

AGRICULTURE (FARM FORESTRY) RULES, 2009

ARRANGEMENT OF RULES

[Rev. 2012]

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AGRICULTURE (FARM FORESTRY) RULES, 2009

[L.N. 166/2009.]

PART I – PRELIMINARY

1. Citation

These Rules may be cited as the Agriculture (Farm Forestry) Rules, 2009.

2. Application

These Rules shall apply for the purposes of promoting and maintaining farm forest cover of at least 10 per cent of every agricultural land holding and to preserve and sustain the environment in combating climate change and global warming.

3. Interpretation

In these Rules, unless the context otherwise requires—

“**compliant certificate**” means a certificate issued by the District Agricultural Committee in accordance with rule 6(3)(ii);

“**farm forestry**” means the practice of managing trees on farms whether singly, in rows, lines, boundaries or in woodlots or private forests;

“**inspector**” means the District Agricultural officer.

4. Objectives and purpose of the Rules

The objective and purpose of these Rules is to promote the establishment and sustainable management of farm forestry for the purposes of—

maintaining a compulsory farm tree cover of at least 10 per cent of any agricultural land holding;

conserving water, soil and biodiversity;

protecting riverbanks, shorelines, riparian and wetland areas;

sustainable production of wood, charcoal and non-wood products;

providing fruits and fodder; and

carbon sequestration and other environmental services.

(1) Every person who owns or occupies agricultural land shall establish and maintain a minimum of 10 per cent of the land under farm forestry which may include trees on soil conservation structures or rangeland and cropland in any suitable configurations;

Provided that the species of trees or varieties planted shall not have adverse effects on water sources, crops, livestock, soil fertility and the neighbourhood and should not be of invasive nature.

(2) No agricultural landowner or occupier shall grow or maintain any Eucalyptus species in wetlands and riparian areas.

PART II – FARM FORESTRY INSPECTION AND ENFORCEMENT

6. Maintenance of 10 per cent tree cover

(1) An inspector may at any reasonable time enter upon any agricultural land or commercial nursery situated in an area in respect of which he is authorized to be an inspector

for the purpose of ascertaining whether the farm owner or occupier has complied with 10 per cent farm forestry or nursery requirement.

(2) If an inspector ascertains that an owner or occupier has not complied with paragraph (1), he shall issue a farm forest establishment notice in Form FF1 as set out in the schedule to these Rules, requiring the owner or occupier to institute measures to comply with the requirement within such period as may be specified in the notice.

(3) An inspector shall re-enter an agricultural land or nursery to ascertain compliance with the requirements of the notice issued under paragraph (2) and shall—

notify the owner or occupier of his intention to report the non-compliance to the District Agricultural Committee where the owner or occupier has not complied at the expiry of the period specified in the notice or issue a compliance certificate in Form CFF1 as set out in the schedule to these Rules, signed by the Chairman of the District Agricultural Committee where such owner or occupier has complied.

(4) An inspector shall report to the District Agricultural Committee any occupier or owner of agricultural land who fails to comply with the provisions of the notice.

(5) A person who obstructs or hinders an inspector in the exercise of his duties under these Rules shall be guilty of an offence.

7. Farm Forestry Development Notices

(1) The District Agricultural Committee in consultation with the District Environment Committee if satisfied with respect to any agricultural land that—

a land owner or occupier was issued with a farm forestry establishment notice under rule 6(2) but did not comply with the notice at the expiry of the required period;

a land owner or occupier had, but has not continued to maintain a minimum of 10 per cent of the land under farm forestry;

having regard to the ecological characteristics of the land and the principles of good land management and good husbandry, the land has tree cover but is not reasonably covered with adequate forest cover to reach 10 per cent without the addition thereto of more trees;

it is in the interests of proper environmental protection and development of the land for agricultural purposes that more trees should be added on the farm;

a land owner or occupier is unwilling to comply to either establish or maintain a minimum of 10 per cent of the land under farm forestry cover,

shall issue a farm forestry establishment and maintenance notice in Form FF2 as set out in the Schedule to these Rules, requiring the owner or occupier to institute measures to comply with the requirement within the period as shall be specified in the notice.

(2) Where the land owner or occupier has not complied with paragraph (1), the District Agricultural Committee shall issue a farm forestry establishment and maintenance order in Form FF3 as set out in the Schedule to these Rules.

(3) The Order shall require acts or things to be performed or done or prohibit acts or things from being performed or done to the satisfaction of the District Agricultural Committee, imposing conditions upon such requirements and describing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions of establishing and maintaining farm forestry.

(4) A land owner or occupier to whom the Order is given under paragraph (2) may, within thirty (30) days after service thereof on him, contest the Order in writing to the District Agricultural Committee giving reasons for non-compliance.

(5) The District Agricultural Committee may, upon consideration of such contestation either—

withdraw or vary the order;

direct that the Order be implemented *mutatis mutandis*.

(6) A land owner or occupier who is not satisfied with the decision of the District Agricultural Committee under this rule may, within thirty (30) days after receiving the decision of the District Agricultural Committee, appeal to the Agricultural Appeals Tribunal.

(7) Where no appeal is lodged with the Agricultural Appeals Tribunal, the District Agricultural Committee shall apply to Agricultural Appeals Tribunal to be allowed to plant and maintain the farm forest cover of 10 per cent and this shall be a civil debt on the land owner or occupier.

(8) In the event of change of user of land from agricultural use to any other use, the new user shall maintain a 10 per cent farm forest cover.

