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Law on Managing Land Affairs

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In this issue:

The decree No. (62) Dated 21 July 2008 of President of the Islamic Republic of Afghanistan in regard to enactment of Law on Managing Land Affairs.

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President of the Islamic Republic of Afghanistan
In regard to enactment
Of
Law on Land Managing Affairs

Issue: (62)

Date: 21 July 2008

Article 1:

Pursuant to the provision of article 79 of Constitution of Afghanistan, I hereby enact the Law on Land Managing Affairs, which has been confirmed in accordance with the approval No. (21) dated 21 July 2008 of Council of Ministers into (11) chapters and (95) articles.

Article 2:

Minister of Justice and the Minister of Government in Parliamentarian Affairs shall deliver this decree to the National Assembly within (30) days since its opening session.

Article 3:

This decree shall be effective from enactment date and with the law it shall be published in the Official Gazette.

Hamed Karzai, President of the Islamic Republic of Afghanistan

In the name of god, the Merciful, the Compassionate

Law on Managing Land Affairs

CHAPTER 1 GENERAL PROVISIONS

Base

Article 1:

This law has been enacted in accordance with the provision of paragraph 2 of article 9 of Afghanistan Constitution to manage land affairs.

Objective

Article 2:

The present law's objectives are as follows:

- 1- Creation of a unitary and reliable order across the country.
- 2- Management of property books and land registration based on the credible documents of relevant offices.
- 3- Collection of authentic figures and statistics for the purpose of using them in the future economic and development plans of government.
- 4- Solving the problems resulting from performance of land related reforms of former regimes and endowed lands.
5. Segregation of government, individual, virgin and arid and pasture (grazing) and endowed lands.
- 6- Distribution of government lands as well as virgin and arid lands.
- 7- Restoration of land distributed illegally.
- 8- Provision of adequate opportunities for active and broad private sector participation in and holding sphere.
- 9- Prevention of government land confiscation.
- 10- Providing the opportunity for people to access land.

Terms

Article 3:

Following are the terms with the meanings they stand for in the present law:

- 1- Landowner: An individual who actually owns his/her land on the basis of legal documents is known as landowner.
- 2- Inheritors: Individuals who after distribution of an inheritance are identified eligible according to Sharia provisions to possess the inherited properties of the deceased.
- 3- Family: Husband, wife and unmarried children.
- 4- Settler: An individual to whom the government has distributed land in a place other than his proper place of residence.
- 5- Legal Attorney: A person being appointed as an attorney by the landowner, his inheritors or partners on the basis of a legal deed.
- 6- Agricultural Land: A landed area that can be used for agriculture in accordance with the provisions of the present law.
- 7- Private land: Plot (s) of lands belonging to individuals or non-governmental legal entities.
- 8- Government lands as:
 - Plot (s) of orchard, irrigated and rain-fed lands, hills, parks, marshy lands, forests, pastures, reed-beds and other lands being registered in the principal book of the government lands.
 - Lands which are deemed public lands, but are not registered in the principal book of government lands.
 - Lands in respect of which individual ownership has not been proved legally during settlement.
- 9- Grazing (derelict) lands (Pastures, Harvest Ground, and inherited lands):
 - Grazing lands are those virgin and arid lands in respect to which government or individuals' ownership has not been proven legally.

- If a person having loud voice and standing at the last home of village or town calls loudly, this land up to the place where the voice of the loud voice having person is heard, is considered to be grazing land.

10- Endowed lands' area:

Endowment is an endowed object that is dispossessed off the person who has endowed, but is not owned by the person for whom it has been endowed.

11- Virgin Land (Mawat): The land which has never been brought under cultivation.

12- Arid Land: Land which under normal conditions has not been cultivated for a period of 5 successive years, and which can be brought under cultivation after improvement or construction of a new irrigation system.

13- Fragment: A piece of land which is surrounded by public or private lands or by lands belonging to legal entities. The area under orchards or vineyards, despite being part of the same plot, shall be deemed a separate plot.

14- Small Fragment: A piece of land with an area of less than 5 Jeribs.

15- Additional Land: Portion of the area of landownership possessed by an individual, and which is proved to be in excess of the limits defined in the legally valid landownership document.

16- Legally valid deed: The deed in which characteristics of the owner's land are recorded and which is deemed valid on the basis of the provisions of article 5 of the present law.

17- Changes and alterations in land: Change in the category, area, limits and right of irrigation water of land.

18- Declaration: A printed form which has been distributed prior to the year 1354 (1975) or is distributed after effectiveness of the present law for specifying the quantity and quality of fragment(s) of landholding area of persons and for determination of tax. The declaration form shall not be deemed a title deed and shall only be used for collecting lawful revenues (taxes).

19- Landless Farmer: A person who himself does not own land and is applicant for agricultural activities.

20- Principal book for registration of private lands: A book in which quantitative and qualitative particulars, as well as transfers and alterations of the fragment(s) belonging to individuals and legal entities are registered on the basis of valid deeds outlined in the provisions of the present law.

21- Principal book for registration of government lands: A book in which government lands are registered together with their quantitative and qualitative particulars.

22- Eligible person: A person to whom a land is distributed in accordance with the provisions of the present law.

Management authority

Article 4:

Management of landownership-related affairs is the responsibility of Ministry of Agriculture, Irrigation and Live stock.

CHAPTER 2 TITLE DEEDS

Deeds

Article 5:

The title deeds include:

- 1- A deed issued by a court in respect of purchase, ownership, gift, inheritance, division, land exchange, letter of quittance, letter of correction as well as document of the final decision issued on the basis of former property deeds and containing the following conditions:
 - To have been registered with a judicial court.
 - The superseding deed shall not exist.
 - The land under legal deed, if subject to taxation, shall be recorded in the tax book.

