

DRAFT COMPARATIVE ANALYSIS OF SRI LANKA LEGAL FRAMEWORK FOR INVOLUNTARY RESETTLEMENT AND ADB SAFEGUARD POLICY STATEMENT

Introduction

The objective of this analysis is to prepare an overview comparing the legal framework for Sri Lanka's Country Safeguard System (CSS) for land acquisition (LA) and involuntary resettlement (IR) with the Policy Principles of the Asian Development Bank (ADB) Safeguard Policy Statement (SPS) for IR as set forth in Table 2 of the SPS of 2009. For purposes of this analysis the Objectives and Policy Principles (PPs) have been disaggregated as necessary into respective Key Elements (KEs) to accommodate the compound nature of many of the individual PPs.

The legal framework for land acquisition and involuntary resettlement in Sri Lanka consists of the Land Acquisition Act of 1950, as amended, supplemented by the Land Acquisition Regulations of 2008 and the Land Acquisition (Payment of Compensation) Regulations of 2013. These legal instruments are supplemented by the National Environmental Act of 1980, as amended, which provisions regarding environmental assessment, screening; consultation, disclosure and monitoring apply in respect of a 'prescribed project' as prescribed by regulations. This includes projects involving the resettlement of 100 or more families (other than actions effected under emergency situations). Key issues addressed to some extent in this legal framework that are fully or partially equivalent to the Policy Principles for Involuntary Resettlement (IR) specified in ADB's Policy Statement (SPS) include: screening for resettlement impacts; avoidance and minimization of involuntary resettlement; restoration of assets and livelihoods; attention to some categories of vulnerable groups; compensation based (however selectively) on the principle of "replacement cost"; grievance procedures; transitional support; infrastructure services; and access to housing. Issues that require amendment or enactment of additional legal provisions for equivalence with the SPS Policy Principles for IR include: improvement in the standards of living of displaced poor and other vulnerable groups; extension of replacement cost compensation provisions to all types of projects; disbursement of compensation entitlements prior to physical displacement; integration of resettled populations into and extension of benefit to host communities; provision of credit and job training and civic services to displaced persons; specification for resettlement planning instruments; and monitoring, reporting and disclosure of resettlement outcomes. Some of these issues are addressed in the National Involuntary Resettlement Policy of 2001) whose provisions, if elaborated and transposed into binding legal instruments would bring Sri Lanka's legal framework into greater equivalence with the ADB SPS Policy Principles for IR.

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
Involuntary Resettlement Safeguards Objectives: ³ To avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.			

¹Cited text is used to indicate key terms that demonstrate extent of equivalence.

² "Full Equivalence" denotes that the national policy documents and legal instruments are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. "Partial Equivalence" denotes that the national policy documents and legal instruments are in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no policy provision or legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. In some cases, there may be full equivalence for one issue, but only partial equivalence or no equivalence for one or more of the other issues governed by a legal instrument. In those cases, the degree of equivalence for the issue is indicated.

³"Objectives" are aspirational statements and are more appropriately compared with corresponding aspirational policy statements of the CSS rather than binding legal instruments.

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<p>Key element (1): Avoid involuntary resettlement wherever possible</p>	<p>Land Acquisition Act, 1950 (LAA)</p> <p>2. (1) Where the Minister decides that land in any area is needed for any public purpose, he may direct the acquiring officer of the district in which that area lies to cause a notice in accordance with subsection (2) to be exhibited in some conspicuous places in that area.</p> <p>49. Where any other written law authorizes the acquisition of land under this Act and the Minister decides that any land is reasonably required under such other written law by any authority, person or body of persons, the purpose for which that land is required shall be deemed to be a public purpose and the provisions of this Act shall apply accordingly to the acquisition of that land for that authority, person or body of persons.</p> <p>“public purpose” includes a purpose which, under this Act or any other written law, is deemed to be a public purpose;</p> <p>National Environment Act, 1980 (NEA)</p> <p>33. In this Act unless the context otherwise requires-</p> <p>“environment” means the physical factors of the surroundings of human beings including the land, soil, water, atmosphere, climate, sound, odours, tastes and the biological factors of animals and plants of every description ;</p> <p>“[E]nvironmental impact assessment report” means a written analysis of the predicted environmental project and; a description of alternative to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project”;</p> <p>“initial environmental examination report” means a written report wherein possible impacts of the prescribed project on the environment shall be assessed with a view to determining whether</p>	<p>Partial Equivalence</p> <p>Acquisition in terms of the LAA is limited to such actions that are deemed to be for a public purpose.</p> <p>Although these requirements serve to limit IR to projects and activities serving a public purpose, the definition and scope of such purposes remains undefined and unspecified. Nor are there any specific requirements for the avoidance of IR wherever possible in respect of projects that are deemed to serve a public purpose.</p> <p>The NEA provides for an assessment of alternatives, which applies to any ‘prescribed project’ prescribed by regulations and includes any project likely to result in the resettlement of more than 100 households (other than resettlement effected under emergency situations).</p>	<p>For Full Equivalence the legal framework should adopt the following provision of the NIRP:</p> <p>National Involuntary Resettlement Policy of 2001 (NIRP)⁴</p> <p>4. Policy Principles Involuntary resettlement should be avoided... as much as possible by reviewing alternatives to the project as well as alternatives within the project.</p>

⁴The NIRP is the functional equivalent of the ADB SPS Objectives for IR.

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	such impacts are significant, and as such requires the preparation of an environmental impact assessment report and such report shall contain such further details, descriptions, data, maps, designs and other information and details as may be prescribed by the Minister;		
<p>Key element (2): Minimize involuntary resettlement by exploring project and design alternatives</p>	<p>LAA</p> <p>4. (1) Where the Minister considers that a particular land is suitable for a public purpose, or that a particular servitude over a particular land should be acquired for a public purpose, he shall direct the acquiring officer of the district in which that land is situated to <u>cause a notice</u> in accordance with subsection (3) to be given to the owner or owners of that land and to be exhibited in some conspicuous places on or near that land:</p> <p>...</p> <p>(3) The notice referred to in subsection (1) shall-</p> <p>...</p> <p>(c) state that the Government intends to acquire that land or servitude for a public purpose, and that <u>written objections to the intended acquisition</u> may be made to the Secretary to such Ministry as shall be specified in the notice (hereafter in this section referred to as the "appropriate Secretary"); and</p> <p>(d) specify a period within which such objections must be made, such period being not less than fourteen days from the date on which such notice is given.</p> <p>(4) Where ... objections to such acquisition are made to the appropriate Secretary by any of the persons interested in the land within the time allowed therefor by the notice, the appropriate Secretary shall consider such objections or direct an officer to consider such objections on his behalf and to make recommendations to him. When such objections are considered every objector shall be given an opportunity of being heard in support thereof. After the consideration of the objections the appropriate Secretary shall make his recommendations on the objections to the Minister in charge of the Ministry specified in the notice (hereafter in this section referred to as the "appropriate Minister"), and such Minister shall, after considering such recommendations, make his own recommendations on the objections to the Minister.</p>	<p>Partial Equivalence</p> <p>Although there are provisions in the LAA and the NEA that could have the effect of minimizing IR by exploring project and design alternatives, such minimization is not explicitly cited as an objective of such provisions.</p>	<p>For Full Equivalence the legal framework should adopt the following provision of the NIRP':</p> <p>2. Policy Principles</p> <p>Involuntary resettlement should be avoided or reduced as much as possible by reviewing alternatives to the project as well as alternatives within the project.</p>

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	<p>(5) When the time allowed by a notice under this section for making objections to the intended acquisition of the land or servitude referred to in the notice has expired and, where any such objections have been made within such time, after the Minister has considered the appropriate Minister's recommendations on those objections, the Minister shall, ... decide whether that land or servitude should or should not be acquired under this Act.</p> <p>NEA Section33</p> <p>“environmental impact assessment report” means a written analysis of the predicted environmental project and containing an environmental cost-benefit analysis, if such an analysis has been prepared, and including a description of the project, and includes a description of the avoidable and unavoidable adverse environmental effect of the proposed prescribed project; a description of alternative to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project;</p> <p>“initial environmental examination report” means a written report wherein possible impacts of the prescribed project on the environment shall be assessed with a view to determining whether such impacts are significant, and as such requires the preparation of an environmental impact assessment report and such report shall contain such further details, descriptions, data, maps, designs and other information and details as may be prescribed by the Minister</p>		
<p>Key element (3): Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels</p>	<p>LAA</p> <p>45. (1) For the purposes of this Act the market value of a land ... shall, subject as hereinafter provided, be the amount which the land might be expected to have realized if sold by a willing seller in the open market as a separate entity on the date of publication of that notice in the Gazette :</p> <p>Provided that, in determining that amount, all such returns and assessments of income from, or of the capital or annual value of,</p>	<p>Partial Equivalence</p> <p>Provisions exist for compensation for livelihood loss but not for the enhancement or restoration of the livelihoods of those displaced in real terms relative to pre-project levels.</p>	<p>For Full Equivalence the legal framework should adopt the following NIRP provisions:</p> <p>NIRP</p> <p>1.Rationale:</p> <p>To ensure that people affected by development projects ... are not</p>

