

Law on Land Management

EMBLEM

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Land Management Law of the Islamic Emirate of Afghanistan

CHAPTER 1

GENERAL PROVISIONS

Article 1:

The present law has been enacted in accordance with the injunctions of the Islamic *Shari'a* to ensure the following objectives:

1. Better management of land affairs of the country.
1. Solving problems resulting from land reforms implementation during former regimes.
1. Management of property books and their relevant documents.
1. Land registration.
1. Collection of authentic figures and statistics on properties to be used in the future economic and development plans of the Emirate (State).
1. Segregation of individual, Emirate (State), virgin, grazing and endowed lands.
1. Distribution of Emirate (State) lands as well as virgin lands.
1. Restoration of lands distributed unlawfully after 7 *Saur*, 1357 (S.H.).
1. Creation of a uniform and valid landholding system in the country.

Article 2:

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

1. Landowner: An individual who owns land on the basis of legal documents is known as the landowner.

2. Inheritors: Individuals who after distribution of an inheritance are identified eligible by the relevant legal court to possess the inherited properties of the deceased.

3. Family: Husband, wife and unmarried children.

4. Settler: An individual to whom the Emirate (State) has distributed land in a place other than his proper place of residence.

5. Legal Attorney: A person being appointed as an attorney by the landowner, his inheritors or partners on the basis of a legal deed.

6. Agricultural Land: A landed area used for agriculture in accordance with the provisions of the present law.

7. Private lands: Plot (s) of lands belonging to individuals, companies, and non-Emirate legal entities in the same or different locations.

8. Emirate (State) lands:

1. Plot (s) of orchard, irrigated and rain-fed lands, hills, parks, marshy lands, forests, pastures, reed-beds and other lands being registered in the principal book of the Emirate lands.

2. Lands, which are deemed public lands, but are not registered in the principal book of Emirate (State) lands.

3. Lands in respect of which individual ownership has not been proved legally during settlement.

9. Grazing (derelict) lands:

1. Grazing (derelict) lands are those lands in respect of which Emirate (State) or individual ownership can not be proved legally (?).

2. Where a person having a loud voice screams with full strength from the last house of a village or a town, the distance up to which his scream is heard, shall be deemed grazing (derelict) land.

10. Endowed Lands:

Endowment means to confine a thing to the possession of Allah, which again means that the thing endowed is no longer the property of the endower and does not become under the ownership of the one under whose custody the endowment has been placed.

11. Virgin Land: The land which has never been brought under cultivation. (With the exception of individual, Emirate (State), grazing (derelict), and endowed lands, all plains, mountains, hills, rivers, arid and rocky lands and forests shall be deemed virgin (dry) lands.

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

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

14 Small Fragment: A piece of land with an area of less than one hectare (5 *jiribs*).

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

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

17. Eligible: An individual to whom land has been distributed in accordance with the provisions of the present law.

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

19. Board: Settlement and management board of landownership-related affairs.

20. Declaration: A printed form which has been distributed prior to the year 1357 (1978) or after the victory of the Islamic movement for the purpose of registering quantity and quality of land fragment (s) belonging to individuals as well for determining tax. The declaration form shall not be deemed a title deed and shall only be used for collecting lawful revenues (taxes) due to the Emirate (State).

21. Landless Farmer: A person who himself does not own land and works on the land of another person.

22. Farmer with less land: A person who owns less than one hectare of first grade land or the equivalent thereof and is busy in agriculture activities.

23. Agriculture laborer: A person who does not own land and performs agricultural works against definite wages in cash or in kind.

24. Hapless nomad: A nomad who, apart from wage-earning and shepherding, does not have any other income sources.

25. Principal book for registration of private lands: A book in which quantitative and qualitative particulars, as well as transfers and alterations of the non-Emirate land fragment (s) belonging to individuals, companies, and legal entities are being registered after thoroughly checking valid deeds in accordance with the provisions of the present law.

26. Principal book for registration of Emirate (State) lands: A book in which Emirate (State) lands are registered together with their quantitative and qualitative particulars.

Article 3:

Management of landownership-related affairs is the responsibility of the deputy minister for landownership affairs of the ministry of agriculture & livestock.

CHAPTER 2

TITLE DEEDS

Article 4:

The title deeds include:

1. A deed issued by a court in respect of purchase, conveyance, gift, inheritance, division, land exchange, letter of quittance, letter of correction as well as document of the ultimate decision issued on the basis of property deeds and containing the following conditions:

A: To have been registered with a judicial court. A legal deed without being registered with a judicial court can be valid if confirmed by a competent court.

B. A valid legal deed or a decree without superseding deed or decree.

C: The land under legal deed, if subject to Emirate taxation, shall be recorded in the tax book.

2. Emirate (State) decree, council of ministers (prime ministry's) decree and a deed in respect of purchasing land from Emirate's (State) landed properties with the following conditions:

A. To have been issued by a competent organization.

B. Legal deed and other valid documents without superseding deed or documents.

C. To have been recorded in the tax book if the land is subject to tax payment.

3. The tax payment document having the following conditions:

A. Legal deed or a valid decree without a superseding deed or decree.

B. To have been registered in the principal book of properties and tax.

4. The water rights document having the following conditions:

A. It is without a superseding document.

B. Is registered in principal book of properties and tax.

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

A .The seller possesses a valid deed.

