



**THE ISLAMIC REPUBLIC OF AFGHANISTAN**

**MINISTRY OF JUSTICE**

**OFFICIAL GAZETTE**

**EXTRAORDINARY ISSUE**

**THE LAW ON EXPROPRIATION**

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## **LEGISLATIVE DECREE OF THE PRESIDENT**

### **OF THE I. R. OF AFGHANISTAN ON ENDORSEMENT OF THE LAW ON EXPROPRIATION**

**Ref. No:** 249

**Dated:** 04.03.2017

#### **Article one:**

Pursuant to Article 79 of the Constitution of the Islamic Republic of Afghanistan, the Law on Expropriation approved by the Cabinet of the Islamic Republic of Afghanistan on 08.02.2017 vide Resolution No. 23 in 7 Chapters and 53 Articles is hereby endorsed.

#### **Article Two:**

The Minister of Justice and Minister of State in Parliamentary Affairs are hereby instructed to present this Decree to the National Assembly within thirty (30) days of the opening of its first session.

#### **Article Three:**

This Decree shall enter into force on the date of its endorsement, and shall be published in the Official Gazette along with Resolution of the Cabinet and text of the law.

**Muhammad Ashraf Ghani**

**President of the Islamic Republic of Afghanistan**

## **RESOLUTION OF THE CABINET**

### **OF THE I. R. OF AFGHANISTAN ON THE DRAFT OF THE LAW ON EXPROPRIATION**

**Ref. No:** 23

**Date:** 08.02.2017

Pursuant to Article 79 of the Constitution of the Islamic Republic of Afghanistan, the Draft Law on Expropriation approved by the Cabinet of the Islamic Republic of Afghanistan on 08.02.2017 by virtue of Resolution No. 23, comprising of seven (7) Chapters and fifty three (53) Articles shall enter into force as a legislative decree.

**Muhammad Ashraf Ghani**

**President of the Islamic Republic of Afghanistan**

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## CHAPTER ONE: GENERAL PROVISIONS

### ARTICLE 1: BASIS OF THE LAW

This Law has been enacted pursuant to Article 40(4) of the Constitution of the Islamic Republic of Afghanistan.

### ARTICLE 2: OBJECTIVES

This Law has been set to achieve the following objectives:

1. Pave the ground for fair and just expropriation for property owned by individuals;
2. Regulate methods of confirmation of property which is subject to expropriation;
3. Providing grounds for execution of Urban Master Plan and other public interests projects;
4. Ascertain the criterion for confirmation of just compensation for property subject to expropriation;
5. Facilitate transfer of government properties [between government entities] for execution of projects of public interest;
6. Resettlement of property owners whose property has been expropriated for the purpose of executing mega national projects;
7. Compensation of owners and other individuals who have been affected by the process of expropriation; and
8. Strengthen positive impact of expropriations on the ordinary people.

### ARTICLE 3: DEFINITIONS

Unless the context requires otherwise, the following terms have been used to denote the meanings specified herein:

1. **Expropriation**

Transfer of ownership of private lands to government in return for prior and just compensation for the purpose of executing projects of public interest;

2. **Property**

Land, buildings and relevant facilities that are located on the land or building the transfer of which is not possible without changing its status/nature.

**3. Expropriating Authority**

Municipalities within the limits of Urban Master Plans and Ministries and Government authorities outside the limits of Urban Master Plans with cooperation of Afghanistan Independent Land Authority (“AILA”).

**4. Full Expropriation**

Expropriation of the entire property declared in a valid/legal [ownership] deed.

**5. Part Expropriation**

Expropriation of a part of property declared in a valid/legal [ownership] deed.

**6. Commercial Area**

Is that land on which commercial activities are conducted and whose owner possesses valid documents thereto and has paid the requisite government taxes.

**7. Exchange [/Compensation]**

Prior and fair compensation delivered to the owner in return for a property subjected to expropriation.

**8. Affected Person**

Is a person who is not owner of the property subjected to expropriation, nevertheless, has been affected by the process of expropriation.

**9. Resettlement**

Is the process of provision of a unit of land/property inside or outside the limits of the Urban Master Plan to the owner of expropriated property; and restoring the previous status of affected, and qualified individuals, in consequence of execution of mega national projects.

**10. Rearrangement of Land**

Is a process in which owner of the property situated in an unplanned urban area or a possessor of the same, hands over a part of his property or the compensation thereof, without expropriation, for the purpose of improvement and/or inclusion in the urban plan, to the entity executing any such plan.

**ARTICLE 4: IMPLEMENTING AUTHORITIES**

Municipalities within limits of the Urban Master Plan and AILA outside such limits are authorized to implement the provisions of this law.