- 2- State decree, government decree and a deed in respect of purchasing land from state's landed properties with the following conditions:
 - To have been issued by a competent organization.
 - The superseding deed shall not exist.
 - To have been recorded in the tax book if the land is subject to tax payment.
- 3- The tax payment document having the following conditions:

- The superseding deed shall not exist.
- To have been registered in the principal books of properties (Amlak) and shall have tax payment ticket of before 5^o of Asad (I 54) &h of Aug 1975).

4- The water rights document having the Following conditions:

- Its superseding document shall not exist.
- To have been registered in the principal books of properties (Amlak) and tax.

5- A customary deed shall be legally valid under the following conditions:

- A- The land seller should have a valid deed.
- B- Where the customary deed has been prepared before the 15th of Asad, (1354), and

the buyer having filled the declaration form before the year 1357 and submitted it to the relevant office after being confirmed by the farmers whose lands having joint borders at the same fragment. In locations where declaration forms were either not distributed or distributed before the year (1357) but the registration book has become extinct, and where no claim to the land existed and the land purchase and the possession thereof by the buyer has been confirmed by the landowners holding lands having joint border with the above fragment, as well as by the inhabitants of the locality where the land is situated.

6. A formal title deed having the following conditions:

- The legal title deed shall exist.
- To have been issued after legal settlement.
- To have been registered in the principal books of properties (Amlak) and tax.
- No claim to the land shall exist.

7. Landownership document (the title deed) having the following conditions:

- To have been prepared and issued by the relevant court after legal settlement of the land.
- To have been registered in the principal books of properties (Amlak) and tax.

Exchange of title deed

Article 6:

The documents mentioned in the article 5 of the present law except for the document mentioned in its paragraph (1) shall be referred to the relevant court after land settlement by the settlement commission and be exchanged to title deed by the court.

Registration of immovable agriculture installations

Article 7:

Watermill, Paikoob (a foot-operated wooden machine for beating paddy and cereals and removing husk), as well as other immovable agricultural installations and equipments existing in the landholding area of the person and are deemed to be his property, shall be recorded in the principal land registration and tax book.

Not having a legal title deed

Article 8:

- Where the landowner is not in possession of a deed and the land possessed by him has not been registered in the State properties book, and other individuals did not make claim for the ownership of the land, and where the signs of agricultural construction have been observed on the land, and where the landowners holding lands having joint borders with his land confirmed the location under his possession for 35 years and where it is not located under government project, the same land of till 100 Jeribs shall be deemed his property on the basis of his possession as owner.
- Where the government finds the documents superseding possession of the person mentioned in paragraph (1) of this article, the land shall be known as government property; and the following performances shall be observed in this case: Where the possessed landholding area is till (10) jeribs of first category land or equivalent to it, it shall, free of charge, be given under possession of landowner; and more than 10 jeribs equivalent of class one land category shall be sold to the landowner on the current market price and by installments of five years.

Additional land:

Article 9:

In regard to area which has an additional land, and is not under any government project, and meets the conditions of article 8 of the present law, up to 10 Jeribs of class one land or equivalent thereof shall be, free of charge, given under the possession of the landowner, and the land in excess of 10 Jeribs shall be sold to the landowner on the current price.

Granting the document to settler

Article 10:

(1) Settlers having obtained land from the State prior to enforcement of the present law shall be subject to the following actions:

- a- Where the settler or his inheritors have paid the entire installments of the land price, they shall be granted the title deed.
- b- Where the settler or his inheritors have partially paid installments of the land price. The remainder installments shall be determined according to current price, and after payment of these installments they shall be granted the title deed in respect of their related land.
- c- Where the settler or his inheritors have not paid the installments of the land price, the land price shall be determined according to current land price, and after payment of entire price, they shall be granted the title deed in respect of their related land.

(2) Where the settler or his inheritors have abandoned land due to difficult environmental conditions, and where they make recourse while no State establishments are constructed on the land, and where the landowners possessing lands having joint border with his land as well as the local administration center confirmed their possession of the land, they can obtain the legal deed after payment of the entire installments of the land price on the basis of market rates.

Where State establishments are partially constructed on the derelict land of the settler and the settler having paid the entire installments of the land price, the remainder of the land shall be handed over to the settler, and the land portion over which the establishments have been constructed shall be appropriated by the State.

Where State establishments are totally constructed on the derelict land of the settler and the settler having paid the entire installments of the land price, the land shall still be appropriated by the State according to provisions of law.

Granting the land distribution certificate

Article 11:

The persons to whom land is distributed in accordance with the provisions of the present law in case they have not paid the entire land price, only the land distribution and possession certificate shall be granted to them by the settlement commission; after payment of land price and upon concluding the agreement in its entirety with the local land management department, the eligible person shall be granted the legal deed through the relevant court

Granting the duplicate document

Article 12:

When the person loses legal deed or land distribution certificate, he shall be granted the duplicate thereof.

CHAPTER 3 LAND SETTLEMENT

Conducting the settlement process

Article 13:

- (1) The Ministry of Agriculture & Irrigation and Livestock shall conduct the process of landholding settlement and management from technical and administrative points of view.
- (2) The Supreme Court of the Islamic Republic of Afghanistan, Finance, Energy & Water and Agriculture & Irrigation and Livestock ministries, General Administration of Geodesy and Cartography as well as relevant local departments shall be jointly responsible to implement the provision stipulated under clause (1) of the present article.
- (3) Practical work on the site shall be carried out by the settlement commission.

