

Amendments to Land Acquisition Law

(Proposed Name)

Land Acquisition Just and Fair Compensation Law

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Preamble:

Islamic Sharia and the constitution of the country guarantees inviolability of property of persons and citizens of the country and protect it from any kind of encroaching and incursion. In the light of the Afghan constitution, and all other enforced laws of the country prohibits trespassing of private residence and property and except certain circumstances, even prohibits the law enforcement agencies from searching and inspecting of private houses;

Whereas the public interests and general welfare are superior to personal interest and welfare, thus necessitating that in certain circumstances private properties shall be acquired and owned for the purposes ensuring public interest, so that ground could be paved for the implementation of public utility projects;

Whereas the provision of the constitution explicitly mentions that any person, who is affected by an institution without any reason, shall be compensated for his/her losses. By virtue of this principle, the acquisition shall also be carried out in exchange for just and fair compensation;

Similarly, for the purpose of ensuring and restoring the livelihood of the affected people from acquisition project, resettlement and rehabilitation projects shall be launched so that through provision of all facilities of living and delivery of urban services, affected people have an opportunity to live a comfortable life.

By having regard to the above-mentioned points, a scrutiny and review of the enforced land acquisition law was undertaken so that through insertion and omission of provisions, the law is enriched in such a manner that on one hand, it will pave the ground for the implementation of urban plan, urban development and public utility project, and on the other hand, enable the project affected people to fairly and justly obtain their rights and get fair and equivalent compensation in the due time.

Chapter One

General Provisions

Article 1 Basis

This law has been enacted pursuant to the provision of paragraph (4) of the Article 40 of the Afghanistan Constitution.

Article 2 Objectives

The objectives of this law are:

1. To govern acquisition affairs and processes of immovable property for the implementation of public utility project, based on consultation;
2. To identify purpose, nature and credibility of public utility projects for which land may be acquired;
3. To determine immovable properties under acquisition ownership, nature, type and appropriateness of size thereof;
4. To facilitate the implementation of urban development plans and all other public utility projects;
5. To determine just and fair compensation and determine compensation for losses originating from the implementation of acquisition projects;
6. To manage and monitor the acquisition process;
7. To rehabilitate and resettle the owners, occupants and indirect affected people of the immovable properties.
8. To evaluate social and environmental impacts of projects and its implementation;
9. To establish mechanism for hearing of people's objections and complaints; or grievance and addressing it.

Article 3 Definitions

For the purpose of this Law, the following definitions shall apply:

1. **“Agricultural Land”** refers to land which is used for agriculture in accordance with the provisions of the land management law.
2. **“Cadastral Survey”** refers to the execution of mapping services in respect of rural and urban lands for the purposes of identifying the boundaries of the land, its owner, qualitative and quantitative characteristics and legal type thereof.
3. **“Commercial Sites”** refer to land designated for business transactions and other commercial purposes’.
4. **“Endowed Land”** refers to land that is devoted for using in welfare affairs.
5. **“Immovable property”** (Iqaar) refers to belongings firmly set on the ground) that could not be moved without causing destruction. Movable things that are attached to the immovable property are also deemed as immovable property.
6. **“Land Clearance”** refers to the process which has been aimed at the identification and separation of land and determining ownership of the property of the persons, state, public, and lands specific to village or villages by the assigned committee at the site, and as a result of which, qualitative and quantitative characteristics of the land and its alterations, transfers, ownership and legal documents of the land are identified.
7. **“Land”** refers to all agricultural, non-agricultural, private, state, and public lands and special land of -village or villages including its all natural and non-natural accessories and its material and immaterial values.
8. **“Non-agricultural Land”** refers to land that cannot be utilized for agriculture.
9. **“Partial Acquisition”** “refers to the acquisition of a portion of property under the legal deed of a person at the acquisition project site
10. **“Public Utility Project”** is a project whose benefits are not limited to a specific number of people.
11. **“Resettlement and Rehabilitation”** is providing a dwelling unit along with urban services for each and every owner, occupant and affected people having the stipulated conditions in a proper place.
12. **“Squatter”**¹ refers to people who possess government land up to five hundred square meters without any document to live in.