## **ARTICLE 5: SITUATIONS FOR EXPROPRIATION**

1. Property owned by a person can be expropriated only for executing the following projects of public interest/importance:
  - a. Building military camps/centers and security and defense installations;
  - b. Executing plans approved by competent authorities;
  - c. Extracting mines and underground natural resources;
  - d. Establishing government industrial parks;
  - e. Constructing highways, roads, railway lines, and other connecting lines and necessary installations/buildings as part of government projects;
  - f. Constructing oil and gas pipelines;
  - g. Building government airports and other related facilities;
  - h. Building network and required facilities for communications and information technology, Fiber optic, and government radio and televisions;
  - i. Building and installation of electricity network and its poles, heating system networks as part of government projects;
  - j. Construction of dams, water circulation reservoirs, canals, streams and irrigation canals as part of the government projects;
  - k. Constructing water supply networks and canalization, plants for collecting and storing garbage, and drainage of sewage as part of government projects;
  - l. Construction of facilities and installations related to health, education, research, sports, parks, kindergartens, Orphanages and other social and cultural activities as part of government projects;
  - m. Construction of mosques and other religious institutions as part of government projects; and
  - n. Construction of settlements and residential townships as part of government projects.
  
2. Property and Lands owned by people can also be expropriated for protecting the boundaries, expansion and extension of the situations referred to in clause (1) of this Article.

## **ARTICLE 6: PROHIBITION OF AND RESTRICTIONS ON EXPROPRIATION**

1. Properties and land that contain historic and cultural heritage and national protected areas cannot be expropriated.

2. Lands used for agriculture and gardening, agricultural farms, forests, water resources and green areas that are important in terms of environmental protection can only be expropriated with prior approval of the government.

#### **ARTICLE 7: GROUNDS FOR EXPROPRIATION**

The expropriating authority shall provide the government with grounds that necessitate the expropriation by specifying the objectives, quantitative and qualitative characteristics of the land, type and location of the project, the various available options for the project site, the social and economic impact of the project and the duration of the project execution.

#### **ARTICLE 8: PRELIMINARY MEASURES**

1. The expropriating authority may, keeping in view the restrictions imposed by Article 6 of this Law and taking the following preliminary measures, expropriate the required property:
  - a. Grounds to prove that the project is a project of public interest;
  - b. A precise estimation of the land that is required for the project;
  - c. Study of the social and environmental impact of the project;
  - d. Planning of the project in accordance with law;
  - e. Obtaining approval of the Evaluation Committee prior to expropriation of lands;
  - f. Devising the expropriation plan in consultation with AILA and other relevant entities;
  - g. Preparing list of the effected owners, those in possession of lands and others due to expropriation;
  - h. Consultation with the locals as regards execution/implementation of the project;
  - i. Budget allocation for paying compensation against expropriation and executing the project;
  - j. Submitting a proposal to AILA as regards transfer of government lands required for the project; and
  - k. Obtaining approval of AILA, in circumstances when it is intended to provide government land as compensation for the private land as sufficient budget is not available for the purpose of expropriation.
2. The expropriating authority is obliged to provide the project plan to the Committee on Evaluation of the Expropriation Plan prior to conducting the expropriation.

3. Measures mentioned as items (e) and (f) of clause 1 as well as clause 2 of this Article shall not apply in case of cities having in place an approved Urban Master Plan.

## **CHAPTER TWO: OBLIGATIONS**

### **ARTICLE 9: OBLIGATIONS OF THE EXPROPRIATING AUTHORITY**

The expropriating authority shall, following approval of the expropriation plan by the Evaluation Committee and approval of the project by the government, inform the land owners and other effectees 06 months prior to the expropriation through media and relevant local authority regarding:

1. The purpose of expropriation;
2. Kind and total size of the land subject to expropriation;
3. Detailed plan of the project to be implemented;
4. Price estimation of the land to be expropriated keeping in view the minimum and maximum value of the land;
5. Ensure allocation and payment of prior and just compensation to owners of land;  
and
6. Date of commencement of the project.

### **ARTICLE 10: OBLIGATIONS OF THE OWNERS AND AFFECTEES**

1. Property owners and individuals affected by execution of a project are under an obligation to:
  - a. Submit valid original documents of property to the expropriation authority for the propose of award of compensation and other related benefits;
  - b. Evacuate the property subject to expropriation within one month following hand over of the compensation; and
  - c. Transfer the property to the expropriation authority as per the law.
2. Claims/complaints of the individuals mentioned in clause (1) of this Article cannot be heard after accepting the compensation and other related benefits.

