

Law of the PRC on Mediation and Arbitration of Rural Land Contract and Management Disputes

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Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Mediation	2
Chapter III — Arbitration	3
Section 1 — Arbitration Commissions and Arbitrators	3
Section 2 — Application and Acceptance	4
Section 3 — Composition of the Arbitration Tribunal	5
Section 4 — Hearing and Award	6
Chapter IV — Supplementary Provisions	8

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Mediation
- Chapter III — Arbitration
- Chapter IV — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of fairly and promptly resolving disputes over rural land contract and management, safeguarding the lawful rights and interests of the parties concerned, and promoting rural economic development and social stability.

Article 2 — This Law shall apply to the mediation and arbitration of disputes over rural land contract and management.

Disputes over rural land contract and management include:

- (1) disputes arising from the conclusion, performance, modification, rescission and termination of rural land contract agreements;

- (2) disputes arising from the subcontracting, leasing, exchange, transfer, equity participation and other circulation of rural land contract and management rights;
- (3) disputes arising from the taking back or adjustment of contracted land;
- (4) disputes arising from the confirmation of rural land contract and management rights;
- (5) disputes arising from the infringement of rural land contract and management rights; and
- (6) other disputes over rural land contract and management prescribed by laws and regulations.

Disputes arising from the expropriation of collectively owned land and the compensation therefor do not fall within the scope of acceptance of rural land contract arbitration commissions and may be resolved through administrative reconsideration, litigation or other means.

Article 3 — Where a dispute over rural land contract and management arises, the parties may settle it through reconciliation on their own, or may request the villagers' committee, the people's government of the township (town), or other bodies to conduct mediation.

Article 4 — Where the parties fail to reach reconciliation or mediation, or are unwilling to reconcile or accept mediation, they may apply to the rural land contract arbitration commission for arbitration, or may directly institute an action in the people's court.

Article 5 — The mediation and arbitration of disputes over rural land contract and management shall be conducted openly, fairly and impartially, in a manner that is convenient and efficient for the people, based on facts, in accordance with law, and with respect for social morality.

Article 6 — The people's governments at or above the county level shall strengthen guidance on the mediation and arbitration of disputes over rural land contract and management.

The departments in charge of rural land contract administration and other relevant departments of the people's governments at or above the county level shall, in accordance with the division of duties, support the relevant mediation organizations and rural land contract arbitration commissions in carrying out their work in accordance with law.

Chapter II — Mediation

Article 7 — Villagers' committees and the people's governments of townships (towns) shall strengthen the mediation of disputes over rural land contract and management and help the parties reach an agreement to resolve the dispute.

Article 8 — A party may apply for mediation of a dispute over rural land contract and management in writing or orally. Where the application is made orally, the villagers' committee or the people's government of the township (town) shall record on the spot the basic information of the applicant, the matters of the dispute for which mediation is requested, the reasons and the time.

Article 9 — In mediating a dispute over rural land contract and management, the villagers' committee or the people's government of the township (town) shall fully listen to the parties' statements of facts and reasons, explain the relevant laws and State policies, patiently persuade and guide the parties, and help the parties reach an agreement.

Article 10 — Where an agreement is reached through mediation, the villagers' committee or the people's government of the township (town) shall prepare a mediation agreement.

The mediation agreement shall take effect after it is signed, sealed or fingerprinted by both parties, signed by the mediator, and affixed with the seal of the mediation organization.

Article 11 — The arbitration tribunal shall conduct mediation of disputes over rural land contract and management. Where an agreement is reached through mediation, the arbitration tribunal shall prepare a

mediation statement; where mediation fails, it shall promptly make an award.

The mediation statement shall state the arbitration claims and the result agreed upon by the parties. The mediation statement shall be signed by the arbitrators, affixed with the seal of the rural land contract arbitration commission, and served on both parties.

The mediation statement shall become legally effective upon the acknowledgement of receipt by both parties. Where a party reneges before acknowledging receipt of the mediation statement, the arbitration tribunal shall promptly make an award.

Chapter III — Arbitration

Section 1 — Arbitration Commissions and Arbitrators

Article 12 — Rural land contract arbitration commissions shall be established according to the actual needs of resolving disputes over rural land contract and management. Rural land contract arbitration commissions may be established in counties and cities without districts, and may also be established in cities divided into districts or their municipal districts.

Rural land contract arbitration commissions shall be established under the guidance of the local people's governments. Where a rural land contract arbitration commission is established, its day-to-day work shall be undertaken by the local department in charge of rural land contract administration.

Article 13 — A rural land contract arbitration commission shall be composed of representatives of the local people's government and its relevant departments, representatives of the relevant people's organizations, representatives of rural collective economic organizations, representatives of farmers, and law, economics and other relevant professionals serving concurrently, among whom the representatives of farmers and the law, economics and other relevant professionals shall not be less than half of the members.