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	<p>that land as have been made or acquiesced in by the owner of that land for the purposes of any rate or tax imposed in respect of that land, shall be taken into consideration.</p> <p>46. (1) The amount of compensation to be paid under this Act ... shall-</p> <p>(a) where the compensation is for the acquisition of that land, be based on the market value of that land, or</p> <p>(b) where the compensation is for the acquisition of a servitude over that land, be based on the market value of that servitude, and</p> <p>shall be proportionate to his interest in that land. No additional compensation shall be allowed to him in consideration of the compulsory nature of the acquisition, but, where it is the land which is to be acquired, he shall be entitled to-</p> <p>...</p> <p>(iii) compensation for any such loss of earnings from any business carried on the land on the aforesaid date as may be caused by the acquisition of the land ; and</p> <p>...</p> <p>Provided that-</p> <p>(b) the amount of the compensation under paragraph (iii) of this subsection shall not exceed three times the average annual net profits from the business, as shown by the books of accounts, for the three calendar years immediately preceding the date on which the notice under section 7 in respect of the land is published in the Gazette; and</p> <p>(c) no compensation shall be allowed under paragraph (iii) of this subsection if the business is the sale or disposal of the produce of the land to be acquired.</p> <p>Land Acquisition Regulations (2008) (LAR)</p> <p>(3) Payment of Disturbances and Other Expenses— To fulfil the requirement of the definition of compensation, in addition to the compensation under Section 1 and 2 above, which are based on the “market value”, compensation for Disturbance based on the “value to owner” basis should be paid under following Sub-headings, after taking into consideration the written claims</p>		<p>impoverished in the process Sri Lanka needs to adopt an NIRP.</p> <p>2. Objectives of the Policy</p> <p>To ensure that no impoverishment of people shall result as a consequence of compulsory land acquisition for development purposes by the State.</p> <p>4. Policy Principles</p> <p>Vulnerable groups should be identified and given appropriate assistance to substantially improve their living standards.</p> <p>In addition, the legal framework should require the project proponent to seek to enhance the livelihoods of all displaced persons, not limited to vulnerable groups.</p>

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	<p>made.</p> <p>3.4 The cost of advertising;</p> <p>3.7 Loss of earnings from business (within the limits given in prevailing Act);</p> <p>3.8 Increased overhead expenses;</p> <p>3.9 Double payments;</p> <p>3.10 All other expenses to the owner due to the acquisition;</p> <p>3.11 Any other additional expenses for disturbance or compensation not connected under any other Sub-section of this Act which is directly not connected to market value of the land;</p>		
<p>Key element (4): Improve the standards of living of the displaced poor and other vulnerable groups.</p>	<p>Land Acquisition Regulations (2008) (LAR) The basis of assessing the market value of any land or the compensation for any injurious affection caused by the acquisition of any land under this Act.</p> <p>(1) Market Value should be assessed as given under:-</p> <p>1.1 In the case of land where part of a land is acquired and when its value as a separate entity deems to realize a value proportionately lower than the Market Value of the main land the compensation should be proportionate to the value of the main land.</p> <p>1.2 Where at the date of intention to acquire was published, the building is used for occupation and or business purposes or is intended to be used for occupation and or business purposes, the difference between the cost of re-construction and the value of building, based for determination of Market Value under Section 1.1, should be paid as an additional compensation.</p> <p>1.3 Value based on development potential could be considered for paddy lands acquired where permission to fill such lands have been granted by the Agrarian Services Commissioner General.</p> <p>1.4 When an acquired building is occupied by a tenant /statutory tenant protected under the provisions of the Rent Act, No. 7 of 1972 (as amended thereafter) the compensation should be ascertained in proportion having regard to the provisions of Rent (Amendment) Act, No. 26 of 2006.</p> <p>(2) Injurious affection and Severance— Damage caused by any severance and injurious affection should be allowed fully.</p> <p>(3) Payment of Disturbances and Other Expenses— To fulfil the requirement of the definition of compensation, in addition to the compensation under Section 1 and 2 above, which</p>	<p>Partial Equivalence</p> <p>Provisions exist for compensation for lost assets and of livelihood loss. However, these provisions do not make special reference to the displaced poor and other vulnerable groups; though they are not excluded.</p>	<p>For Full Equivalence the legal framework should adopt the following provision of the NIRP:</p> <p>4. Policy Principles Vulnerable groups should be identified and given appropriate assistance to substantially improve their living standards</p>

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	<p>are based on the “market value”, compensation for Disturbance based on the “value to owner” basis should be paid under following Sub-headings, after taking into consideration the written claims made.</p> <p>3.1 Expenses incurred for appearing for Section 9 inquiry; 3.2 Expenses for finding alternative accommodation; 3.3 Cost incurred in change of residence; 3.4 Cost of advertising; 3.5 Refixing cost of fixtures and fittings; 3.6 Expenses incurred for transport; 3.7 Loss of earnings from business (within the limits given in prevailing Act); 3.8 Increased overhead expenses; 3.9 Double payments; 3.10 All other expenses to the owner due to the acquisition; 3.11 Any other additional expenses for disturbance or compensation not connected under any other Sub-section of this Act which is directly not connected to market value of the land ; 3.12 When an owner of a house or of an investment property displaced, additional 10% payment based on market value.</p> <p>Land Acquisition (Payment of Compensation) Regulations 2013 (LAPCR-2013) Section 2. (1) The basis of assessing the market value or the compensation for any injurious affection caused by the acquisition of any land for any of the projects specified in paragraph (2) (hereinafter referred to as the "Specified Projects") in respect of which a notice under Section 7 of the Act has been published, shall be in accordance with the provisions specified in regulations 3, 4, 5 and 6 of these regulations.</p>		
<p>Scope and Triggers: The involuntary resettlement safeguards cover physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.</p>			
<p>Policy Principle 1: Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</p>			
<p>Key element (1): Screen the project early on to identify past, present, and future</p>	<p>Land Acquisition Act 2(1) Where the Minister decides that land in any area is needed for any public purpose ...</p>	<p>Full Equivalence In terms of the Land Acquisition Act the Minister of Lands has to formulate an</p>	<p>None required.</p>

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involuntary resettlement impacts and risks	<p>The National Environment Act Regulations, 1980 (NEAR) Article 6 (ii) “The Project Approving Authority [PAA] shall in consultation with the Authority subject such preliminary information to environmental scoping, in order to set the Terms of Reference for the Initial Environmental Examination Report or Environmental Impact Assessment Report, as the case may be, and in doing so the [PAA] may take into consideration the views of state agencies and the public.</p> <p>National Environment (Amendment) Act, 1988 (NEAA) defines “environmental impact assessment report” as a written analysis of the predicted environmental project and containing an environmental cost-benefit analysis, if such an analysis has been prepared, and including a description of the project, and includes a description of the avoidable and unavoidable adverse environmental effect of the proposed prescribed project ; a description of alternative to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project; and defines “initial environmental examination report” as a written report wherein possible impacts of the prescribed project on the environment shall be assessed with a <u>view to determining whether such impacts are significant</u>, and as such requires the preparation of an environmental impact assessment report and such report shall contain such further details, descriptions, data, maps, designs and other information and details as may be prescribed by the Minister;</p>	<p>independent opinion vis-à-vis a request for acquisition prior to initiating the acquisition process. Screening could occur in arriving at such an opinion.⁵</p> <p>The provisions for objections under the regular procedure for land acquisition supplement the screening provisions.</p> <p>The NEAR environmental assessment (EA) processes established in terms of the NEA.</p>	
Key element (2): Identify past, present, and future involuntary resettlement impacts and risks	<p>LAA Section 17 (1) The acquiring officer who holds an inquiry under section 9 shall, as soon as may be after his decisions under section 10 have become final as provided in that section or after the final determination of any reference made under that section and subject to the other provisions of this section, make an award under his hand determining-</p>	<p>Partial Equivalence</p> <p>Identification of present and future impacts are required under the Land Acquisition Act, and the legal framework for EA.</p> <p>However, there are limited provisions for the assessment of risks.</p>	For Full Equivalence the legal framework should include more extensive provisions for the identification of past, present and future resettlement impacts and risks.

⁵In Manuel Fernando and Another v. D .M. Jayaratne, Minister of Agriculture and Lands and Others, 2000 (1) Sri.LR 112 the court held that the Minister should have a public purpose in mind in issuing a section 2 notice.

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	<p>(a) the persons who are entitled to compensation in respect of the land or servitude which is to be acquired;</p> <p>(b) the nature of the interests of those persons in the land which is to be acquired or over which the servitude is to be acquired;</p> <p>(c) the total amount of the claims for compensation for the acquisition of the land or servitude;</p> <p>(d) the amount of the compensation which in his opinion should, in accordance with the provisions of Part VI of this Act, be allowed for such acquisition; and</p> <p>(e) the apportionment of the compensation among those persons. Such acquiring officer shall give written notice of the award to the persons who are entitled to compensation according to the award.</p> <p>Section 7. (1) The acquiring officer referred to in subsection (1) of section 5 shall cause a notice in accordance with subsection (2) of this section to be published in the Gazette ...</p> <p>(2) The notice referred to in subsection (1) shall-</p> <p>...</p> <p>(c) direct every person interested in the land which is to be acquired or over which the servitude is to be acquired to appear, personally or by agent duly authorized in writing, before such acquiring officer ... and, at least seven days before the date specified in the notice, to notify in writing under the hand of that person or any agent duly authorized as aforesaid to such acquiring officer the nature of his interests in the land, the particulars of his claim for compensation, the amount of compensation and the details of the computation of such amount :</p> <p>NEA</p> <p>Section 23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p>		
Key element (3): Determine the scope of	LAA 7.(1) The acquiring officer referred to in subsection (1) of section 5	Partial Equivalence The LAA requires that every affected	For Full Equivalence the legal framework should require specific