8. Protection of land prone to degradation

(1) Every District Agricultural Committee shall identify land under its area of jurisdiction which is at the risk of land degradation and institute measures necessary for ensuring its conservation including planting of trees.

(2) Where land is at the risk of degradation, the land owner or occupier shall be required to implement farm forestry measures as outlined in paragraph (1).

(3) Every District Agricultural Committee shall undertake measures to plant trees in any areas specified under paragraph (1) by—

encouraging voluntary self-help tree planting activities;

undertaking farm forestry activities financed through devolved and any other funds.

(4) The Agriculture (Basic Land Usage) Rules shall apply to sloping lands.

9. Seed production plans

(1) The District Agricultural Committees shall prepare and oversee the implementation of annual seedling production plan for provision of appropriate and adequate seedlings to land owners or occupiers in the district.

(2) The District Agricultural Committee shall monitor the implementation of the plan in paragraph (1) and submit quarterly District reports to Central Agricultural Board and make copies to the relevant line Ministries.

10. Harvesting

(1) Every land owner or occupier shall ensure that harvesting of trees shall be done in such a manner as to maintain a 10 per cent tree cover at all times, with large scale harvesting requiring a harvesting plan as governed by the provisions of the Forest Act (No. 7 of 2005).

(2) The District Agricultural Committee shall establish mechanisms to facilitate the process of notification and approval for ease of harvesting by land owners or occupiers.

(3) A person shall not harvest trees from a farm forest without notification and approval as provided for in paragraph (2)

(4) Harvesting, processing and movement of farm forest products for commercial purposes shall be governed by the provisions of the Forest Act (No. 7 of 2005).

11. Farm forestry compensation

(1) A land owner or occupier who suffers damage to his farm forest trees may seek to be assisted by District Agricultural Committee in valuation of his damaged trees.

(2) The District Agricultural Committee shall establish procedures for damage assessment.

(3) The Central Agricultural Board shall prepare and publish farm tree compensation guidelines for use in assessing compensation rates.

(4) The Central Agricultural Board shall review the farm tree compensation guidelines for use in assessing compensation rates after every five years from the date of its publication.

(5) Where damage occurs due to undertaking of public utility service, the District Agricultural Committee may upon request carry out damage assessment and forward its report to the requesting party.

(6) Any person who interferes with the assessment exercise commits an offence.

12. Maintenance of registers

(1) Every inspector shall keep a register containing copies of farm forest establishment notice and certificate of compliance.

(2) Every District Agricultural Committee shall keep a register containing copies of Farm Forest Establishment and Maintenance Notice, Certificate of compliance and Farm Forestry Establishment and Maintenance Order.

13. General penalty

(1) A person who contravenes any of the provisions of these Rules commits an offence.

(2) A person who commits an offence for which no specific penalty has been provided shall be liable upon conviction to a fine of six thousand shillings or imprisonment for six months or both.

SCHEDULE

FORM FF1

(r. 6(2))

FARM FORESTRY ESTABLISHMENT NOTICE

To

Farm

Address

You are hereby ordered to carry out the following farm forestry activities in the farm described in the Schedule to this Order:

- (a)
- (b)
- (c)
- (d)

SCHEDULE, FORM FF1—*continued*

You are hereby prohibited from doing any of the following things in the farm described in the Schedule to this Order:

- (a)
- (b)
- (c)
- (d)

Date
Inspector

Copy to:
The Chairman, District Agricultural Committee District.

DESCRIPTION OF FARM AFFECTED

Farm No.
at , whose
area is approximately hectares, and known
as and situated near

FORM FF2

(r. 7(1))

FARM FORESTRY ESTABLISHMENT AND MAINTENANCE NOTICE

The District Agricultural Committee makes the following Notice:—

To

Farm

Address

You are hereby ordered to carry out the following farm forestry activities in the farm described in the Schedule to this Notice:

- (a)
- (b)
- (c)
- (d)

You are hereby prohibited from doing any of the following things in the farm described in the Schedule to this Notice:

- (a)
- (b)
- (c)
- (d)

Should you be in doubt as to the provisions of this Notice, or the farm affected, you should consult an inspector.

Date
Chairman
District Agricultural Committee

Copy to:
The Chief Executive Officer, Central Agricultural Board.
The Chairman, Provincial Agricultural Board.
The Inspector.

SCHEDULE, FORM FF2—continued

DESCRIPTION OF FARM AFFECTED

Farm No.
at , whose area
is approximately hectares, and
known as and situated near

FORM FF3

(r. 7(2))

FARM FORESTRY ESTABLISHMENT AND MAINTENANCE ORDER

To
Farm
Address

You are hereby ordered to carry out the following farm forestry activities in the farm described in the Schedule to this Order:

- (a)
- (b)
- (c)
- (d)

You are hereby prohibited from doing any of the following things in the farm described in the Schedule to this Order:

- (a)
- (b)
- (c)
- (d)

Date

Chairman
District Agricultural Committee

Copy to:
The Inspector

DESCRIPTION OF FARM AFFECTED

Farm No.
at, whose area
is approximately hectares, and
known as and situated near

FORM CFF1

(r. 6(3)(ii))

CERTIFICATE OF COMPLIANCE

Farm
Address

This is to certify that the following Farm Forestry activities have been undertaken in the farm described in the Schedule as per Order No. dated

- (a)
- (b)

SCHEDULE, FORM CFF1—*continued*

- (c)
- (d)

Date

Chairman:
District Agricultural Committee

Copy to:
The Inspector

DESCRIPTION OF FARM AFFECTED

Farm No.
at, whose area
is approximately hectares, and
known as and situated near