Salient Features of the Comprehensive Agrarian Reform Program Extension with Reforms (RA 9700)

FOREWORD

The Comprehensive Agrarian Reform Program Extension with Reforms or RA 9700 has steadily been moving on. Every DAR worker is embracing the intricacies of the twenty six reform bills which have been deliberately studied and exhaustively scrutinized by the Congress and the Senate.

Taking all these in circumspect, the Bureau is providing all field implementers and allies of the Program with a primer on CARPER where the reforms instituted in each program component *(Land Acquisition and Distribution, Support Services and Agrarian Justice Delivery)* are broken down into chunks in order to have a common interpretation of the law. Through a clear understanding of this law, closer cooperation and harmonious affiliations or collaborations with the civil society groups are expected.

We also have to make mention of the challenges brought about by this new law. First, we are given five years to finally finish the acquisition and distribution of agricultural lands. Second, we have to contend with the stance of big landowners who after all this time have strongly resisted the Program. Third and last, a very strong political will on the part of the DAR governance is needed to overcome the first two challenges mentioned above.

Thus, we are being reminded to walk that extra mile as we complete to overcome the legal and extra challenges of the Program.

What are the distinguishing points of RA 9700?

Republic Act 9700 or the Comprehensive Agrarian Reform Program Extension with Reforms or CARPER was signed into law on August 7, 2009 with the following features:

1. **Strengthened and improved CARL.** The Comprehensive Agrarian Reform Law or RA 6657 has not been superseded by RA 9700. It further strengthened and improved it;
2. **150 billion budget.** The CARPER has a 150 billion budget funded from the Agrarian Reform Fund and other funding sources;
3. **Seven (7) new provisions and 26 reformed provisions;**
4. **4. Restored compulsory acquisition and has extended the land acquisition and distribution component for five years starting July 1, 2009 up to June 30, 2014;**
5. **Strikes a balance between and among the landowners' interest , farmers' interests and the DAR's interests as follows:**

   - ✓ Landowners' interest - on the provision on just compensation and support services provision
   - ✓ Farmers' interest – on the provision on the rights and obligations upon receipt of CLOA and EP, usufructuary rights and 180 days installation of FBs
   - ✓ DAR's interest - Budget provision, phasing-in of land acquisition and distribution & AR as a continuing program even after LAD

6. **Creation of the Congressional Oversight Committee on Agrarian Reform (COCAR) to oversee, monitor and evaluate progress of CARP implementation within the five (5) year time frame.**
7. **Implementing rules and regulations were developed by the DAR to complement the new and amended provisions of RA 9700 namely:**

Salient Features of 9700

- ✓ The 2009 Department of Agrarian Reform Adjudication Board Rules of Procedure
- ✓ AO 2 S '09 -

  Rules and Procedures Governing the Acquisition and Distribution of Agricultural Lands Under RA N0. 6657, as amended by RA No. 9700
- ✓ AO 3 S '09 -

  Rules and Procedures Concerning the Cancellation of Registered CLOAs, EPs and other Titles issued under any Agrarian Reform Program
- ✓ AO 4 S '09-

  Rules and Regulations Implementing Section 19 0f RA 9700 (Jurisdiction on and Referral of Agrarian Dispute)
- ✓ AO 5 S '09-

  Implementing Rules and Regulations on Support Services Delivery under Republic Act 9700

What are the new features of CARPER ?

1. It stressed that the CARP is a continuing program: *(Sec. 21. Funding Source)*

After completion of the LAD component of the CARP (30 June 2014), yearly appropriation shall be allocated fully to support services, agrarian justice delivery, and operational requirements of the DAR and other CARP implementing agencies.

2. It created a Joint Congressional Oversight Committee, with membership composition as follows: *(Sec. 26. Congressional Oversight Committee)*

- ✓ Chairpersons: Chairpersons of the House and Senate Committees on Agrarian Reform; and
- ✓ Three (3) members from each Houses of Congress, to be respectively designated by the Speaker and the Senate President

Budget and duration of the COCAR:

✓ Twenty-five Million Pesos (PhP25,000,000.00) yearly appropriation for the COCAR; and

✓ Term of COCAR shall end six (6) months after the expiration of the five-year extended period of the CARP.