13. **“Total Acquisition”** refers to the acquisition of all the area listed in the legal deed of the owner of the property in acquisition project site.
14. **“Urban Services”** includes the following services:
15. **Acquisition** refers to taking over of the immovable property (Iqaar) of a person for the implementation of public utility projects in exchange for just and fair compensation.
 - Develop and construct mosques, schools, kindergartens, houses for requiem, hospitals, clinics, and outlets or their expansion.
 - Develop and construct other offices or centers which offer public services.
 - Develop green fields, recreational parks and sport fields.
 - draft a plan and to make ready the land for construction
16. **Fair and Just Price** refers to a price by which the owner or occupant can buy similar property to that of the acquired property.
17. **Indirect Affected People from Land Acquisition** refers to people who are neither owners nor occupants of the property, but are indirectly affected by acquisition process.
18. **Land Acquiring Organization:** for the lands within the Urban Master Plan, the municipalities, and for the lands outside Urban Master Plans, the acquiring organizations.
19. **Land Parcel** refers to a piece of land which is surrounded by public or private natural or legal persons. The area under orchards or vineyards, despite being part of the same plot, shall be deemed a separate plot.
20. **Large-Parcel** refers to land which is more than five jeribs.
21. **Linear Infrastructure Projects”** includes railway tracks, roads, public streets, highways, transit, by pass, ring roads, sub-ways, pipelines, sewage lines , canals, transmission lines and the likes;
22. **Occupant of the property** refers to a natural person who does not have legal documents and are subject to the requirements of Article 15 of the Land Management Law.
23. **Owner of Property** refers to a person who owns property on the basis of legal document as per the provision of Land Management Law
 - Provide canalization, water system, communication services, gas system, road, sewerage system, asphaltting or their expansion.
24. **Public interest** shall mean and include all purposes described in Article 6;

25. **Tax** refers to a compulsory payment collected from natural and legal persons in accordance with the provisions of this Law for the purposes of financing of government and social welfare without the taxpayer receiving any direct goods or services from the government.

Article 4 Abbreviations

1. The public utility project shall be henceforth referred to as project in this Law.
2. Afghanistan Independent Land Authority shall be henceforth referred to as *Edara-e-Arazi* (land authority) in this Law
3. Land Acquisition and Just and Fair Compensation Law, shall be henceforth referred to as Acquisition Law

Article 5 Implementing Agency

- (1) Ministries, government institutions, enterprises, state-owned and public-private companies, and municipalities shall cooperate with ARAZI in the implementation of the provisions of this law.
- (2) The Afghanistan Independent Land Authority (ARAZI) shall be responsible for the enforcement of the provisions of this law.

Article 6 Objectives of Acquisition

Acquisition of the land of a person shall only be carried out for the purposes of securing public interests. Following are treated as public interests, but is not limited to:

- (1) Strategic security and defense objectives of the country and whatever is considered vital for providing security.
- (2) Infrastructural projects which includes the following:
 1. Implementation of approved urban plans
 2. Extraction of minerals and underground reservoirs
 3. National investment in industrial sites

4. Construction of highways, transit roads, roads, ring roads, bridges, tunnels with the required facilities and their development and extension
5. Construction of mass transit facilities, metro, railway with required facilities and their development and extension
6. Construction of gas and oil pipelines, their development and extension
7. Construction of airports, radars, their development and extension
8. Construction of telecommunication, radio, TV, their development and extension
9. Construction of power system, installation of power poles, central heating and steam systems, their development and extension
10. Construction of information technology projects, their development and extension
11. Construction of dams, water harvesting and water conservation structures; water and debris retention structures' water-supply, and canalization networks, gutter system and its development and extension
12. Construction of garbage collecting system, their development and extension
13. Construction of health infrastructures, their development and extension
14. Construction of universities, higher education institutions, schools, *madradas* research centers, kinder-gardens, and its development
15. Construction of mosques, Eidga, pilgrimage camps graveyards, with required facilities, their development and extension
16. Construction of detention centers, juvenile rehabilitation centers, prisons, and lunatic asylum.
17. Construction of sport fields, gymnasiums, their development and extension
18. Construction of recreational and touristic areas, their development and extension
19. Development of agro process such as production, process, springhouses, nurseries, fishery, aviculture, orchard, horticulture and etc., their development and extension.

20. Construction of slaughter house, Naqash, municipality markets and its development and extension.
- (3) Construction of all other structures and project that are identified as public welfare by the council of ministers
- (4) Social development projects which are as following:
- A. Dwelling projects for homeless people, returnees, internally displaced peoples, people affected by natural disasters
 - B. Urban development projects.
- (5) Provisions stated in paragraphs (1), (2) & (3) of this article are acquired upon approval of the council of ministers and ratification of president.