B. Where the customary deed has been prepared before the 15th of *Asad*, (1354), and the buyer having filled the declaration form before the year 1357 and submitted it to the relevant office after being confirmed by the farmers whose lands located next to the same fragment. In locations where declaration forms were either not distributed or distributed before the year (1357) but the registration book has become extinct, and where no claim to the land existed and the land purchase and the possession thereof by the buyer has been confirmed by the landowners holding lands next to the above fragment, as well as by the inhabitants of the locality where the land is situated and is also confirmed by the local Emirate (State) department.

6. A title deed having the following conditions:

A. The basic valid document exists in respect of the land.

B. To have been issued after legal settlement.

C. To have been registered in the principal properties and tax book.

D. No justified claim to the land exists.

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

A. To have been prepared by the relevant court after legal settlement of the land.

B. To have been registered in the principal properties and tax book.

Article 5:

Non-registration of the valid documents stipulated under article 4 of the present law does not cause revocation of the deed. The deed mentioned under clause 3 of article 4 is an exception to this rule.

Article 6:

The valid landownership deeds stipulated under the present law shall be referred to the relevant court by the settlement commission after settlement of the land and shall be converted into a legal deed by the court.

Article 7:

A person possessing land in many locations can obtain a legal document for his entire landholdings from the court of the locality where he possesses land and where convenient for him after completing the information form in respect of relevant locations and in respect of settlement of his landholding area.

Article 8:

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

Article 9:

(1) Where the landowner is not in possession of a deed and the land possessed by him has not been registered in the Emirate properties book, and other individuals did not make claim for the

ownership of the land, and where the signs of agricultural construction have been observed on the land, and where the landowners holding lands next to him as well as agriculture and irrigation departments and the local administrative centre confirmed the location under his possession, the same land shall be deemed his property on the basis of his possession as owner.

(2) If the Emirate (State) provides documents nullifying individual possession stipulated under clause (1) of the present article, and where this claim has not been terminated by limitation and the land is deemed as to belong to the Emirate, in such circumstances the following remedy shall be applied:

Where the land area possessed by a family is up to 10 *jiribs* (2 hectares) of class one land or equivalent thereof shall be given under the possession of the landowner, and the land in excess of 10 *jiribs* (2 hectares) equivalent of class one land shall be sold to the landowner on the current price to be recovered in installments over a period of five years.

Article 10:

In regard to additional land in a landholding area actions shall be taken in accordance with the provisions stipulated under article 9 of the present law.

Article 11:

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

1. Where the settler or his inheritors have paid the entire installments of the land price, they shall be granted the title deed in respect of their related land.

2. Where the settler or his inheritors have partially paid installments of the land price, the remainder installments shall be determined with the agreement of the settler, and after payment of these installments they shall be granted the title deed in respect of their related land.

3. Where the settler or his inheritors have abandoned land due to difficult environmental conditions, and where they make recourse while no Emirate establishments are constructed on the land, and where the landowners possessing lands next to them as well as five influential persons at minimum whose witness is acceptable to the sacred *Shari'a* and the local administration center confirmed their possession of the land, they can obtain the legal deed after payment of the entire installments of the land price on the basis of market rates agreed upon by the settler.

Where Emirate (State) establishments are partially constructed on the derelict land of the settler the remainder of the land shall be handed over to the settler, and the land portion over which the establishments have been constructed shall be possessed by the Emirate (even if the settler has paid the entire installments of the land price).

Where Emirate establishments are totally constructed on the derelict land of the settler and the settler having paid the entire installments of the land price, the land shall still be possessed by the Emirate.

Article 12:

The eligible persons to whom land has been distributed in accordance with the provisions of the present law, and who have not paid the entire price of the land, shall only be granted land distribution and possession certificate. They are not yet deemed the landowners. After payment of the entire land price and upon concluding the agreement in its entirety with the local land management department, they shall be granted the legal deed through the relevant court.

Article 13:

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

CHAPTER 3

LAND SETTLEMENT

Article 14:

(1) The general land management department of the Ministry of Agriculture & Livestock shall conduct the process of settlement and land administration from technical and administration points of view.

(2) The Supreme Court of the Islamic Emirate of Afghanistan, finance, water & power and agriculture & livestock ministries, general department of survey and topography as well as relevant local departments shall be jointly responsible to implement the provision stipulated under clause (1) of the present articles.

(3) Practical work on the site shall be carried out by the settlement commission.

Article 15:

The settlement commission shall perform its functions with the following composition:

1. Representative of the land management organization, as chairman.

2. Land settlement and administrative officials of the land management organization, as members.

3. Representatives of the Supreme Court, finance, and water & power ministries, local promotion and propagation department, as well as members of land mapping and registration team (the cadastre team) of the general department of land survey and topography, as members.

