

# **Law on Appropriation of Property for the Public Welfare**

## LAW FOR APPROPRIATION

### OF PROPERTY FOR THE PUBLIC WELFARE

#### IN AFGHANISTAN

18 Aqrab 1314 [28 October/10 November 1935]

ARTICLE 1: Should a property be required by the Government for the public welfare, the Government can appropriate it in accordance with Clause 15 of the Afghan Constitution\* and in accordance with provisions of this law.

ARTICLE 2: The following purposes shall constitute public welfare and shall justify appropriation of property.

- a. Construction of public roads, bazaars, and expansion of the existing case.
- b. Construction and development of water channels and dams.
- c. Construction of mosques, military installations, factories, hospitals, houses for the poor, ammoniums, orphanages, government offices, water reservoirs for fighting fires, other constructions and developments for public needs, and all other developments that benefit the public in general.

ARTICLE 3: A case of public welfare shall be established through the approval of the council in the provincial or district center concerned. The above councils shall decide on the extent of the property to be appropriated with consideration of the requirements of the independent department or the ministry concerned with the project.

ARTICLE 4: No property shall be considered or evaluated for appropriation until the necessary plans for the project have been prepared by the competent authorities. Appropriations shall be made under the following provisions.

- a. The department which desires the appropriation shall appoint an engineer to study the type, the location, and the extent of the property required. Depending on the importance of the property, two to four local experts shall be appointed to evaluate the property which is to be appropriated.
- b. A property shall be evaluated in accordance with the current rates at the locality concerned. The owner or his representative must be present at the time of measuring and evaluation of a property. A further report should then be sent to the owner concerning the appropriation with details of the nature of the property, its size, and the price fixed for it. The owner shall have the right to appeal against the price or the size of the property within 20 days of the official notice.

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\* Constitution of 1931, repealed 1964; see Article 29, Constitution of 1961.

- a. The engineer shall draw up a report of the measurement and the extent of the property to be appropriated and the experts shall evaluate the property and report it to the department which desires to make the appropriation.
- b. The department that desires to make the appropriation shall forward a report concerning the extent of the property to be appropriated and the price to be paid for it to the council concerned. After the approval of the council, a report shall be forwarded to the authorities concerned for execution in accordance with Article 3. The price of the property shall be paid prior to its appropriation.

ARTICLE 5: Should the owner of a property not be available to receive the price of his property, the department concerned shall make the payment as soon as the owner or his representative becomes available.

ARTICLE 6: The price of the property donated to charity or belonging to a person or persons who are under age or who are mentally unbalanced shall be paid to the local judge who shall decide as to the final recipient of the price.

ARTICLE 7: Whom a property is appropriated, the appropriating authority shall notify the departments concerned to discontinue charging taxes for the property.

ARTICLE 8: The appeal by the owner of the property, stated in Article 4 above, shall be subject to the following provisions.

- a. The property owner shall forward his official protest to the local senior property supervisor. The supervisor shall convene a committee consisting of the representatives of the local council, the engineer who has measure the property, and a court official. The committee shall investigate the dispute, and it has the power to call the experts who evaluated the property in accordance with Section (a), Article 4, above, for consultation. The committee shall report its findings to the supervisor.
- b. Should the owner remain dissatisfied with the findings of the committee, the case shall be referred to the Ministry in charge of the department making the appropriation.

ARTICLE 9: The price of the appropriated property shall be paid to the owner by the appropriating authority in court (XXXX Sharia) in the presence of a judge. A document for the transfer of the property shall then be issued.

ARTICLE 10: Expenses concerning the evaluation experts, etc., shall be paid by the appropriating authority.

ARTICLE 11: Should an appropriated property not be used by the Government for the public welfare, the original owner can demand that the property be resold to him at the price that was paid for the appropriation.

ARTICLE 12: When a portion of a cultivated land or an orchard is appropriated in such a manner that would make the remaining portion uncultivable through cutting the water source, etc., the appropriating authority shall purchase the remaining portion of the property at the request of the owner. The appropriating authority shall purchase the portions of buildings and developments left over from appropriations at the request of the owner.

ARTICLE 13: When a property is rented at the time of appropriation and the rental contract has not expired, the evaluation committee described in Article 4 above shall investigate the position of the tenant and the appropriating authority shall compensate the tenant to accordance with current regulations and customs.

ARTICLE 14: When non-rental cultivated land is appropriated, the cost of seeds and labor put in by the peasants shall be added to the cost of the land and shall be paid by the appropriating authority.

ARTICLE 15: Properties within municipal boroughs shall be appropriated by the approval of municipal councils; properties to provincial and district centers shall be appropriated by the approval of XXXX councils in accordance with the provisions of XXXX regulations. Appeals and protests within municipal boroughs shall be referred to local courts to accordance with the provisions of these regulations.

ARTICLE 16: The appropriating authority shall be responsible for the execution of this law.