Chapter Two

Duties and obligations of the relevant stake holders in the acquisition process

Article 7 Duties and obligations of the acquiring organization

1. Written justification for being a public utility project
2. Estimation of minimum land for project implementation
3. Preference of non-agricultural lands to agricultural lands for project implementation
4. Assessing the environmental and social impacts and its implementation
5. Requesting ARAZI for conducting cadastral survey and Tasfia of land
6. Providing the list of the direct and indirect affected people after the cadastral survey and Land Clearance process (Tasfia)
7. Proposing the appraisal, pricing and calculation of compensation committee to the president office
8. Providing report on viability of project from procedural and technical viewpoints
9. Estimation of project implementation time
10. Consultation with respective residents regarding the implementation of project
11. Predicating estimated budget for the project implementation
12. Drafting detailed plan of the project
13. Proposing of the detailed plan of the project implementation for approval to technical committee for evaluation of acquisition project plan
14. Proposing of the approved plan by the technical committee for evaluation of acquisition project plan to the councils of ministers
15. After the approval of the project and relevant acquisition plan, information regarding the following points shall be provided to the owners of the property and project affected people by the land acquiring organization nine months prior to the implementation of the project through mass media.
 - A. Purpose of the acquisition
 - B. Site that is required for acquisition

- C. Type and size of the land
- D. Estimated price of the targeted land
- E. Ensuring just and fair compensation
- F. Start date of the project
- 16. Payment of just and fair compensation to the owner and occupant
- 17. Tax payment of the compensation
- 18. Payment of appropriate incentives to the indirect affected people
- 19. Demand transfer of land from Arazi if the public welfare project is implemented on state land.
- 20. Ask Arazi for land exchange with the landowner if the acquiring organization lacks land for compensation or sufficient funds
- 21. Receiving and archiving the official documents related to acquired property
- 22. Execution of the project in accordance with the approved plan

Article 8 Duties and obligations of the relevant stakeholders

1. Cooperation with acquisition process as required
2. Evacuation of the site intended to be acquired during three months time after they receive the compensation.
3. Providing the original legal official ownership document to the acquiring organization after the land clearance processes (Tasfia) and receiving the compensation.
4. The claim of the owners shall not be admissible after getting just and fair compensation for the property.
5. In case of the absence of the owners and occupants, his/her representative shall perform the above-mentioned tasks.

Article 9: Duties and Obligations of the Edara-e Arazi

1. Annual proposing of the technical committee for evaluation of acquisition project plan to the president office
2. Conducting cadastral survey and land clearance process (Tasfia) of the lands under acquisition

3. Conducting cadastral survey and land clearance process (Tasfia) of the lands under exchange and transfer
4. Exchanging state land with the owner as compensation for his/her acquired property on behalf and request of the acquiring organization
5. Exchanging state land with acquiring organization in exchange of the prior determined price to the owner
6. Transfer of state land as compensation to the acquiring organization in exchange of compensation
7. Granting formal ownership document to the owner with whom the land has been exchanged
8. Registering of the acquired land in relevant books of records
9. Managing and monitoring acquisition process

Article 10 Technical Committee for Evaluation of Acquisition Project Plan

- (1) Under the lead of Arazi the technical evaluation committee of acquiring project plan shall be established with the following composition:
 - A. Authorized representative of the Arazi as chairperson
 - B. Authorized representative of the Acquisition department of Arazi as secretary
 - C. Technical representative of the Ministry of Urban Development as member
 - D. Technical representative of the Ministry of Finance as member
 - E. Technical representative of the Ministry of Mines as member
 - F. Technical representative of the Ministry of Public Works as member
 - G. Technical representative of the Ministry of Agriculture as member
 - H. Technical representative of the Ministry of Information and Culture as member
 - I. Technical representative of the Ministry of Power and Water as member
 - J. Technical representative of the relevant municipality as member
 - K. Technical representative of the National Environment Protection Agency as member

- L. In case required, the technical representative of any other organization as member.
- (2) To get approval, the acquiring institution shall submit the detailed project plan to technical evaluation committee of acquiring project plan.
 - (3) Within 30 days of the submission date, the technical evaluation committee of acquiring project plan shall take actions on approval or refusal of the project plan of acquiring institution after comprehensive technical review.
 - (4) If approved, the detailed project plan shall be sent to council of minister for confirmation, otherwise, the plan shall be sent back to acquiring institution along with reasons for correction.