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<p>resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</p>	<p>shall cause a notice in accordance with subsection (2) of this section to be published in the Gazette in the Sinhala, Tamil and English languages and, where in his opinion the value of the land mentioned in the declaration made under that section exceeds five hundred rupees, in a Sinhala newspaper, a Tamil newspaper and an English newspaper circulating in [Sri Lanka], and shall also cause that notice in those languages to be exhibited in some conspicuous places on or near that land.</p> <p>(2) The notice referred to in subsection (1) shall-</p> <p>(a) describe the land or servitude which is intended to be acquired;</p> <p>(b) state that it is intended to acquire such land or servitude under this Act and that claims for compensation for the acquisition of such land or servitude may be made to the acquiring officer mentioned in the notice ; and</p> <p>(c) direct every person interested in the land which is to be acquired or over which the servitude is to be acquired to appear, personally or by agent duly authorized in writing, before such acquiring officer on a date and at a time and place specified in the notice (such date not being earlier than the twenty-first day after the date on which the notice is to be exhibited for the first time on or near the land), and, at least seven days before the date specified in the notice, to notify in writing under the hand of that person or any agent duly authorized as aforesaid to such acquiring officer the nature of his interests in the land, the particulars of his claim for compensation, the amount of compensation and the details of the computation of such amount:</p> <p>NEA</p> <p>Section 23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p>	<p>person be identified and the NEA requires that an initial environmental examination report (IER) or Environmental Impact Assessment (EIA) be conducted.</p> <p>Both of these instruments would presumably be equivalent to a census of potentially displaced persons. However, there is no requirement for a gender analysis.</p>	<p>provisions for survey and census of displaced persons including a gender analysis.</p>
<p>Policy Principle 2: Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. Pay particular attention to</p>			

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<p>the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.</p>			
<p>Key element (1): Carry out meaningful consultations with affected persons,</p>	<p>LAA Section 4. (1) Where the Minister considers that a particular land is suitable for a public purpose, or that a particular servitude over a particular land should be acquired for a public purpose, he shall direct the acquiring officer of the district in which that land is situated to cause a notice in accordance with subsection (3) to be given to the owner or owners of that land and to be exhibited in some conspicuous places on or near that land:</p> <p>(3) The notice referred to in subsection (1) shall-</p> <p>(c) state that the Government intends to acquire that land or servitude for a public purpose, and that written objections to the intended acquisition may be made to the Secretary to such Ministry ...</p> <p>(4) ... the appropriate Secretary shall consider such objections or direct an officer to consider such objections on his behalf and to make recommendations to him. When such objections are considered every objector shall be given an opportunity of being heard in support thereof. After the consideration of the objections the appropriate Secretary shall make his recommendations on the objections to the Minister in charge of the Ministry specified in the notice ... Section 7. (1) The acquiring officer referred to in subsection (1) of section 5 shall cause a notice in accordance with subsection (2) of this section to be published in the Gazette ...</p> <p>(2) The notice referred to in subsection (1) shall-</p> <p>...</p> <p>(c) direct every person interested in the land which is to be acquired or over which the servitude is to be acquired to appear, personally or by agent duly authorized in writing, before such acquiring officer ... and, at least seven days before the date specified in the notice, to notify in writing under the hand of that person or any agent duly</p>	<p>PartialEquivalence?? The LAA contains provisions providing for notification of affected landowners and all other person with an interest in the land in the event of a proposal to acquire land for a public purpose.</p> <p>The LAA contains provisions pertaining to objections and hearing applicable in the event of the regular procedure for acquisition. In the case of urgent acquisitions these provisions may not apply.</p> <p>The National Environmental Act requires that Environmental Impact Assessments, be made available for public comment and that the public be afforded an opportunity of being heard. These provisions would apply to IR should any project requiring an EIA also involve resettlement of at least 100 families.</p> <p>Other legal instruments that provide for environmental assessment also recognise public involvement in the process.⁶</p>	<p>For Full Equivalence the provisions of Art. 38 should be modified to narrowly define the conditions under which an “urgency” requires that immediate possession be taken of the land.??</p>

⁶The NEA provisions pertaining to public comment and public hearing are only in respect of Environmental Impact Assessment. Where approval is in terms of an Initial Environmental Examination, the law does not provide for public comment or public hearing.

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	<p>authorized as aforesaid to such acquiring officer the nature of his interests in the land, the particulars of his claim for compensation, the amount of compensation and the details of the computation of such amount:</p> <p>38. At any time after an award is made under section 17, the Minister may by Order published in the Gazette-</p> <p>(a) where the award relates to the acquisition of any land, direct the acquiring officer of the district in which that land is situated, or any other officer authorized in that behalf by such acquiring officer, to take possession of that land for and on behalf of the State, or</p> <p><u>Provided that the Minister may make an Order under the preceding provisions of this section-</u></p> <p><u>(a) where it becomes necessary to take immediate possession of any land on the ground of any urgency, at any time after a notice under section 2 is exhibited for the first time in the area in which that land is situated or at any time after a notice under section 4 is exhibited for the first time on or near that land.</u></p> <p>National Environmental Act</p> <p>Section 22BB (2) A project approving agency shall on receipt of an environmental impact assessment report submitted to such project approving agency in compliance with the requirements imposed under subsection (1), by Notice published in one newspaper each in the Sinhala, Tamil and English language, notify the place and times at which such report shall be available for inspection by the public to make its comments, if any, thereon.</p> <p>National Environment Act Regulations, 1980 (NEAR)</p> <p>Section 6 (ii) The Project Approving Authority [PAA] shall in consultation with the Authority subject such preliminary information to environmental scoping, in order to set the Terms of Reference for the Initial Environmental Examination Report or Environmental Impact Assessment Report. as the case may be, and in doing so the [PAA] may take into consideration the views of state agencies and the public.</p>		

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	<p>Coast Conservation and Coastal Resource Management Act</p> <p>16. (2D) Upon receipt of the environmental impact assessment report, the Director-General shall submit a copy of the same to the Council for its comments and by Notification published in the Gazette provide an opportunity for the public to submit comments in respect of the same within thirty days of the date of such Notification.</p> <p>Fauna and Flora Protection Ordinance</p> <p>9A. (3) The Director-General shall, on receipt of an Environmental Impact Assessment Report or an Initial Environmental Examination Report, as the case may be, ...</p> <p style="padding-left: 40px;">(b) by notice published in the Gazette, notify the place and time at which such assessment or examination ... will be available for inspection by the public and invite the public to make comments, if any, thereon.</p> <p>(5) Any member of the public may within thirty days from the date on which a notice under subsection (3) relating to such assessment or examination, as the case may be, is published in the Gazette make his comments, if any, thereon, to the Director-General.</p> <p>Environmental Statute of the North Western Province</p> <p>44. (2) A project approving agency shall on receipt of an initial environmental examination report or an environmental impact assessment report, as the case may be, submitted to such project approving agency in compliance with the requirement imposed under subsection (1), by notice published in the Gazette and in one newspaper each in the Sinhala, Tamil and English languages, notify the place and times at which such report shall be available for inspection by the public, and invite the public to make its comments, if any, thereon.</p>		
<p>Key Element (2) : Carry out meaningful consultations with... host communities</p>		<p>No Equivalence. There is no provision requiring that host communities be consulted although they are not excluded in the environmental assessment process.</p>	<p>For Full Equivalence the legal framework should require that meaningful consultations be carried out with host communities.</p>
<p>Key Element (3)</p>		<p>No Equivalence.</p>	<p>For Full Equivalence the legal</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
Carry out meaningful consultations with...nongovernmental organizations		There is no provision requiring that concerned nongovernment organisations be consulted although they are not excluded in the environmental assessment process	framework should require that meaningful consultations be carried out with non-governmental organizations.
Key element (4): Inform all displaced persons of their entitlements and resettlement options	<p>LAA Section 17</p> <p>(1) The acquiring officer who holds an inquiry under section 9 shall, as soon as may be after his decisions under section 10 have become final as provided in that section or after the final determination of any reference made under that section and subject to the other provisions of this section, make an award under his hand determining-</p> <p>(a) the persons who are entitled to compensation in respect of the land or servitude which is to be acquired;</p> <p>(b) the nature of the interests of those persons in the land which is to be acquired or over which the servitude is to be acquired;</p> <p>(c) the total amount of the claims for compensation for the acquisition of the land or servitude;</p> <p>(d) the amount of the compensation which in his opinion should, in accordance with the provisions of Part VI of this Act, be allowed for such acquisition; and</p> <p>(e) the apportionment of the compensation among those persons.</p> <p>Such acquiring officer shall give written notice of the award to the persons who are entitled to compensation according to the award.</p> <p>Section 7. (1) The acquiring officer referred to in subsection (1) of section 5 shall cause a notice in accordance with subsection (2) of this section to be published in the Gazette ...</p> <p>(2) The notice referred to in subsection (1) shall-</p> <p>...</p> <p>(c) direct every person interested in the land which is to be acquired or over which the servitude is to be acquired to appear, personally or by agent duly authorized in writing, before such acquiring officer ... and, at least seven days before the date specified in the notice, to notify in writing under the hand of that person or any agent duly authorized as aforesaid to such acquiring officer the nature of his interests in the land, the particulars of his claim for compensation, the amount of compensation and the details of the computation of such amount :</p> <p>NEA</p>	Full Equivalence	None required

