars recorded in the certificate of the right to contracted management of rural land, in the contract on contracted management of rural land, and in the registration book on the certificate of the right to contracted management of rural land shall be in accord with each other.

第九条 农村土地承包经营权证登记簿记载农村土地承包经营权的基本内容。农村土地承包经营权证、农村土地承包合同、农村土地承包经营权证登记簿记载的事项应一致。
(相关资料: 裁判文书 2 篇 实务指南)

Article 10 The registration book on the certificate of the right to contracted management of rural land, the registration documents on the agreement on contracted management, and other registration documents shall be administered by the local administrative department of agriculture at the county level or above.

The rural land contract issuing party shall be entitled to consult or reproduce the registration book on the certificate of the right to contracted management of rural land and other registration documents, while the administrative department of agriculture at the county level or above shall not set any limitations or obstructions in this regard.

第十条 农村土地承包经营权证登记簿、承包合同登记及其他登记材料, 由县级以上地方农业行政主管部门管理。

农村土地承包方有权查阅、复制农村土地承包经营权证登记簿和其他登记材料。县级以上农业行政主管部门不得限制和阻挠。

(相关资料: 实务指南)

Article 11 Where a party to the contracted management of rural land considers that there is any error in the certificate of the right to contracted management of rural land or in the registration book, it shall be entitled to apply for correction.

第十一条 农村土地承包当事人认为农村土地承包经营权证和登记簿记载错误的, 有权申请更正。

(相关资料: 实务指南)

Article 12 The township (town) administrative department of rural management and the administrative department of agriculture of the local people's government at the county level or above shall, in the process of handling the certificates of the right to contracted management of rural land, perform the following duties:

- (1) Checking the relevant documents submitted by the applicants;
- (2) Inquiring the applicants about the relevant registration particulars;
- (3) Truthfully and timely registering the relevant particulars;
- (4) Carrying out on-the-spot inspection if necessary. The applicant shall be obliged to provide assistance in the process of such on-the-spot inspection.

第十二条 乡(镇)农村经营管理部门和县级以上地方人民政府农业行政主管部门在办理农村土地承包经营权证过程中应当履行下列职责:

- (一) 查验申请人提交的有关材料;
- (二) 就有关登记事项询问申请人;
- (三) 如实、及时地登记有关事项;
- (四) 需要实地查看的, 应进行查验。在实地查验过程中, 申请人有义务给予协助。

(相关资料: 实务指南)

Article 13 The administrative department of rural management of a township (town) people's government shall, after obtaining a certificate of the right to contracted management of rural

land, distribute the certificate to the contractor within 30 working days. The contract issuing party shall not keep the certificate of the right to contracted management of rural land on behalf of the contractor.

第十三条 乡（镇）人民政府农村经营管理部门领取农村土地承包经营权证后，应在 30 个工作日内将农村土地承包经营权证发给承包方。发包方不得为承包方保存农村土地承包经营权证。

（相关资料：实务指南）

Article 14 Where, within the term of contracted management, the contractor transfers the right to contracted management of land by means of sub-contract, lease, or conversion into shares, it needs not apply for the modification of the certificate of the right to contracted management of rural land.

A party who transfers the right to contracted management of land by means of assignment or interchange may request modification registration of the certificate of the right to contracted management of rural land.

Whoever causes the right to contracted management of rural land to be divided or aggregated due to any means other than assignment or interchange shall apply for modification of the certificate of the right to contracted management of rural land.

第十四条 承包期内，承包方采取转包、出租、入股方式流转土地承包经营权的，不须办理农村土地承包经营权证变更。

采取转让、互换方式流转土地承包经营权的，当事人可以要求办理农村土地承包经营权证变更登记。

因转让、互换以外的其他方式导致农村土地承包经营权分立、合并的，应当办理农村土地承包经营权证变更。

（相关资料：裁判文书 1 篇 实务指南）

Article 15 Whoever applies for modification of the right to contracted management of rural land shall submit the following documents:

- (1) a written request for modification;
- (2) the modified contract on contracted management of rural land, or other documents of proof;
- (3) the original of the certificate of the right to contracted management of rural land.