Composition of the land settlement commission

Article 14:

(1) To settle the landholding area, the settlement commission shall perform its functions with the following composition:

- a- Representative of the land management organization of Ministry of Agriculture, Irrigation and Livestock as chief.
- b- In charge of settlement affairs of the land management organization, as member.
- c- In charge of administrative affairs of the land management organization, as member.
- d- Representative of Ministry of Finance, as member.
- e- Representative of Ministry of Energy and Water, as member.
- f- Representative of local promotion and propagation department of Ministry of Agriculture, irrigation and Livestock, as member.
- g- Representative of cadastre team of the General Department of Geodesy and Cartography, as member.

(2) The number of members of the settlement commission mentioned under clause (1) of the present article is assigned each year based on the suggestion of Ministry of Agriculture, Irrigation and livestock and endorsement of the President of the Islamic Republic of Afghanistan.

Obligations and powers of the settlement commission

Article 15:

The land settlement commission has the following obligations and powers:

- 1- Settlement of landholding areas, distribution of document and land.
- 2- Determining the limits, category, water rights and tax of the land.
- 3- Determining and segregation of individual, state, as well as grazing, endowed, virgin and arid lands, jungles and so forth.
- 4- Referring the disputes and lawsuits related to grazing, endowed, virgin and arid lands, jungles and so forth to the competent authorities.
- 5- Registration of land settlement conclusions in the relevant book.
- 6- Referring the conclusions of land settlement for registration in the principal books of properties (Amlak) and local tax as well as preparing legal document in the relevant court.
- 7- Restoration of previously illegally-distributed land to the owner, or to his legal inheritors.
- 8- Sending performance report to the relevant provincial land management department and to the central land management organization.
- 9- Other duties for the purpose of enforcement of provisions of the present law that are assigned by Ministry of Agriculture, Irrigation and Livestock.

Duties of cadastre team

Article 16:

- (1) Cadastre team of the general department of Geodesy & Cartography is obligated to accomplish the following tasks, free of charge:
 - a- Provide information on the registered maps, results of cadastre as well as a list of the prospective owners and other cadastre-related documents.
 - b- Determine the area and design sketch of land plots.
 - c- Determine boundaries of the land plot.
 - d- Adjust local land measuring scale to Jerib
 - e- Accomplish other tasks, for the purpose of enforcement of provisions of the present law, which might be assigned by Ministry of Agriculture, Irrigation and Livestock.
- (2) Land settlement and survey shall take place concurrently.

Identification and determining land category

Article 17:

Representatives of the ministries of agriculture, irrigation and livestock, water & energy and finance are respectively obligated to identify and determine the category of the land plots, define the water rights as well as taxes of the land plots at the respective area.

Cooperation of land owner or his legal representative

Article 18:

The owner or his legal representative shall be obligated to render cooperation for settlement of the respective landholding area to the settlement commission on the site until the end of its work.

The central commission for land management

Article 19:

(1) In order to render better cooperation and to provide technical and administrative support to implementation of field activities as well as to overcome problems on the spot. The land management commission shall be created in the center with the following composition:

- a- Minister of agriculture, irrigation and livestock, as chairman.
- b- Head of general land management department, as vice-chairman.
- c- Representative of the Supreme Court, as member.
- d- President of promotion & and propagation department of ministry of agriculture, irrigation and livestock, as member.
- e- President of water management of the ministry of water & energy, as member.
- f- President of general department of geodesy and cartography, as member.
- g- President of revenues of the ministry of finance, as member.

(2) The central commission of land settlement shall call its meeting once in each quarter of the year, and if necessary, shall call more meetings.

Establishment of provincial commission

Article 20:

(1) For better management of field activities of land settlement, and for overcoming the problems resulting from implementation of land settlement activities, the commission shall be formed in provinces with the following composition:

- a- The governor, as chairman.
- b- Head of agriculture, irrigation and livestock department, as vice-chairman.
- c- Head of appeal court, as member.
- d- Mustofee, as member.
- e- Head of energy & water, as member.
- f- Head of department of geodesy and cartography, as member.
- g- Head of land management department, as secretary-cum-member.

(2) The commission stipulated in the clause (1) of the present article shall call its

meeting once a month, and if necessary, shall hold its meeting more than once.

Expropriation of land of a person

Article 21:

In order to ensure public interests, the State, if necessary and according to provisions of law, can appropriate the land of a person, which shall take place after the land settlement:

- 1- Where the entire or a portion of the land possessed by the owner or his heirs and/or by the settler or by the eligible person with the entire installments of the land price having been paid, falls under a project or is subject to permanent use by the State departments and institutions.
- 2- Where the settler or the eligible person has paid a portion of the installments of the land price, actions in regard to compensating the paid portion shall be taken in accordance with clause (1) of the present article.

Expropriation by the relevant departments

Article 22:

A land under project, which has been changed into constructions, establishments or into residential quarters prior to settlement, shall not be settled by the settlement commission, and shall be appropriated by the relevant departments upon observing valid documents possessed by the owner or his heirs.

Referring the disputes to court

Article 23:

Land-related disputes and claims, if could not be settled by the settlement Commission, shall be referred to the court for settlement.

Inheritance

Article 24:

The landholding area of a deceased shall be legally distributed among inheritors by the court.

Area settlement based on the customary divisions

Article 25:

Persons whose lands are recorded collectively on the basis of a legal document in the name of tribe, tribal elders, a reputed elder (an elder of a village), subterranean irrigation canal (kariz) or in the name of other persons, and the portion of each owner is being specified on the basis of customary distribution, the settlement commission can settle their respective landholding area as follows:

- 1- List of the area, limits and water rights shall be prepared in respect of each person who is practically in possession of the land.
- 2- Signature or fingerprint of each possessor shall be obtained on the above list.
- 3- The land belonging to each person shall be included in the forms for land area evaluation, re-registration and settlement of landholding area; and the comment on the settlement shall be issued.

