

Subsequent, a translation of the November edition 2016 by the Agriculture magazine,, My Dzierżawcy " who treated the new law on stopping the sale of state-owned land, which entered into force on April 30th 2016. Please find the original Polish article [here](#).

Jesper Kjær ApS assumes no responsibility for correctness of the article, that it describes the subject correct, complete and adequate, nor for transactions or actions that may be made on the basis of it. We accept no liability for any errors or misprints in translations.

LEGISLATION

ANR monitor transactions and exercises its powers.

Land purchased on the basis of first refusal

Act on stopping the sale of the state-owned land, which entered into force on April 30th this year (editor: 2016), has resulted in a comprehensive amendment of the Act on the formation of the structure of agriculture of April 11th, 2003, etc.

Under the new legislation has ANR greatly increased its powers (also in case of land sales in the private market) than before. How exercised powers? According to the displayed information, that they so far are practiced to a limited extent.

Pre-emption rights to land

Agencja Nieruchomości Rolnych has pre-emption right to purchase a farm (in case of purchase agreements) or right to acquire agricultural land (in the case of other agreements transferring the ownership of a farm which for instance is agreement about gift, contract on deposit of property in a company). Those powers involves the Agency in some cases laid down by law, has the right to intervene as a buyer and to acquire the property for the price and the conditions set by the parties.

Agencja has an option to purchase shares in a trading company, which owns agricultural property. This right is not applicable in case of sale of shares which are admitted to official listing on a stock exchange and the sale of shares and the shares to a nearest person.

Exercise of purchase option, as mentioned in art. 3 par. 4 of the law on the formation of agricultural structure - the first half of 2016

County	Number notary certified documents submitted to ANR	Notary certified documents mentioning ANR has declared its willingness to make its purchase option applicable		
		number of notary certified documents (no.)	area specified in notary certified documents (ha)	amounts in notary certified documents (Zł)
Dolnośląskie	151	2	29,3675	1 102 500
Kujawsko-pomorskie	95	0	0	0
Lubelskie	69	0	0	0

Lubuskie	132	2	16,4600	710
Łódzkie	91	0	0	0
Małopolskie	21	0	0	0
Mazowieckie	155	0	0	0
Opolskie	79	4	87,6743	4 203 364
Podkarpackie	62	0	0	01
Podlaskie	100	0	0	0
Pomorskie	97	0	0	0
Śląskie	25	0	0	0
Świętokrzyskie	21	0	0	0
Warmińsko- mazurskie	281	1	88,8002	2 220 505
Wielkopolskie	191	1	15,6061	400 000
Zachodniopomorskie	240	1	77,8249	2 625 902,20
TOTAL	1810	11	315,7330	10 927 981,20

Registered letter

How does ANR inform about its exercise of the pre-emption right? Agencja sends the person who is committed to the pre-emption right (the property seller) a statement in the form of a notarized document on the exercise of the pre-emption right, by registered letter with acknowledgment of receipt and then publish it on a relevant page in Biuletyn Informacji Publicznej Agencji (newsletter)

The person who is committed to the pre-emption right, considered to be familiar with the Agency's statement on the exercise of the pre-emption right as soon as the declaration is published in Biuletyn Informacji Publicznej Agencji. The pre-emption right for a property may be exercised within one month from the notification; the Civil Code provisions on the purchase of an immovable property to Buy shall apply (art. 598 of the Civil Code).

In this case one must not

When may Agencja (or may not) exercise its right to acquire a property? ANR may make a declaration on the acquisition of property if the acquisition of this farm is a result of: the conclusion of an agreement not purchase agreement, unilateral legal action, judgment, decision by a government authority or decision of an enforcement authority, which was delivered on the basis of the enforcement provisions, assertive, heritage, collection endorsement and divisions, restructuring or merger of trading companies.

The right to acquire an agricultural property is waived if the acquisition is aimed at expanding a family farm, against the consent of Agencjas President, expressed in the form of an administrative decision, as mentioned in the law on the formation of the agricultural structure, or to consent that contained art. 29a par. 3 pt. 1, lit. b of the Law on management of state-owned land of 19 October 1991.

This right shall not as a result of legal succession, or if the inheritance goes to an individual farmer to an individual farmer, as a result of a debt collection report, as a result

of an agreement with the successor, as referred to in art. 84 of the Act on social insurance of farmers, or if the inheritance goes to the vendor nearest person and also include legal persons who operate on the basis of provisions of state's relationship with the Catholic Church in Poland, the relationship with other churches or religious communities and the guarantees the freedom of belief of the same church or religious community.