Article 16:

The land settlement commission has the following obligations and powers:

1. Settlement of landholding areas, distribution of deed and land to the eligible person.
2. Determining the limits, category and water rights of the land.
3. Segregation of individual, Emirate (State), as well as grazing, endowed and virgin lands.
4. Referring documents after land settlement to the relevant court for the preparation of legal deeds, as well as referring lawsuits to the competent courts in accordance with the provisions of law.
5. Registration of landholding area and legal deed in the relevant books after settlement.
6. Referring the legal deed for registration in the principal book of properties as well as in the lawful revenues book (tax register) of the Emirate for the relevant location.

7. Submission of legal deed to the owner.

8. Restoration of previously distributed lands (after 7 *Saur*, H.S. 1357) to the owner, to the legal representative or to the legal inheritors of the deceased.

9. Sending performance report to the relevant provincial land management department and to the central land management organization.

Article 17:

Team of the land mapping & registration department team (cadastre team) and of the general department of survey & topography is obligated to accomplish the following tasks:

1. Provide information on the registered maps, results of cadastre as well as a list of the prospective owners.

2. Determine the area and design sketch of land plots.

3. Determine boundaries of the land plot.

4. Adjust local land measuring scale to *jirib*.

5. Accomplish other tasks as might be required for defining land characteristics in the relevant map.

Article 18:

Representatives of the ministry of agriculture, water management and taxation departments are respectively obligated to identify and determine the category of the land plots, define the water rights as well as lawful revenues (taxes) in respect of the land plots.

Article 19:

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

Article 20:

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

1. The governor, as chairman.
2. Head of agriculture department, as vice-chairman.
3. *Mustowfee* (director of provincial finances), head of water department, head of land survey and topography department, and chief security officer, as members.
4. Head of land management department, as secretary-cum-member.

The commission shall call its meeting once a month, and if necessary, shall meet more than once.

Article 21:

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

1. Minister of agriculture & livestock, as chairman.

2. Vice-president of general land management department, as vice-chairman.

3. President of promotion & propagation department of the ministry of agriculture & livestock , president of water management of the ministry of water & power, president of topography & land registration (cadastre) and president of revenues of the ministry of finance, as members.

The commission shall call its meeting once in each quarter of the year, and if necessary, shall call more meetings.

Article 22:

Where during the course of land settlement operation it is proved that the limits, area and category of the plot (s) as stipulated in the deed are in contradiction with the statement of the owner or his legal deputy, the issue shall be thoroughly evaluated by the settlement commission and a decision shall be taken thereon.

Article 23:

In order to ensure public interests, the Emirate, if necessary, can retain the land of a person under the following conditions, which shall take place after the settlement:

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

Article 24:

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

Article 25:

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

Article 26:

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

Article 27:

Persons whose lands are recorded collectively on the basis of a legal document in the name of tribal elders, a reputed elder (an elder of a village), community subterranean irrigation canal (*kariz*) or in the name of other persons, and the portion of each owner is being specified on the basis of traditional distribution, can settle their respective portions and obtain the legal deed as follow:

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

Article 28:

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

1. Dimensions of the original area as well as class one equivalent of the property of each person shall be determined upon observing the property document.
2. If the property document is a tax document, the amount of the annual tax up to S.H. 1354 in respect of each owner shall be obtained from the principal book for registration of properties and the landholding area of each person shall be determined in proportion to the amount of annual tax paid by him.

3. Boundaries of commonly held land, its original area as well as its corresponding class one area shall be determined by the team of the department of land mapping and registration (cadastre team).

4. Share of each person shall be separated in proportion to the area mentioned in the property document or in proportion to tax payment document, and in case of disagreement on the part of his partners or inheritors the issue shall be referred to the court.

5. The land possessed in excess of the area mentioned in the document of the landed property commonly held by the persons shall be deemed additional land and actions in respect thereof shall be taken in accordance with the provisions of the present law.

Article 29:

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

Article 30:

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

CHAPTER 4

RESTORATION OF APPROPRIATED LANDS TO THEIR OWNERS

Article 31:

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

1. Where the land is not distributed and remains in its former state shall be restored to its real owner, his legal deputy or his legal inheritors by the settlement commission after the settlement process.
2. If the land has been distributed to a person in accordance with the then legal documents, the owner or his inheritors, with mutual agreement of the parties, can collect the price of the distributed land on the current rate from the afore-mentioned person.

If there is disagreement between the parties, the land shall again be restored to the owner or his legal deputy, and in case of demise of the owner, shall be restored to his legal inheritors. If the real owner demands, the land produce shall also be returned.

Clause 3 of the present article is an exception to this rule.

3. Where the land exacted from its owner, whether living or deceased, is distributed to Emirate (state) department, institutions and agriculture farms (one page missing).

Article 33: (?)

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

1. Provided cultivability of both lands being exchanged has not been altered, the exchange shall be nullified and either person shall be given his respective land.

2. If the exchanged land is distributed to a person, the exchanged land shall be returned to their real owners.

3. Where establishments are constructed on the exchanged land, or a person whose land has been exchanged with the land of another person has brought changes in the exchanged land, the landowner shall have the right to appropriate the land or the price thereof.