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>Section 10. Upon receipt of an Environmental Impact Assessment Report the Project Approving Agency is mandated.</p> <p>(i) Upon receipt of the Report, as specified in regulation 10 above, the Project Approving Agency shall submit a copy thereof to the Authority and by prompt notice published in the <i>Gazette</i> and in one national newspaper published daily in the Sinhala, Tamil and English languages invite the public to make written comments, if any, thereon to the Project Approving Agency within thirty days from the date of the first appearance of the notice, either in the <i>Gazette</i> or in the newspaper.</p> <p>(ii) The notification shall specify the times and places at which the Report shall be made available for public inspection.</p> <p>(iii) The project Approving Agency shall make available copies of the Report to any person interested to enable him to make copies thereof.</p> <p>Section 12. It shall be the duty of a Project Approving Agency, upon completion of the period of public inspection or public hearing, if held, to forward to the project proponent comments received for review and response, within six days. The Project Proponent shall respond to such comments in writing to the Project Approving Agency.</p>		
<p>Key element (5): Ensure the participation of displaced persons in planning, implementation, and monitoring and evaluation of resettlement programmes</p>	<p>NEA</p> <p>Section 23BB (2) A project approving agency shall on receipt of an environmental impact assessment report submitted to such project approving agency in compliance with the requirements imposed under subsection (1), by Notice published in one newspaper each in the Sinhala, Tamil and English language, notify the place and times at which such report shall be available for inspection by the public to make its comments, if any, thereon.</p> <p>(3) Any member of the public may within thirty days of the date on which a notice under subsection (2) is published make his or its comments, if any, thereon to the project approving agency which published such notice, and such project approving agency may, where it considers appropriate in the public interest afford an opportunity to any such person of being heard in support of his comments, and shall have regard to such comments and any other materials if any, elicited at any such hearing, in determining whether to grant its approval for the implementation of such prescribed</p>	<p>Partial Equivalence.</p> <p>Where a resettlement programme has been included as part of the environmental assessment of a project involving resettlement of at least 100 families, the NEA provides that the public (including the displaced persons) have an opportunity to inspect the EIA and provide comments on the EIA document. The project-approving agency is required to take these requirements into account in making its determination whether and under what conditions to approve the project. However, these provisions do not apply in the absence of an EIA.</p> <p>Other legal instruments that provide for environmental assessment also recognise</p>	<p>For Full Equivalence:</p> <p>The legal framework should transpose and elaborate into binding legal instruments the following provisions of the NIRP, which would apply independent of whether a project requires an EA.</p> <p>4. Policy Principles Affected persons should be fully involved in the selection of relocation sites, livelihood compensation and development options at the earliest opportunity.</p> <p>Authorization for the government to invoke the “urgency” clause to take immediate possession of land after notification should narrowly specify</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>project.</p> <p>LAA 38. At any time after an award is made under section 17, the Minister may by Order published in the Gazette-</p> <p>(a) where the award relates to the acquisition of any land, direct the acquiring officer of the district in which that land is situated, or any other officer authorized in that behalf by such acquiring officer, to take possession of that land for and on behalf of the State, or</p> <p><u>Provided that the Minister may make an Order under the preceding provisions of this section-</u> <u>(a) where it becomes necessary to take immediate possession of any land on the ground of any urgency, at any time after a notice under section 2 is exhibited for the first time in the area in which that land is situated or at any time after a notice under section 4 is exhibited for the first time on or near that land.</u></p>	<p>public involvement in the process.</p> <p>However, Art. 38 of the LAA permits the government to authorize immediate possession of land under unspecified conditions of “urgency.” Invocation of this unqualified provision would jeopardise the participation of displaced persons in planning resettlement programs.,</p>	<p>the circumstances under which this provision may be invoked.</p>
<p>Key element (6): Ensure the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land</p>	<p>LAA Section 7. (1) The acquiring officer referred to in subsection (1) of section 5 shall cause a notice in accordance with subsection (2) of this section to be published in the Gazette ... (2) The notice referred to in subsection (1) shall- ... (c) direct every person interested in the land which is to be acquired or over which the servitude is to be acquired to appear, personally or by agent duly authorized in writing, before such acquiring officer ... and, at least seven days before the date specified in the notice, to notify in writing under the hand of that person or any agent duly authorized as aforesaid to such acquiring officer the nature of his interests in the land, the particulars of his claim for compensation, the amount of compensation and the details of the computation of such amount:</p> <p>LAA 38. At any time after an award is made under section 17, the Minister may by Order published in the Gazette-</p> <p>(a) where the award relates to the acquisition of any land, direct the acquiring officer of the district in which that land is situated, or any</p>	<p>Partial Equivalence The LAA makes no special provisions directly relating to participation in consultations of vulnerable groups though they are not excluded from the process.</p> <p>The public participation provisions under the environmental assessment laws explicitly enable the participation of the public which could include vulnerable groups.</p> <p>Art. 38 of the LAA permits the government to authorize immediate possession of land under unspecified conditions of “urgency.” Invocation of this unqualified provision would jeopardise the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land.</p>	<p>For Full Equivalence the legal framework should require the participation in consultations of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land.</p> <p>Authorization for the government to invoke the “urgency” clause to take immediate possession of land after notification should narrowly specify the circumstances under which this provision may be invoked.</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>other officer authorized in that behalf by such acquiring officer, to take possession of that land for and on behalf of the State, or</p> <p><u>Provided that the Minister may make an Order under the preceding provisions of this section-</u> <u>(a) where it becomes necessary to take immediate possession of any land on the ground of any urgency, at any time after a notice under section 2 is exhibited for the first time in the area in which that land is situated or at any time after a notice under section 4 is exhibited for the first time on or near that land.</u></p>		
<p>Key element (7): Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns</p>	<p>LAA</p> <p>Section 7. 3) The notice referred to in subsection (1) shall- ... (c) state that the Government intends to acquire that land or servitude for a public purpose, and that written objections to the intended acquisition may be made to the Secretary to such Ministry as shall be specified in the notice (hereafter in this section referred to as the " appropriate Secretary "); and (d) specify a period within which such objections must be made, such period being not less than fourteen days from the date on which such notice is given.</p> <p>Section 19. (1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a board of review (hereinafter referred to as the " board ") ...</p> <p>Section 22. (1) A person to whom compensation is allowed by an award under section 17 and who has notified his claim for compensation to the acquiring officer within the time allowed therefor by this Act, may appeal to the board against that award on the ground that the amount of the compensation allowed to him is insufficient: ...</p>	<p>Partial Equivalence</p> <p>The LAA contains provisions pertaining to objections and hearing applicable in the event of the regular procedure for acquisition. However, In the case of urgent acquisitions these provisions may not apply.</p> <p>The NEA provisions are limited to prescribed activities and only in respect of Environmental Impact Assessments. Where approval is in terms of an Initial Environmental Examination, the law does not provide for public comment or public hearing.</p> <p>There is no provision in the legal framework for a continuous grievance redress mechanism. In addition to the provision pertaining to objections referred to above, limited opportunity is provided to address grievances pertaining to compensation in terms of the Board of Review.</p>	<p>For Full Equivalence the legal framework should require per the NIRP:</p> <p>Section 2. Objectives of the Policy To make all affected people aware of processes available for the redress of grievances that are easily accessible and immediately responsive.</p>
<p>Key element (8): Support the social and cultural institutions of</p>		<p>No Equivalence</p>	<p>For Full Equivalence, the legal framework should adopt the following provision of the NIRP:</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
displaced persons and their host population			2. Objectives of the PolicyTo assist adversely affected people in dealing with the psychological, cultural, social and other stresses caused by compulsory land acquisition.
Key element (9): Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.		No Equivalence .	For Full Equivalence the legal framework should adopt the following provisions of the NIRP: Social Preparation – process of consultation with affected people undertaken before key resettlement decisions are made; measures to build their capacity to deal with resettlement, taking into account existing social and cultural institutions.
Policy Principle 3: Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.			
Key element (1): Improve, or at least restore, the livelihoods of all displaced persons through land-based resettlement strategies when affected livelihoods are land based....	LAA Section 36. (1) Any person to whom compensation for the acquisition of any land ⁸ is payable under this Act may enter into a written agreement with the acquiring officer of the district in which that land is situated to accept, in lieu of the whole or any part of such compensation, a transfer of any other land which is the property of the Crown. Such agreement shall be signed by that person and by that acquiring officer. The amount of compensation in lieu of which the transfer is accepted shall be specified in such agreement. Section 46. (2) Where any premises which are to be acquired under this Act	Partial Equivalence The law provides for land based resettlement strategies although it does not directly relate same to the situation where affected livelihoods are land-based.	For Full Equivalence: the legal framework should incorporate the following provisions of the NIRP. 4. Policy Principles Replacement land should be an option for compensation in the case of loss of land; in the absence of replacement land cash compensation should be an option for all affected persons. In addition, the legal framework

⁸ “ Land ” includes any interest in, or any benefit to arise out of, any land, and any leasehold or other interest held by any person in any State land, and also things attached to the earth or permanently fastened to anything attached to the earth