Settlement of undivided landholding area

Article 26:

Where the title deeds belonging to various landowners are prepared on the basis of common boundaries and where their landholding area is commonly held, following actions shall be taken for their settlement:

- 1- Dimensions of the original area as well as class one equivalent of the property of each person shall be determined upon observing the title deed.
- 2- If the title deed is a tax document, considering its conditions, the amount of the annual tax up to S.H. 1354 in respect of each owner shall be obtained from the principal book for registration of properties and the landholding area of each person shall be determined in proportion to the amount of his annual tax payment.
- 3- Boundaries of commonly-held land, its original area as well as its equivalent of class one area shall generally be determined by the cadastre team.
- 4- Share of each person shall be separated in proportion to the area mentioned in the title deed or in proportion to tax payment document, and in case of disagreement of parties or inheritors; the issue shall be referred to the court.
- 5- The land possessed in excess of the area mentioned in the document of the landed property commonly held by the persons shall be deemed additional land and actions in respect thereof shall be taken in accordance with the provisions of the present law.

Land property of person

Article 27:

The land recorded in the books in the name of a person in the form of temporary tax and permanent farming (a life undertaking), and the person has paid its taxes for (40) years at minimum, shall be deemed property of the person concerned.

Destruction of valid documents

Article 28:

In places where principal property and tax books as well as valid land documents which could confirm the property of a person have been destroyed, and in case of non-existence of the books in the center, the landholding area of persons shall be settled after the property is confirmed legally.

CHAPTER 4 RESTORATION OF EXACTED LANDS TO THE LAND OWNERS

Performances in regard to the exacted lands

Article 29:

Lands being exacted (confiscated) from their owners or their inheritors without compensation on the basis of decrees and legislative documents of the then communist regime after 7 Saur. (S.H. 1357) on different grounds contrary to the Islamic Sharia, shall be subject to the following actions:

- 1- Where the land has not been distributed and has remained in its former state shall be restored to its real owner or his legal inheritors.
- 2- If the land has been distributed to persons in accordance with the then legislative documents, the owner or his inheritors, with mutual agreement of the parties, can collect the price of the distributed land on the current rate from the afore-mentioned persons or their inheritors. If there is disagreement between the parties, the land shall again be restored to the owner or his legal inheritors.
- 3- Where the land exacted from its owner, whether living or deceased, has been distributed to the state department. Institutions and agriculture farms and the establishments and constructions have been built on the land; the organization using the land shall pay the land price to its original owner or his legal heirs on the current rate. While determining the price of land, the original state of land without constructions and establishments shall be considered.

Changes on the land contrary to legislative documents of that time

Article 30:

Where the landholding area has been previously distributed to person and the person or his heirs have brought changes and made changes on the land contrary to enforced laws of that time, following actions shall be taken:

- 1- Where the distributed land has been transferred to others while non-agricultural changes have not been made, the distributed land shall be returned to its real owner and the persons who bought the land shall receive their money back from the land sellers.
- 2- Where the change on the land has been made by construction of establishments, the land price on the current rate shall be paid to owner of the land.

- 3- Where changes on the land have been brought in a way which decreases the price of land, the person that brought these changes or his legal representative/heirs is obligated to return the land back to its real owner and shall pay the compensation for the damages.

Exchange of previously-exacted landholding area of person

Article 31:

Following actions shall be taken in regard to a person whose previously-exacted landholding area has been exchanged with the landholding area of another person:

- 1- Provided that the arability of both lands being exchanged has not been altered, the exchange shall be nullified and either person shall be given his respective land.
- 2- If the exchanged land has been distributed to another person, the exchanged land shall be returned to its real owner.
- 3- Where establishments are constructed on the exchanged land, or a person whose land has been exchanged with the land of another person has brought changes and alterations at the exchanged land, the landowner shall have the right to either possess the land or to receive the land price.

Lands of absent persons

Article 32:

- (1) Persons that are absent and their lands are left abandoned, the land management department shall lease these abandoned lands till their owners or legal heirs appear.
- (2) In the case stipulated in clause (1) of the present article, the lease money shall be temporarily deposited to the bank and where the absent person refers, it shall be returned to him.

Actions in regard to arbitrary possession of land and its illegal distribution

Article 33:

- (1) Where the landholding area of persons or the State is distributed to persons based on the then enforced laws and contrary to the principles of the Islamic Sharia, or the land is possessed by persons arbitrarily, the following actions shall be complied with:
 - a- Where the land is part of the property of persons, it shall be restored to the real owner, his legal representative or to his inheritors.
 - b- Where the land is part of the State properties, or the real owner has left no inheritors, the land shall be recorded in the total properties of the State.

- (2) In the cases stipulated in the clauses (a and b) of the present article, the person shall not have the right to claim any compensation of loss.

CHAPTER 5 ELIGIBLE PERSONS

Eligibility requirements

Article 34:

- (1) A person who has the following qualifications shall be entitled for land distribution:
- a- To be citizen of the Islamic Republic of Afghanistan.
 - b- To have completed eighteen years of age.
 - c- The person shall make commitment to, himself or his family members, to cultivate the distributed land, make constructions on it and safeguard the land.
- (2) Grade of eligible persons based on the eligibility grade shall be determined by the settlement commission.

Obligations of eligible person

Article 35:

After determination of eligibility, the eligible person shall observe the following conditions:

- 1- To fill out and deliver his land eligibility form to settlement commission within (15) days effective from submission date.
- 2- To take action to cultivate and construct the land after hand over of the land.
- 3- To pay installments of the land price and the tax at the appointed time.