Article 34:

A person who is recognized to be a landowner on the basis of the injunction of the Islamic *Shari'a* as well as on the basis of valid documents, but in whose absence restoring the appropriated land to him is not possible, shall, in order to protect his interests and property, appoint a custodian competent court (attorney of the absent), which shall, in consultation with the general land management department, take appropriate action to protect the property of the absent.

Article 35:

Where the landholding area of persons or the Emirate (State) is distributed to persons based on the then enforced laws and contrary to the principles of the Islamic *Shari'a*, or the land is possessed by persons arbitrarily, the following actions shall be complied with:

1. Where the land is part of the property of persons, it shall be restored to the real owner, his legal deputy or to his inheritors.

2. Where the land is part of the Emirate (State) properties, or the real owner stipulated under clause (1) of the present law has left no inheritors eligible to inherit his property, the land shall be recorded in the total properties of the Islamic Emirate.

3. Under circumstances stipulated in clauses (1 & 2) of the present article, a person whose possession of the land is contrary to the injunctions of the Islamic *Shari'a* and law, shall have no right to claim compensation of loss.

CHAPTER 5

ELIGIBLE

Article 36:

A person fulfilling the following qualifications shall be deemed eligible for land distribution:

1. Citizenship of the Islamic Emirate of Afghanistan.
2. Completion of 18 years of age.
3. A farmer without land or a farmer with less land, agricultural contractual worker, retired employee and hapless nomad.
4. A person who undertakes to cultivate, improve and safeguard the land distributed to him.

Article 37:

To confirm and categorize the eligible on the basis of quota form by the settlement commission, shall take place upon conformation by three influential village elders, village headman and the *mullah imam* (a *mullah* who leads prayers), as well upon ratification by the provincial commission.

Article 38:

The eligible, after his quota is confirmed, shall:

1. Fill the land quota form within (15) days of the receipt thereof, and shall submit it to the settlement commission.
2. Cultivate and improve the land after taking possession thereof.
3. Pay installment of the land price as well as the lawful revenues (taxes) in due time.

Article 39:

Priority of an eligible person in the distribution of land, who fulfills qualifications stipulated under article (36), shall be determined as follow:

(1) 1st priority eligible:

1. A landless farmer with an extended family.

2. A landless farmer who cultivates a land which is possessed by the Emirate (State) for the sake public interests.

(2) 2nd priority eligible:

A landless farmer and a contractual agriculture worker in a village or in a place where there is land for distribution.

(3) 3rd priority eligible:

A farmer with a small land and a retired employee of the Islamic Emirate with small or no land at all, who has rendered the service for (25) years at minimum, and who is distributed land in lieu of retirement pension. In this case, a (14) years service in the communist regime shall not be calculated.

(4) 4th priority eligible:

A hapless nomad who normally tarries for a certain time of the year in a district where there is land for distribution, as well as other nomads.

Article 40:

(1) Tribes, ethnic groups and hapless nomads who are displaced from one place and are settled in another place or province by the Islamic Emirate, shall complete the legal document of landlessness in the relevant court of their location. The general land management department shall distribute a land plot to them as priority four eligible provided that land is available for distribution.

(2) Ministries of agriculture & livestock, water & power, education, public health, telecommunications as well as the department of rural rehabilitation & development are obligated to perform their respective tasks.

Article 41:

Where the eligible passes away, the following provisions shall be complied with in regard to the distributed land:

1. The eligible heirs can make use of the land by paying installments of the price of the distributed land. After paying the entire installments of the land price, the inheritors shall be granted the right to inherit the land which shall be irrevocably transferred to them
2. Where the heirs are minors and female, or the eligible is not in a position to cultivate the land on health grounds, they can give the land to another farmer or can lease it.
3. Where the eligible or his heirs do not want to continue use of the distributed land after enforcement of the present law, they can return the land to the Islamic Emirate. In such case the paid installments shall be reimbursed from the Emirate budget.

Article 42:

A married eligible or bread earner of a family shall have right of priority in land distribution as compared to the unmarried eligible falling under the same category.

CHAPTER 6

LAND DISTRIBUTION

Article 43:

The following lands can be distributed provided they are not needed for the establishment of a farm or a project thereon:

1. Lands donated to the Islamic Emirate of Afghanistan with the proviso that they are not donated for a specific purpose.

2. Agricultural lands of the Emirate or the grazing lands, which are recently being prepared for cultivation.

Article 44:

(1) Distribution of land to an eligible shall take place in compliance with the provisions of the present law, through the recommendations of the ministry of agriculture & livestock and upon approval by the *Amir al-Mo'minin* against a just price and on 10-year installments. Unless the entire installments are paid, the land shall be deemed as a trust under the custody of the eligible.

(2) The price of the land to be distributed shall be determined in conformity with the locally prevailing price at the time of land distribution by the high commission appointed by the *Amir al-Mo'minin*.

(3) Time for payment of installments of the land price distributed after enforcement of the present law shall be one year after the date of land distribution.

Article 45:

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

First grade: (Irrigated land covered with orchards, vineyards and producing double crops).

Category one land: (Orchard or vineyard), coefficient (1.00).

Category two land: (double crops, irrigated), coefficient (0.85).