Chapter Three

Types of Acquisition

Article 11 Acquisition of land with establishments and constructions

1. With the acquisition of the land, establishment and structures constructed over it shall also be acquired.
2. The owner shall, within three months, destroy and evacuate the establishments and relevant structures. In such a case, the construction material shall freely belong to the owner.
3. Where the owner evades the destruction of establishments and structures within the due time, the acquiring organization may carry out destruction and clearance of the site. In such a case, the owner shall not be entitled to relevant construction material.
4. Where the owner of the property is not able to destroy the structures due to old age, disability or chronic sickness, or lacks financial resources for destruction, the acquiring organization shall assist him/her in the destruction of the structures.
5. Cleaning of the site after the destruction of the establishments and constructions shall be the responsibility of the acquiring organization.
6. The destruction of the establishments and construction with no owner shall be the responsibility of the acquiring organization.
7. With regard of the sites whose destruction requires technical expertise, the relevant institution shall cooperate with the acquiring organization by assigning professional and skilled individuals on its own expenditures.

Article 12 Acquisition of trees and all kind of crops

1. With the acquisition of land, trees, plants and crops shall also be acquired.
2. The owner shall, within three months, cut down trees, plants and crops. In such a case, the severed material shall freely belong to the owner.

3. Where the owner evades the cutting down of trees, plants, and crops within the due time, the acquiring organization may take on its sectioning. In such a case, the owner shall not be entitled to relevant construction material.
4. Where the owner of the property is not able to cut down trees, plants and crops due to old age, disability or chronic sickness, or lacks financial resources for severance, the acquiring organization shall assist him/her in this regard.
5. Where more time is required for the collection of the produce than the time provided by the acquiring organization, the acquiring organization shall extend the time period till the collection of the produce, or the acquiring organization is obliged to compensate the produce
6. Where product of the property intended to be acquired is destroyed as a result of a natural calamity, the extended time period shall be invalid and the acquiring organization can immediately take on the implementation of the project.

Article 13 Total and partial acquisition

- (1) Where all of property of a person comes under acquisition, all of the property is acquired and the official ownership document is archived by acquiring organization.
- (2) When a plot of a property is acquired and a segment remained with the owner, the acquired segment is deducted from the official document and the original document remains with the owner.

Article 14 Acquisition of the remaining property

- (1) Where part of the property of a person is acquired and the remaining property is put to the desired use by the owner, the acquired portion shall be fairly and justly compensated in accordance with the provisions of the law and the portion not acquired shall remain with the owner.
- (2) Where all of the property of a person is not acquired and the owner of the property is unable to put the land into the desired use, the acquiring

organization shall, after the agreement of the owner, acquire the remaining property under same terms and conditions.

- (3) In case of disagreement, the owner of the property shall not be allowed to use the land in such a manner which shall impair the public utility project or damage the environment.

Article 15 Urgency and Emergency Acquisition

- (1) Emergency acquisition takes place under following circumstances:
 - A. Ensuring the defense and security interests of the country
 - B. Natural and unnatural incidents such as earthquakes, volcanoes, floods, storms, sliding of mountains, etc.
- (2) Urgency acquisition takes place in circumstances which are declared as emergency by the council of ministers.
- (3) In urgency and emergency circumstances, the minimum of the land needed by the relevant organization is acquired.
- (4) Compensation of emergency acquisition shall be 5 percent more than the value of the fair and just compensation.
- (5) In urgency and emergency acquisition, the timeline for official announcement of acquiring project implementation shall not be considered.
- (6) In urgency and emergency acquisition, complains and objections of affected people shall not be considered.

Article 16 Acquisition of Special Places

Place with big scientific, cultural importance, historical, scared places, forests, research farms, agricultural farms, orchards, vineyards, protective sites and jungles and places of environmental importance shall be acquired based on agreement with relevant institution and Presidential decree.

Article 17 Acquisition of leased property or property under mortgage

- (1) Where the desired property is leased or under mortgage or any other legal transaction, the relevant agreement on desired property shall be nullified with consent of parties and the property shall be acquired.
- (2) Where parties do not agree on nullification, the transaction on desired property shall be nullified by force and the acquiring organization acquire the desired property.
- (3) Where the owner of property does not pay entitled parties for their rights, acquiring organization, from compensation, shall first pay to entitled party and give the remaining amount to the owner.
- (4) The occurred loss stipulated in above paragraphs, shall be compensated by the acquiring organization.

Article 18 Purchasing the Desired Property for Project

- (1) The acquiring organization may buy through negotiation the desired property after land clearance process (Tasfia)
- (2) The acquiring organization where the land under acquisition size is up to one thousand square meter or for the purpose of installation of power pillars, communication, radio and TV antennas, wire extension, establishment of security towers, pipelines, can buy it without land clearance process (Tasfia), based on the ownership documents in close coordination with the ARAZI with the owner's consent.
- (3) Where, parties do not agree through negotiation, the acquiring organization shall acquire the desired property according to provisions of this law.