Determining the priority grade

Article 36:

A person who meets the qualifications mentioned in the article 34 of the present law, his priority grade in distribution of land shall be determined as follows:

- 1- The grade one eligible person:

- The landless farmer whose family members are more than the others.
 - The landless farmer that his under cultivation land has been possessed by the state for the purpose of public interest.
- 2- The grade two eligible person:
- The landless farmer and an agricultural laborer of a village and locality at which distributable land exists.

Death of eligible person

Article 37:

Where the eligible person dies, the following provisions shall be observed:

- 1- Heirs of the eligible person can use the land by paying the installments of the distributed land price. After completion of all installments of the land price, the heirs have the right on the inheritance and definite transfer of the land.
- 2- If the heirs are minors or female, or if the eligible person based on the health-related excuses cannot cultivate the land, he can get a farmer to cultivate his land, or he can lease it.
- 3- If the eligible person or his heirs do not want to continue exploitation of the distributed land after effectiveness of the present law, he/they can restore the land to the state; in this case, the installments paid from the state budget shall be returned to the state.

The priority right in land distribution

Article 38:

A married eligible person or a person who is a livelihood and accommodation in charge of family shall have prior right in land distribution compared to a single eligible person with the same grade.

CHAPTER 6 LAND DISTRIBUTION

Distributable lands

Article 39:

- 1- The state lands provided that they are not needed for the establishment of a farm or a project thereon can be distributed.
- 2- Land distribution shall take place through recommendation of the ministry of agriculture, irrigation and livestock and upon approval by the president of the Islamic Republic of

Afghanistan against a just price by a ten year installments; and till completion of installments, the land shall be kept as a borrow by the eligible person.

- 3- The price of the land to be distributed shall be determined in conformity with the local land price at the time of land distribution by the commission consists of representatives from the Supreme Court, ministry of agriculture, irrigation and livestock. ministry of finance, ministry of energy & water, land management department and the geodesy and cartography (cadastre) department of the relevant province.
- 4- The time for payment of installments of price of the land that are distributed after effectiveness of this law, is started one year after distribution date.

Land categorization

Article 40:

For settlement, property confirmation, tax measurement and distribution purposes the land shall be divided into seven categories, and while adjusting categories into first category, the following coefficients shall be complied with:

- 1- Category one land: (Orchard or vineyard), coefficient (1.00).
- 2- Category two land: (double crops irrigated), coefficient (0.85).
- 3- Category three land: (A single crop irrigated land), up o 50 percent of which is cultivated or irrigated annually, coefficient (0.67).
- 4- Category four land: A single crop irrigated land, up to 50 per cent of which is cultivated or irrigated annually, coefficient (0.40).
- 5- Category Five land: rain-fed land which is cultivated every other alternate year, coefficient (0.20).
- 6- Category six land: Rain-fed land, which is cultivated every two alternate years, coefficient (0.15).
- 7- Category seven land: Rain-fed land, which is cultivated for more than two alternate years, coefficient (0.10).

Land measurement unit

Article 41:

The land measuring scale unit is Jerib corresponding to (2000) m².

Distribution of land based on the categories

Article 42:

The land is distributed for the applicant in one of the categories as follows:

- 1- Category one land (10) jeribs.
- 2- Category two land (12) jeribs.
- 3-Category three land (15) jeribs.
- 4- Category four land (25) jeribs.
- 5- Category five land (50) jeribs.
- 6- Category six land (66) jeribs.

7- Category seven land (100) jeribs.

Determination of the annual average income

Article 43:

The general average annual income of one Jerib land in localities is differently determined by agriculture, irrigation and livestock, geodesy and cartography (cadastre) and land management departments.

Distribution of land based on the lot

Article 44:

Where there are more eligible persons in respect of the land to be distributed, the land shall be distributed in the presence of the majority of the eligible persons on the basis of drawing lots.

Distribution of small and sparse land parcels

Article 45:

- (1) The small and sparse land parcels hindered from distribution, shall be firstly distributed to a farmer who has little land with joint border; secondly to the landowner who has land with joint border and then to the landowner having the least land in the locality based on the market price. In this case, the landowner shall pay the full land price once.
- (2) Where the landowner mentioned in the clause (1) of the present article wants not to buy the land, the land shall be sold through auction.

Sale and transfer of virgin and arid lands

Article 46:

- (1) No person can possess virgin and arid lands, unless authorized by the president of the Islamic Republic of Afghanistan.
- (2) Where a person arbitrarily possesses the properties (uncultivated lands) and decree of the President of the Islamic Republic of Afghanistan does not exist, upon arbitrary possession, such kind of properties (lands) are not deemed to be private. Permission of actual possession is only under authority of the President.
- (3) Selling of virgin and arid lands to individuals, agriculture & livestock institutions, private and joint domestic companies by Ministry of Agriculture, Irrigation and Livestock shall take place on the basis of auction after being approved by the president of the Islamic Republic of Afghanistan.
- (4) Virgin and arid lands shall be put at the disposal of the buyer after going through legal formalities against a just price by the Ministry of Agriculture, Irrigation and Livestock. Former possessor shall be granted the right of priority.

- (5) The price of virgin and arid lands shall be determined upon considering the price of lands located next to it, on the site by commission of evaluation and land disposal composed of representatives of agriculture, irrigation and livestock, mines and finance ministries as well as the representatives of historical monuments department of ministry of information and culture and geodesy and cartography department. The determined price shall be submitted for confirmation by the council of ministers and for approval by the president of the Islamic Republic of Afghanistan.
- (6) The price of virgin and arid (uncultivated) land shall be obtained by five equal installments within five years effective from the land distribution date.