Second grade: (Single crop, irrigated):

Category three land: A single crop irrigated land, of which 50 per cent or more than that is cultivated or irrigated annually, coefficient (0.67).

Category four land: A single crop irrigated land, 15 to 50 per cent of which is cultivated or irrigated annually, coefficient (0.40).

Third grade: (Less irrigated and rain-fed).

Category Five land: A single crop irrigated land less than 15 per cent of which is cultivated and irrigated annually, as well as rain-fed land which is cultivated every two alternate years, coefficient (0.20).

Category six land: Rain-fed land, which is cultivated every three alternate years, coefficient (0.15).

Category seven land: Rain-fed land, which is cultivated for more than two alternate years, coefficient (0.10).

Article 46:

The land measuring scale unit is *jirib* corresponding to (2000) m² or one-fifth of a hectare. At the time of distribution to the eligible, the land shall not be calculated if it is half a *jirib* or less than that, and the land in excess of half *jirib* shall be calculated one *jirib*.

Article 47:

The land shall be distributed to the eligible in one of the following categories:

1. Category one land: (Orchard or vineyard), 2 hectares, equivalent to (10) *jiribs*.
2. Category two land: (double crop, irrigated), (12) *jiribs*.
3. Category three land: (single crop, irrigated), (15) *jiribs*.
4. Category four land: (single crop, irrigated), (25) *jiribs*.
5. Category five land: (single crop, irrigated, and rain-fed land cultivated in one season, (50) *jiribs*.
6. Category six land: (rain-fed land cultivated in two seasons alternately, (66) *jiribs*.
7. Category seven land: (rain-fed land cultivated for more than two alternate years, (100) *jiribs*.

Article 48:

The average annual output of one *jirib* of land in various locations shall be determined by the agriculture, irrigation, land mapping & registration (cadastre) and land management departments.

Article 49:

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

Article 50:

(1) Tiny and dispersed land lots remaining at the end of distribution, shall, first of all, be distributed to the farmer possessing less land next to the remaining lots, then to the landowner whose land is next to the above remaining plot, or shall, otherwise, be distributed to the landowner possessing minimum land in the location, against current price. In this case the landowner shall pay the land price in lump sum.

(2) Where landowners under clause (1) of the present article do not wish to purchase, the land shall be sold on auction.

Article 51:

The ministry of water & power (?) shall hand over a constructed agricultural project, provided it is not needed for the construction of Emirate (State) farm, to the general land management department for distribution to eligible persons.

CHAPTER 7

LAND TRANSFERS AND ALTERATIONS

Article 52:

(1) The owner has the right to transfer his property irrevocably or temporarily.

(2) An eligible person and a settler after paying the entire installments of the land price and after obtaining the legal deed, as well as heirs of the eligible person with their shares having being confirmed, shall have the right to transfer their lands.

Article 53:

Irrevocable transfer of landed property as well as that of immovable installations and equipments existing in the landholding area shall take place on the basis of a legal deed.

Article 54:

Transfer of landed property shall take place by the relevant court of the place where immovable property is situated through the land management department. Registration of land transfers in principal land registration book, in the book of lawful Emirate (State) revenues (taxes) as well as in the book of land transferring actions without charge. The relevant court of the place where the immovable property is situated shall collect the transferring fees in accordance with the provisions of law.

Article 55:

Qualitative and quantitative alterations in the land shall be registered in the principal land registration books as well as in the lawful revenues (tax) book on the basis of written information provided by the landowner with the approval of local agriculture department after settlement.

Article 56:

Transfer of the Emirate (State) lands to Emirate (State) departments and institutions shall take place on the basis of an agreement between the general land management department of the ministry of agriculture & livestock and the end-user department after approval by *Amir al-Mo'minin*.

Article 57:

A person in possession of land plots in several locations can exchange his respective plots with the Emirate (State) lands taking into consideration the category and price of the land, in a district or a province where he owns lands with the proviso that the lands which would be exchanged are not farm land or is not under a project.

Article 58:

Exchange of individual lands shall take place upon observing the legal deed and through mutual agreement between the parties by the court in the location of immovable property through land management department.

Article 59:

Regarding agricultural lands which were formerly distributed to non-Emirate cooperatives, institutions and companies during the communist regime after 7 *Saur*, 1357 till 8 *Saur*, S.H. 1371, shall be subject to the following actions:

1. Where such cooperatives and institutions are active, they shall pay the land price to the Emirate (State) in installments over a period of 5 years.

2. Where such cooperatives and institutions are inactive, the land shall be appropriated by the Emirate (State) without compensation of loss.

Article 60:

Transfers made contrary to the provisions of the present law shall be invalid.

CHAPTER 8

LANDLEASING

Article 61:

(1) Emirate (State) and private lands shall be leased on the basis of a written agreement between lessor and lessee in accordance with injunctions of the *Shari'a*.

(2) Parties to an agreement shall have legal capability.