3. It has a clear policy against conversion of agricultural lands: *(Sec. 22. Conversion of Lands)*

DAR may, with due notice to the affected parties and subject to existing laws, authorize the reclassification or conversion of lands and its disposition after five (5) years from its award when:

✓ the land ceases to be economically feasible and sound for agricultural purposes, or

✓ the locality has become urbanized and the land will have greater economic value for residential, commercial or industrial purposes.

Who may apply for conversion?

✓ the beneficiary, or

✓ the landowner with respect only to his/her retained area which is tenanted

What are the requirements of an approved conversion of awarded land/s of an agrarian reform beneficiary (ARB)?

The ARB after conversion is granted shall:

✓ Invest at least 10% of the proceeds coming from conversion in government securities; and

✓ Fully pay the price of the land

What lands are not allowed for conversion?

Irrigated and irrigable lands are not allowed for conversion. The National Irrigation Administration (NIA) is directed to submit a consolidated data on the location of all irrigable lands nationwide within one (1)year from the effectivity of RA 9700 *(Sec. 22, 2nd to the last paragraph).*

4. It emphasized a gender-sensitive agrarian reform *(Sec. 15);*

✓ PARC to ensure that these support services integrate with the specific needs and well-being of women farmer-beneficiaries;

✓ Support services shall be extended equally to women and men agrarian reform beneficiaries; &

✓ DAR shall establish and maintain a women's desk related to the protection & promotion of women's rights.

What are the new and modified provisions under the Land Acquisition and Distribution (LAD) component?

1. Phasing Schedule of LAD to Ensure Completion by June 2014 *(Section 5 of RA 9700)*

Final acquisition and distribution of remaining unacquired and undistributed lands from July 1, 2009 to June 30, 2014:

Phase One (1 July 2009 – 30 June 2012)

- All private agri-lands w/ aggregate landholdings in excess of 50 hectares which has already been issued notices of coverage (NOC) on or before 10 December 2008
- All idle and abandoned lands;
- All agri-lands which were voluntarily offered to sale but submitted not later than June 30, 2009
- All rice and corn lands under PD 27
- GOLs/KKK,GFI/GOCC,PCGG acquired lands

Phase Two:

- Lands above twenty-four (24) up to fifty (50) hectares which have been issued notice of coverages (NOCs) on or before 10 December 2008, to be completed by 30 June 2012

- All remaining private agricultural lands of LOs with aggregate area in excess of 24 hectares, to be implemented and completed from 1 July 2012 to 30 June 2013

Phase Three:

- Lands of landowners with aggregate landholdings in excess of ten (10) hectares up to 24 hectares – 1 July 2012 to 30 June 2013

- Lands of landowners in excess of retention limit up to ten (10) hectares: 1 July 2013 to 30 June 2014

2. No more VLT after June 30, 2009

With respect to VLT, only those submitted by June 30, 2009 shall be allowed.

After June 30, 2009, the modes of acquisition shall be li-mited to voluntary offer to sell (VOS) and compulsory acquisition (CA).

With regard to all previously acquired lands where valuation is subject to challenge by landowners, they shall have been completed and finally resolved pursuant to Section 17 of RA 6657,as amended.

3. Attestation Requirement of Farmer Beneficiary *(Sec. 5. Under Priorities of Salient Provisions)*

Only farmers (tenants or lessees) and regular farm workers actually tilling the lands as certified under oath by the Barangay Agrarian Reform Council (BARC) and attested by the landowners (LOs) shall be qualified as beneficiaries

4. Retention Limit Exemption of LGUs

(Section 4., insertion of Sec. 6-A in RA 6657 as regards, Exception to Retention Limits):

Local government units acquiring private agricultural lands by expropriation or other modes for actual, direct and exclusive public purposes *shall not be subject* to the five-hectare retention limit under this section and Sec. 70 and 73-A of RA 6657, provided that:

- ✓ Lands subject to CARP are first acquired and distributed under the program; and,
- ✓ Beneficiaries are paid just compensation

5. Review of Land Size Limits for Each Type of Crop *(Section 4., insertion of Sec. 6-B in RA 6657 on the Review of Limits of Land Size):*

DAR to submit to Congress within six (6) months from the effectivity of the law, a comprehensive study on the land size appropriate for each type of crop, for a possible review of limits of land sizes.