Article 19 Acquisition for urban development projects

- (1) Where private property is required for the urban development projects of municipalities such as housing, residential building, extension of road, sewage system, footpaths, parks and construction of offices and centers for the provision of public services, the municipalities may acquire that property after paying just and fair compensation.

- (2) Whenever property is up to five hundred square meters acquired for the purpose stipulated in paragraph one of this article, the owner of the property shall be the first entitled for a plot of land or a residential unit in the project, as per the fixed price of the municipality.
- (3) In case the acquired property is more than five hundred square meters, the owner shall be entitled for each of thousand square meters, a plot of land or a residential unit in the project, as per the fixed price of the municipality
- (4) The relevant municipality shall permit the owner of the property under acquisition to construct the remaining property in accordance with the drawings of the municipality.
- (5) In case the acquired property is a commercial site, the owner of the acquired property shall be entitled to one shop in the mentioned project after paying the due selling price of the municipality.

Chapter Four

Transfer of State Land for Project Implementation

Article 20 Transfer of State Land to Municipalities

If a property under acquisition, located within the boundaries of municipalities, is owned by the government, the mentioned property can be transferred in exchange for compensation to the relevant municipality

Article 21 Transfer of State Land to Acquiring Organization

If a property under acquisition located outside the boundaries of municipalities, is owned by the government, the mentioned property can be transferred in exchange for compensation to the acquiring organization.

Article 22 Compensation of Loss occurred as a result of Transfer

Those who are affected in the result of project implementation the loss occurred to them shall be compensated by the acquiring organization.

Article 23 Transfer of Endowed Property

- (1) Where a property and its establishments and constructions are owned by Endowment Department, they shall be valued in accordance with the provisions of this Law after approval of the Supreme Court. The relevant municipality within its boundaries and the acquiring organization outside the city urban master plan shall be liable for the payment of compensation to the Endowment Department.
- (2) The acquiring organization shall be responsible for the destruction of establishments and construction and cleaning of the site under section (1) of this Article.

Article 24 Transfer of Public Land

Where people surrounding a public land lose profit due to transfer of public land for project implementation, the acquiring organization is obliged to pay 10% of original price of the land to the people of that area.

Article 25 Transfer of State Land to Build Housing for Specific Classes

- (1) Where a government property located in the limits of the municipalities is distributed for the purposes of resettlement of persons and guilds such as civil servants, army personnel, teachers, retired employees, refugees, disabled, and nomads in accordance with a relevant legislative document, the property shall be handed over to the municipality in exchange for compensation and the municipality shall, after mapping and planning, only be entitled to services charges.
- (2) Where a government property located outside the city limits is distributed for the purposes of resettlement of persons and guilds listed in section (1) of this Article in accordance with the provisions of a relevant legislative document, the property shall be handed over to the acquiring organization in exchange for compensation and the acquiring organization shall, after mapping and planning, only be entitled to services charges.
- (3) Where government property is distributed for the purposes of resettling internally displaced people and victims of natural disasters (earthquake, floods, sliding of mountains) in accordance with legislative documents, the provision of section (1) and (2) of this Article shall apply.
- (4) Whenever, council of ministers approve free transfer of land, ARAZI shall transfer it free of cost

Article 26 handing over the acquired land to ARAZI

Whenever, the acquired property after the completion and implementation of the project, is not utilizing for the approved purpose, the acquiring organization is obliged to transfer it to ARAZI for the purpose of utilizing it for public welfare activities.

Chapter Five

Appraisal, Pricing, and Calculation of Compensation

Article 27 Appraisal, Pricing, and Calculation of Compensation Committee for projects outside urban areas

- (1) For the purpose of evaluating, determining of the prices and calculating of just and fair compensation of the land under acquisition projects outside the city, hereby a committee shall be established with the following composition:
- A. Governor of the relevant province as chairperson
 - B. Authorized representative of the Arazi as deputy chairperson
 - C. Authorized representative of the Survey and Cadaster Directorate of Arazi as member
 - D. Authorized representative of the Ministry of Agriculture as member
 - E. Authorized representative of the Ministry of Finance as member
 - F. Authorized representative of the Ministry of Justice as member
 - G. Authorized representative of the Ministry of Urban Development as member
 - H. Authorized representative of the land acquiring institution as member
 - I. Representative of the Provincial Council as member
 - J. Owner of the property intended to be acquired or his/her legal representative as member, or ; in case of multiple owners, their legal representative as member
 - K. Two property experts from private sector as members
- (2) In case required, representative of any other relevant organization as member