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>are, and but for their compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation payable in respect of those premises under this Act may, if the acquiring officer assessing the compensation is satisfied that the persons interested in those premises genuinely intend, when those premises are acquired, to provide for the aforesaid purpose premises equally convenient as the acquired premises, be assessed on the basis of the reasonable cost of providing for that purpose premises equivalent to those which are to be acquired under this Act.</p> <p>...</p>		<p>should require, that the livelihoods of all displaced persons be improved or at least restored through land-based resettlement strategies when affected livelihoods are land based, where possible, or through cash compensation at replacement value for land when the loss of land does not undermine livelihoods.</p> <p>The legal framework should also be revised to harmonize the provisions of the law and of its implementing regulations to fully incorporate the principle of replacement cost.</p>
<p>Key Element (2) Improve, or at least restore, the livelihoods of all displaced persons[through] cash compensation at replacement value for land when the loss of land does not undermine livelihoods</p>	<p>LAA Section 45. 1) For the purposes of this Act the market value of a land in respect of which a notice under section 7 has been published shall, subject as hereinafter provided, be the amount which the land might be expected to have realized if sold by a willing seller in the open market as a separate entity on the date of publication of that notice in the Gazette:</p> <p>LAR-2008</p> <p>The basis of assessing the market value of any land or the compensation for any injurious affection caused by the acquisition of any land under this Act.</p> <p>(1) Market Value should be assessed as given under:-</p> <p>1.1 In the case of land where part of a land is acquired and when its value as a separate entity deems to realize a value proportionately lower than the Market Value of the main land the compensation should be proportionate to the value of the main land.</p> <p>1.2 Where at the date of intention to acquire was published, the building is used for occupation and or business purposes or is intended to be used for occupation and or business purposes, the difference between the cost of re-construction and the value of building, based for determination of Market Value under Section</p>	<p>Partial Equivalence.</p> <p>Compensation at replacement cost is required for land and buildings.. Replacement cost compensation in terms of the regulations of 2013 is limited to 18 specified projects.</p>	<p>For Full Equivalence the legal framework should require as per the NIRP:</p> <p>Section 4. Policy Principles Compensation for loss of [all] land, structures, other assets and income should be based on full replacement cost and should be paid promptly. This should include transaction costs.</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>1.1, should be paid as an additional compensation.</p> <p>1.3 Value based on development potential could be considered for paddy lands acquired where permission to fill such lands have been granted by the Agrarian Services Commissioner General.</p> <p>1.4 When an acquired building is occupied by a tenant /statutory tenant protected under the provisions of the Rent Act, No. 7 of 1972 (as amended thereafter) the compensation should be ascertained in proportion having regard to the provisions of Rent (Amendment) Act, No. 26 of 2006.</p> <p>(2) Injurious affection and Severance— Damage caused by any severance and injurious affection should be allowed fully.</p> <p>(3) Payment of Disturbances and Other Expenses— To fulfil the requirement of the definition of compensation, in addition to the compensation under Section 1 and 2 above, which are based on the “market value”, compensation for Disturbance based on the “value to owner” basis should be paid under following Sub-headings, after taking into consideration the written claims made.</p> <p>3.1 Expenses incurred for appearing for Section 9 inquiry; 3.2 Expenses for finding alternative accommodation; 3.3 Cost incurred in change of residence; 3.4 Cost of advertising; 3.5 Refixing cost of fixtures and fittings; 3.6 Expenses incurred for transport; 3.7 Loss of earnings from business (within the limits given in prevailing Act); 3.8 Increased overhead expenses; 3.9 Double payments; 3.10 All other expenses to the owner due to the acquisition; 3.11 Any other additional expenses for disturbance or compensation not connected under any other Sub-section of this Act which is directly not connected to market value of the land ; 3.12 When an owner of a house or of an investment property displaced, additional 10% payment based on market value.</p> <p>Land Acquisition (Payment of Compensation) Regulations 2013 (LAPCR-2013) Section 2. (1) The basis of assessing the market value or the compensation for any injurious affection caused by the acquisition of any land for any of the projects specified in paragraph (2)</p>		

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>(hereinafter referred to as the "Specified Projects") in respect of which a notice under Section 7 of the Act has been published, shall be in accordance with the provisions specified in regulations 3, 4, 5 and 6 of these regulations.</p> <p>[The regulations set out 18 'specified projects']</p> <p>Section 3. (1) The market value of any land or the compensation for any injurious affection caused by the acquisition of any land for a Specified Project, shall be assessed by the Land Acquisition and Re-settlement Committees (hereinafter referred to as the "LARC") appointed for the respective Divisional Secretary's Division in which the land acquired is located.</p> <p>Section 4. (1) The LARC shall in determining the market value and the compensation to be paid for any land referred to in these regulations, take into consideration the criteria and factors specified in paragraph (2).</p> <p>(2) (a) Written Claims :- Written claims submitted by the owner of the land or the affected persons;</p> <p>(b) Lands :- (i) The payment for the lands shall include replacement cost as determined by the Chief Valuer and an ex-gratia payment amounting to the difference between the statutory compensation and the replacement cost;</p> <p>...</p> <p>(e) Buildings and Structures :- The replacement cost for the buildings and structures (without depreciation) shall be an amount as determined by the LARC considering the following factors :- (i) for parts of a structure: the floor area to be considered for payment up to the structural points; (ii) remaining portions of a structure: if the remaining portion is not suitable for further usage LARC shall pay compensation for that part as well;</p> <p>(f) Rent controlled premises under the Rent Act: Residential premises and Business premises :- Ex-gratia Payment for the Buildings shall be the difference between the statutory compensation and the replacement cost and shall be</p>		

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>paid according to the following manner: -</p> <p>(g) Loss of Business :- Payments shall be made according to the categorization of businesses in the following manner :- Business Category Entitlement 1. Informal (non-income tax payer) Rs. 15000 or up to 3 months net income whichever is higher, if the income is ascertained through supporting documents. 2. Formal (income tax payer) If the business is completely lost up 3 years net average adjusted profit of the years immediately preceding the date of the publication of the notice under Section 2 of the Act on production of the tax declaration documents. If the business is temporarily disrupted payment shall be determined by the LARC.</p> <p>(h) Loss of Livelihood :- Those who are self-employed and are temporarily affected due to loss of income shall be entitled for a loss of livelihood payment as determined by the LARC;</p> <p>(j) Allowance for Vulnerable Families :- An extra payment shall be paid for families in a vulnerable situation as determined by the LARC;</p> <p>(k) Loss of Wages of Employment:- Persons who have lost the wages of employment due to the acquisition of their places of employment shall be entitled for a payment as may be determined by the LARC;</p>		
<p>Key element (3): [Improve, or at least restore, the livelihoods of all displaced persons through]... replacement of assets with access to assets of equal or higher value</p>	<p>LAPCR Section 3. (1) The market value of any land or the compensation for any injurious affection caused by the acquisition of any land for a Specified Project, shall be assessed by the Land Acquisition and Re-settlement Committees (hereinafter referred to as the "LARC") appointed for the respective Divisional Secretary's Division in which the land acquired is located.</p> <p>Section 4. (1) The LARC shall in determining the market value and the compensation to be paid for any land referred to in these regulations, take into consideration the criteria and factors specified in paragraph (2). (2) (a) Written Claims :-</p>	<p>Full Equivalence??</p>	<p>None required</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>Written claims submitted by the owner of the land or the affected persons;</p> <p>(b) Lands :- (i) The payment for the lands shall include replacement cost as determined by the Chief Valuer and an ex-gratia payment amounting to the difference between the statutory compensation and the replacement cost;</p> <p>(e) Buildings and Structures :- The replacement cost for the buildings and structures (without depreciation) shall be an amount as determined by the LARC considering the following factors :- (iii) for parts of a structure: the floor area to be considered for payment up to the structural points; (iv) remaining portions of a structure: if the remaining portion is not suitable for further usage LARC shall pay compensation for that part as well;</p> <p>(f) Rent controlled premises under the Rent Act: Residential premises and Business premises :- Ex-gratia Payment for the Buildings shall be the difference between the statutory compensation and the replacement cost and shall be paid...</p>		
<p>Key element (4): Improve, or at least restore, the livelihoods of all displaced persons through prompt compensation...for assets that cannot be restored</p>	<p>LAA 29. Where an award is made ... the acquiring officer of the district ... shall tender to each person who is entitled to compensation ... the amount of compensation allowed to him by that award.... Provided however that, where,- (c) such land does not, on the[relevant] date ... have on it any building which is used for any residential or business purpose, then, the acquiring officer shall, except where the Minister otherwise directs in the national interest, tender and make payment of compensation in the following manner :- (i) forthwith after the said award is made, a sum of twenty-five thousand rupees shall be divided among and paid to the persons who are entitled to compensation in respect of such land... (emphasis added)[(ii) thereafter the balance [of] compensation shall be divided among and paid to the said persons in the said proportion but in not more than ten equal instalments, so however that the entire balance</p>	<p>Partial Equivalence The Act provides for immediate ("forthwith") following calculation of compensation due of an initial payment followed by a series of payments on an instalment basis that may be phased over 10 years.</p>	<p>For Full Equivalence the legal framework should incorporate the following provision of the NIRP; rather than compensated through an instalment schedule:</p> <p>Section 2. Objectives of the Policy To ensure that people adversely affected by development projects are fully and promptly compensated and successfully resettled.</p> <p>The livelihoods of the displaced persons should be re-established and the standard of living improved,</p>