Number of notifications about the possibility to exercise right of first refusal, as referred to in art. 3 pieces. 4 of the law on the formation of agricultural structure (after the amendment - to 31 July this year)	
County	Number of notary certified agreements concluded on the basis of the new law which was received by the ANR until 07.31.2016*
Dolnośląskie	13
Kujawsko-pomorskie	4
Lubelskie	17
Lubuskie	6
Łódzkie	10
Małopolskie	5
Mazowieckie	19
Opolskie	6
Podkarpackie	7
Podlaskie	8
Pomorskie	6
Śląskie	3
Świętokrzyskie	4
Warmińsko-mazurskie	6
Wielkopolskie	4
Zachodniopomorskie	4
TOTAL	122

** after preliminary data derived from the open report periods*

Replacing the shareholder

If a partnership owns a farm, and there has been replacing the shareholder, or have come a new- then Agencja has the pre-emption right.

The Company shall inform ANR (within 3 months from that action) and include output from land and building land of each farm, owned by the company. Subsequently informs Agency company, the purchase option is exercised or not (month).

In the course of a month the company may request the court to fix the acquired property market value. It shall not apply if, instead of the previous shareholder becomes a closest person to one of the members the new shareholder. It shall not apply when the new shareholder is a closest person to one of its shareholders.

Who makes the notification?

Buyer (in case of conclusion of an agreement which is not purchasing contract or in the event of a unilateral legal action), court enforcement authority or public administration

authority (if such acquisition occurs as a result of the court decision, decision of an enforcement authority, a decision of a public administration authority), the buyer (in case of acquisition as a result of assertive, inheritance, debt collection report), the company which acquires agricultural property (in the case of divisions, restructuring or merger of trading companies).

NOTE: The acquisition of an agricultural property, a share or part of the stake in a joint ownership of agricultural property, acquisition of shares and shares in a trading company, which owns a farm that is made with infringement of the legislation is invalid.

compiled by: Krzysztof Zacharuk

Number of notifications about the opportunity to buy shares or shares in trading companies (Art. 3a paragraph. 1 of the Act on the formation of the agricultural structure) - to 08.31.2016	
County	Number of notifications from trading companies - art. 3a par. 1 law on the formation of the structure of agriculture (no.)
Dolnośląskie	4
Kujawsko-pomorskie	5
Lubelskie	6
Lubuskie	3
Łódzkie	0
Małopolskie	2
Mazowieckie	55
Opolskie	0
Podkarpackie	0
Podlaskie	3
Pomorskie	2
Śląskie	1
Świętokrzyskie	219
Warmińsko-mazurskie	1
Wielkopolskie	22
Zachodniopomorskie	3
TOTAL	326

** after preliminary data derived from the open report periods*

County	Number of cast applications (pcs.)	Number of administrative decisions (pcs.)	Number of letters on to let the application solution untraced acted (pcs.)	Surface which was the basis for decisions (ha)

		total	of which: positive	of which: negative	shelving		all	positive	negative
Dolnośląskie	126	10	9	0	1	0	46,8909	38,6609	0
Kujawsko-pomorskie	165	87	72	0	15	9	187,6944	163,0999	0
Lubelskie	414	226	214	3	9	24	355,0449	344,5125	2,25
Lubuskie	45	8	8	0	0	4	8,5838	8,5838	0
Łódzkie	199	89	87	1	1	24	179,5025	177,0825	0,68
Małopolskie	83	8	8	0	0	19	25,5121	25,5121	0
Mazowieckie	364	165	155	0	10	6	412,0747	395,3111	0
Opolskie	58	19	16	0	3	2	54,7394	53,7694	0
Podkarpackie	120	27	27	0	0	17	34,6945	34,6945	0
Podlaskie	137	43	42	0	1	1	128,141	127,8401	0
Pomorskie	104	31	16	0	15	13	215,9758	168,268	0
Śląskie	93	21	16	0	5	9	32,0033	21,7117	0
Świętokrzyskie	108	24	22	0	2	12	27,9874	24,797	0
Warmińsko-mazurskie	162	76	64	0	12	12	201,3559	172,0787	0
Wielkopolskie	177	13	12	0	1	6	28,238	26,4687	0
Zachodniopomorskie	128	48	43	0	5	30	61,159	56,3741	0
TOTAL	2483	895	811	4	80	188	1999,598	1838,765	2,93

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„My Dzierżawcy”