Article 62:

The lease document shall contain the following terms in addition to personal particulars of the parties to the agreement as well as of the witnesses:

1. A description of the characteristics of land plot (s).
2. Clarification of legal obligations of the parties to the agreement.
3. Definition of plants and the manner of cultivation and agriculture.
4. Confirming the lease period, the amount of lease charges, together with its due dates and payment methodology in accordance with the provisions of law.
5. Circumstances for annulment of the agreement.

Article 63:

The lessee has the following obligations:

1. To safeguard the soil, irrigation network, installation and equipments existing on the land and which are essential for the benefits of land under lease.
2. To keep clean stream, *kariz*, brook and well related to the land under lease.

3. To cultivate the land in accordance with the lawful terms of lease.
4. To pay lease rent to the lessor in accordance with the agreement.

Where the lessee wants to make cash payment in lieu of lease charges, he shall, with mutual agreement of the parties, pay the price of the kind on the basis of current prices without delay.

5. To undertake partial repairs of equipments and fixtures of the land under lease in accordance with the *Shari'a*.
6. To compensate loss sustained by the lessor if it legally exceeds permissible limits of depreciation.
7. Other obligations as might have been foreseen in the law in accordance with the *Shari'a*.

Article 64:

The lessee is obligated to inform the lessor of any kind of intervention by individuals, which might interrupt the lease.

Article 65:

The lessee can not use the right to irrigation water in respect of the land under lease for purposes other than those stipulated in the agreement.

Article 66:

The lessee can not take action in regard to transfer or in regard to give the land under lease as security.

Article 67:

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

Article 68:

The lessor has the following responsibilities:

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

Article 69:

(1) Lest the lessee should claim the ownership of the Emirate (State) immovable property under lease, the Emirate (State) departments, and the ministry of agriculture & livestock, in particular,

can not lease the land for more than three years, and commercial warehouses and shops for more than one year.

(2) The lessor can not sublease the leasehold to another person until the end of lease period or until the annulment of the agreement thereof.

(3) Annulment of lease shall take place in accordance with the provisions of the *Shari'a*.

Without legal permission no department shall be allowed to annul the lease agreement.

Article 70:

Where the land, immovable irrigation installations, fixtures and equipments as well as trees are damaged or destroyed as a result of natural disasters and *force majeure*, the lessee shall not be obligated to make compensation of the losses to the lessor.

Article 71:

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

1. Illness or reduction in the number of his family members.
2. Occurrence of disasters resulting from *force majeure*, which may compel the lessee to abandon the location or to render the land under lease uncultivable.
3. Land to be distributed to him by the Emirate (State).

4. Circumstances foreseen in the lease agreement.

5. Other circumstances foreseen in the law and in the *Shari'a*.

Article 72:

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

Article 73:

Where the lessee dies or disappears, his family can carry on the lease in accordance with provisions of the *Shari'a*.

Article 74:

The lease period of the land, taking into consideration the provision stipulated under article (69) of the present law, shall depend on agreement of the parties.

Article 75:

(1) Putting the Emirate (State) lands on auction for leasing shall be brought to the public notice by the provincial land management department through radio, newspapers and through local mass media.

(2) The public notice shall contain information such as land characteristics, duration of lease, place and time for the submission of application.

(3) The public notice shall be published through mass media two months prior to concluding the lease agreement and cultivating agricultural plants.

Article 76:

In determining lease charges of the Emirate (State) land, produce of the land next to the Emirate (State) land, and the standard yields of local lands shall be taken into consideration.

Article 77:

Leasing Emirate (State) lands to real and legal entities shall take place on the basis of auction and on the basis of calling a meeting for bidding. In order to carry on the meeting, a commission comprising representatives of agriculture & livestock, finance, general land mapping & registration (cadastre) and land management departments, chaired by the provincial representative, shall be assigned to the provincial or district center. Results of lease bidding shall, in agreement with the governor, be submitted through the general land management department to the minister for approval.

Article 78:

Lessee of the Emirate (State) lands is obligated to provide security in regard to payment of lease charges as follows:

1. If the leasehold is five *jiribs* corresponding to 1st grade or less than that, one property holder guarantor, and if the leasehold is in excess of five *jiribs* corresponding to 1st grade, two property holder guarantors.

2. In case of a leasehold more than 20 *jiribs* land corresponding to 1st grade, a legal guaranty letter equivalent to or more than the leasehold shall be prepared.

Article 79:

Where Emirate (State) lands under lease sustain losses as a result of agriculture pestilence the lessee shall be obligated to communicate the issue to the land management department. The extent of losses shall be determined by a commission comprising representatives of agriculture, land management, irrigation and tax departments on the spot. Recommendations of the commission concerning the losses sustained shall be final after being confirmed by the governor.

Article 80:

As and when the Emirate (State) needed taking back its lands entirely or partially to meet public demands, following actions shall be taken in this regard:

1. Where the leasehold is taken back after harvesting time, the agreement shall be annulled and the lessee shall be obligated to pay lease charges in accordance with the lease agreement.

2. Where the leasehold is taken back before harvesting time, and where the lessee has made expenditures in respect of the leasehold, such expenditures shall be reimbursed to him in accordance with the local practice and the lease agreement shall be annulled thereupon.