A rural land contract arbitration commission shall have one chairman, one to two vice-chairmen and several members. The chairman and vice-chairmen shall be elected by all the members.

Article 14 — A rural land contract arbitration commission shall perform the following duties in accordance with law:

- (1) appointing and removing arbitrators;
- (2) accepting applications for arbitration; and
- (3) supervising arbitration activities.

A rural land contract arbitration commission shall formulate its charter in accordance with this Law, stipulating the manner in which its members are selected, their terms of office, the rules of procedure and other matters.

Article 15 — A rural land contract arbitration commission shall appoint arbitrators from among persons who are fair and upright.

An arbitrator shall meet one of the following conditions:

- (1) having been engaged in the administration of rural land contract for five years or more;
- (2) having been engaged in legal work or people's mediation work for five years or more; or
- (3) being a resident of high prestige locally who is familiar with the laws on rural land contract and State policies.

Article 16 — A rural land contract arbitration commission shall provide arbitrators with training on the laws on rural land contract and State policies.

The departments in charge of rural land contract administration of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall formulate training plans for arbitrators and strengthen the organization and guidance of arbitrator training.

Article 17 — The members and arbitrators of a rural land contract arbitration commission shall perform their duties in accordance with law, abide by the charter of the commission and the arbitration rules, and shall not solicit or accept bribes, engage in malpractices for personal gain, or infringe upon the lawful rights and interests of the parties.

Where an arbitrator solicits or accepts bribes, engages in malpractices for personal gain, makes an award by bending the law, or accepts treats or gifts from the parties or commits other illegal or disciplinary violations, the rural land contract arbitration commission shall remove him or her from its roster; where a crime is constituted, criminal liability shall be pursued in accordance with law.

The local people's governments at or above the county level and the relevant departments shall accept complaints and reports concerning illegal or disciplinary violations by members and arbitrators of rural land contract arbitration commissions and organize investigation and handling in accordance with law.

Section 2 — Application and Acceptance

Article 18 — The limitation period for applying for arbitration of a dispute over rural land contract and management shall be two years, calculated from the date on which the party knew or should have known that his or her rights had been infringed.

Article 19 — The applicant and the respondent in the arbitration of a dispute over rural land contract and management shall be the parties. Where the land is contracted by a household, a representative of the farming household may participate in the arbitration. Where one party consists of a large number of persons, representatives may be elected to participate in the arbitration.

A person with an interest in the outcome of the case may apply to participate in the arbitration as a third party, or may be notified by the rural land contract arbitration commission to participate in the arbitration.

The parties and third parties may entrust agents to participate in the arbitration.

Article 20 — An application for arbitration of a dispute over rural land contract and management shall meet the following conditions:

- (1) the applicant has a direct interest in the dispute;
- (2) there is a clearly identified respondent;
- (3) there are specific arbitration claims and facts and reasons; and
- (4) the dispute falls within the scope of acceptance of the rural land contract arbitration commission.

Article 21 — To apply for arbitration, a party shall submit a written arbitration application to the rural land contract arbitration commission in the place where the land involved in the dispute is located. The arbitration application may be submitted by mail or entrusted to another person for submission. The arbitration application shall state the basic information of the applicant and the respondent, the arbitration claims and the facts and reasons on which they are based, and shall be accompanied by the corresponding evidence and the source of the evidence.

Where it is genuinely difficult to apply in writing, an oral application may be made, which shall be recorded in the minutes by the rural land contract arbitration commission and signed, sealed or fingerprinted by the applicant after verification.

Article 22 — A rural land contract arbitration commission shall examine the arbitration application and shall accept it where it finds that the conditions prescribed in Article 20 of this Law are met. Where any of the

following circumstances exists, the application shall not be accepted; where it has already been accepted, the arbitration proceedings shall be terminated:

- (1) the conditions for application are not met;
- (2) the people's court has already accepted the dispute;
- (3) the law provides that the dispute shall be handled by another institution; or
- (4) there is already an effective judgment, ruling, arbitration award or administrative decision on the dispute.

Article 23 — Where a rural land contract arbitration commission decides to accept an application, it shall, within five working days from the date of receipt of the arbitration application, serve the notice of acceptance, the arbitration rules and the list of arbitrators on the applicant; where it decides not to accept the application or to terminate the arbitration proceedings, it shall, within five working days from the date of receipt of the arbitration application or the date of discovery of the circumstances for terminating the arbitration proceedings, notify the applicant in writing and state the reasons.

Article 24 — A rural land contract arbitration commission shall, within five working days from the date of acceptance of the arbitration application, serve the notice of acceptance, a copy of the arbitration application, the arbitration rules and the list of arbitrators on the respondent.

