

Interim Regulations of the PRC on the Granting and Transfer of the Right to Use State-Owned Urban Land

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Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Grant of Land Use Rights	2
Chapter III — Transfer of Land Use Rights	3
Chapter IV — Lease of Land Use Rights	4
Chapter V — Mortgage of Land Use Rights	4
Chapter VI — Termination of Land Use Rights	5
Chapter VII — Allocated Land Use Rights	5
Chapter VIII — Supplementary Provisions	6

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Grant of Land Use Rights
- Chapter III — Transfer of Land Use Rights
- Chapter IV — Lease of Land Use Rights
- Chapter V — Mortgage of Land Use Rights
- Chapter VI — Termination of Land Use Rights
- Chapter VII — Allocated Land Use Rights
- Chapter VIII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated to reform the system of urban state-owned land use, rationally develop, utilize and manage land, strengthen land administration, and promote urban construction and economic development.

Article 2 — The state shall, under the principle of separating ownership from the right to use, implement the system of granting and transferring the right to use urban state-owned land, with the exception of underground resources, buried objects and municipal public utilities.

For the purposes of the preceding paragraph, "urban state-owned land" means land owned by the whole people within the scope of cities, county towns, administrative towns and industrial and mining areas (hereinafter referred to as "land").

Article 3 — Companies, enterprises, other organizations and individuals within and outside the territory of the People's Republic of China may, unless otherwise provided by law, obtain the right to use land and carry out land development, utilization and operation in accordance with these Regulations.

Article 4 — A land user that has obtained the right to use land in accordance with these Regulations may, within the term of use, transfer, lease or mortgage the right to use, or use it for other economic activities, and its lawful rights and interests shall be protected by the laws of the state.

Article 5 — The activities of a land user in developing, utilizing and managing land shall comply with the provisions of state laws and regulations, and shall not harm the public interest.

Article 6 — The land administration departments of the people's governments at or above the county level shall supervise and inspect the grant, transfer, lease, mortgage and termination of land use rights in accordance with law.

Article 7 — The registration of the grant, transfer, lease, mortgage and termination of land use rights, and of the related above-ground buildings and other fixtures, shall be handled by the government land administration departments and real estate administration departments in accordance with law and the relevant provisions of the State Council.

The registration documents may be consulted publicly.

Chapter II — Grant of Land Use Rights

Article 8 — The grant of a land use right means the act by which the state, in its capacity as land owner, transfers the right to use land to a land user for a certain number of years, and the land user pays the state the land use right grant fee.

A grant contract shall be concluded for the grant of a land use right.

Article 9 — The grant of land use rights shall be the responsibility of the people's governments of cities and counties, and shall be carried out in a planned and orderly manner.

Article 10 — The plots, uses, terms and other conditions for the grant of land use rights shall be drafted by the land administration departments of the people's governments of cities and counties in conjunction with the urban planning and construction administration departments and the real estate administration departments, and shall be implemented by the land administration departments after approval in accordance with the approval powers prescribed by the State Council.

Article 11 — A land use right grant contract shall be concluded between the land administration department of the people's government of a city or county (hereinafter referred to as the "grantor") and the land user under the principles of equality, voluntariness and compensation.

Article 12 — The maximum term for the grant of a land use right shall be determined according to the following uses:

- (1) 70 years for residential land;
- (2) 50 years for industrial land;
- (3) 50 years for land for education, science and technology, culture, public health and sports;

- (4) 40 years for commercial, tourism and recreational land; and
- (5) 50 years for comprehensive or other land.

Article 13 — A land use right may be granted by the following means:

- (1) agreement;
- (2) tender; or
- (3) auction.

The specific procedures and steps for granting land use rights by the means prescribed in the preceding paragraph shall be prescribed by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Article 14 — A land user shall pay the full land use right grant fee within 60 days after concluding the land use right grant contract. Where the fee is not paid in full within the time limit, the grantor shall have the right to terminate the contract and may claim compensation for breach of contract.

Article 15 — The grantor shall provide the granted land use right in accordance with the contract. Where the land use right is not provided in accordance with the contract, the land user shall have the right to terminate the contract and may claim compensation for breach of contract.

Article 16 — After paying the full land use right grant fee, the land user shall complete registration in accordance with the provisions, obtain a land use certificate, and acquire the land use right.