3. Where a portion of the land is restituted before harvesting and another portion is taken back thereafter, the amount of lease charges shall be determined in proportion to the restituted land, and in regard to the remaining land, provided agreed upon by the parties, the agreement will remain the same.

Lease deed in respect of non-Emirate (State) lands shall be registered in the lease book of the local land management department after going through necessary formalities. A certified copy of

the lease deed in respect of Emirate (State) lands shall be sent to the central land management department.

Article 82:

In respect of lease transactions of non-Emirate (State) lands, the lessor shall pay Afghanis 5000 per *jirib* of the basic land area as price of the registration form.

Article 83:

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

CHAPTER 9

PASTURES AND ENDOWED LANDS

Article 84:

(1) Pastures are public property. An individual or the Emirate (State) can not possess pasture lands, unless otherwise stipulated by the *Shari'a*.

(2) Pastures shall be kept unoccupied for the sake of public requirements of the villagers (for cattle grazing, graveyard, threshing ground, etc.).

Article 85:

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

Article 86:

(1) Property or land being endowed shall no longer remain under the ownership or possession of the owner.

(2) Selling, giving in gift, transferring or inheriting endowed properties or lands is not permitted.

(3) The interests of the endowed property, for whatever purpose it might have been endowed, shall be utilized for the same purpose.

CHAPTER 10

DISTRIBUTION OF VIRGIN AND ARID LANDS

Article 87:

(1) No person can possess virgin and arid lands, unless authorized by the sovereign (*Amir al-Mo'minin*).

(2) Where a person arbitrarily possesses arid land and where no permission granted by the *Amir al-Mo'minin* or his deputy existed, by merely arbitrary possession, such properties (lands) shall not be deemed personal. Only the *Amir al-Mo'minin* has the authority to allow possession of such lands.

(3) Distribution of virgin and arid lands to individuals, agriculture & livestock institutions, private and joint domestic companies by the general land management department of the ministry of agriculture & livestock, shall take place on the basis of auction after being approved by the *Amir al-Mo'minin*.

(4) Virgin and arid lands shall be put at the disposal of the user after going through approval formalities against a just price on the basis of a contract entered into by the general land management department and the buyer for reclamation of virgin and arid lands. Former possessor shall be granted the right of priority.

(5) The price of virgin and arid lands shall be determined on the site by a commission hereinafter referred to 'evaluation and land disposal commission', composed of representatives of agriculture, land management, irrigation, mines & industries and tax departments as well as of the representative of the general mapping & land registration (cadastre) department. Where the price is deemed unfair by the general land management department, it can be reviewed. The price being determined shall be submitted for confirmation by the council of ministers and for approval by the *Amir al-Mo'minin*.

(6) The price of virgin and arid lands shall be equally received in 5 annual installments.

Article 88:

(1) Lands being specified for distribution shall be the net property of the Emirate (State), or shall be virgin and arid lands, and shall not be under Emirate projects, urban master plan, forests, pastures and mines. Pasture lands and personal properties can not be distributed.

(2) A pre-distribution assessment of the virgin and arid lands shall be conducted by the technical commission composed of representatives stipulated under clause 5 of article 87 of the present law, for the accomplishment of the following objectives:

1. Capability of being reclaimable and cultivable.
- 2- Conduct survey of the area concerned.
- 3- Identify and confirm water resources and digging-up deep wells from the point of view of availability of subterranean and surface waters and the volume thereof.
- 4- Observe the rights of landowners possessing lands next to the leasehold for reclaiming the land from the point of view of right to irrigation water and other necessary aspects.
- 5- Rehabilitate and construct dikes and canals in order to bring the relevant area under irrigation.

Article 89:

Determining distribution standard of virgin and arid lands for the sake of establishing agriculture farms, domestic private and joint-stock companies by using mechanized agricultural machinery and appliances shall take place according to the following categories:

1. To individuals, up to (2) hectares.
2. To agricultural companies, up to (100) hectares.
3. Joint-stock companies, up to (500) hectares.

Article 90:

(1). A person asking for virgin and arid land shall submit his application for receiving land to the central or provincial land management department. The application shall be reviewed by the evaluation and assessment commission within one and shall be sent to the general land management department. Actions shall be taken in regard to land distribution through the general land management department in accordance with the provision of the present law.

(2). Time for land reclamation, if the land is up to (500) hectares, can not be more than three years.

(3). Confirmation of the date of work commencement on virgin and arid lands shall be communicated by the provincial land management department to the general land management department.

Article 91:

(1) Simultaneously with work commencement on virgin and arid lands the land management department shall provide a temporary document to the user and upon payment of the entire installments of the land price he shall be granted the legal deed.

(2) Where it is found at the end of evaluation that the user does not proceed with the land reclamation work in accordance with the concluded agreement, the land shall be returned to the Emirate (State) and the temporary document shall be deemed annulled. In this case only the paid installments shall be disbursed.

Article 92:

The user shall be exempt from payment of lawful revenues (taxes) for a period of five years from the date of collecting the first harvest.

Article 93:

Ministries of agriculture & livestock, water & power, mines & industries, agriculture development bank and other relevant departments shall have the following responsibilities:

- 1- Conduct surveys in respect of agriculture farms.