Determination of criteria for land sale

Article 47:

- (1) Lands being specified for sale shall be the net property of the State, or shall be virgin and arid lands, and shall not be under State projects, urban master plan, forests, pastures, mines and historical monuments.
- (2) Evaluation of virgin and arid (uncultivated) lands before distribution shall be conducted by a technical delegation consisted of the representatives stipulated in clause (5) of article (46) of the present law to acquire the following goals:
 - 1- Having the capability of construction and cultivation.
 - 2- Conducting studies (survey) on the relevant site.
 - 3- Identifying and determination of water sources and digging deep well, from viewpoint of existence of underground and on the earth surface water and their volumes.
 - 4- Observing the rights of joint-border land owners for construction on the land due to water right and other required aspects.
 - 5- Rehabilitation and construction of dams and streams for bringing the relevant area under irrigation.

Distribution of virgin and arid lands for establishment of farms

Article 48:

Sale of virgin and arid lands for the sake of establishing agriculture farms, to domestic private and joint-stock companies shall take place upon considering the volume of capital.

Application for virgin and arid lands

Article 49:

The application for receiving virgin and arid (uncultivated) land shall be submitted to the ministry of agriculture, irrigation and livestock. The application shall be reviewed by the evaluation and assessment commission within one month and shall be sent to the general land management department. Actions shall be taken in regard to sale of the relevant land through the general land management department in accordance with the provisions of the present law.

CHAPTER 7 TRANSFERS AND ALTERATIONS OF LAND

The right to transfer property

Article 50:

- (1) The owner has the right to transfer his property irrevocably or temporarily.
- (2) Irrevocable transfer of landed property as well as that of immovable installations and equipments existing in the landholding area shall take place on the basis of a legal deed.
- (3) An eligible person and a settler after paying the entire installments of the land price and after obtaining the legal deed as well as heirs of the eligible person with their shares having being confirmed, shall have the right to transfer their lands.

Transfer of landed property

Article 51:

Transfer of landed property shall take place by the relevant court of the place through the land management department. Registration of land transfers in principal land registration book as well as in the book of tax without charge.

Quantitative and qualitative alterations in the land

Article 52:

Qualitative and quantitative alterations in the land shall be registered in the principal land registration book as well as in the tax book on the basis of written information provided by the

landowner with the approval of local agriculture, irrigation and livestock department after settlement.

Transfer of state land to departments

Article 53:

Transfer of the State land to State departments and institutions shall take place after determining the price of land on the basis of an agreement between the land management department and the end-user department after the agreement of minister of agriculture, irrigation and livestock and approval by president of the Islamic Republic of Afghanistan.

Exchange of personal land to state land

Article 54:

A person owning land parcels in several locations, can exchange his land located in a district or province with state land upon observing the category and price of land provided that the lands which would be exchanged are not farm land and are not under a project.

Exchange of land between individuals and state

Article 55:

Exchange of lands between individuals and State shall take place upon observing the category and price of the land, through mutual agreement between the parties provided that the lands which would be exchanged are not farm land or are not under a project.

Exchange of land on the basis of legal document

Article 56:

Exchange of land between individuals shall take place through land management department and by the relevant court of the place on the basis of a legal document and according to mutual agreement between parties.

Agriculture lands distributed to cooperatives

Article 57:

The state agricultural lands which were distributed to cooperatives, non-governmental institutions and companies after 7 Saur, 1357 till establishment of interim government, shall be subject to the following actions:

- 1- Where such cooperatives and institutions are active, they shall pay the land price on the current rate to the State.
- 2- Where such cooperatives and institutions are inactive, the land shall be appropriated by the State without compensation of loss of the user.

Invalid transfers

Article 58:

The transfers that take place contrary to the provisions of the present law, shall be considered invalid.

CHAPTER 8 LAND LEASING

Leasing the state land

Article 59:

- (1) State and private lands shall be leased on the basis of a written agreement between lessor and lessee in accordance with the provisions of law.
- (2) Parties to an agreement shall have legal capacity and authority.

Lease document

Article 60:

The lease document shall contain the following terms:

- 1- A description of lessor, lessee and witnesses.
- 2- A description of the characteristics of land plot(s) under lease.
- 3- Clarification of obligations of the parties to the agreement.
- 4- Confirming the lease period, the amount of lease charges, together with its due dates and payment procedure.
- 5- Conditions for annulment of the agreement.

Obligations of lessee

Article 61:

The lessee has the following obligations:

- 1- To safeguard the soil, irrigation network, installation and equipments existing on the land and which are essential for the benefits of land under lease.
- 2- To keep clean stream, kariz, brook and well related to the land under lease.
- 3- To cultivate the land in accordance with the terms of lease.
- 4- To pay the rental in accordance with the agreement. The lessee can make cash payment in lieu of lease charges, with agreement of the lessor.
- 5- To undertake partial repairs of equipments and fixtures of the land under lease.
- 6- To compensate losses caused to land and equipments to lessor.
- 7- To inform the lessor of any kind of intervention to the land under lease by individuals.
- 8- The lessee cannot use the right to irrigation water in respect of the land under lease for other purposes.
- 9- The lessee cannot take action in regard to transfer or in regard to give the land under lease as security.
- 10- To hand over the land under lease together with its equipments and fixtures to lessor upon the expiration of agreement.
- 11- Other obligations as might have been foreseen in the law.

Obligations of lessor

Article 62:

The lessor has the following responsibilities:

- 1- To handover the land under lease to the lessee together with the entire equipments and fixtures as stipulated in the lease agreement at the specified time.
- 2- To give a written receipt to the lessee for receiving the lease charges.
- 3- To undertake overall and essential repairs on installations and fixtures of the land in accordance with the local practice.
- 4- Other responsibilities foreseen in the present law.