6. Tenants and Farm workers are First Priority Beneficiaries

Sec. 8. Qualified Beneficiaries

Landholdings shall first be distributed to agricultural lessees and share tenants, then to regular farmworkers of that same landholding up to a maximum of three (3) hectares each. The remaining portion, if any, shall thereafter be distributed to other qualified beneficiaries pursuant to Sec. 22, subpars. (C), (D), (E), (F), and (G) of RA No. 6657**

** *(c) Seasonal farmworkers; (d) Other farmworkers; (e) Actual tillers (f) Collectives or cooperatives of the above beneficiaries; & (g) Others directly working on the land*

7. Organizing and Empowering of FBs

Sec. 5. Under Priorities (Salient provisions)

In accordance with the provision of this section, implementing rules are to be provided by the Presidential Agrarian Reform Council (PARC) to take into consideration the following:

- ✓ Farmers are organized and understand the meaning and obligations of farmland ownership;
- ✓ Distribution of lands to the tillers at the earliest practicable time;
- ✓ Enhancement of agricultural productivity; and
- ✓ Availability of funds and resources to implement the program

The Presidential Agrarian Reform Council (PARC) will also design and conduct seminars, symposia, information and education campaign for farmers who are not organized or are non-beneficiaries.

7. Individual Title of Award

Sec. 10. of RA 9700 states that:

- ✓ Individual title is accorded to an ARB covering one contiguous tract or several parcels cumulated up to 3 hectares,
- ✓ The agrarian reform beneficiaries however, may opt for collective ownership and for the issuance of collective ownership titles; provided that
- ✓ The total land area that may be awarded shall not exceed the total number of co-owners or members multiplied by the award limit, except in meritorious cases as determined by the PARC.

8. Ministerial Duty of the ROD to Register Land in the Name of the Republic of the Philippines *(Sec. 9. Award to Beneficiaries)*

It is the ministerial duty of the Registry of Deeds to register title in the name of RP after LBP duly certifies that the necessary deposit in favor of the landowner has been made, and to cancel previous titles pertaining thereto.

9. Usufructuary Rights Over Awarded Land Pending Award of EP or CLOA

(Sec. 9. Award to Beneficiaries)

Identified and qualified ARBs have usufructuary rights over awarded land as soon as the DAR takes possession of the same, even pending award of the EP or CLOA.

10. Indefeasibility of CLOA or EP

(Sec. 9. Award to Beneficiaries)

EPs, CLOAs, and other titles awarded under the agrarian reform program shall be indefeasible and imprescriptible after one (1) year from its registration with the Registry of Deeds.

11. Affordability Clause Made Mandatory *(Sec. 11. Payment by Beneficiaries)*

Specifies when amortization shall commence:

- ✓ one (1) year from the date of registration of the CLOA; or,
- ✓ one (1) year from the date of actual occupancy if the occupancy took place after the registration of the CLOA

Payments for the first three (3) years SHALL be at reduced amounts established by the PARC.

12. Equal Participation of Farmers and Landowners in the CARP Implementation

(Sec. 17. The Presidential Agrarian Reform Council)

- ✓ Of the six (6) beneficiary representatives with 2 each from Luzon, Visayas & Mindanano with at least one (1) from the Indigenous Peoples, & one (1) from a duly recognized national organization of rural women or a national organization of ARBs with a substantial number of women members;
- ✓ At least 20% of the members of the PARC shall be women but in no case shall they be less than two (2); and
- ✓ Six landowners' representatives coming from Luzon, Visayas & Mindanao

What are the new and modified provisions under the Support Services (SS) program?