- 2- Repair, rehabilitate and construct water head works and canals the maintenance of which is looked after by the Emirate (State).

- 3- Grant credits in accordance with legal banking regulations for construction of irrigation networks, improvement and construction of farm as well as construction of its relevant establishments.

- 4- Provide facilities in the provision of agricultural machinery, fertilizers, improved seeds, improved breeds of cattle and birds, pesticides, veterinary and zoo-technical services, as well as improvement and repair of inter-property irrigation networks.

- 5- Provided professional and technical consultations on production and economic activities of the farm.

- 6- Provide assistance in fair domestic and foreign marketing for the supply and sale of agricultural produce.

Article 94:

Virgin and arid lands distribution contract containing land characteristics and responsibilities of the parties shall be prepared in three copies.

Article 95:

(1). Progress evaluation of the on-going reclamation work on virgin and arid lands shall be conducted by a commission which is sent to the relevant provinces once in each quarter of the year by the central department upon observance of the agreement concluded between the general land management department and the user.

(2) The evaluation commission shall prepare its work report and shall send one copy each thereof to the governor's office and to the general land management department.

Article 96:

Production volume of agriculture produce of the reclaimed lands shall be included in the socio-economic development plan.

Article 97:

The user has the following responsibilities:

1. Reclaim and exploit virgin and arid lands within the specified time and in accordance with the agreement.

2. Make maximum use of latest consultations and guidance in regard to cultivating grains, cereals, plants, vegetables, fruits, fructiferous trees and other fruit-bearing trees in order to derive maximum benefits from the land.

3. Cultivate particular plants with the exception of hemp, opium poppy and other drug plants, in view of circumstances and recommendation by the ministry of agriculture & livestock on the basis of agreement.

Article 98:

Portion of personal landed properties, which constitutes the bed of irrigation ditch and canal used for irrigating virgin and arid land shall be purchased by the user with the agreement of the owner on the basis of current price.

(2) Making use of the Emirate (State) agricultural lands, which might happen to constitute the bed of irrigation ditch and canal, shall be in accordance with the rules and regulations of the ministry of agriculture & livestock.

Article 99:

(1) Transference and sale of reclaimable (virgin and arid) lands shall take place after obtaining the legal deed.

(2) In the event of a user's demise, his heirs, in compliance with responsibilities of the deceased user, can make use of the land in accordance with the provisions of the present laws and can acquire the legal deed in respect of the land.

Article 100:

If disputes arising from reclaiming virgin and arid lands could not be settled by the general land management department they shall be referred to the court.

CHAPTER 11

PENAL PROVISIONS

Article 101:

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

Article 102:

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

Article 103:

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

Article 104:

A person who confiscates the land belonging to another person, or falsely introduces himself as the landowner, he shall be dispossessed and the issue of compensating the real owner for the losses and the legal prosecution shall be referred to the legal court.

Article 105:

(1) Where the eligible person or his family members do not start cultivating and reclaiming the land within one year of the land distribution, or do not pay three consecutive installments, the land shall be taken back from him.

(2) Where the eligible person makes illegal or non-agriculture use of the distributed land prior to issuance of the legal deed, he shall be obligated to compensate losses to the Emirate in addition to restitution of the land.

CHAPTER 12

FINAL PROVISIONS

Article 106:

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

Article 107:

Construction of roads, buildings and establishments, and non-agriculture activities are not allowed on agriculture lands. In exceptional cases the users are required to obtain in advance agreement of the ministry of agriculture & livestock and approval by the *Amir al-Mo'minin*.

Article 108:

A fragment of virgin and arid land belonging to a landowner possessing land next to a landowner who possesses minimum land can be converged against payment of its value under the following conditions:

1- It is not under a project.

2-It can be made arable and has irrigation resources and shall not encroach on the right to irrigation water of other lands.

3- It shall not cause nuisance to landowners possessing lands next to it.

4- The land reclamation form has been filled in respect thereof, and has gone through all formalities in accordance with rules and regulations.

Article 109:

In regard to lands belonging to absent, missing, renegade, outlaw persons and *dhimmis* (protected non-Muslim minorities) actions shall be taken in accordance with the provisions of the law on protection of properties of absent, missing, renegade, outlaw persons and *dhimmis* (protected non-Muslim religious minorities).

Article 110:

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

Article 111:

For a sound application of provisions of the present law the ministry of agriculture & livestock can adopt a separate procedure.

Article 112:

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

Article 113:

The present law after being approved shall be published in the official gazette, and with the enforcement thereof provisions of the following legal documents shall be abolished:

1-Land survey, settlement and registration law published in the official gazette # 46, dated 31/05/1355 (S.H.).

2- Regulation on provincial agriculture & land reform department published in the official gazette # 597, dated 30/09/1364 (S.H.).

3- Land relationship management law published in the official gazette # 658, dated 15/11/1366 (S.H.).

4- Regulation on land lease published in the official gazette # 659, dated 30/11/1366 (S.H.).

5- Private investment law on reclamation of State virgin and arid lands published in the official gazette # 700, dated 30/06/1368 S.H.