Payment of expenses after improvements

Article 63:

Where the lessee brings improvements to the land under lease, the expenses thereof shall only be disbursed to him provided that the lessor has agreed in writing to pay them to the lessee.

Period of land lease for encouragement of investments

Article 64:

- (1) For the purpose of encouragement and attraction of private sectors to establish agriculture, livestock and orchard farms and so on. the ministry of agriculture, irrigation and livestock can lease, the fertile lands up to (50) years and the virgin and arid (uncultivated) lands up to (90) years to individuals, organizations and to (domestic and external) private and joint-venture agriculture companies on the basis of agreement and according to provisions of the present law.

- (2) Upon observing the provisions of the Private Investment Law with agreement of relevant departments and in proportion to the type of land, the project and the measurement of capital, the ministry of agriculture, irrigation and livestock can lease the virgin and arid (uncultivated) lands to a private entrepreneur for investment purposes other than the purposes stipulated in the paragraph (I) of the present article.
- (3) The ministries and state departments can lease their relevant landed properties for non-investment purposes up to five years and for investment purposes in accordance with the provisions stipulated in the paragraphs (1 and 2) of the present article.
- (4) The ministries and state departments can rent or lease the respective inn, apartment, and shop and so on for up to five years.
- (5) The ministries and state departments shall lease the properties stipulated in paragraphs (1, 2, 3 and 4) of the present article upon observing the auction principle and in accordance with provisions of law.
- (6) The lessor shall not lease the land under lease to other person till expiration of the lease period or its annulment.

Determining the lease period

Article 65:

Taking the provision stipulated in the article 64 of the present law into account, the land lease period shall be determined by the ministry of agriculture, irrigation and livestock in proportion to the type of land of the relevant project and measurement of the capital.

Lease of virgin and arid lands

Article 66:

- (1) The measurement of the virgin and arid (uncultivated) lands, which are leased to individuals, agriculture and livestock organizations, and to domestic and external private and joint-venture companies to construct, build and establish agriculture, livestock and orchard farms, shall be determined according to the type of land, project and use of the mechanized agricultural equipments and machinery and the measurement of capital, as follows:
 - a- To individuals up to (250) Jeribs.
 - b- To agriculture private and joint-venture companies up to (5000) Jeribs.
- (2) The conclusion of agreement of the lands stipulated in the paragraph (1) of the present article is approved as follows:
 - a- Up to (1500) jeribs by the minister of agriculture, irrigation and livestock.
 - b- More than (1500) jeribs up to (5000) jeribs by the economic committee of council of ministers.
 - c- More than (5000) jeribs by council of ministers.

Period for recovery of virgin and arid lands

Article 67:

- (1) The period for recovery and improvement of the virgin and arid (uncultivated) lands under lease shall be as follows effective from the conclusion date of agreement:
 - a- Where the area of virgin and arid land is up to two hundred and fifty (250) jeribs, the period shall be two years based upon the circumstances.
 - b- Where the area of virgin and arid land is further than two hundred and fifty (250) jeribs up to one thousand and five hundred (1500) jeribs, the period shall be up to four years based upon the circumstances.
 - c- Where the area of virgin and arid land is further than one thousand and five hundred (1500) jeribs up to five thousand (5000) jeribs, the period shall be up to eight years based on the circumstances.
- (2) The period for recovery and improvement of the land specified under paragraph (1) of this article does not include the period of lease agreement.
- (3) The progress of recovery and improvement of the land under lease shall be supervised and controlled by the land management department and the private sector department of ministry of agriculture, irrigation and livestock every six months. Where the lessee fails to utilize the land under lease in the period specified under paragraph (1) of this article, the ministry of agriculture, irrigation and livestock can annul the agreement and can newly lease the land under lease in accordance with the provisions of law.

Utilization of lessee

Article 68:

The lessee shall utilize and use the land under lease for the purposes stipulated under article 66 of this law and according to the provisions of the agreement. In case of violation, the ministry of agriculture, irrigation and livestock can annul the agreement.

Separation of location and type of land

Article 69:

An evaluation committee comprised of representatives of agriculture, irrigation and water; finance; mines; energy and water; and urban development ministries and department of geodesy and cartography is assigned to separate the location and type of land and the quality and type of the project from view points of possibility of improvement, cultivation and utilization, recovery, sketch of the area, identifying the surface and underground water sources. The municipality representative shall definitely be as a member of the evaluation committee in the areas under the urban master plan.

Lease of land to private entrepreneur

Article 70:

Lease of the land to a private entrepreneur shall take place through land management department and private sector department of ministry of agriculture, irrigation and livestock.

Obtaining the lease charges

Article 71:

The ministry of agriculture, irrigation and livestock shall obtain the lease charges of fertile lands from the conclusion date of agreement and the charges of virgin and arid lands after expiry of the period specified under paragraph (1) of article 64 of this law and transfer it to the state incomes account.

Increasing the amount of lease charges

Article 72:

Upon observing the provision of article 64 of this law and in proportion to the type of land, project, capital amount and the capability of exploitation and cultivability, the ministry of agriculture, irrigation and livestock can increase the amount of lease charges of fertile lands and virgin and arid lands from one up to ten percent after every five years.

Non-payment of expenses

Article 73:

Where the lessee constructs installations on the land under lease, its expenditures shall be paid.

Non-compensation of loss

Article 74:

Where the land, fixtures and equipments are damaged or destroyed as a result of natural disasters, the lessee shall not be obligated to make compensation of the losses.