1. Funding for Support Services

(Sec. 13. Funding for Support Services)

- ✓ DAR to pursue an integrated LAD and PBD strategy;
- ✓ Funding share for support services increased to 40% of total agrarian reform appropriations;
- ✓ Establishment, as far as practicable, of a minimum of two (2) ARCs for the next five years, per legislative district in areas which have been substantially covered under the AR program;
- ✓ DAR to ensure complementary support services delivery for non-ARC areas; and
- ✓ DAR is authorized to package proposals and receive grants, aids, and other forms of financial assistance from any source, in close coordination with the COCAR, with due notice to the concerned representative of the legislative district prior to implementation.

2. Support Services for Agrarian Reform Beneficiaries *(Sec. 14 of RA 9700)*

- ✓ The State shall adopt the integrated policy of support services delivery to ARBs;
- ✓ The DAR, the Department of Finance, and the Bangko Sentral ng Pilipinas shall institute reforms to liberalize access to credit by ARBS, such as socialized terms on agricultural credit facilities;
- ✓ LBP and other concerned government financial institutions, accredited savings and credit cooperatives, financial service cooperatives and accredited cooperative banks shall provide the delivery system for disbursement of the said financial assistance;
- ✓ All financial institutions may accept as collateral for loans the purchase orders, marketing agreements or expected harvests;

- ✓ 30% of the 40% support services allocation shall be immediately set aside and made available for agricultural credit facilities:
  - 1/3 for subsidies to support initial capitalization of new ARBs upon the awarding of their EP or CLOA; and
  - 2/3 allocation to provide access to socialized credit for ARBs and leaseholders

- ✓ Remaining 70% of the 40% support services allocation, 15% shall be earmarked for farm inputs and 5% for seminars, trainings and the like;
- ✓ Direct and active DAR assistance in the education and organization of actual and potential ARBs; and
- ✓ PARC to adopt, implement, and monitor policies and programs to ensure fundamental equality of women and men in the implementation of the program.

3. Support Services for Landowners (LOs) *(Sec. 16 of RA 9700)*

- ✓ Investment assistance to affected landowners shall include access to investment information, financial and counseling assistance particularly investment information on government owned or controlled corporations and disposable assets of the government in pursuit of national industrialization and economic independence.
- ✓ LBP shall redeem a landowner's agrarian reform bonds at face value as an incentive, provided that:
  - At least 50% of the proceeds shall be invested in a BOI-registered company or in any agri-business or agro-industrial enterprise where the CARP covered landholding is located
- ✓ Additional 2% incentive in cash shall be paid to an LO who maintains his/her enterprise as a going concern for 5 years or keeps his / her investment in a BOI-registered firm for the same period. Provided, further that the rights of the ARBs are not, in any prejudiced or impaired thereby.
- ✓ The DAR, LBP, and the Department of Trade and Industry shall jointly formulate the program to carry out these provisions under the the supervision of the PARC; *provided ,* that in no case shall the LO's sex, economic, religious, social, cultural and political attributes exclude them from accessing these support services.

Salient Features of 9700

What are the new and modified provisions under the Agrarian Justice Delivery (AJD) component?

1. **Recognition of Farmers Legal Standing** *(Sec. 19. Exclusive Jurisdiction on Agrarian Dispute)*

   Legal personality of ARBs or identified beneficiaries in cases before regular courts or quasi-judicial bodies of competent jurisdiction to intervene concerning their individual or collective rights and/or interests under the CARP.

2. **Referral of Agrarian Related Cases to DAR** *(Sec. 19. Exclusive Jurisdiction on Agrarian Dispute)*

   Automatic referral by the judge or prosecutor to the DAR of cases where there are allegations from any of the parties that the dispute is agrarian in nature, and one of the parties is a farmer, farmworker or a tenant; DAR to certify within 15 days from referral whether or not an agrarian dispute exists.

3. **No TRO Issued Against DAR When Implementing CARP** *(Sec. 20. No Restraining Order or Preliminary Injunction)*

   Except for the Supreme Court, no court in the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the PARC, the DAR, or any of its duly authorized representative.

