Regulation on Protection and Utilization of Agricultural Lands

CHAPTER ONE

Objective, Scope and Definitions

Objective

Article 1 — The purpose of the hereby Regulation is to ensure protection and appropriate utilization of agricultural lands and to set terms and conditions regarding which compulsory situations allow the utilization of such lands for non-agricultural purposes per Decree on Law Regarding Establishment and Duties of Ministry of Agriculture and Rural Affairs No. 441 and per Law regarding Establishment and Duties of General Directorate of Rural Affairs, No. 3202.

Scope

Article 2 — The hereby Regulation covers matters regarding protection of agricultural lands and establishment and development of residential units, allowing non-agricultural utilization of agricultural lands that are required to be used for purposes such as military, industry, transportation, education, health, tourism, warehouses, storages, communication, sports and agricultural facilities. The provisions of the hereby regulation shall not be applicable to areas considered as forests per Forest Law No. 6831, to olive groves specified by Law regarding Betterment of Olive Growing and Immunization of Wild Plants No. 3573, places declared to be application areas or zones per Pasture Law No. 4342 application areas and Agricultural Reform Law Regarding Land Reform of Wetlands No. 3083.

Definitions

Article 3 — The definitions mentioned in the hereby Regulation are indicated below:

a) Ministry: Ministry of Agriculture and Rural Affairs.

b) Regional Directorate: Regional Directorates of Rural Affairs.

c) Provincial Directorate: Provincial Directorates of Ministry of Agriculture and Rural Affairs.

d) Farmer: Real and legal entities that earn their living from production of vegetative, animal and water products.

e) Agricultural Lands: Lands that are suitable for the production of vegetative, animal and water products by the characteristics of their soil, topography and other ecological features and that are currently being used for such purposes or that can be converted into a suitable state for the production of vegetative, animal and water products by being reformed or improved.

f) Agricultural Lands Class: Based on their natural characteristics and the agriculture applied to them; Absolute Agricultural Lands, Special Produce Lands, Planted Agricultural Lands, Marginal Agricultural Lands with their characteristics defined by the Ministry.

g) Classification of Land Utilization: Classification from I to VIII with the purpose of protecting the land and ensuring its usage to be planned and balanced in accordance with its characteristics.

h) Absolute Agricultural Lands: In vegetative production; lands that are not restrictive in terms of product yield compared to the average production of the region by the combination of the soil's physical, chemical and biological characteristics, that does have any topographical limitations or that has few topographical limitations; that are required to remain agricultural due to national, regional or local significance within the country's agricultural production.

i) Planted Agricultural Lands: Without being limited to the characteristics of the land; lands where fruits, vine, nuts, peanuts, roses, tea and similar trees, shrubs and perennial plants that are appropriate for the local ecology and that are in the form of bushes can be planted, in minimum quantities defined by the Ministry according to type and species.

j) Special Produce Lands: Apart from the absolute agricultural lands and planted agricultural lands, lands that are adapted to the area due to their soil and topographical limitations, where not all types of vegetative production can take place, where only special vegetative production along with water produce and hunting can take place, and which are required to remain agricultural due to their national, regional or local significance within the country's agricultural production.

k) Marginal Agricultural Lands: Lands that fall outside of absolute agricultural land, special produce lands and planted agricultural lands, where only traditional soil processing can take place due to their soil and topographical limitations, that have local significance and for which the utilization decisions are determined based on local demands.
1. Greenhouse Agricultural Lands: Agricultural lands that are under covers made of glass, nylon and similar materials, where high technology agricultural techniques are utilized, for the purpose of removing or reducing the negative effects of the climate and other external factors.

2. Wet Agricultural Land: Lands opened to irrigation through state investments or that are within the scope of irrigation project.

3. Dry Agricultural Land: Lands that currently do not have irrigation and that economically do not have irrigation means and that the water demand of the plants is only fulfilled by natural precipitation.

4. Agricultural Structures: Structures required for agricultural production along with structures that are constructed within the plantation for the purpose of first processing and assessment upon the production of agricultural products and that belong to the owner of the plantation.