第十五条 办理农村土地承包经营权变更申请应提交以下材料：

- （一）变更的书面请求；
- （二）已变更的农村土地承包合同或其它证明材料；
- （三）农村土地承包经营权证原件。

（相关资料：裁判文书 2 篇 实务指南）

Article 16 The administrative department of rural management of the township (town) people's government shall, after accepting the application for modification, timely verify the application documents. If the application conforms to the provisions, it shall be reported to the original certificate issuing organ for permitting the modification, which shall be recorded in the registration book on the certificate of the right to contracted management of rural land.

第十六条 乡（镇）人民政府农村经营管理部门受理变更申请后，应及时对申请材料进行审核。符合规定的，报请原发证机关办理变更手续，并在农村土地承包经营权证登记

簿上记载。

（相关资料：裁判文书 1 篇 实务指南）

Article 17 Where a certificate for the right to contracted management of rural land is heavily defiled or damaged or is lost, the contractor shall apply to the administrative department of rural management of the township (town) people's government for replacement or re-issuance of the certificate.

After verification of the administrative department of rural management of the township (town) people's government, it shall be reported to the original certificate issuing organ for replacement and re-issuance.

第十七条 农村土地承包经营权证严重污损、毁坏、遗失的，承包方应向乡（镇）人民政府农村经营管理部门申请换发、补发。

经乡（镇）人民政府农村经营管理部门审核后，报请原发证机关办理换发、补发手续。

（相关资料：裁判文书 1 篇 实务指南）

Article 18 The replacement and re-issuance of the certificates of the right to contracted management of rural land shall be based on the contents recorded in the registration book on the certificate of the right to rural land management.

第十八条 办理农村土地承包经营权证换发、补发手续，应以农村土地经营权证登记簿记载的内容为准。

（相关资料：实务指南）

Article 19 For replacement or re-issuance of a certificate of the right to contracted management of rural land, the words of "replacement" or "re-issuance" shall be indicated in the certificate of the right to contracted management of rural land.

第十九条 农村土地承包经营权证换发、补发，应当在农村土地承包经营权证上注明“换发”、“补发”字样。

（相关资料：实务指南）

Article 20 Where, within the term of contracted management, any of the following circumstances occurs, the certificate of the right to contracted management of rural land shall be recovered in accordance with the law:

(1) Within the term of contracted management, the contractor and all his family members have moved into a city divided into districts, and have been registered as non-agricultural household.

(2) Within the term of contracted management, the contractor files a written application to voluntarily waive all the contracted land.

(3) The contracted land is lawfully requisitioned or occupied, causing the right to contracted management of rural land to be totally lost.

(4) Other circumstances under which the certificate of the right to contracted management of land shall be recovered.

第二十条 承包期内，发生下列情形之一的，应依法收回农村土地承包经营权证：

（一）承包期内，承包方全家迁入设区的市，转为非农业户口的。

（二）承包期内，承包方提出书面申请，自愿放弃全部承包土地的。

（三）承包土地被依法征用、占用，导致农村土地承包经营权全部丧失的。

(四) 其他收回土地承包经营权证的情形。
(相关资料: 裁判文书 3 篇 相关论文 1 篇 实务指南)

Article 21 If, under any of the circumstances in Article 20 of the present Measures, the contractor refuses to give back the certificate of the right to contracted management of rural land without any justifiable reason, the original certificate issuing organ may write off the certificate (including the serial number), and make an announcement.

第二十一条 符合本办法第二十条规定, 承包方无正当理由拒绝交回农村土地承包经营权证的, 由原发证机关注销该证 (包括编号), 并予以公告。
(相关资料: 裁判文书 2 篇 相关论文 1 篇 实务指南)

Article 22 A recovered certificate of the right to contracted management of rural land shall be returned to the original certificate issuing organ, and affixed with a seal of "invalidated".

第二十二条 收回的农村土地承包经营权证, 应退回原发证机关, 加盖“作废”章。
(相关资料: 裁判文书 1 篇 实务指南)

Article 23 The administrative department of agriculture of the people's government at the county level and the township (town) people's government shall improve the proposals on contracted management of rural land, the agreements on contracted management of rural land, the certificates of the right to contracted management of rural land, and the administrative systems for the relevant documents and archive files, and shall also establish and improve an information-based management system for contracted management of rural land.