Article 28 Appraisal, Pricing, and Calculation of Compensation Committee for projects within urban areas

- (1) For the purpose of evaluating, determining of the prices and calculating of just and fair compensation of the land under acquisition projects within the city, hereby a committee shall be established with the following composition:
- A. Mayor as the chairperson
 - B. Authorized representative of Arazi as the deputy chairperson
 - C. Authorized representative of governor office, as member
 - D. Authorized representative of the Ministry of Finance as member
 - E. Authorized representative of the Ministry of Urban Development as member
 - F. Authorized Representative of extension department of MAIL, as member
 - G. Owner of the property intended to be acquired or his/her legal representative as member, or ; in case of multiple owners, their legal representative as member
 - H. Two property experts from private sector as members
- (2) In case required, representative of any other relevant organization as member

Article 29 Duties and obligations of the appraisal, pricing and calculation of compensation committee

The committees under Article 27 and 28 of this law shall have the following duties:

- A. Appraisal of the preliminary list of the project direct and indirect affected people;
- B. quantitative and qualitative appraisal of the land under acquisition considering its commercial value thereof;
- C. determination of the price of land under acquisition and calculation of its compensation, as per the provisions of this law;
- D. Inform the project direct and indirect affected people in respect of compensation.

- E. Initial addressing of the direct and indirect affected people complains
- F. Preparation of compensation plan

Article 30 Method for Appraisal and Pricing of Property in Market

The appraisal, pricing and calculation of compensation committee shall consider the following while pricing a property:

- A. With regard to the type, size and location of the land, the committee shall, within a year prior to the announcement of the project , determine the average price of land in the designated area and nearby localities on the basis of purchase documents prepared by land titling institutions (*edarat-e-wosaique*), real estate agencies, and customary documents;
- B. find average price of the property considering the standards provided in paragraph (A) of this article.
- C. Where portion of property is close to road and has higher value and portion of it has lower value, in such cases the property is divided pricewise in three categories and the average of value is considered as estimated price.

Article 31 Determination of compensation of land with establishments and constructions'

Where the land under acquisition includes building or any other structures, the price of the buildings and structures shall be determined by the committee with cooperation and coordination of relevant professional engineers by having regard to technical and architectural standards, and be added to the actual price of the land.

Article 32 'Determination of compensation of land with crops'

Where the land under acquisition is a land with crops, the price of seeds, fertilizer, and farming expenditures shall also be calculated in addition to the price of land, and be added to the price of land. In case the crop is ripe and its grains appeared, the price of produce shall also be added in the mentioned price, except the case

where the owner of the land under acquisition is granted the opportunity to collect the produce.

Article 33 'Determination of compensation of land with trees'

- (1) Where the land under acquisition is land with non-fruit bearing trees, the price of trees shall be determined on the basis of wood price and be added to the price of land under acquisition.
- (2) Where the land under acquisition is land with non-fruit bearing decoration trees, the price of trees shall be fixed equal to five times of its wood price and be added to the price of land under acquisition.
- (3) Where the land under acquisition is land with fruit bearing trees, the price of trees shall be based on wood price together with the price of its 10 years produce and be added to the price of land under acquisition. In case, its fruits have appeared,, the price of the produce shall also be added to the price, except the case, where the owner of the land has been given the right to collect the produce after ripening.

Article 34 Determination of compensation of a commercial property'

Where the land under acquisition is a previously planned commercial site, the price shall be determined by having regard to its commercial value.

- (1) Where the site is not official commercial site but the property is commercially used, two year income of the property shall be added to original value of the property.

Article 35 Determination of compensation of residential property

Where the property under acquisition is a residential property, the annual rent shall, pursuant to the provisions of the Article 31 of this law, be calculated by having regard to the nearby residential houses, and shall be paid to the owner by the acquiring organization from the date of getting the ownership of the property.

Article 36 Compensation payable to the owner of the property

By having regard to the total calculation of prices under Article 29 to 34 of this Law, the following compensations shall be payable respectively:

- A. Land, equivalent to acquired land in terms of its quantity, quality and commercial value.
- B. In case sufficient land is not available, land based on conditions provided in paragraph (A) of this article and cash.
- C. In case no land is available, only cash shall be payable
- D. In all other methods will be defined through a special procedures

Article 37 Incentive payable to the project indirect affected people

Persons who are not owners of the property in the project implementation site but loses their occupations, jobs and businesses due to the implementation of project, shall be entitled to their average annual income of one year.

