

TITLE 8

FOOD AND AGRICULTURE

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(Revolving Loan Fund).
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DIVISION 1
EXPERIMENTAL FARM AND
AGRICULTURAL EXTENSION
SERVICES
(Department of Agriculture)

- Chapter 1. Agricultural Land Lease.
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CHAPTER 1
AGRICULTURAL LAND LEASE

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NOTE: Rule-making authority cited for formulation of agricultural land lease regulations by the Department of Agriculture, § 13701, Government Code. This section of the Government Code was repealed by P.L. 12-226. Presumably, the rules have fallen with the law. However, no action has been taken to repeal these rules.

§ 1100. General.

Whereas, Chapter 8 of Title XIV, Government Code of Guam, as enacted by Public Law 9-117, provides for the issuance of rules and regulations governing the issuance of agricultural leases for government land, the following rules and regulations apply to the program:

(a) Application. Application for an agricultural lease shall be made on Form Ag. 1, attached hereto.

(b) Standards. In reviewing an application for an agricultural lease, the Department of Agriculture shall consider:

- (1) The previous experience and background in agriculture of the applicant;

(2) His character and business reputation;

(3) The financial ability of the applicant insofar as his ability to make maximum productive use of the land leased is concerned;

(4) The proposed investment of the applicant;

(5) The local need and marketability of the crop or other agricultural product to be raised or derived from the land to be leased.

(c) Lease. Leases shall be made on Form Ag. 2, attached hereto.

(d) Rent. No rent shall be charged for the first five (5) years of the lease. Rent thereafter shall be charged in accordance with the schedule set out in Form Ag. 3, attached hereto.

(e) Financial Statement. At the time of application for lease and annually from the date of any approved lease, lessee shall submit a financial statement to the Department of Agriculture on Form Ag. 4, attached hereto.

(f) Records; Inspection. All lessees shall maintain adequate records which shall be open to inspection by the Department of all reasonable hours. All lessees shall permit entry on leased premises by Department's employees at all reasonable hours for inspection of the crops and growing conditions as well compliance with the conditions of Chapter 8, Title XIV, Government Code of Guam (beginning with § 13700. But note that this law was repealed by P.L. 12-226.).

NOTE: Although reference is made in the above section that Form Ag. 1, Form Ag. 2, Form Ag. 3 and Form Ag. 4 are incorporated within these Regulations, these forms were not included with the regulations at the time of the original publication; however, they are available from the Department of Agriculture.

§ 1101. Introduction.

For purposes of implementation pursuant to Public Law 9-117 of August 25, 1967 with respect to the enactment of a new Chapter 8, Title XV of the Government Code of Guam relating to agricultural leases of government land, and repealing the homestead law regarding land use permits by amending 21 GCA §68101, the following rules and regulations are hereby established to effectuate the administrative and operational implementation of the statutory provisions of the Act.

The Department of Land Management, subject to approval by the Governor, is authorized to declare available for lease under the provision of this Chapter government real property as may be suitable for agriculture, and which is not required for public use or reserved for other purposes by any other provision of law. Such land shall then be transferred for administrative purposes to the

Department of Agriculture for lease in accordance with the provisions of the Chapter, to qualified persons for the purposes of agriculture. The provisions of Chapter 6 of this Title shall not apply to any leases executed hereunder.

The Department of Agriculture shall process all applications for lease made under the provisions of this Chapter. It shall determine the best agricultural uses for which the available land should be put and the size of the tracts to be leased, keeping in mind that successful commercial production on such government land is desired by the Legislature and that therefore the parcels should be large enough to make such production possible.

§ 1102. Rules and Regulations.

The Act, among other statutory provisions, provides that the Department of Agriculture shall verify the eligibility of the applicant and all essential facts set forth by the applicant, and shall then approve or disapprove the application in accordance with reasonable standards, and that such rules and regulations shall be prescribed, not inconsistent with law, with the approval of the Governor.