## **ARTICLE 11: OBLIGATIONS OF AILA**

1. For the purpose of establishing cooperation between the relevant entities, AILA has to perform the following obligations:
  - a. Survey, cadaster, and settlement of issues related to the land subject of expropriation, exchange and transfer;
  - b. Exchange of the government land with private lands subject to expropriation with agreement of the owner and request of the expropriating authority;
  - c. Exchange of government land with land owned by the expropriating authority;
  - d. Issuance of ownership deed to owner in case government land is exchanged for the land expropriated;
  - e. Removing expropriated property from the relevant registration book and notifying all the relevant authorities about the expropriation;
  - f. Registering the expropriated property in the relevant registration book;
  - g. Ascertaining the minimum value/price of the land before the expropriation process and after implementation of project; and
  - h. Supervising execution of the expropriation process.
2. For the purpose of ensuring market stability in relation to properties and facilitation of land management services, AILA will determine on national level every five (5) years the lowest minimum value of the land in light of a separate regulation devised for the same purpose and will notify other authorities after approval of the same value by the government.
3. In circumstances when execution of a project causes overall increase in the value of the neighboring properties, the due compensation to be offered to the owners shall be determine by virtue of a special regulation.

## **ARTICLE 12: THE EVALUATION COMMITTEE**

1. For the purpose of evaluation of the expropriation plans for projects and organizing and coordinating the same, the Evaluation Committee shall comprise of the following:
  - a. Second Vice-President of the I. R. of Afghanistan as Chairman
  - b. Chairman of AILA as Member
  - c. Deputy Minister of Urban Development and Housing as Member
  - d. Deputy Minister of Finance as Member

- |  |    |         |
|--|----|---------|
| e. Deputy Minister of Justice  | as | Member  |
| f. Deputy Minister of Communications and Information Technology                  | as | Member  |
| g. Deputy Minister of Mines and Petroleum  | as | Member  |
| h. Deputy Minister of Public Works   | as | Member  |
| i. Deputy Minister of Agriculture, Irrigation and Livestock                      | as | Member  |
| j. Deputy Minister of Information and Culture                                    | as | Member  |
| k. Deputy Minister of Water and Energy   | as | Member  |
| l. Deputy Minister of Economy  | as | Member  |
| m. Deputy Director of the Independent Directorate of Local Governance (“IDLG”)   | as | Member  |
| n. Vice-Chairman of the National Environmental Protection Agency (“NEPA”)        | as | Member  |
| o. Deputy Mayor of the Kabul Municipality  | as | Member  |
| p. Representative of the Afghanistan Chamber of Commerce and Industries (“ACCI”) | as | Member  |
| q. Owners of the properties under expropriation or their representative          | as | Member. |
2. AILA, with cooperation of the relevant entity, shall act as Secretariat of the Evaluation Committee.
  3. The affairs related to the activities of the Evaluation Committee set forth in clause (1) of this Article shall be regulated by a separate Rules of Procedure to be adopted by the same Committee.

## **CHAPTER THREE: TYPES OF EXPROPRIATION**

### **ARTICLE 13: EXPROPRIATION OF PROPERTY WITH BUILDINGS AND INSTALLATIONS**

1. In case buildings and other facilities are constructed on the land under expropriation, the owner is entitled to demolish the installations and remove the construction material from the site within three months following such demolition.
2. However, in situations when the owner refuses demolishing the installations within the time specified in clause (1) of this Article and removing the same from the site, the

expropriating authority shall be entitled to perform the task. In such cases, the owner shall not be entitled to take in possession the construction material.

3. Following demolition of buildings and/or installations, clearing up the site shall remain the responsibility of the relevant expropriating authority to be conducted in coordination with the NEPA and the municipality concerned.
4. Buildings the demolition of which requires professional diligence shall be demolished by the expropriating authority who shall hire, at its own expense, technical and professional workers for the said purpose.
5. The expropriating authority, owner, possessor and affected individuals are obliged to adopt necessary measures for the safety of communication cables, power lines, water supply and canalization networks and installations, gas pipelines and other supply networks of public services while conducting any demolition activity on the property under expropriation. In case of any loss or damage to any of the above, they shall remain liable for compensating the loss or damage so caused.
6. Demolition of buildings and installations on the properties the owner of which is unknown shall remain responsibility of the expropriating authority.