Article 38 Privileges payable to squatterer

- 1) Persons who are not owners of the property in the project implementation site but have occupied state land up to five *beswa* to have a shelter, only the costs for building the shelter shall be determined and paid to them.
- 2) The squaterer stipulated in paragraph one of this article shall only be entitled to the incentives having the following conditions:
 1. The land shall be state land
 2. The squaterer shall not have any property in the same province
 3. They shall have at least fifteen years occupancy of the property.
 4. The construction of the squaterer shall be of non-concrete materials.

Article 39 Approval of the compensation of land under acquisition

- (1) Where the total price of the land along with its all other compensations has been fixed at five million Afs (1,000,000), the price determined by the committee formed under Article 27 & 28 shall be approved and payable.

- (2) Where the price of the land along with its all other compensations has been fixed at more than five million Afs (5,000,000), the amount shall be payable after the approval of the council of ministers.

Article 40 Objection over the decision of the appraisal, pricing and compensation committee

- (1) Where the owners of the land, occupants, affected people, squatter or their representative are dissatisfied in respect of compensation or specifications of the land, they may file his objection containing reasonable grounds within 60 days after getting notified about the compensation to the appraisal, pricing and calculation of compensation committee.
- (2) The appraisal, pricing, and calculation of compensation committee shall review the objection under section (1) of this Article and try to convince the objectors.
- (3) Where the objectors are not convinced, the acquiring organization shall designate a panel of arbitrators for the final review of objection to take decision.
- (4) The panel of arbitrators shall be five members comprising of expert, professional engineer, representative of the acquiring organization, representative of the appraisal, pricing, and calculation of compensation committee, and owner of the land or his/her legal representative.
- (5) The decision of the panel of arbitrators shall be final in this regard.
- (6) The claim of the owner of the land under acquisition shall not be admissible in respect of compensation or specifications of land after receipt of the entire compensation.

Article 41 Incapacity of owner

Where the owner or occupier of the land under acquisition lacks legal capacity, the compensation shall be paid to his/her legal representative.

Article 42 Compensation payment to bank

Where the owner, occupier, affected person and squatter or their representative are absent, the payable compensation shall be deposited to one of governmental banks by their names and shall be paid to them upon their return.

Article 43 Payment duration of compensation

- (1) The duration for the payment of compensation shall be at least 6 months valid after the date of official announcement of project implementation in three installments.
- (2) Where the compensation is not paid within the due time frame provided in paragraph (1) of this article, the property under acquisition shall be re-priced according to provisions of this law and the new price shall be payable. Where the new price is lower than the previous price, the previous price shall be payable.

Chapter Six

Resettlement and Rehabilitation

Article 44 Resettlement and Rehabilitation for stakeholders

Where due to the implementation of project, the inhabitants of the area lose their residential properties; for the purposes restoring their livelihood, the land acquiring organization shall, prior to the implementation of project, take measures to resettle and rehabilitate them.

Article 45 Establishment of Resettlement and Rehabilitation Committee

The Resettlement and Rehabilitation Committee Shall be composed of the following institutions:

- A. CEO of Arazi as chairperson;
- B. Authorized representative of the land acquiring organization as deputy chairperson;
- C. Authorized representative of the Supreme Court as member;
- D. Authorized representative of the Ministry of Urban Development as member;
- E. Authorized representative of the relevant municipality as member;
- F. Authorized representative of the Ministry of Finance as member;
- G. Authorized representative of the Ministry of Women Affairs, as member;
- H. Authorized representative of the Directorate of Survey and Cadastre of Arazi as member;
- I. Two authorized representative from the project affected people as member;
- J. Representative from the civil society as member;
- K. In case required, representative of any other organization as member.

Article 46 Duties and Responsibilities of the Resettlement and Rehabilitation Committee

- A. Identify and prepare a list of project affected people who are in need of resettlement and rehabilitation;
- B. Identify the location of resettlement and rehabilitation project;
- C. Prepare the list of project affected and displaced people for the purpose of restoring their livelihood;
- D. Propose and prepare implementation plan of the resettlement and rehabilitation project;
- E. Identify and separate the functions of each member for the purposes of executing relevant sections of the implementation plan of the resettlement and rehabilitation project;
- F. Each member of this committee shall have direct responsibility in sectoral and technical section and shall be jointly responsible for coordination in the implementation of plan.