5. Agricultural Integrated Structures: Facilities where agricultural products are processed after production and where their physical or chemical characteristics are modified and where they are converted into one or more new products.

6. Terrain: Terrains that are within residential areas or that have development plans made for residential, industrial, tourism and similar purposes or terrains that are within towns, districts and villages (concentrated residential areas) that are used for such purpose without a plan.

7. Residential Area: Terrains that are structured by being planned for residential, other accommodations, tourism, industrial, military and similar purposes or town, district and villages (concentrated residential areas) that are used for such purposes without a plan along with terrains that are considered as lands.

CHAPTER TWO
General Terms of Land Allocation to Non-Agricultural Activities

Implementation Areas Permission Authority

Article 4 — Allocation of the land required for area plans of every scale, environmental plans, regulatory development plans, piecemeal plans, construction plans and any associated auxiliary construction plans within areas that are excluded from the scope of the laws specified in Article 2 of the hereby Regulation along with the additional construction plans within residential areas, to non-agricultural purposes shall be subject to the permission of the Provincial Directorate. Prior to the preparation of small scale plans such as area plans, environmental plans and regulatory development plans, appropriate institutions shall apply to the Provincial Directorate along with maps in 1:25,000 scale or larger which defines the boundaries of the areas that will be planned. Provincial Directorates prepare a report indicating agricultural characteristics and send it along with the applications to the relevant Regional Directorates in order to have their soil surveys conducted. Soil survey report prepared by the regional directorates and maps are sent to the Provincial Directorate for the purpose of obtaining permissions for non-agricultural activities. Provincial Directorate notifies the related institution for the purpose of having them carry out the necessary actions and notifies the Ministry and the General Directorate of Rural Affairs for compiling statistical data.

Determining Land Characteristics and Competency Level

Article 5 — When evaluating whether the land has the characteristics of being used for non-agricultural purposes, class determination utilization method and agricultural characteristics shall be taken into account. In the event of the land applied for being a absolute agricultural land, excluding the exceptions indicated in Articles 9, 10, 11 and 13 of the hereby regulation, it shall be directly rejected by the Provincial Directorates. The decision shall be sent to the relevant party for the purpose of having them carry out the necessary actions and to the Ministry along with the informative report. For the purpose of having soil surveys conducted within the scope of "TE-Standard-1", other requests shall be sent to the relevant Regional Directorates along with the agricultural survey report prepared by the Provincial Directorates, by the technical officers that are authorized by Law No. 7472 regarding Agricultural Engineering and by the Statute put into effect in relation to such law. Soil survey reports and maps prepared in a short period of time by the Regional Directorate, shall be sent to the Provincial Directorate. Provincial Directorate shall make the decision on granting permission. The decision shall be notified to the related institutions for the purpose of having them carry out the necessary actions and to the Ministry and General Directorate of Rural Affairs for compiling statistical data.

Modification to the Natural Structure of the Land

Article 6 — Permit applications for using the land for non-agricultural purposes shall be made prior to the
Lands that will not be used for non-agricultural purposes

Article 7 — With the exception of the exclusions indicated in Articles 9, 10, 11 and 13 of the hereby regulation, the lands that cannot be allocated for non-agricultural purposes shall be as follows:

a) Absolute Agricultural Lands, Special Produce Lands and Planted Agricultural Lands that are economically efficient along with wetlands of utilization classes I, II, III and IV and dry agricultural lands of classes I and II.

b) Lands that have characteristics level of class III or above due to insufficient drainage, being rocky or salty, whether placed into service or not, and that are specified as having the ability to be converted into class I and II agricultural lands by way of improvement in the soil survey report.

c) In addition to having the ability to be allocated for non-agricultural purposes based on their characteristics, lands that are within the scope of irrigation, drainage, soil protection and similar plan or application projects and lands that can affect project's integrity in the event of being allocated for non-agricultural purposes although they are not within the scope of a project or lands that can alter agricultural utilization integrity of surrounding lands.