#### **ARTICLE 14: CUTTINGS TREES AND PLANTS GROWN ON THE PROPERTY**

1. In cases where the property under expropriation has trees and plants grown on the same, and implementation of the project requires their removal; the property owner is authorized to remove them within a period of three (3) months. Yield of such plants and trees will be given to the property owner free of cost.
2. In instances where the property owner will not remove trees, plants and alike within the period specified in clause (1) of this Article, the expropriating authority is authorized to cut remove them and the owner shall not be entitled to the trees, plants, and others.
3. In case the yield cannot be collected within the period specified in clause (1) of this Article, the expropriating authority may extend the period so to make the collection possible for the property owner, however, if execution of the project is required on urgent basis; trees, plants and others would be cut, removed and handed over to the owner along with value of the yield that could not be collected.

4. In case where natural calamities lead to destruction of the crop on the property under expropriation, the period mentioned in clause (3) above shall not be valid, thus, the expropriating authority may proceed with implementation of the project.

#### **ARTICLE 15: FULL AND PART EXPROPRIATION**

1. When a property is expropriated in full, the valid/legal deeds related to the property shall be handed over to the expropriating authority and once the compensation is handed over, the ownership shall be transferred in the relevant register from the owner and shall be kept and maintained in the name of the expropriating authority in the register concerned.
2. In case of expropriation in part, the part expropriated shall be deducted in the register of land and registered in the name of the expropriating authority, while the ownership deed remains with owner of the property.
3. In cases where a portion from the property is expropriated in a manner that the owner is able to utilize the remaining part of the property, the part so remaining will not be expropriated.
4. However, if the remaining portion of the property mentioned in clause (3) of this Article cannot be utilized by the owner, the expropriating authority shall, with consent of the owner and on the same conditions as the other part, expropriate the remaining part as well.
5. In case owner of the property mentioned in clause (3) of this Article does not express his consent to its expropriation, he shall utilize the part not expropriated in compliance with the plan approved by the competent authority.

#### **ARTICLE 16: EMERGENCY EXPROPRIATION**

1. Land/property may be expropriated on an urgent basis, notwithstanding Article 5 of this Law, for the following purposes:
  - a. To secure security and defense interests of the State/country; and
  - b. To accommodate people affected by earthquake, volcanoes, floods, typhoon, land sliding, bomb blasts and other *force majeure* situations.

- c. In case the situations referred to in clause 1 above occur, minimum part of the property/land required urgently will be expropriated after obtaining approval of the government.
- d. The rule contained in Article 9 of this Law will not be applicable in case of Urgent Expropriation.
- e. In case of Urgent Expropriation, complaints and grievances of owners and others affected by expropriation, will be heard and responded to once the project is completed.

### **ARTICLE 17: EXPROPRIATION OF THE PROPERTY FROM POSSESSORS**

1. If the property under expropriation is in the possession of a possessor on a contract basis, the owner and the possessor shall settle their accounts within the initial three (3) months of the term specified in Article 8 of this law. Otherwise, the expropriating authority shall, with approval of the competent court, adopt necessary measures to prevent the loss of the rights of the owner or possessor.
2. In case mentioned in clause (1) above, the expropriation authority hands over entitlement of the possessor to him and transfers the remaining compensation to the owner of property.

If he refuses to receive the amount of compensation, it shall be despite in one of the government banks as trust money. None of his subsequent claims will be entertained.

3. In case the steps elaborated in clause (1) of this Article are adopted, the expropriating authority shall compensate parties of the contract for any loss that may ensue.

### **ARTICLE 18: PURCHASING THE PROPERTY**

1. The expropriating authority may purchase, with consent of its owner, the property situated outside the limits of Urban Master Plan after ascertaining ownership of the same.
2. If the expropriation authority requires an piece of land of a size less than 1,000 square meters for implementing a project or installing poles or constructing junction(s) of electricity, telecommunication and Radio Television antennas, security towers, installing

technical machines and others; it may purchase the land so required with consent of the owner on the basis of valid/legal documents after coordinating the matter with AILA.

3. If the parties fail to reach an amicable solution as elaborated in clause (2) above, the expropriating authority may proceed with expropriating the land in accordance with rules laid down in this law.

## **CHAPTER FOUR: TRANSFER OF GOVERNMENT PROPERTY FOR THE PURPOSE OF EXECUTING PROJECT**

### **ARTICLE 19: TRANSFER OF PROPERTY TO MUNICIPALITIES**

If a municipality requires, for the purpose of execution of Urban Master Plan, property held by ministries and government entities, the property so required shall be transferred, in accordance with provisions of this law, to the concerned municipality after approval of the land utilization plan by the government.