Article 25 — The respondent shall, within ten days from the date of receipt of the copy of the arbitration application, submit a statement of defense to the rural land contract arbitration commission; where it is genuinely difficult to defend in writing, an oral defense may be made, which shall be recorded in the minutes by the rural land contract arbitration commission and signed, sealed or fingerprinted by the respondent after verification. The rural land contract arbitration commission shall, within five working days from the date of receipt of the statement of defense, serve a copy of the statement of defense on the applicant. Failure of the respondent to submit a statement of defense shall not affect the conduct of the arbitration proceedings.

Article 26 — Where a party believes that, due to the acts of the other party or for other reasons, an award may become impossible or difficult to enforce, the party may apply for property preservation.

Where a party applies for property preservation, the rural land contract arbitration commission shall submit the party's application to the basic people's court in the place where the respondent is domiciled or where the property is located.

Where the application is erroneous, the applicant shall compensate the respondent for the losses suffered as a result of the property preservation.

Section 3 — Composition of the Arbitration Tribunal

Article 27 — An arbitration tribunal shall be composed of three arbitrators. The presiding arbitrator shall be jointly selected by the parties, and the other two arbitrators shall be selected by the parties respectively; where the parties fail to make a selection, they shall be designated by the chairman of the rural land contract arbitration commission.

For a dispute over rural land contract and management where the facts are clear, the rights and obligations are clearly defined and the dispute is minor, a single arbitrator may conduct the arbitration with the consent of both parties. The arbitrator shall be jointly selected by the parties or designated by the chairman of the rural land contract arbitration commission.

The rural land contract arbitration commission shall, within two working days from the date of composition of the arbitration tribunal, notify the parties of the composition of the arbitration tribunal.

Article 28 — An arbitrator shall withdraw, and the parties shall also have the right to apply for his or her withdrawal orally or in writing, under any of the following circumstances:

- (1) the arbitrator is a party to the case or a close relative of a party or an agent;
- (2) the arbitrator has an interest in the case;
- (3) the arbitrator has other relations with a party or an agent to the case that may affect the impartiality of the arbitration; or
- (4) the arbitrator has privately met with a party or an agent, or accepted treats or gifts from a party or an agent.

A party applying for withdrawal shall state the reasons and make the application before the first hearing. Where the grounds for withdrawal become known after the first hearing, the application may be made before the conclusion of the last hearing.

Article 29 — A rural land contract arbitration commission shall promptly make a decision on an application for withdrawal and notify the parties orally or in writing, stating the reasons.

Whether an arbitrator withdraws shall be decided by the chairman of the rural land contract arbitration commission; where the chairman of the commission serves as an arbitrator, it shall be decided collectively by the rural land contract arbitration commission.

Where an arbitrator is unable to perform his or her duties due to withdrawal or for other reasons, a new arbitrator shall be selected or designated in accordance with the provisions of this Law.

Section 4 — Hearing and Award

Article 30 — The arbitration of disputes over rural land contract and management shall be conducted by way of a hearing.

The hearing may be conducted in the township (town) or village where the land involved in the dispute is located, or at the place where the rural land contract arbitration commission is located. Where both parties request that the hearing be conducted in the township (town) or village, it shall be conducted in that township (town) or village.

The hearing shall be open to the public, except where State secrets, trade secrets or personal privacy are involved or where the parties have agreed not to hold it in public.

Article 31 — The arbitration tribunal shall notify the parties and other participants in the arbitration of the time and place of the hearing five working days before the hearing.

Where a party has justified reasons, the party may request the arbitration tribunal to change the time or place of the hearing. Whether to make the change shall be decided by the arbitration tribunal.

Article 32 — After applying for arbitration, the parties may settle through reconciliation on their own. Where a settlement agreement is reached, they may request the arbitration tribunal to make an award based on the settlement agreement, or may withdraw the arbitration application.

Article 33 — The applicant may waive or modify the arbitration claims. The respondent may admit or refute the arbitration claims and has the right to make a counterclaim.

Article 34 — Where the applicant withdraws the arbitration application before the arbitration tribunal makes an award, the arbitration tribunal shall terminate the arbitration, except where the respondent has made a counterclaim.

Article 35 — Where the applicant, after being notified in writing, fails to appear at the hearing without justified reasons or leaves the hearing midway without the permission of the arbitration tribunal, the application may be deemed withdrawn.

Where the respondent, after being notified in writing, fails to appear at the hearing without justified reasons or leaves the hearing midway without the permission of the arbitration tribunal, an award may be made by

default.

Article 36 — The parties shall have the right to express their opinions, state the facts and reasons, produce evidence, cross-examine evidence and debate during the hearing. For a party who does not understand the common spoken and written language of the locality, the rural land contract arbitration commission shall provide interpretation.

