

Land Market Opening in Ukraine

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On 31 March 2020, the Parliament of Ukraine adopted the Law On Amendments to Some Legislative Acts of Ukraine on the Agricultural Land Circulation. This Law shall introduce the land market in Ukraine from 1 July 2021. Since the date of the Law coming into effect, agricultural land owners shall be entitled to sell their plots. In the past, land owners could only lease the land.

Who can own a land plot?

The following individuals and entities shall be entitled to acquire the agricultural land ownership:

- Ukraine nationals;
- Ukrainian legal entities, members (shareholders) of which are only the Ukraine nationals;
- territorial communities;
- the state.

The following individuals and entities shall be prohibited to acquire the participatory interests in the authorized capital, the shares in, and be the members of legal entities (owning the agricultural land):

- stateless persons;
- Ukrainian legal entities, members (participants) or ultimate beneficial owners (controllers) of which are foreign nationals.

Note! The abovementioned restriction does not apply to the foreigners owning shares in the authorized capital of banks.

Banks can also acquire the agricultural land ownership, but only under the procedure of enforcing recovery on them as on the pledged property. Such land plots shall be alienated by the banks at the land auction within 2 (two) years from the date the ownership has been acquired.

Note! Foreign nationals and Ukrainian legal entities, participants or ultimate beneficiaries of which are foreigners, will be allowed to purchase agricultural land in Ukraine only after the relevant decision has been made by the national referendum. The timing of such a referendum has not yet been set by the legislation.

Who will not be entitled to own the land?

Under all conditions, the following individuals and entities will be prohibited to own the agricultural land:

- the legal entities, participants (shareholders) or ultimate beneficiaries of which are not the Ukraine nationals, may not acquire the ownership of the state and communal agricultural land and the agricultural land, allocated in kind (on the ground) to the land share owners, and which is located closer than 50 kilometers from the state border of Ukraine;
- the legal entities, the ultimate beneficiary of which may not be identified;
- the legal entities, ultimate beneficiaries of which are registered in offshore zones;
- the legal entities, participants (shareholders) or ultimate beneficiaries of which are the foreign states;
- the legal entities, participants (shareholders) or ultimate beneficiaries of which are the nationals of a state recognized by Ukraine as the aggressor state or the occupier country. Currently, such a state is the Russian Federation;
- the individuals and legal entities against whom or which special economic and other restrictive measures (sanctions) have been imposed or applied;
- the legal entities incorporated under the laws of Ukraine, but controlled by the individuals and legal entities registered in the countries included by the FATF in the list of the states not cooperating in the field of combating money laundering;
- the individuals belonging to terrorist organizations.

How much land can be purchased and at what price?

The total area of the agricultural land owned by a Ukraine national may not exceed 10,000 hectares. This rule will be effective from 1 January 2024. Up to now, every Ukraine national is entitled to own simultaneously no more than 100 hectares.

The total area of the agricultural land owned by a Ukrainian legal entity (excluding banks) may not exceed 10,000 hectares. Ukrainian legal entities shall be entitled to purchase the agricultural land only from 1 January 2024.

Violation of the abovementioned rules gives rise to invalidating a deed, under which the land ownership was acquired, and seizing the land.

The Law also provides for a lessee a pre-emptive right to the agricultural land. Moreover, the lessee has an opportunity to transfer the pre-emptive right to another person, but the landowner shall be notified thereof in writing.

The following persons shall be entitled to purchase the respective land plots by installment over a 10-year period:

- Ukraine nationals owning the right of permanent use, lifelong inheritable right to use state and communal land plots, intended for keeping farming;
- land lessees.

Note! If a land plot is purchased by installment, the ownership is transferred to the purchaser after the first installment payment.

The agricultural land sale price may not be lower than its regulatory monetary

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value. This rule shall be effective until 1 January 2030. The payment for the land plot purchase shall be made only in a cashless form.

The agricultural land ownership may not be acquired under non-gratuitous contracts, unless the purchaser possesses the documents confirming the sources of origin of the funds or other assets, out of which such an ownership is acquired.

Which land is prohibited to be sold?

It is prohibited to:

- sell state-owned and communal agricultural lands located on the temporarily occupied territory;
- alienate or change the land use of the agricultural lands located on the temporarily occupied territory (except for their inheritance).