### **ARTICLE 20: TRANSFER OF GOVERNMENT ENTITY'S PROPERTY**

1. In case a ministry or government entity requires, for the purpose of executing projects as part of the urban plan or otherwise, property held by another ministry or government entity; the concerned property shall be transferred in accordance the provisions of this law.
2. In circumstances where transfer of the property as per clause (1) above, cause loss or damage to people, the ministry or the government entity to which such transfer takes place shall compensate the loss or damage so caused.

### **ARTICLE 21: EXPROPRIATION AND TRANSFER OF ENDOWED PROPERTY**

1. An endowed property shall be expropriated and transferred as per the following conditions:
  - a. If the property under expropriation is subject to a temporary endowment, the concerned property shall be expropriated in accordance with provisions of this law.

- b. In the case the property is the subject matter of a permanent endowment, the expropriating authority shall pay its compensation.
2. In case of paragraph (b) of clause (1) above, the expropriating authority shall be liable to provide land in an appropriate place against the land expropriated and make payment in return for the buildings constructed on the land expropriated to the concerned endowment department/authority. The cost of demolishing the buildings and cleaning up of the project site shall be borne by the expropriating authority.

## **CHAPTER FIVE: VALUATION OF THE PROPERTIES UNDER EXPROPRIATION**

### **ARTICLE 22: THE COMMITTEE FOR DEVISING A BILL FOR VALUATION OF PROPERTIES UNDER EXPROPRIATION**

For the purpose of devising a Bill for Valuation of Properties under Expropriation in relation to approved projects within the master plan or outside the same, a Board comprising the following shall be established in every province:

- |  |    |                 |
|--|----|-----------------|
| a. Governor of the province concerned  | as | Chairman        |
| b. Mayor of the city concerned   | as | Deputy Chairman |
| c. Director of AILA  | as | Member          |
| d. Representative of the Cadaster Survey Department                              | as | Member          |
| e. Representative of the Directorate of Agriculture,<br>Irrigation and livestock | as | Member          |
| f. Representative of the Directorate of Urban<br>Development and Housing         | as | Member          |
| g. Representative of the Directorate of Justice                                  | as | Member          |
| h. Representative of the Directorate of Public Works                             | as | Member          |
| i. Representative of the Provincial Finance Department                           | as | Member          |
| j. Representative of the expropriating authority                                 | as | Member          |
| k. Representative of the Afghanistan Chamber of Commerce<br>and Industries       | as | Member.         |

## **ARTICLE 23: FUNCTIONS AND OBLIGATIONS OF THE COMMITTEE**

The Committee shall consider the following criterion when presenting the Bill on Valuation of Properties under Expropriation for approval by the government:

- a. Estimated value of the property under expropriation in the local market as well as in the nearby market within three months prior to drafting the bill.
- b. Due consideration to the type, location, grade and the commercial value of the property under expropriation.

## **ARTICLE 24: THE TECHNICAL BOARD**

1. For the purpose of valuation of the properties under expropriation, a Technical Board, comprising engineers of the expropriating authority, owner or representative of the owners, shall be established in light of the relevant Rules of Procedures and to perform the following functions:
  - a. Creating public awareness in relation to the mode and method of compensation to be offered to the affectees of a project;
  - b. Ascertaining the owners and affectees of the properties under expropriation and evaluation of the primary list of the affected individuals;
  - c. Evaluation of the value of properties under expropriation in accordance with the provisions of this law and the Bill of Valuation.
2. In case a municipality has established an expropriating department within its administrative structure, the functions set forth in clause (1) above shall be performed by the same department.

## **ARTICLE 25: ASCERTAINING COMPENSATION OF PROPERTY WITH BUILDINGS AND INSTALLATIONS**

1. In case a property under expropriation contains buildings and installations, the value of building and the installations shall be ascertained by professional engineers in the light of professional and engineering standards and shall be added to the value of land being expropriated.
2. In cases where part of the property under expropriation values more than another part of the same property, the value of each part shall be ascertained separately in accordance with provisions of this law.

## **ARTICLE 26: ASCERTAINING COMPENSATION OF HARVESTED PROPERTY**

1. In case a property under expropriation is harvested, in addition to the value of property, the cost of the spermatic seeds, chemical fertilizers and the farming shall remain payable. In case where the crop has reached its maturity and the fruit has appeared, value of the yield will also added to the total value of the property, unless the Owner or possessor is provided with the opportunity of collecting the fruit in accordance with provisions of this law.
2. The expropriating authority shall maintain and preserve trees planted on the expropriated property in case these trees falls within the green belt specified in the designed map.
3. The expropriating authority shall, in case of demolishing the green belt for the purpose of executing a project, establish a new green belt equal to the size of the one demolished in coordination with NEPA and other relevant entities.