Article 37 — The parties shall produce evidence in support of their own claims. Where evidence relevant to the dispute is in the possession or under the management of the party that issued the contract, that party shall produce the evidence within the time limit designated by the arbitration tribunal; where the party fails to produce it within the time limit, it shall bear the adverse consequences.

Article 38 — The arbitration tribunal may collect evidence on its own where it deems it necessary.

Article 39 — Where the arbitration tribunal considers that an expert evaluation is needed for a specialized issue, it may submit the matter to an appraisal institution agreed upon by the parties for appraisal; where the parties have no agreement, it shall be submitted to an appraisal institution designated by the arbitration tribunal.

Upon the request of the parties or the requirement of the arbitration tribunal, the appraisal institution shall send appraisers to attend the hearing. The parties may, with the permission of the arbitration tribunal, put questions to the appraisers.

Article 40 — Evidence shall be produced at the hearing, but evidence involving State secrets, trade secrets or personal privacy shall not be produced at a public hearing.

The arbitration tribunal shall conduct the hearing in accordance with the arbitration rules, give both parties equal opportunities to state their cases and debate, and organize cross-examination of evidence by the parties.

Evidence verified by the arbitration tribunal to be true shall serve as the basis for determining the facts.

Article 41 — Where evidence may be lost or become difficult to obtain later, the parties may apply for preservation of evidence. Where a party applies for preservation of evidence, the rural land contract arbitration commission shall submit the party's application to the basic people's court in the place where the evidence is located.

Article 42 — For a dispute where the rights and obligations are clearly defined, upon the application of the parties, the arbitration tribunal may make an interim ruling to preserve the status quo, restore agricultural production, or stop such acts as taking soil or occupying land.

Where one party fails to perform the interim ruling, the other party may apply to the people's court for enforcement, but shall provide corresponding security.

Article 43 — The arbitration tribunal shall record the circumstances of the hearing in the minutes, which shall be signed, sealed or fingerprinted by the arbitrators, the recorder, the parties and other participants in the arbitration.

Where a party or another participant in the arbitration considers that there are omissions or errors in the record of his or her own statements, he or she shall have the right to apply for correction. Where correction is not made, the application shall be recorded.

Article 44 — The arbitration tribunal shall make an award and prepare an award document based on the facts ascertained, the law and State policies.

The award shall be made according to the opinions of the majority of the arbitrators; the differing opinions of the minority of arbitrators may be recorded in the minutes. Where the arbitration tribunal cannot form a majority opinion, the award shall be made according to the opinion of the presiding arbitrator.

Article 45 — The award document shall state the arbitration claims, the facts in dispute, the reasons for the award, the outcome of the award, the date of the award, and the right of the parties to institute an action against the arbitration award and the time limit therefor; it shall be signed by the arbitrators and affixed with the seal of the rural land contract arbitration commission.

The rural land contract arbitration commission shall, within three working days from the date on which the award is made, serve the award document on the parties and inform the parties of their right to institute an action against the arbitration award and the time limit therefor.

Article 46 — The arbitration tribunal shall perform its duties independently in accordance with law and shall not be subject to interference by administrative organs, social organizations or individuals.

Article 47 — The arbitration of a dispute over rural land contract and management shall be concluded within 60 days from the date of acceptance of the arbitration application; where the case is complex and an extension is needed, it may be extended with the approval of the chairman of the rural land contract arbitration commission, and the parties shall be notified in writing, but the extension shall not exceed 30 days.

Article 48 — Where a party is dissatisfied with an arbitration award, it may institute an action in the people's court within 30 days from the date of receipt of the award document. Where no action is instituted within the time limit, the award document shall become legally effective.

Article 49 — The parties shall perform a legally effective mediation statement or award document within the prescribed time limit. Where one party fails to perform it within the time limit, the other party may apply to the basic people's court in the place where the respondent is domiciled or where the property is located for enforcement. The people's court accepting the application shall enforce it in accordance with law.

Chapter IV — Supplementary Provisions

Article 50 — For the purposes of this Law, "rural land" means the cultivated land, forest land and grassland that are collectively owned by farmers or owned by the State and lawfully used by farmer collectives, as well as other land lawfully used for agriculture.

Article 51 — The arbitration rules for disputes over rural land contract and management and the model charter of rural land contract arbitration commissions shall be jointly formulated by the administrative departments in charge of agriculture and forestry of the State Council in accordance with the provisions of this Law.

Article 52 — No fees may be charged to the parties for the arbitration of disputes over rural land contract and management; the funds for arbitration work shall be incorporated into the fiscal budget and guaranteed.

Article 53 — This Law shall come into force as of January 1, 2010.

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