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	compensation is paid before the lapse of ten years from the date of payment of the said sum of twenty-five thousand rupees ...		
<p>Key element (5): Improve, or at least restore, the livelihoods of all displaced persons through additional revenues and services through benefit sharing schemes where possible</p>		<p>No Equivalence The policy requires legal provision supporting same for full implementation.</p>	<p>NIRP Policy Principle 4 provides: Where involuntary resettlement is unavoidable, affected people should be assisted to re-establish themselves and improve their quality of life. The legal framework should include provisions pertaining to additional revenues and services through benefit sharing schemes. This could be done in terms of a comprehensive resettlement planning approach.</p>
<p>Policy Principle 4: Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.</p>			
<p>Key element (1): Provide physically displaced persons, if there is relocation, with secured tenure to relocation land...</p>	<p>LAA Section 36. (1) Any person to whom compensation for the acquisition of any land is payable under this Act may enter into a written agreement with the acquiring officer of the district in which that land is situated to accept, in lieu of the whole or any part of such compensation, a <u>transfer of any other land which is the property of the Crown</u>. Such agreement shall be signed by that person and by that acquiring officer.</p> <p>LAPCR-2013 Section 4.(2)(n)(i) (n) Payment for re-location:- (i) Every re-settler affected by the acquisition with a title to the land acquired is entitled for a block of land not exceeding an extent of 20 perches from a fully serviced re-settlement site equivalent to the unimproved land value determined by the LARC or to cash payment applicable for self-relocation as specified ...</p>	<p>Partial Equivalence There is provision for the providing of land in lieu of compensation, but no provision for secured tenure to land at new locations, though this may be presumed.</p> <p>The LAPCR Regulations are applicable in respect of specified projects.</p>	<p>The legal framework should provide that where relocation is being carried out, physically displaced persons be provided with secure tenure at relocation sites.</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
<p>Key Element (2):</p> <p>Provide physically displaced persons, if there is relocation, with... better housing at resettlement sites</p>		<p>No Equivalence</p>	<p>For Full Equivalence the legal framework should provide that where relocation is being carried out, physically displaced persons be provided with better housing at relocation sites.</p>
<p>Key Element (3):</p> <p>Provide physically and economically displaced persons, if there is relocation, with comparable access to employment and production opportunities.</p>	<p>LAPCR-2013</p> <p>4. (2) (k) Loss of Wages of Employment:- Persons who have lost the wages of employment due to the acquisition of their places of employment shall be entitled for a payment as may be determined by the LARC;</p>	<p>Partial Equivalence</p> <p>The legal framework provides for compensation for loss of wages but does not provide economically displaced persons with comparable access to employment and production opportunities. These regulations have limited application being applicable in respect of 18 specified projects.</p>	<p>For Full Equivalence the legal framework should require that economically displaced persons be provided with comparable access to employment and production opportunities.</p>
<p>Key Element (4):</p> <p>Provide physically and economically displaced persons, ... economic and social integration of into their host communities, and extension of project benefits to host communities.</p>		<p>No Equivalence</p>	<p>For Full Equivalence the legal framework should incorporate the provisions of the NIRP :</p> <p>4. Policy Principles To assist those affected to be economically and socially integrated into the host communities, participatory measures should be designed and implemented</p> <p>In addition, it should provide for the extension of project benefits to host communities.</p>
<p>Key element (5):</p> <p>Provide physically and economically displaced persons with transitional support and development assistance, such as land development, credit</p>	<p>LAR-2008</p> <p>(3) Payment of Disturbances and Other Expenses— To fulfil the requirement of the definition of compensation, in addition to the compensation under Section 1 and 2 above, which are based on the “market value”, compensation for Disturbance based on the “value to owner” basis should be paid under following Sub-headings, after taking into consideration the written claims made.</p>	<p>Partial Equivalence</p> <p>The Land Acquisition Regulations of 2008 make provision in relation to transitional support.</p> <p>The legal framework provides certain types of transitional support, including</p>	<p>For Full Equivalence the legal framework should provide transitional assistance in the form of land development, credit facilities, training, and employment opportunities.</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
facilities, training, or employment opportunities	3.1 Expenses incurred for appearing for Section 9 inquiry; 3.2 Expenses for finding alternative accommodation; 3.3 Cost incurred in change of residence; 3.4 Cost of advertising; 3.5 Refixing cost of fixtures and fittings; 3.6 Expenses incurred for transport; 3.7 Loss of earnings from business (within the limits given in prevailing Act); 3.8 Increased overhead expenses; 3.9 Double payments; 3.10 All other expenses to the owner due to the acquisition; 3.11 Any other additional expenses for disturbance or compensation not connected under any other Sub-section of this Act which is directly not connected to market value of the land; 3.12 When an owner of a house or of an investment property displaced, additional 10% payment based on market value.	compensation for specified and unspecified out-of-pocket expenses but does not specifically provide for land development, credit facilities, training, or employment opportunities.	
Key element (6): Provide physically and economically displaced persons with civic infrastructure and community services	LAPCR-2013 Section 4.(2)(n)(i) (n) Payment for re-location:- (i) Every re-settler affected by the acquisition with a title to the land acquired is entitled for a block of land not exceeding an extent of 20 perches from a fully serviced re-settlement site equivalent to the unimproved land value determined by the LARC or to cash payment applicable for self-relocation as specified ...	Partial Equivalence The Regulations of 2013 provide for fullyserviced resettlement sites in respect of certain 'specific projects'.	For Full Equivalence the legal framework should adopt the following provisions of the NIRP: 4. Policy Principles Common property resources and community and public services should be provided to affected people.
Policy Principle 5: Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.			
Key element (1): Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards	LAPCR-2013 Allowance for Vulnerable Families :- An extra payment shall be paid for families in a vulnerable situation as determined by the LARC; "Disabled person" has the same meaning as in the Protection of the Rights of the Persons with Disabilities Act, No. 28 of 1996; "Families in a vulnerable situation" means, women headed families, families with disabled persons and families with persons older than sixty years;	Partial Equivalence The legal framework (as per the Regulations of 2013) provides limited provisions applicable to specified projects pertaining to families in vulnerable situations, in particular to women-headed households and disabled persons. However, the legal framework does not specifically address the needs of the displaced poor nor does it require that the	For Full Equivalence the legal framework should reference the NIRP Section 4 Policy Principle that "vulnerable groups should be identified and given appropriate assistance to substantially improve their living standards." In addition, the legal framework should include the displaced poor

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
		standards of living of poor and other vulnerable groups be improved to last national minimum standards.	among the categories of vulnerable groups and ensure that their standards of living are improved to at least national minimum standards.
<p>Key element (2): In rural areas provide them with legal and affordable access to land and resources</p>	<p>LAA Section 36. (1) Any person to whom compensation for the acquisition of any land is payable under this Act may enter into a written agreement with the acquiring officer of the district in which that land is situated to accept, in lieu of the whole or any part of such compensation, a transfer of any other land which is the property of the Crown. Such agreement shall be signed by that person and by that acquiring officer. The amount of compensation in lieu of which the transfer is accepted shall be specified in such agreement.</p> <p>LAPCR-2013 Section 4.(2)(n)(i) (n) Payment for re-location:- (i) Every re-settler affected by the acquisition with a title to the land acquired is entitled for a block of land not exceeding an extent of 20 perches from a fully serviced re-settlement site equivalent to the unimproved land value determined by the LARC or to cash payment applicable for self-relocation as specified in paragraph (p);</p>	<p>Partial Equivalence Although not directed towards the displaced poor or vulnerable groups, the legal framework provides for land in lieu of compensation.</p> <p>There are limited provisions pertaining to fully-serviced resettlement sites in the 2013 regulations. However, the legal framework does not specifically provide for legal access to lands and resources to which vulnerable groups would be entitled.</p>	For Full Equivalence the legal framework should include provisions pertaining to legal and affordable access to land and resources with reference to vulnerable persons including the displaced poor.
<p>Key element (3): in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing</p>		<p>No Equivalence</p> <p>.</p>	For Full Equivalence, the legal framework should provide displaced urban poor and other vulnerable urban groups, including women with appropriate income sources and legal and affordable access to adequate housing.
<p>Policy Principle 6: Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.</p>			

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
<p>Key element (1): Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement</p>		<p>Not Applicable The LAA does not address land acquisition through negotiated settlement.</p>	

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
Policy Principle 7: Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.			
	<p>LAPCR (c) Encroachers on State Lands:- (i) No payment shall be made to the Encroachers on State Lands; Provided however, a payment for the improvement of the land shall be made; (ii) The provisions of this regulation shall apply only to the encroachers who were in occupation prior to the date of the Order under Section 2 of the Act is published;</p> <p>(n) Payment for re-location :- ... (ii) Where the LARC deems that it is reasonable and justifiable, the encroachers of state lands, may be offered a block of land up to an extent of 10 perches from a re-settlement site or to cash payment applicable for self-relocation as specified in paragraph (p);</p>	<p>Partial Equivalence</p> <p>The Regulations of 2013 recognise the status of encroachers on State land satisfying the requirements therein to be paid for improvement of land and also to be offered a block of land in suitable instances. These apply in respect of specified projects.</p> <p>Encroachers on private lands would be subject to the laws on prescription i.e. the process of acquisition of rights in relation to land through long term undisturbed, uninterrupted possession.</p>	<p>For Full Equivalence the legal framework should fully incorporate the following provision NIRP, Section 4. Policy Principles...Affected persons who do not have documented title to land should receive fair and just treatment and by extending the provisions applicable to non-titled displaced persons occupying state lands in the regulations of 2013 to all categories of non-titled displaced persons.</p>
Policy Principle 8: Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.			
<p>Key Element (1) Prepare a resettlement plan elaborating on displaced persons' entitlements the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.</p>	<p>NEA 23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p> <p>NEAR BY virtue of the powers vested in me by Section 23Z of the National Environmental Act, No. 47 of 1980, as amended by Act, No. 56 of</p>	<p>Partial Equivalence</p> <p>Regulations in terms of the National Environmental Act specify involuntary resettlement exceeding 100 families other than resettlement under emergency situations as a prescribed project requiring approval in terms of the environmental assessment process. In such event involuntary resettlement would be addressed directly in terms of the environmental assessment process in the form of an initial environmental examination report or an environmental impact assessment report The IEE or</p>	<p>For Full Equivalence the legal framework should incorporate the following provisions of the NIRP:</p> <p>.3. Scope. A comprehensive Resettlement Action Plan will be required where 20 or more families are affected.</p> <p>If [fewer] than 20 families are affected the policy still applies but a plan can be prepared to a lesser level of detail.</p> <p>Authorization for the government to</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>1988, I, ... Minister of Environment and Parliamentary Affairs, do by this Order, determine the projects and undertakings set out in the Schedule hereto as projects and undertakings for which approval shall be necessary under the provisions of Part IVC of the Act....</p> <ul style="list-style-type: none"> Involuntary resettlement exceeding 100 families other than resettlement effected under emergency situations. <p>LAA</p> <p>38. At any time after an award is made under section 17, the Minister may by Order published in the Gazette-</p> <p>(a) where the award relates to the acquisition of any land, direct the acquiring officer of the district in which that land is situated, or any other officer authorized in that behalf by such acquiring officer, to take possession of that land for and on behalf of the State, or</p> <p><u>Provided that the Minister may make an Order under the preceding provisions of this section-</u></p> <p><u>(a) where it becomes necessary to take immediate possession of any land on the ground of any urgency, at any time after a notice under section 2 is exhibited for the first time in the area in which that land is situated or at any time after a notice under section 4 is exhibited for the first time on or near that land.</u></p>	<p>EIAR would presumably address displaced persons' entitlements.⁹</p> <p>It appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.</p> <p>Art. 38 of the LAA permits the government to authorize immediate possession of land under unspecified conditions of "urgency." Invocation of this unqualified provision would jeopardise the preparation of a resettlement plan</p>	<p>invoke the "urgency" clause to take immediate possession of land after notification should narrowly specify the circumstances under which this provision may be invoked</p>
<p>Key Element (2): Prepare a resettlement plan elaborating on displaced persons'... income and livelihood restoration strategy</p>	<p>NEA</p> <p>23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p> <p>NEAR</p> <p>BY virtue of the powers vested in me by Section 23Z of the National Environmental Act, No. 47 of 1980, as amended by Act, No. 56 of 1988, I, ... Minister of Environment and Parliamentary Affairs, do by</p>	<p>Partial Equivalence</p> <p>Regulations in terms of the National Environmental Act specify involuntary resettlement exceeding 100 families other than resettlement under emergency situations as a prescribed project requiring approval in terms of the environmental assessment process. In such event involuntary resettlement would be addressed directly in terms of the environmental assessment process in the form of an initial environmental examination report or an environmental impact assessment report The IEE or</p>	<p>For Full Equivalence the Resettlement Action Plan recommended in the NIRP would be required to elaborate on the income and livelihood restoration strategy that would be applied to displaced persons.</p>