## **ARTICLE 27: ASCERTAINING COMPENSATION OF PROPERTY WITH TREES**

1. In case a property under expropriation has unproductive trees upon it, value of the trees is fixed and added to the value of the property based on price of fuel-wood according to the customs of the place concerned.
2. In case the property under expropriation has non-productive decorative trees, value of the trees is fixed as five times higher in comparison with the price of fuel-woods according to the custom of the place concerned and is added to the value of the property.
3. In case the property under expropriation has productive trees, value of the trees is fixed by price of the fuel-woods according to customs of that place and value of their fruit/yield for the upcoming five (5) years is added to the value of the property.
4. In case the trees have fruits on them, value of the fruit present in the trees is added to the projected value of the fruits for the upcoming five (5) years, unless the owner or possessor has been given the opportunity of collecting the fruits prior to expropriation as per terms of this law.

## **ARTICLE 28: ASCERTAINING COMPENSATION OF COMMERCIAL PROPERTY**

Whenever the property under expropriation is a commercial area, its value is fixed considering the value of adjacent commercial area and can be exchanged with a business place in the same project or in a similar project for a fixed price.

## **ARTICLE 29: ASCERTAINING EXCHANGE OF NON-COMMERCIAL AREA**

1. Whenever the property under expropriation includes non-commercial area and its surface area is from 100 – 1,000 square meters, the owner of the property is entitled, in addition to what he receive as compensation, to receive as incentive a plot of land or an apartment in the same project for which the property is expropriated or another similar project for a price as fixed by the concerned municipality.
2. In case where the property under expropriation includes non-commercial area and its surface area is more than 1,000 square meters, the owner, following receipt of the compensation, is entitled to receive one plot of land or an apartment per 1,000 square meters each, against a price fixed by the concerned municipality in the same project, provided that the total number of plots and apartments does not exceed 5 plots or apartments in the project.

## **ARTICLE 30: RENT PAYMENT OF THE EXPROPRIATED HOUSE**

Whenever the property subjected to urgent expropriation is a residential house, in view of Article 25 of this law, average rent of three months is calculated based on rents prevalent in the neighboring areas and the same is paid by the expropriating authority to the owner with effect from the date of vacating the house.

## **ARTICLE 31: COMPENSATION PAYABLE TO THE OWNER**

1. Properties mentioned in Articles 25, 26, 27, 28 and 29 of this law are compensated as per the following criterion:
  - a. Land equivalent to the expropriated property in terms of its kind, location, grade and commercial value according to provisions of this law;
  - b. In case of non-availability of equivalent land and land in excess of the requirements of government entities to be provided as compensation, partial compensation to be

- made in the manner provided for in paragraph (a) of this clause, and for the rest, payment should be made in cash; and
- c. Payment in cash in case of non-availability of any land.
2. The methods of payment of compensation are regulated by a separate regulation.

### **ARTICLE 32: ASCERTAINING COMPENSATION OF BUILDINGS CONSTRUCTED ARBITRARILY**

1. Those who have occupied government property and have constructed shelter for themselves without following the due process of law shall be entitled only to the expenses incurred in constructing the building and a plot of land against a specified price.
2. Provision of clause (1) of this Article is applicable with the following terms:
  - a. Possessor has no other place to reside in this city; and
  - b. He has lived for at least ten (10) years in the property to be confiscated.
3. Clauses 1 and 2 of this Article shall not remain applicable in relation to buildings constructed arbitrarily and without requisite government approvals after entry force of this law.
4. Anyone who after the enforcement of this law occupies government land and arbitrarily constructs a building thereon shall be prosecuted according to provisions of the law.

### **ARTICLE 33: ASCERTAINING COMPENSATION OF PROPERTY WITH CUSTOMARY DEED OF OWNERSHIP**

1. A person who has purchases a private property, in the area of project implementation, with a customary deed of ownership and has constructed building on the same without obtaining requisite government approvals, the building is valued based on the standards mentioned in Article 23 of this law and the value of the relevant building is added to the value of the original land.
- (2) In case the person referred to in clause (1) of this article does not have a shelter in the same city, he shall be deemed entitled to receive a plot of land in the same project or a similar one after payment of price specified against the plot.

## **ARTICLE 34: OBJECTION TO THE DECISION OF THE TECHNICAL BOARD**

1. The owner or his legal representative may raise their objection by providing the grounds based on which they are not satisfied on the compensation being provided against the property under expropriation within sixty (60) days from the date of receiving the notice of compensation issued by the expropriating authority.
2. The expropriating authority shall evaluate the objection submitted under clause (1) of this article within thirty (30) days and take necessary action.
3. In case the applicant does not express satisfaction over the decision rendered by expropriating authority, the issue is referred to the competent jury.