   (Sec. 23. Immunity of Government Agencies from Undue Interference)

   In cases falling within their jurisdiction, no injunction, restraining order, prohibition or mandamus shall be issued by the RTC, MTC , Trial courts, municipal circuit trial courts, metropolitan trial courts against the DAR, DAR, DA, DENR and the DOJ in their implementation of the Program.

4. DAR Decision is Immediately Executory (*Sec. 18.Quasi Judicial Powers of the DAR)*

Decisions of the DAR shall be immediately executory notwithstanding an appeal to the Court of Appeals, except a decision or a portion thereof involving solely the issue of just compensation.

What are the additional prohibited Acts on circumvention of CARP Implementation?

(Sec. 24. Prohibited Acts and Omissions)

In addition to those enumerated Prohibited Acts and Omissions in Sec. 73 of RA 6657 (A to F), the following are also prohibited and shall constitute unjustified, willful, and malicious act by a responsible government officer or officers -*subparagraph (g):*

- Denial of notice and/or reply to the Landowners
- Deprivation of retention rights
- Undue or inordinate delay in the preparation of claim folders
- Any undue delay, refusal or failure in the payment of just compensation

The following are additionally enumerated as prohibited acts:

- Undue delay or unjustified failure in the submission of required reports -*subparagraph (h)*
- Undue delay in the compliance with the obligation and/or falsification of the certification or attestation -*subparagraph (i)*

✓ Conviction under this Act is without prejudice to any civil and/or appropriate administrative proceedings under Civil Service laws, rules and regulations in case of government officials and employees

✓ Any person convicted under this Act shall not be entitled to any benefits provided for in any agrarian reform law or program

What are the amended provisions on penalties? *(Sec. 25 of RA 9700, Penalties)*

The following are the penalties imposed for specific violations:

1) Imprisonment of three (3) years and one (1) day to six (6) years or a fine of not less than Fifty Thousand Pesos, or both, at the discretion of the court upon any person who violates Sec. 73 subparagraphs (A), (B), (F), (G), and (H)** of Republic Act No. 6657, as amended; and

*** (A) The ownership or possession for the purpose of circumventing the provisions of RA6657, of agricultural lands in excess of the total retention limits or award ceilings by any person, natural or juridical, except those under collective ownership by farmer-beneficiaries.*

***(B) The forcible entry or illegal detainer by persons who are not qualified beneficiaries under this Act to avail themselves of the rights and benefits of the AR program.*

***(F) The sale, transfer or conveyance by a beneficiary of the right to use or any other usufructuary right over the land he/she acquired by virtue of being a beneficiary, in order to circumvent the provisions of RA 6657*

***(G & H) please refer to the preceding amended provisions on prohibited acts, page 18.*

2) Imprisonment of six(6) years and one (1) day to twelve (12) years or a fine of not less than Two Hundred Thousand Pesos and not more than One Million Pesos, or both, at the discretion of the court upon any person who violates Sec. 73, subparagraphs (C), (D), (E), and (I) of Republic Act No. 6657, as amended

*** (C) The conversion by any landowner of his agricultural land into any non-agricultural use with intent to avoid the application of this Act to his landholdings and to dispossess his tenant farmers of the land tilled by them.*

*** (D) The willful prevention or obstruction by any person, association or entity of the implementation of the CARP*

***(E) The sale, transfer, conveyance or change of the nature of lands outside of urban centers and city limits either in whole or in part after the effectivity of RA 6657*

***(I) Please refer to additionally enumerated as prohibited acts of this primer on page 18.*

Challenges under CARPER or RA 9700

There are 3 provisions that might dilute the implementation of the CARP:

1. Prioritization of beneficiaries to tenants and regular farmworkers;
2. Attestation requirement of the BARC and the landowners; and
3. LGU ownership to extend beyond 5 hectares.

- The challenge is how to acquire and distribute private agricultural lands with strong resistance;
- DAR must go beyond its usual accomplishment in order to overcome the legal and extra challenges;
- The oversight committee will not only monitor DAR but will lend a hand that the farmers get what is due them within the law; and
- Serious enforcement is needed given the clear policy on conversion and gender sensitive agrarian reform.

Sources:

Republic Act 6657

Republic Act 9700