Article 17 — A land user shall develop, utilize and manage the land in accordance with the provisions of the land use right grant contract and the requirements of urban planning.

Where the land is not developed or utilized within the term and under the conditions prescribed by the contract, the land administration department of the people's government of the city or county shall rectify the matter and may, depending on the circumstances, impose a warning or a fine, up to the penalty of recovering the land use right without compensation.

Article 18 — Where a land user needs to change the use of the land prescribed in the land use right grant contract, it shall obtain the consent of the grantor and the approval of the land administration department and the urban planning department, re-conclude the land use right grant contract in accordance with the relevant provisions of this Chapter, adjust the land use right grant fee, and complete registration.

Chapter III — Transfer of Land Use Rights

Article 19 — The transfer of a land use right means the act by which a land user re-transfers the land use right, including sale, exchange and gift.

Where the land has not been invested in, developed or utilized within the term and under the conditions prescribed in the land use right grant contract, the land use right shall not be transferred.

Article 20 — A transfer contract shall be concluded for the transfer of a land use right.

Article 21 — When a land use right is transferred, the rights and obligations stated in the land use right grant contract and the registration documents shall be transferred accordingly.

Article 22 — The term of use of a land use right obtained by a land user through transfer shall be the remaining term after subtracting the term already used by the original land user from the term of use prescribed in the land use right grant contract.

Article 23 — When a land use right is transferred, the ownership of the above-ground buildings and other fixtures shall be transferred accordingly.

Article 24 — The owners or co-owners of above-ground buildings and other fixtures shall enjoy the land use right within the area used by such buildings and fixtures.

When a land user transfers the ownership of above-ground buildings and other fixtures, the land use right within the area used shall be transferred accordingly, except where the above-ground buildings and other fixtures are transferred as movable property.

Article 25 — The transfer of a land use right and of the ownership of above-ground buildings and other fixtures shall be subject to transfer registration in accordance with the provisions.

Where a land use right and the ownership of above-ground buildings and other fixtures are transferred in separate portions, the matter shall be subject to the approval of the land administration department and the real estate administration department of the people's government of the city or county, and transfer registration shall be completed in accordance with the provisions.

Article 26 — Where the transfer price of a land use right is obviously lower than the market price, the people's government of the city or county shall have the right of first purchase.

Where the market price of the transfer of a land use right rises unreasonably, the people's government of the city or county may take necessary measures.

Article 27 — Where, after the transfer of a land use right, it is necessary to change the use of the land prescribed in the land use right grant contract, the matter shall be handled in accordance with Article 18 of these Regulations.

Chapter IV — Lease of Land Use Rights

Article 28 — The lease of a land use right means the act by which a land user, as lessor, leases the land use right, together with the above-ground buildings and other fixtures, to a lessee for use, and the lessee pays rent to the lessor.

Where the land has not been invested in, developed or utilized within the term and under the conditions prescribed in the land use right grant contract, the land use right shall not be leased.

Article 29 — For the lease of a land use right, the lessor and the lessee shall conclude a lease contract.

The lease contract shall not contravene state laws and regulations or the provisions of the land use right grant contract.

Article 30 — After the lease of a land use right, the lessor shall continue to perform the land use right grant contract.

Article 31 — For the lease of a land use right and the above-ground buildings and other fixtures, the lessor shall complete registration in accordance with the provisions.

Chapter V — Mortgage of Land Use Rights

Article 32 — A land use right may be mortgaged.

Article 33 — When a land use right is mortgaged, the above-ground buildings and other fixtures shall be mortgaged accordingly.

When above-ground buildings and other fixtures are mortgaged, the land use right within the area used shall be mortgaged accordingly.

Article 34 — For the mortgage of a land use right, the mortgagor and the mortgagee shall conclude a mortgage contract.

The mortgage contract shall not contravene state laws and regulations or the provisions of the land use right grant contract.

Article 35 — The mortgage of a land use right and the above-ground buildings and other fixtures shall be subject to mortgage registration in accordance with the provisions.

Article 36 — Where the mortgagor fails to perform its obligations at maturity, or is dissolved or declared bankrupt during the term of the mortgage contract, the mortgagee shall have the right to dispose of the mortgaged property in accordance with state laws and regulations and the mortgage contract.