The jury shall consist of:

- a. Representative of the relevant Union of Engineers;
- b. Representative of the Afghanistan Chamber of Commerce and Industry; and
- c. Representative of the local councilors of the area where expropriation is taking place.

Decision of the jury shall be final in case the parties express their satisfaction to the same and is confirmed by ALLA; otherwise, the matter is referred to the competent court.

## **ARTICLE 35: OWNER WITHOUT LEGAL CAPACITY**

In case the owner or possessor of an expropriated land lacks legal capacity, his legal representative shall receive the compensation according to provisions of the law.

## **ARTICLE 36: EXPROPRIATING PROPERTY OF AN ABSENT PERSON**

1. In case owner of the property under expropriation or his legal representative do not appear within the time mentioned in Article 9 of this law following announcement of the expropriation plan, the expropriating authority, after collecting requisite information requests the competent court for appointment of a receiver.
2. In the situation referred to in clause (1) of this Article, the Technical Board may, subsequent to appointment of the receiver by the competent court, ascertain value of the property under expropriation and the expropriating authority may execute the plan of expropriation.

3. The expropriating authority shall deposit, in a specified account in any government bank, compensation of the property mentioned in clause (2) of this Article as trust money till such time that the owner or his legal representative appear, in which case the owner or his legal representative shall receive the amount so deposited.
4. The owner or his legal representative is entitled to receive the compensation fixed at the time of commencement of the expropriating process as against a property which, though the process of its expropriation is not complete but the expropriation plan has been executed in relation thereto.

### **ARTICLE 37: THE TIMEFRAME FOR COMPENSATION**

1. The expropriating authority shall pay the compensation for property being expropriated to its owner and expenses to its possessor and other affectees prior to execution of the project.
2. In case of any dispute related to the building or the yield between the owner and the possessor, value of the land should be paid to the owner while compensation for buildings and yield shall be deferred till a final verdict by a competent court is issued.

## **CHAPTER SIX: RESETTLEMENT OUTSIDE THE LIMITS OF MASTER PLAN**

### **ARTICLE 38: RESETTLEMENT OF PROPERTY OWNERS**

1. In case where executing projects as enumerated in Article 5 of this law, outside the limits of master plan, lead to displacement of an entire community, the expropriating authority shall adopt necessary measures, for the purpose of their resettlement, in light of provisions of this law, the Mining Law, Electricity Law and other instruments prior to project implementation.
2. For the purpose of compliance with the rule laid down in clause (1) above, a Resettlement Committee shall be established comprising the following:
  - a. Governor of the concerned province as Chairman

b. Representative of the expropriating authority	as	Deputy Chairman
c. Representative of AILA	as	Member
d. Representative of the Ministry of Urban Development and Housing	as	Member
e. Representative of the Ministry of Finance	as	Member
f. Representative of the Ministry of Justice	as	Member
g. Representative of the Ministry of Public Works	as	Member
h. Representative of the Ministry of Mines and Petroleum	as	Member
i. Representative of NEPA	as	Member
j. Representative of the relevant Municipality	as	Member
k. Representative of the Afghanistan Independent Human Rights Commission	as	Member
l. Representative of the owners	as	Member.
m. Representative of the people affected	as	Member.

### **ARTICLE 39: FUNCTIONS AND RESPONSIBILITIES OF THE RESETTLEMENT COMMITTEE**

1. The Resettlement Committee shall have the following functions and responsibilities to perform:
  - a. Ascertaining the status and preparing a list of owners of the expropriated properties that should be resettled;
  - b. Determining an appropriate location for the resettlement project;
  - c. Design and preparing of the execution plan for the resettlement project;
  - d. Determining and preparing a list of the affected persons and those living thereon arbitrarily; and
  - e. Devising rules and functions for each committee member.
2. Procedure for operation of the Resettlement Committee shall be regulated as per the guidelines approved by that same Committee.

### **ARTICLE 40: PRIVILEGED TREATMENT IN THE RESETTLEMENT PROJECT**

Owner of the expropriated property is entitled, after receiving the compensation, to obtain one unit of residential plot in the resettlement project.

## **ARTICLE 41: COMMENCEMENT OF THE RESETTLEMENT PROJECT**

The resettlement project is commenced subsequent to determining and identifying by the Resettlement Committee of the owners of the properties expropriated and other affectees that are in need of resettlement and prior to implementation of the project and after transfer of the people from the properties under expropriation.