§ 1103. Administration.

(a) The Department of Agriculture, government of Guam shall be the responsible agency for the administration of this Act, and shall from time to time submit recommendations to the Governor for approval for the effective and continued implementation of the Act.

(b) The Approving Committee within the Department of Agriculture who shall further effectuate the administrative and operational implementation for purposes of this Act shall consist of the Director and/or his Assistant, the Divisional Heads of the Extension Service, Plant Industry and Animal Industry.

(c) The Department of Agriculture shall determine the suitability of tract for agricultural purposes as defined in this Regulation and shall request the Department of Land Management for its availability for utilization.

§ 1104. Definitions.

(a) The term agriculture as used herein shall include also grazing and stock raising.

(b) Department or Director of Agriculture shall also include any successor to said Department or Director.

(c) Tract means a defined area of land either large or small; separately or collectively, which applies to the minimum standards set forth in the categorical classification table showing minimum acreage of land area allowable for lease.

(d) Improvements mean cleaning, roads, buildings, fences, irrigation and drainage system, wells or reservoirs, utilities and economical or ornamental trees. (Reference: Appendix "A.")

NOTE: Although reference is made to Appendix "A" in the above Section, Appendix "A" was not included within these Regulations at the time of original publication; however, this information can be obtained from the Department of Agriculture.

§ 1105. Qualifications and Eligibility.

(a) Person presently utilizing government land under authorization originally granted by virtue of the land use permit law (Article 7, Public Law 33) would continue to utilize such tract of land as formerly agreed up to the expiration of the land use permit agreement whereby a new agreement will be instituted subject to meeting the requirements as stipulated.

(b) Individual. Resident of United States citizenship status and of legal age.

(c) Only one (1) person per household who meets the foregoing requirements are eligible for approval of this lease.

(d) Corporation authorized to operate business in the Territory and authorized by its articles of incorporation to engage in agriculture.

(e) Partnership, limited or general, licensed to do business in the Territory to engage in agriculture.

(f) Eligibility to any of the foregoing person, corporation or partnership shall be eligible to lease not more than one (1) tract of government land without the consent of the Legislature by resolution.

(g) Applicant must have adequate experience and background in agriculture on either field crops, poultry, livestock or any combination of these activities and should be a part-time or full-time commercial or individual farmer whose main source of income or subsidiary income is derived from the farm.

(h) Applicant must possess a satisfactory development plan in order to carry out his proposed agricultural operation.

(i) Applicant is required to submit an agricultural plan to the Approving Committee of the Department of Agriculture, which will include certain details as to the type of agricultural enterprise the individual, corporation or partnership intends to engage in, the estimated costs and expected returns of the project and the various operations involved in the production process including but not limited to the local need and marketability of the kind of crops, poultry or livestock to be raised and its marketing potentialities.

§ 1106. Rent.

(a) The amount of rent due shall be established by using a rent schedule to be promulgated by the Director with the approval of the Governor, which shall operate in inverse proportion to the investment made on the lease land. (Reference: Appendix "B.")

NOTE: Although reference is made to Appendix "B" in the above Section, Appendix "B" was not included within these Regulations at the time of original publication; however, this information can be obtained from the Department of Agriculture.

(b) The Director, in establishing a rent schedule, shall attempt to award thereby those lessees who make maximum investment in the leased land and penalize those who make the least.

(c) The annual rent shall not exceed six percent (6%) of the fair market value of the land at the time of the execution of the lease and shall commence and become due on an annual basis at the end of the sixth year and each succeeding year thereafter.

§ 1107. Terms and Conditions.

(a) The maximum term of any lease shall be for a period not to exceed fifty (50) years, to be divided into ten (10) years increments and renewable at the option of the lessee.

(b) If a tract of land has been occupied by a lessee but was terminated for non-compliance or by mutual agreement, the improvements on the land should be charged to the new applicant. This Rule should not apply to heirs of a deceased lessee.