Conditions for lease annulment

Article 75:

The lessee can annul the lease agreement under one of the following circumstances:

- 1- Illness or reduction in the number of his family members.
- 2- Occurrence of disasters resulting from force majeure, which may compel the lessee to abandon the location or to render the land under lease uncultivable.

3- Other circumstances foreseen in the agreement and in this law.

Annulment of lease before the end of the lease period

Article 76:

Where the lessee wants to annul the lease before the end of the lease period, he shall communicate the issue at least three months before the collection of harvest to the land management department and to the lessor.

Determining the lease charges of the state land

Article 77:

In determining lease charges of the State land, product of the land next to the State land, shall be taken into consideration.

Where the lease charges are deemed unfair by the general land management department, it has the right to make objections.

Suing the lessee

Article 78:

Where a lessee acts contrary to commitments set forth in the agreement, shall be sued.

Information on agricultural disasters

Article 79:

Where State lands under lease sustain losses as a result of agriculture pestilence, the lessee shall be obligated to communicate the issue till 5 days to the land management department. The extent of losses shall be determined by a local delegation comprising representatives of agriculture, irrigation and livestock, Mustofyat and geodesy and cartography departments and the head of local council (Shura) on the spot. Recommendations of the delegation shall be final after being confirmed by the governor and the approval of the minister of agriculture, irrigation and livestock.

Taking back the land under lease entirely or partially

Article 80:

When the State needed taking back its land under lease entirely or partially, the following actions shall be taken in this regard:

- 1- Where the leasehold is taken back after harvesting time, the agreement shall be annulled and the lessee shall be obligated to pay lease charges in accordance with the lease agreement.
- 2- Where the leasehold is taken back before harvesting time, and where the lessee has made expenditures in respect of the leasehold, such expenditures shall be reimbursed to him in accordance with the local practice and the lease agreement shall be annulled thereupon.
- 3- Where a portion of the land is restituted before harvesting and another portion is taken back thereafter, the amount of lease charges shall be determined in proportion to the restituted land, and in regard to the remaining land, provided agreed upon by the parties, the agreement will remain the same.

Referring the disputes to court

Article 81:

Land lease-related disputes, if not settled by local branches of the land management departments, shall be referred to the court.

CHAPTER 9 PASTURES AND ENDOWED LANDS

Pastures

Article 82:

- (1) Pastures are virgin and arid lands, on which state and individual possession has not been proved legally and they are deemed public property. An individual or the State can not possess pasture lands, unless otherwise stipulated by the Sharia.
- (2) Pastures shall be kept unoccupied for the sake of public requirements of local villagers (for cattle grazing, graveyard, threshing ground and etc.

Possession of pastures

Article 83:

Where a person possesses pasture land, however long his possession of pasture land might be, and where it is legally confirmed to be pasture land, the person shall be dispossessed and the pasture land shall no longer remain under his possession.

Endowed land

Article 84:

- (1) Land being endowed shall no longer remain under the ownership or possession of the owner.
- (2) Selling, giving in gift, transferring or inheriting the endowed land is not permitted.
- (3) The interests of the endowed land, for whatever purpose it might have been endowed, shall be utilized for the same purpose.

CHAPTER 10 PENAL PROVISIONS

Non-appearance of owner in the settlement area

Article 85:

Where the owner, his family members and/or his deputy do not appear in the landholding area without legal excuse until the end of work of the settlement commission after receiving notification, they shall be subject to legal prosecution and punishment.

Intentional destruction of irrigation installations

Article 86:

A person who intentionally destroys irrigation installations or buildings and equipments related to the fragment of the state land shall be subject to legal prosecution in addition to compensating the losses sustained by the State.

Not providing information on the new alterations and changes

Article 87:

A landowner who intentionally distorts information provided to the land management department on new changes and alterations brought in the land shall be subject to legal prosecution.

Usurpation of land or introducing as landowner

Article 88:

A person who usurps the state land, or falsely introduces himself as the landowner, he shall be dispossessed and be subject to legal prosecution.

CHAPTER 11

FINAL PROVISIONS

Error in the land area and boundaries

Article 89:

Where an error has taken place in measuring the landholding area of a person or state, or the land of a person or state is erroneously registered in the title deed of another person, the settlement commission shall investigate the issue and shall take action for the correction thereof through the court.

Non-agriculture activities on agriculture lands

Article 90:

Construction of roads, buildings and establishments, and non-agriculture activities are not allowed on agriculture lands. In exceptional cases the users are required to obtain in advance agreement of the ministry of agriculture, irrigation and water and approval by the president of the Islamic Republic of Afghanistan.

Keeping the settlement documents

Article 91:

At the end of work of the settlement commission on the site, the settlement documents shall be kept in the provincial archives of land documents related to the land management.

Confiscation or sequestration of land

Article 92:

After enforcement of the present law, the State can neither confiscate nor can sequester the lands belonging to persons.

Annexation of virgin and arid land to the land next to it

Article 93:

The fragment of virgin and arid (uncultivated) land can be annexed to the land next to the land of a landowner who owns the minimum landholding area, in lieu of a price under the following conditions:

- 1- Shall not be under any project.
- 2- Shall be cultivable, irrigation sources be provided for it and shall not trespass other's water rights.
- 3- Shall not cause to disturb owners of the lands next to the mentioned land and residents of the relevant area.
- 4- The land correction form should have been filled and passed its legal procedures.

Suggestion of regulation and enactment of procedures

Article 94:

In order to better implement the provisions of the present law, the ministry of agriculture, irrigation and livestock can suggest regulation and enact procedures.

Enforcement

Article 95:

The present law shall enter into force upon being approved and published in the official gazette, and with the enforcement thereof the land management law published in the official gazette number (795) of the year 1421 according to the lunar year and other legal documents otherwise shall be abolished.