## **CHAPTER 7: MISCELLANEOUS PROVISIONS**

### **ARTICLE 42: TRANSFERRING THE EXPROPRIATED PROPERTY TO AILA**

Whenever an expropriated property, subsequent to execution and completion of the project, is not required by the expropriating authority for any prior approved purpose, the expropriating authority shall transfer such a property to the concerned municipality in case it falls within the limits of the master plan and to AILA in case it falls outside the limits of master plan.

### **ARTICLE 43: VARIATIONS IN THE MAP AND PLAN**

1. Whenever variation in the map and proposed plan or any other ground leads to non-use of the expropriated property for the purpose it was expropriated for, such property may be returned back to its original owner, if he requests so, in return for the compensation he received against expropriation thereby annulling the expropriation.
2. In case the previous owner does not make request for annulment of the expropriation and return of his property, the property shall be subject to the rule laid down in Article 42 of this law.

### **ARTICLE 44: PROHIBITION ON USAGE OF THE PROPERTY FOR PURPOSE OTHER THAN WHICH THE PROPERTY IS EXPROPRIATED FOR**

Expropriating authority shall not utilize the expropriated property for any purpose other than that for which the property is expropriated at the first place.

#### **ARTICLE 45: TEMPORARY USAGE OF PERSON'S PROPERTY**

1. A government entity may, for the purpose of conducting research and exploration activities, for a temporary period of one year utilize the land owned by someone in return for a fair rent without the requirement of expropriation.
2. Whenever, crops and/or trees present on the property are affected consequent to performing activities referred to in clause (1) of this Article, the loss and damage so caused shall be compensated as per the criteria laid down in this law.

#### **ARTICLE 46: LAND REARRANGEMENT**

Municipalities may, for the purpose of planning and development of any unplanned area, use the methods of rearrangement of land according to provisions of a regulation devised particularly for this purpose.

#### **ARTICLE 47: NOTICE TO AILA**

The Expropriating Authority shall, following expropriation of property, notify the concerned municipality, in case of property situated within the limits of the master plan, and AILA, in case of land situated outside the limits of master plan, as regards the size of the property expropriated for the purpose of levying withholding duties and taxes from entitlements of the previous owner.

#### **ARTICLE 48: SPECIAL BUDGET CODE FOR EXPROPRIATION PROJECTS**

Ministry of Finance shall allocate a special budget code within the national budget for executing projects of expropriation keeping in view the proposals submitted by government entities planning to execute expropriation projects.

## **ARTICLE 49: PROPERTY RELATED DISPUTE RESOLUTION**

1. AILA shall review all disputes related to property subject to expropriation arising during implementation of expropriation projects according to provisions of the Law on Managing Land Affairs.
2. In case AILA fails in resolving the dispute, it shall be referred to legal and judicial authorities.
3. In circumstances when a dispute is not resolved up until the phase of project implementation, the expropriating authority shall expropriate the property according to provisions of this law and deposit the amount of compensation in one of government banks as trust money.
4. Expropriating authority shall transfer to the judgment holder the compensation for property expropriated in the manner mentioned in clause (3) of this Article pursuant to the decision rendered by legal and judicial authorities.

## **ARTICLE 50: PROHIBITION OF DISTRIBUTION INTO PARTS OF THE PROPERTY UNDER EXPROPRIATION**

Distribution of property planned to be expropriated and of properties included in approved Urban Plans for the purpose of transfer of ownership shall remain prohibited following issuance of the notice mentioned in Article 8 of this law.

## **ARTICLE 51: PENALTIES**

- (1) Anyone who, despite compliance of the process of expropriation with provisions of this law, intentionally hinders execution of the project on the properties expropriated shall be subject to prosecution in accordance with the law.
- (2) Anyone who wrongfully claims to be affected by the process of expropriation and gets himself included in the list of affectees shall be prosecuted according to provisions of the law irrespective of whether he has received the compensation or other privileges or not.
- (3) A government official that intentionally prevents handing over the compensation and other privileges in return to expropriation or causes delay in the compensation beyond the time specified for the same shall be prosecuted in accordance with the law.

## **ARTICLE 52: PROPOSING REGULATIONS, GUIDELINES AND CIRCULARS**

Municipalities and AILA may, with mutual understanding and cooperation, propose regulations, guidelines and circulars to facility better execution of the provisions of this law.

## **ARTICLE 53: ENTRY INTO FORCE**

This law is enforceable from the date of its endorsement and with its enforcement the Law on Land Expropriation published in the Official Gazette No. 794, of 2000 and the amendment of some of its Articles published in the Official Gazette No. 849 of 2006 and the addition of clause (2) in Article 13 of the Law on Land Expropriation published in the Official Gazette No. 1010 of 2010 are hereby declared null and void.