(c) Heirs and descendants should be awarded the lots if they desire to continue the lease of their ancestor.

(d) Improvements made on leased land should become the property of the lessee during the term of the lease.

(e) Determination of the value of improvements upon termination of the lease by mutual consent of both parties shall be established at fair market value.

(f) The Government shall reimburse the lessee for the costs of improvements on the leased land at fair value and the new applicant must buy the improvements from the Government at fair market value plus taxes.

§ 1108. Taxes.

(a) Awardee to government real property under an agricultural lease pursuant to the provisions of this Act shall not be subject to real estate taxes during his first five (5) years of occupancy other than improvements in the same manner as any other private property.

(b) Awardee shall commence paying real estate taxes on both the leasehold interest and improvements thereon at the end of the first five (5) years of the lease.

(c) New applicant should pay taxes for improvement already found on the premise in accordance with Subsection 7008(a).

§ 1109. Transfers or Encumbrances.

No rights derived from any lease executed under the provisions of this Act shall be assigned, sold, subleased, encumbered or hypothecated unless the approval of the Governor is obtained.

§ 1110. Annual Financial Statement.

Every lessee under a lease executed under the provisions of this Act shall annually submit to the Department of Agriculture a financial statement and report setting forth in detail the improvements on and income derived from the leased land on an approved form of such financial statement with data required thereto by the Governor as prescribed by rules and regulations.

§ 1111. Other Requirements.

(a) It shall be the responsibility of the appropriate Division of the Department of Agriculture to make periodic and/or quarterly inspection of leased land for proper evaluation of improvements made as to crops, poultry or livestock raised to ascertain productive use of land under agricultural lease.

(b) Annual fiscal inspection would be maintained to ascertain improvements made on leasehold with respect to real estate taxes for taxation purposes. Such certification is to be made to the Real Estate Division of the Department of Finance, government of Guam. (Reference: See 2 GAR § 1108(b).)

(c) The Director of Land Management shall certify available real property for lease as may be suitable for agriculture.

§ 1112. Cancellation.

(a) The government of Guam shall reserve the right to cancel at any time, any lease executed hereunder; provided, lessee is not utilizing the land for the purpose for which leased, unless good cause for such failure can be shown, except that no lease can be cancelled without a hearing thereon pursuant to the provisions of the Administrative Adjudication Act.

(b) Improvements on land should revert to the government of Guam upon termination of the lease for non-compliance.

(c) This lease may be terminated at any time by mutual consent of both parties by reason of health, death, military obligation and other extenuating circumstances.

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**GENERAL RENTAL SCHEDULE PER ACRE OF LAND
 USED FOR MULTI-AGRICULTURAL PROJECTS BY
 VARIOUS CATEGORIES OF LAND VALUE**

Investment Leased Schedule	Rate	Fair Market Value of Land		
Number	Investment \$1,750-2,249	\$250-749 \$2,250-2,749	\$750-1,249	\$1,250-1,749
(D)	(E)	(A)	(B)	(C)
0	Zero	\$30.00	\$60.00	\$90.00
	\$120.00		\$150.00	
1	\$ 500.00	29.40	58.80	88.20
	117.60		147.00	
2	1,000.00	28.80	57.60	86.40
	115.20		144.00	
3	1,500.00	28.20	56.40	84.60
	112.80		141.00	
4	2,000.00	27.60	55.20	82.80
	110.40		138.00	
5	2,500.00	27.00	54.00	81.00
	108.00		135.00	
6	3,000.00	26.40	52.80	79.20
	105.60		132.00	
7	3,500.00	25.80	51.60	77.40
	103.20		129.00	
8	4,000.00	25.20	50.40	75.60
	100.80		126.00	
9	4,500.00	24.60	49.20	73.80
	98.40		123.00	
10	5,000.00	24.00	48.00	72.00
	96.00		120.00	
11	5,500.00	23.40	46.80	70.20
	93.60		117.00	
12	6,000.00	22.80	45.60	68.40
	91.20		114.00	
13	6,500.00	22.20	44.40	66.60
	88.80		111.00	
14	7,000.00	21.60	43.20	64.80
	86.40		108.00	
15	7,500.00	21.00	42.00	63.00
	84.00		105.00	
Investment of Land Leased Schedule	Rate	Fair Market Value		
Number	Investment \$1,750-2,249	\$250-749 \$2,250-2,749	\$750-1,249	\$1,250-1,749
16	8,000.00	20.40	40.80	61.20
	81.60		102.00	
17	8,500.00	19.80	39.60	59.40
	79.20		99.00	
18	9,000.00	19.20	38.40	57.60
	76.80		96.00	