Article 47 entitlement of resettlement and rehabilitation of owners, occupants and affected people

Owners and occupants after receiving compensation and affected people shall be entitled to one residential unit in the resettlement and rehabilitation project, as an incentive.

Article 48 Completion Deadline of Resettlement and Rehabilitation Project

The resettlement and rehabilitation project shall, after the identification by the mentioned committee, be completed prior to the start of the project implementation including the transfer of the residents.

Chapter Seven

Miscellaneous Provisions

Article 49 Change in Map and Plan

- (1) If based on changes in the map or plan or any other reasons the acquired land could not be legally utilized by the acquiring institution, the land shall be given back to the owner on the same price of acquisition upon the application of the owner.

In case, the previous owner does not provide application for the return of the property, the acquired land shall belong to the organization which has paid the compensation or belong to Arazi to be used for public interest

Article 50 non-utilization of the acquired land for other purposes

The acquiring organization is not allowed to utilize the acquired land for other purposes rather than the approve ones.

Article 51 Preservation of Trees

- (1) The trees implanted on the property under acquisition shall be preserved if they are included in the applicable detailed city map as green site.
- (2) The person who obtains land in residential sites shall adopt measures for the greenery and related cleanness of environment as per the advice of the Environmental Protection Agency and the relevant municipality.

Article 52 temporary utilization of individual's property

- (1) For carrying out relevant temporary activities that governmental entities may, without the acquisition of the intended site of the property, carry out relevant temporary activities upon the agreement of the owner or the occupant in exchange for rent to the owner and occupant of the property

(2) Where trees or crops on the land are damaged as a result of the performance of activities provided in section (1) of this Article, the resulting compensation from the mentioned activities shall be paid in accordance with the standards set forth in this law.

Article 53 Serving notice on Arazi in respect of deduction from documents

(1) The land acquiring organization shall notify Arazi with regard to the transfer of ownership including details about the type and size of the acquired property, so that they could be taken into account for the purposes of deduction, charges, and taxes from owner's account.

(2) The land acquiring organization shall be responsible for all charges and expenditures with regard to the transfer of the acquired property.

Article 54 Evacuation of the acquired land

The owner or in case there are several owners, their legal representative shall evacuate the acquired property to the acquiring organization after the receipt of all the compensations.

Article 55 Settlement of Property Disputes

- 1) Disputes arising during the execution of acquisition project shall be preliminarily resolved by Arazi. If Arazi fails to resolve the dispute, the dispute shall be referred to a competent court.
- 2) If the dispute is not resolved, the acquiring organization shall start the implementation of the project and deposit the property compensation in one of the governmental bank.
- 3) The deposited amount of compensation shall be payable to winner of the case by acquiring organization.

Article 56 Prohibition of Transaction on Property under Acquisition

The owner or occupant shall not sell or perform any other kind of property transaction on the property under acquisition after the receipt of notice under section (15) of Article 7 of this law. This provision is not applicable to the division of inherited property among inheritors.

Article 57 Provision of Food Security

Where food sources are damaged as a result of the implementation of acquisition project, the land acquiring organization is obliged to ensure the same food sources.

Chapter Eight

Final Provisions

Article 58 Penalties

(1) Individuals who deliberately obstruct the implementation of the project shall be convicted of a penalty of short term imprisonment not less than 9 months or fine of 500,000 to 1000000 Afs.

(2) The government employees who deliberately obstruct the payment of compensations or cause delay exceeding the due time, shall be convicted of a penalty of midterm imprisonment not less than 18 months or fine of 500000 to 1000000Afs.

(3) The employees who include unaffected persons in the project affected people's list, such forger employees and accomplices shall be convicted as follow:

A. where person under section (3) have received compensations and privileges, they shall be convicted a mid-term imprisonment not less than 18 months in addition to giving back the compensations and privileges;

B. where persons have not received compensation and privileges, they shall be convicted of a fine of 100000 to 500000 Afs.

Article 59 Proposing of Regulations

For the better implementation of the provisions of this law, Arazi in cooperation with other relevant institutions may recommend regulations and enact procedures.

Article 60 Coming into Force

This law shall come into force from the date of publication in the official gazette, and with its enforcement, the land acquisition law published in the official gazette (794), dated 10 *Rajab-ul-Murjib, 1421*, and relevant amendments published in the

official gazette (849), dated 1384 and official gazette (1010) dated 10/11/ 1388 and all other contravening provisions, shall be null and void.