⁹ In practice it appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.

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	<p>this Order, determine the projects and undertakings set out in the Schedule hereto as projects and undertakings for which approval shall be necessary under the provisions of Part IVC of the Act....</p> <ul style="list-style-type: none"> Involuntary resettlement exceeding 100 families other than resettlement effected under emergency situations. 	<p>EIAR would presumably address displaced persons' entitlements.¹⁰</p> <p>It appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.</p>	
<p>Key Element (3):</p> <p>Prepare a resettlement plan elaborating on [the applicable] institutional arrangements</p>	<p>NEA 23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p> <p>NEAR BY virtue of the powers vested in me by Section 23Z of the National Environmental Act, No. 47 of 1980, as amended by Act, No. 56 of 1988, I, ... Minister of Environment and Parliamentary Affairs, do by this Order, determine the projects and undertakings set out in the Schedule hereto as projects and undertakings for which approval shall be necessary under the provisions of Part IVC of the Act....</p> <ul style="list-style-type: none"> Involuntary resettlement exceeding 100 families other than resettlement effected under emergency situations. 	<p>Partial Equivalence</p> <p>Regulations in terms of the National Environmental Act specify involuntary resettlement exceeding 100 families other than resettlement under emergency situations as a prescribed project requiring approval in terms of the environmental assessment process. In such event involuntary resettlement would be addressed directly in terms of the environmental assessment process in the form of an initial environmental examination report or an environmental impact assessment report. The IEE or EIAR would presumably address displaced persons' entitlements.¹¹</p> <p>It appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.</p>	<p>For Full Equivalence the Resettlement Action Plan recommended in the NIRP would be required to elaborate on the applicable institutional arrangements.</p>
<p>Key Element (4):</p> <p>Prepare a resettlement plan elaborating on...the monitoring and reporting</p>	<p>NEA 23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time</p>	<p>Partial Equivalence</p> <p>Regulations in terms of the National Environmental Act specify involuntary resettlement exceeding 100 families other</p>	<p>For Full Equivalence the Resettlement Action Plan recommended in the NIRP would be required to elaborate on the monitoring and reporting framework.</p>

¹⁰ In practice it appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.

¹¹ In practice it appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
framework	<p>an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p> <p>NEAR BY virtue of the powers vested in me by Section 23Z of the National Environmental Act, No. 47 of 1980, as amended by Act, No. 56 of 1988, I, ... Minister of Environment and Parliamentary Affairs, do by this Order, determine the projects and undertakings set out in the Schedule hereto as projects and undertakings for which approval shall be necessary under the provisions of Part IVC of the Act....</p> <ul style="list-style-type: none"> Involuntary resettlement exceeding 100 families other than resettlement effected under emergency situations. 	<p>than resettlement under emergency situations as a prescribed project requiring approval in terms of the environmental assessment process. In such event involuntary resettlement would be addressed directly in terms of the environmental assessment process in the form of an initial environmental examination report or an environmental impact assessment report. The IEE or EIAR would presumably address displaced persons' entitlements.¹²</p> <p>It appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.</p>	
<p>Key Element (5) Prepare a resettlement plan elaborating on...the budget [for RAP implementation]</p>	<p>NEA 23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p> <p>NEAR BY virtue of the powers vested in me by Section 23Z of the National Environmental Act, No. 47 of 1980, as amended by Act, No. 56 of 1988, I, ... Minister of Environment and Parliamentary Affairs, do by this Order, determine the projects and undertakings set out in the Schedule hereto as projects and undertakings for which approval</p>	<p>Partial Equivalence</p> <p>Regulations in terms of the National Environmental Act specify involuntary resettlement exceeding 100 families other than resettlement under emergency situations as a prescribed project requiring approval in terms of the environmental assessment process. In such event involuntary resettlement would be addressed directly in terms of the environmental assessment process in the form of an initial environmental examination report or an environmental impact assessment report. The IEE or EIAR would presumably address displaced persons' entitlements.¹³</p>	<p>For Full Equivalence the Resettlement Action Plan recommended in the NIRP would be required to elaborate on the budget for RAP implementation.</p>

¹² In practice it appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.

¹³ In practice it appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.

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	<p>shall be necessary under the provisions of Part IVC of the Act....</p> <ul style="list-style-type: none"> Involuntary resettlement exceeding 100 families other than resettlement effected under emergency situations. 	<p>It appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.</p>	
<p>Key Element (6):</p> <p>Prepare a resettlement plan elaborating on ...the time-bound implementation schedule.</p>	<p>NEA</p> <p>23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p> <p>NEAR</p> <p>BY virtue of the powers vested in me by Section 23Z of the National Environmental Act, No. 47 of 1980, as amended by Act, No. 56 of 1988, I, ... Minister of Environment and Parliamentary Affairs, do by this Order, determine the projects and undertakings set out in the Schedule hereto as projects and undertakings for which approval shall be necessary under the provisions of Part IVC of the Act....</p> <ul style="list-style-type: none"> Involuntary resettlement exceeding 100 families other than resettlement effected under emergency situations. 	<p>Partial Equivalence</p> <p>Regulations in terms of the National Environmental Act specify involuntary resettlement exceeding 100 families other than resettlement under emergency situations as a prescribed project requiring approval in terms of the environmental assessment process. In such event involuntary resettlement would be addressed directly in terms of the environmental assessment process in the form of an initial environmental examination report or an environmental impact assessment report. The IEE or EIAR would presumably address displaced persons' entitlements.¹⁴</p> <p>It appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.</p>	<p>For Full Equivalence the Resettlement Action Plan recommended in the NIRP would be required to elaborate on the time-bound implementation schedule.</p>
<p>Policy Principle 9: Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.</p>			
<p>Key element (1):</p> <p>Disclose a draft resettlement plan,</p>	<p>LAA</p> <p>38. At any time after an award is made under section 17, the</p>	<p>??</p> <p>Partial Equivalence</p>	<p>For Full Equivalence the Resettlement Action Plan should be disclosed in its draft from before</p>

¹⁴ In practice it appears that the Ministry of Lands requires resettlement plans in suitable instances prior to proceeding with acquisition.

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
<p>before project appraisal¹⁵, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders</p>	<p>Minister may by Order published in the Gazette-</p> <p>(a) where the award relates to the acquisition of any land, direct the acquiring officer of the district in which that land is situated, or any other officer authorized in that behalf by such acquiring officer, to take possession of that land for and on behalf of the State, or</p> <p><u>Provided that the Minister may make an Order under the preceding provisions of this section-</u></p> <p><u>(a) where it becomes necessary to take immediate possession of any land on the ground of any urgency, at any time after a notice under section 2 is exhibited for the first time in the area in which that land is situated or at any time after a notice under section 4 is exhibited for the first time on or near that land.</u></p> <p>NEA</p> <p>23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p> <p>National Environmental Act Regulations No. 772/22.</p> <p>The National Environmental Act. No. 47 of 1980</p> <p>Order under Section 23Z</p> <p>By virtue of the powers vested in me by Section 23Z of the National Environmental Act, No. 47 of 1980, as amended by Act, No. 56 of 1988, I, ... Minister of Environment and Parliamentary Affairs, do by this Order, determine the projects and undertakings set out in the Schedule hereto as projects and undertakings for which approval shall be necessary under the provisions of Part IVC of the Act.</p> <ul style="list-style-type: none"> Involuntary resettlement exceeding 100 families other than resettlement effected under emergency situations. 	<p>If a resettlement plan is prepared as part of an Environmental Impact Assessment report in the project approval process it would be made available during the public comment period.</p> <p>Art. 38 of the LAA permits the government to authorize immediate possession of land under unspecified conditions of “urgency.” Invocation of this unqualified provision would jeopardise disclosure of a draft resettlement plan prior to final decision to issue project permits.¹⁶</p>	<p>project appraisal in an accessible place and in a form and languages understandable to affected persons and stakeholders.</p> <p>Authorization for the government to invoke the “urgency” clause to take immediate possession of land after notification should narrowly specify the circumstances under which this provision may be invoked</p>

¹⁵ The term “project appraisal” refers to ADB’s process of deciding whether and under what conditions to proceed with a project following preparation and disclosure of a draft and final resettlement plan. The corresponding milestone for a CSS would be the decision to issue a final permit for the project to proceed.