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19	9,500.00	18.60	37.20	55.80
	74.40		93.00	
20	10,000.00	18.00	36.00	54.00
	72.00		90.00	
21	10,500.00	17.40	34.80	52.20
	69.60		87.00	
22	11,000.00	16.80	33.60	50.40
	67.20		84.00	
23	11,500.00	16.20	32.40	48.60
	64.80		81.00	
24	12,000.00	15.60	31.20	46.80
	62.40		78.00	
25	12,500.00	15.00	30.00	45.00
	60.00		75.00	
26	13,000.00	14.40	28.80	43.20
	57.60		72.00	
27	13,500.00	13.80	27.60	41.40
	55.20		69.00	
28	14,000.00	13.20	26.40	39.60
	52.80		66.00	
29	14,500.00	12.60	25.20	37.80
	50.40		63.00	
30	15,000.00	12.00	24.00	36.00
	48.00		60.00	
31	15,500.00	11.40	22.80	34.20
	45.60		57.00	
32	16,000.00	10.80	21.60	32.40
	43.20		54.00	
33	16,500.00	10.20	20.40	30.60
	40.80		51.00	
34	17,000.00	9.60	19.20	28.80
	38.40		48.00	
35	17,500.00	9.00	18.00	27.00
	36.00		45.00	
	Investment of Land Leased Schedule	Rate		Fair Market Value of
Number	Investment \$1,750-2,249	\$250-749 \$2,250-2,749	\$750-1,249	\$1,250-1,749
36	18,000.00	8.40	16.80	25.20
	33.60		42.0	
37	18,500.00	7.80	15.60	23.40
	31.20		39.00	
38	19,000.00	7.20	14.40	21.60
	28.80		36.00	
39	19,500.00	6.60	13.20	19.80
	26.40		33.00	
40	20,000.00	6.00	12.00	18.00
	24.00		30.03	
41	20,500.00	5.40	10.80	16.20
	21.60		27.00	
42	21,000.00	4.80	9.60	14.40
	19.20		24.00	
43	21,500.00	4.20	8.40	12.60
	16.80		21.00	
44	22,000.00	3.60	7.20	10.80
	14.40		18.00	

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45	22,500.00	3.00	6.00	9.00
	12.00		15.00	
46	23,000.00	2.40	4.80	7.20
	9.60		12.00	
47	23,500.00	1.80	3.60	5.40
	7.20		9.00	
48	24,000.00	1.20	2.40	3.60
	4.80		6.00	
49	24,500.00	0.60	1.20	1.80
	2.40		3.00	
50	25,000.00	0.00	0.00	0.00
	0.00		0.00	

Amounts of rent are uniformly scaled down in inverse proportion to the rate of investment. This schedule only applies at the end of the sixth year. The maximum rates of rental charges (see Zero line) are computed on six percent (6%) of the categorized fair market values of the land. Rent for land value A, for example, is obtained by multiplying Five Hundred Dollars (\$500.00) (the mid-point of \$250-749) by 6%, which is Thirty Dollars (\$30.00). With the value of the land held constant, subsequent rentals are computed on a gradually and uniformly reduced rate of two percent (2%). The same percentage reduction in rental charges was applied in categories B, C, D and E.