Order of priority for lands that will be used for non-agricultural purposes

Article 8 — Non-agricultural land requirements shall be primarily fulfilled from marginal agricultural lands or from lands that have land utilization class of VII. In the event of not being able to fulfill the requirements from lands of these classes, it can be fulfilled by dry agricultural lands of classes VII, VI, V, IV and III. However, in such case, the order of priority shall be from class VII to III.

Dry Agricultural Lands that can be Used for Non-Agricultural Purposes

Article 9 — In the event of not being able to find better alternative lands, starting with the Marginal Agricultural Lands, provided that the public benefit is taken into account and necessary measures are taken in order to prevent further damage to the agricultural activities, lands where dry agriculture is conducted in the amounts that fulfill the actual demand along with the planted agricultural lands that are not economically effective, may be allocated for non-agricultural purposes for the indicated intentions listed below:

a) Within existing residential zone areas, for the planned housing of the villages.

b) In addition to the existing residential areas, places where the relevant municipality wishes to plan development plans that are within the boundaries of the municipality or immediately adjacent land.

c) Organized Industrial Zones and Small Industrial Complexes that will be established inside and outside of municipalities and immediately adjacent area boundaries.

d) Provided that the total utilization area does not exceed 5,000 square meters, gas stations that will be established on the highways.

e) Facilities that are built for the solid waste disposal and other treatment/disposal facilities,

f) Structures and facilities for departments of correction and detention houses.

Wet Agricultural Lands or Other Lands that can be Used for Non-Agricultural Purposes

Article 10 — Wet agricultural lands shall not be allocated for non-agricultural purposes. However, in the event of the inability to determine better alternatives, agricultural lands of every class and nature that can fulfill the demand for the following general purposes, provided that the necessary measures are taken in order to prevent damage to the agricultural activities, may be allocated to non-agricultural activities.

a) Highways, railroads, village roads and similar roads,

b) Dams, ponds, power plants for water supply and power production purposes and their supplementary facilities, crude oil and natural gas well drilling, production and storage facilities along with their supplementary facilities, power lines, power distribution centers, other power distribution units, power transmission lines, pressurized pipeline routes, water treatment and their pumping facilities and their routes, traffic control and security stations,
c) National security facilities, airports and supplementary/auxiliary facilities,
d) Greenhouse and Organized Greenhouse Industrial Zones. Applications submitted for the aforementioned general purposes shall be evaluated by the Provincial Directorate, and in the event of reaching the conclusion that there are no alternatives it shall be approved. In the event of determining an alternative area, the application shall be rejected by the Provincial Directorate and the decisions shall be forwarded to the relevant institution for the purpose of having them carry out the necessary actions and shall also be forwarded to the Ministry, along with the prepared report, for compiling statistical data.

Agricultural Structures
Article 11 — Applications made to the Directorate of Public Works and Settlement or to the Municipalities, regarding farm animal coops, barns, sheepfolds, warehouses, cold storage rooms, feeder and feed preparation facilities, dairy facilities, fish production facilities, bee keeping facilities, water and feed storage units, fertilizer and silage tanks that have the size, volume and nature required for ensuring that the farmer can economically maintain agricultural operations, shall be reverted to the Provincial Directorate. Provincial Directorate shall review such requests, and in the event of such facilities complying with the aforementioned characteristics, shall issue permission, provided that the total utilization area does not exceed 5,000 square meters, regardless of the land classification and shall send it along with the agricultural survey report that will be prepared, to the Ministry for compiling statistical data. For the purposes of encouraging agricultural production, in the event of not finding alternative lands, agricultural lands for which the plans and projects are reviewed by the Provincial Directorate and found to have agricultural nature, that are required for facilities regarding processing and making use of agricultural products, shall be allocated by the Provincial Directorate for non-agricultural purposes, regardless of land classification.