¹⁶ See footnote 15, above

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	<p>National Environmental (Procedure for approval of projects) Regulations, No.1 of 1993</p> <p>10. Upon receipt of an Environmental Impact Assessment Report the Project Approving Agency shall, within fourteen days, determine whether the matters to by the Terms of Reference as set out in regulation 6 (ii) above are addressed, and if the Report is determined to be inadequate the Project Approving Agency shall require the project proponent to make necessary amendments and re submit the report, together with the required number of copies.</p> <p>11. (i) Upon receipt of the Report, as specified in regulation 10 above, the Project Approving Agency shall submit a copy thereof to the Authority and by prompt notice published in the Gazette and in one national newspaper published daily in the Sinhala, Tamil and English languages invite the public to make written comments, if any, thereon to the Project Approving Agency within thirty days from the date of the first appearance of the notice, either in the Gazette or in the newspaper.</p> <p>(ii) The notification shall specify the times and places at which the Report shall be made available for public inspection.</p> <p>(iii) The project Approving Agency shall make available copies of the Report to any person interested to enable him to make copies thereof.</p> <p>12. It shall be the duty of a Project Approving Agency, upon completion of the period of public inspection or public hearing, if held, to forward to the project proponent comments received for review and response, within six day. The Project Proponent shall respond to such comments in writing to the Project Approving Agency.</p> <p>.</p>		
<p>Key element (2): Disclose the final resettlement plan and its updates to affected persons and other stakeholders.</p>		<p>No Equivalence</p>	<p>The Full Equivalence the legal framework should clarify or otherwise require that the final RAP be fully disclosed to affected persons and other stakeholders as a part of the EIA process or through other legally mandated mechanisms as</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
			necessary.
Policy Principle 10: Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.			
<p>Key element (1): Conceive and execute involuntary resettlement as part of a development project or programme</p>	<p>LAA 29. Where an award is made under section 17, the acquiring officer of the district in which the land to which that award relates is situated shall tender to each person who is entitled to compensation according to that award the amount of compensation allowed to him by that award or, if in lieu of that amount a new amount has been allowed as compensation to that person by a final decision on an appeal to the board or by a decision on an appeal to the Court of Appeal tender that new amount to him, and shall pay the tendered amount to him if he consents to receive it: "acquiring officer", with reference to any land, means the Government Agent or Assistant Government Agent of the administrative district in which that land is situated, or any other prescribed officer;</p> <p>NEA 23BB. (1) It shall be the duty of all project approving agencies to require from any Government department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project, and containing such information and particulars as may be prescribed by the Minister for the purpose.</p>	<p>Partial Equivalence Land acquisition in terms of the Land Acquisition Act takes place in the context of a public purpose for which compensation is paid by the Government. Thus it may be considered that involuntary resettlement is part of development project or programme. However, there are no direct provisions requiring same. Where the development activity as a consequence of which acquisition is mandated is required to go through the environmental assessment process, a resettlement programme may be part of the environmental assessment report and thus part of the development project.</p>	<p>For Full Equivalence the legal framework should incorporate the following provision of the NIRP: Resettlement should be planned as a development activity for the affected people</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
<p>Key element (2): Include the full costs of resettlement in the presentation of project's costs and benefits</p>	<p>LAA Section 29. Where an award is made under section 17, the acquiring officer of the district in which the land to which that award relates is situated shall tender to each person who is entitled to compensation according to that award the amount of compensation allowed to him by that award or, if in lieu of that amount a new amount has been allowed as compensation to that person by a final decision on an appeal to the board or by a decision on an appeal to the Court of Appeal tender that new amount to him, and shall pay the tendered amount to him if he consents to receive it: "acquiring officer", with reference to any land, means the Government Agent or Assistant Government Agent of the administrative district in which that land is situated, or any other prescribed officer;</p> <p>NEA Where the development activity as a consequence of which acquisition is mandated is required to go through the environmental assessment process, a resettlement action plan may be part of the EA report and thus part of the development project.</p> <p>"environmental impact assessment report" means a written analysis of the predicted environmental project and containing an environmental cost-benefit analysis, if such an analysis has been prepared, and including a description of the project, and includes a description of the avoidable and unavoidable adverse environmental effect of the proposed prescribed project ; a description of alternative to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project;</p>	<p>Partial Equivalence</p> <p>The definition of an environmental impact assessment report provides that a cost-benefit analysis "may" be included.</p> <p>In the absence of direct provisions in that respect, the full cost of resettlement may not always be included in the presentation of a project's costs and benefits.</p>	<p>For Full Equivalence the legal framework should require that the presentation of project's cost and benefit include the full costs of resettlement (whether or not a cost-benefit analysis is prepared under EIA) and also incorporate the following provision of the NIRP as a legal requirement:</p> <p>4. Policy Principles Project Executing Agencies should bear the full costs of compensation and resettlement.</p>
<p>Key element (3): For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component</p>		<p>No Equivalence</p>	<p>For Full Equivalence the implementation framework should provide for the option of implementing the involuntary resettlement component of the project as a stand-alone operation.</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
of the project as a stand-alone operation			
Policy Principle 11: Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.			
Key element (1): Pay compensation and provide other resettlement entitlements before physical or economic displacement	LAA Section 38. At any time after an award is made under section 17, the Minister may by Order published in the Gazette- (a) where the award relates to the acquisition of any land, direct the acquiring officer of the district in which that land is situated, or any other officer authorized in that behalf by such acquiring officer, to take possession of that land for and on behalf of the State, or (b) where the award relates to the acquisition of any servitude, declare that the land over which that servitude is to be acquired shall be subject to that servitude: Provided that the Minister may make an Order under the preceding provisions of this section- (a) where it becomes necessary to take immediate possession of any land on the ground of any urgency, at any time after a notice under section 2 is exhibited for the first time in the area in which that land is situated or at any time after a notice under section 4 is exhibited for the first time on or near that land, and (b) where it becomes necessary immediately to acquire any servitude on the ground of any urgency, at any time after a notice under section 4 is exhibited for the first time on or near the land over which that servitude is to be acquired. Section 38A. (1) Where any land is being acquired for the purposes of a local authority and the preliminary valuation of that land made by the Chief Valuer of the Government does not exceed the specified sum, the immediate possession of such land on the ground of urgency, within the meaning of the proviso to section 38, shall be deemed to have become necessary, and accordingly the Minister may make an Order of possession under section 38 of this Act.	Partial Equivalence The LAA provides a regular procedure for acquisition and an expedited procedure to be utilised in the event of urgency. Under the regular acquisition procedure displacement can be affected after the award determining compensation has been made. The payment of compensation may get delayed in the event the displaced person decides to exercise the right of appeal against the compensation awarded. Under the expedited procedure for acquisition, displacement can occur prior to the award determining compensation being made.	For Full Equivalence the legal framework should require that all compensation and other resettlement entitlements be paid prior to physical or economic displacement, including under any expedited procedure for land acquisition. ¹⁷

¹⁷ In the event of a lengthy appeal process provisions may be included to permit a reasonable portion of compensation (in general equal to the disputed amount) to be deposited in an interest-bearing “escrow” account for the benefit of the displaced person(s) pending the outcome of the appeal.

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
	<p>(2) In subsection (1) “ specified sum” means-</p> <p>(a) in the case of an acquisition for the purpose of a Village Council or a Town Council, twenty-five thousand rupees;</p> <p>(b) in the case of an acquisition for the purpose of an Urban Council, seventy-five thousand rupees;</p> <p>(c) in the case of an acquisition for the purpose of a Municipal Council, one hundred thousand rupees.</p> <p>(3) The provisions of subsection (1) shall not be construed to limit in any way the powers of the Minister to make any Order of possession of any land on the ground of any urgency under section 38 of this Act which he may lawfully make under that section, whether such land is being acquired for the purposes of a local authority or not.</p> <p>(4) In this section “local authority” means a Municipal Council, Urban Council, Town Council or Village Council.</p>		
<p>Key element (2): Implement the resettlement plan under close supervision throughout project implementation</p>		<p>No Equivalence</p>	<p>Consider the introduction of provisions for the implementation of the resettlement plan under close supervision throughout project implementation.</p>
<p>Policy Principle 12: Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.</p>			
<p>Key element (1): Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of</p>	<p>NEA</p> <p>32. (l) The Minister may make regulations in respect of all matters which are stated or are required by this Act to be prescribed or for which regulations are required by this Act to be made.</p> <p>(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations in respect of all or any of the following matters:-</p> <p>(r) requirement for specific environmental monitoring duties by the developer or a specified third party delegated for this purpose.</p>	<p>Partial Equivalence</p> <p>Where the activity resulting in resettlement is subject to an environmental assessment, and the EIA or the IEE includes a resettlement action plan, the resettlement may be monitored as a result of the overall project monitoring. However neither the NEA nor its implementing regulations specify the resettlement outcome parameters to be monitored and assessed relative to baseline conditions.</p>	<p>For Full Equivalence the legal framework should require the monitoring and assessment of resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring.</p>

(A) ADB Safeguard Policy	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations for Full Equivalence
resettlement monitoring	NEAR Section 14. It shall be the duty of all Project Approving Agencies to forward to the Authority a report which contains a plan to monitor the implementation of every approved project ¹⁸ , ...		
Key element (2): Disclose monitoring reports		No Equivalence	Introduce provisions mandating the disclosure of monitoring reports.

¹⁸The NEAR requires the project proponent to submit monthly reports to the PAA regarding compliance with the specified conditions. Spot checks could be done by the PAA to verify accuracy