Where a land use right and the ownership of above-ground buildings and other fixtures are obtained through the disposal of mortgaged property, transfer registration shall be completed in accordance with the provisions.

Article 37 — With respect to the proceeds from the disposal of mortgaged property, the mortgagee shall have the right of priority in satisfaction.

Article 38 — Where a mortgage is extinguished due to the satisfaction of the debt or for other reasons, cancellation of the mortgage registration shall be completed in accordance with the provisions.

Chapter VI — Termination of Land Use Rights

Article 39 — A land use right shall be terminated upon the expiry of the term of use prescribed in the land use right grant contract, early recovery, the loss of the land, or for other reasons.

Article 40 — Upon the expiry of the term of the land use right, the land use right and the ownership of the above-ground buildings and other fixtures shall be acquired by the state without compensation. The land user shall return the land use certificate and complete cancellation of registration in accordance with the provisions.

Article 41 — Upon the expiry of the term of a land use right, the land user may apply for renewal. Where renewal is needed, a contract shall be re-concluded in accordance with Chapter II of these Regulations, the land use right grant fee shall be paid, and registration shall be completed.

Article 42 — The state shall not recover in advance a land use right lawfully obtained by a land user. Under special circumstances, based on the needs of the public interest, the state may recover it in advance in accordance with legal procedures, and shall provide corresponding compensation according to the term already used by the land user and the actual situation of the development and utilization of the land.

Chapter VII — Allocated Land Use Rights

Article 43 — An allocated land use right means a land use right obtained by a land user without compensation through various means in accordance with law.

The land user referred to in the preceding paragraph shall pay land use tax in accordance with the Interim Regulations of the People's Republic of China on Urban Land Use Tax.

Article 44 — An allocated land use right shall not be transferred, leased or mortgaged, except under the circumstances prescribed in Article 45 of these Regulations.

Article 45 — Where the following conditions are satisfied, and upon the approval of the land administration department and the real estate administration department of the people's government of the city or county, the allocated land use right and the ownership of the above-ground buildings and other fixtures may be transferred, leased or mortgaged:

- (1) the land user is a company, enterprise, other economic organization or individual;
- (2) it holds a state-owned land use certificate;

- (3) it has lawful property right certificates for the above-ground buildings and other fixtures; and
- (4) it concludes a land use right grant contract in accordance with Chapter II of these Regulations, and pays the land use right grant fee in arrears to the local people's government of the city or county, or offsets the land use right grant fee with the proceeds obtained from the transfer, lease or mortgage.

The transfer, lease or mortgage of the allocated land use right referred to in the preceding paragraph shall be handled in accordance with Chapters III, IV and V of these Regulations respectively.

Article 46 — With respect to units and individuals that transfer, lease or mortgage an allocated land use right without approval, the land administration department of the people's government of the city or county shall confiscate their illegal income and impose a fine depending on the circumstances.

Article 47 — Where a land user that obtained an allocated land use right without compensation stops using the land due to relocation, dissolution, revocation, bankruptcy or other reasons, the people's government of the city or county shall recover the allocated land use right without compensation, and may grant it in accordance with these Regulations.

With respect to an allocated land use right, the people's government of the city or county may, based on the needs of urban construction and development and the requirements of urban planning, recover it without compensation, and may grant it in accordance with these Regulations.

When recovering an allocated land use right without compensation, the people's government of the city or county shall provide appropriate compensation for the above-ground buildings and other fixtures based on the actual situation.

Chapter VIII — Supplementary Provisions

Article 48 — The land use right of an individual who has obtained it in accordance with these Regulations may be inherited.

Article 49 — Land users shall pay taxes in accordance with the provisions of state tax laws and regulations.

Article 50 — The land use right grant fees collected in accordance with these Regulations shall be included in the fiscal budget and managed as special funds, mainly used for urban construction and land development. The specific measures for use and administration shall be separately formulated by the Ministry of Finance.

Article 51 — The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, in accordance with these Regulations and the actual local conditions, select some towns with relatively mature conditions to carry out pilot projects first.

Article 52 — With respect to foreign investment engaging in the development and operation of tracts of land, the administration of their land use rights shall be carried out in accordance with the relevant provisions of the State Council.

Article 53 — The State Land Administration shall be responsible for the interpretation of these Regulations; the implementation measures shall be formulated by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Article 54 — These Regulations shall take effect as of the date of promulgation.

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