CHAPTER THREE
Land Requests for Non-Agricultural Purposes and Plan Amendments

Documents Required for Individual Utilizations for Non-Agricultural Purposes
Article 12 — In the event of a request for non-agricultural use of lands that are under the ownership of real and legal entities along with those who are within the private ownership or under the ruling and execution of the Government, an application shall be submitted to the Provincial Directorate along with the following documents. The review procedures are to be carried out by the Provincial Directorate per Article 5 of the hereby regulation.
   a) Sketch of the land, indicating deed registry and cadastral map in 1:5,000 scale at a minimum.
   b) 1:25,000 scale map, with the location of the land marked and with coordinate values.
   c) Document obtained from the deed registry, indicating the land qualification.

Terms of Making Amendments to the Plans
Article 13 — Prior to all mandatory plan amendments that will be made in all types of plans of all scales, that are approved prior to the effective date of the hereby Regulation, for the areas that remain as agricultural lands and that are inside and outside of the adjacent areas and boundaries of the Municipality along with the decisions regarding utilization of agricultural lands that are within such areas, shall be subject to the consent of the Provincial Directorate. For the amendments that will be made on the plans and boundaries, applications shall be made to the Provincial Directorate along with maps of 1:25000 in scale or larger.
Provincial Directorate may grant permission for plan amendments for the following compulsory situations:
   a) If the planned area is within the Municipality or immediately adjacent area; Land requests made by the relevant municipality regarding the structures that will be built for carrying out the public services of the Municipality and related infrastructure facilities,
   b) In the event of the planned area being inside or outside of the Municipality or immediately adjacent areas; Land requests regarding constructing additional facilities to the existing structures for the purpose of developing integrated industrial facilities that are established for encouraging agricultural production and that are related to the processing and making use of agricultural products,
2) Land requests regarding building additional facilities that are required for increasing the competition strength of the industrial facilities in the planned areas where other industrial facilities are located, that will
increase production by enabling the use of state of art technology and that are obligated to work in integration with the existing facilities.

Lands that are requested for the aforementioned compulsory situations that are within the scope of the hereby Article, shall be primarily fulfilled by dry agricultural lands that are adjacent to the facilities with non-agricultural plans and with low potential, if none, they shall be fulfilled from other agricultural lands that are adjacent to the existing planned area in the amount that is sufficient for meeting the actual demand.

Appeal
Article 14 — The decision made for individual non-agricultural land usages can only be appealed twice. The appeal for the decision or for the surveys shall be submitted to the Ministry or to the related provincial directorate. The appeal related to the decision and/or agricultural survey shall be reviewed by the Ministry. Soil survey appeals review process shall be carried out by the General Directorate of Rural Affairs. Upon review of the appeal, the General Directorate of Rural Affairs shall inform the Ministry of its opinion.

The appeal fees shall be twice the amount of the fees specified in Article 15 of the hereby Regulation and shall be deposited to the relevant revolving funds operation accounts. In the event of the appellant being successful, provided that a refund request is made within the same year, the appeal fees shall be refunded.

Survey Fees
Article 15 — Excluding public institutions and establishments, the fees to be determined by the Ministry for the surveys to be conducted on the lands that real and legal entities wish to use for non-agricultural purposes, shall be deposited to revolving funds operating account of the Provincial Directorate. Soil survey fees shall be determined by the General Directorate of Rural Affairs and shall be deposited to the revolving funds operating account of the relevant Regional Directorate of Rural Affairs.

CHAPTER FOUR
Other Provisions

Preparation of Circulars and Directives
Article 16 — The Ministry shall have the authority to issue circulars and directives for the purpose of ensuring and facilitating the execution of the hereby Regulation.

Rescinded Legislations
Article 17 — As of the published date of the hereby Regulation, the "Regulation Regarding Protection and Usage of Agricultural Lands" published on Official Gazette No. 24489, dated 8/10/2001 has been rescinded along with its attachments and amendments.

Effective Date
Article 18 — This Regulation becomes effective on its issue date.

Execution
Article 19 — The provisions of the hereby Regulation shall be executed by the Minister of Agriculture and Rural Affairs.