第二十三条 县级人民政府农业行政主管部门和乡 (镇) 人民政府要完善农村土地承包方案、农村土地承包合同、农村土地承包经营权证及其相关文件档案的管理制度, 建立健全农村土地承包信息化管理系统。
(相关资料: 实务指南)

Article 24 The administrative departments of agriculture of the local people's governments at all levels shall strengthen the administration on the issuance of the certificates of the right to contracted management of rural land, and guarantee that all the certificates of the right to contracted management of rural land shall be issued to the corresponding households.

第二十四条 地方各级人民政府农业行政主管部门要加强对农村土地承包经营权证的发放管理, 确保农村土地承包经营权证全部落实到户。
(相关资料: 实务指南)

Article 25 Any liable person who does not comply with the provisions of timely distributing a certificate of the right to contracted management of rural land shall be criticized and educated; and shall, if causing any serious consequence, be subject to administrative liabilities.

第二十五条 对不按规定及时发放农村土地承包经营权证的责任人, 予以批评教育; 造成严重后果的, 应追究行政责任。
(相关资料: 实务指南)

Article 26 For the issuance of a certificate of the right to contracted management of rural land, no fees other than the cost of production may be charged from the contractor.

The costs of production of the certificates of the right to contracted management of rural land shall be strictly in accordance with the relevant provisions of the State on financial management.

第二十六条 颁发农村土地承包经营权证，除工本费外，不得向承包方收取任何费用。

农村土地承包经营权证工本费的支出要严格执行国家有关财务管理的规定。

（相关资料：实务指南）

Article 27 The certificates of the right to contracted management of rural land issued prior to the entry into force of the present Measures which conform to the relevant provisions in the “Law on Contracted Management of Rural land”, and are affixed with the seal of the local people’s government at the county level or above, shall continue to be valid. If any exceptional clause, e.g., the term of contracted management, obligations to be undertaken by the contractor, etc. violate the “Law on Contracted Management of Rural land”, the said clause shall be invalid, and whether the certificate is to be replaced with a new one shall be decided by the contractor.

Where a certificate is not affixed with the seal of the local people’s government at the county level or above, it shall be re-issued in accordance with the present Measures. For the re-issuance of a certificate of the right to contracted management of rural land, the term of contracted management shall conform to the relevant provisions in the “Law on Contracted Management of Rural land”, and no one shall take an opportunity to adjust the land.

第二十七条 本办法实施以前颁发的农村土地承包经营权证，符合《农村土地承包法》有关规定，并已加盖县级以上地方人民政府印章的，继续有效。个别条款如承包期限、承包方承担义务等违反《农村土地承包法》规定的，该条款无效，是否换发新证，由承包方决定。

未加盖县级以上地方人民政府印章的，应按本《办法》规定重新颁发。重新颁发农村土地承包经营权证，土地承包期限应符合《农村土地承包法》的有关规定，不得借机调整土地。

（相关资料：实务指南）

Article 28 The production of the certificates of the right to contracted management of rural land shall be subject to the supervision of the Ministry of Agriculture, and the printing of such certificates shall be uniformly arranged for by the administrative department of agriculture of the people’s government at the provincial level, with a seal of the local people’s government at the county level or above affixed on each certificate.

第二十八条 农村土地承包经营权证由农业部监制，由省级人民政府农业行政主管部门统一组织印制，加盖县级以上地方人民政府印章。

（相关资料：实务指南）

Article 29 The responsibility to interpret the present Measures shall remain with the Ministry of Agriculture .

第二十九条 本办法由农业部负责解释。

（相关资料：实务指南）

Article 30 The present Measures shall come into force on January 1, 2004.

Annex 1: Certificate of the Right to Contracted Management of Rural Land (sample) (omitted)

Annex 2: Application Letter for the Certificate of the Right to Contracted Management of Rural

Land (sample for the household contractors)(omitted)

Annex 3: Application Letter for Registration of the Certificate of the Right to Contracted Management of Rural Land (sample for other contractors)(omitted)

Annex 4: Registration book on the Certificate of the Right to Contracted Management of Rural Land (sample)(omitted)

第三十条 本办法自 2004 年 1 月 1 日起正式施行。

附件 1: 农村土地承包经营权证 (样本) (略)

附件 2: 农村土地承包经营权证申请书 (家庭承包方式样本) (略)

附件 3: 农村土地承包经营权证登记申请书 (其他承包方式样本) (略)

附件 4: 农村土地承包经营权证登记簿 (样本) (略)

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