Proclamation No. 455/2005

Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation …….. Page 3124

PROCLAMATION NO. 455/2005.

A PROCLAMATION TO PROVIDE FOR THE EXPROPRIATION OF LAND HOLDINGS FOR PUBLIC PURPOSES AND PAYMENT OF COMPENSATION

WHEREAS, the government needs to use land for development works it carries out for public services;

WHEREAS, urban centers of the country have, from time to time, been growing and the number of urban dwellers has been increasing and thereby land redevelopment for the construction of dwelling houses, infrastructure, investment and other services has become necessary in accordance with their respective plans as well as preparation and provision of land for development works in rural areas has become necessary;

WHEREAS, it has become necessary to define the basic principles that have to be taken into consideration in determining compensation to a person whose landholding has been expropriated;

WHEREAS, it has become necessary to define organs that shall have the power to determine and the responsibility to pay the compensation;

WHEREAS, Article 51(5) of the Constitution empowers the Federal Government to enact laws regarding the utilization of land and it is deemed necessary to regulate in detail, based on the requirement of advance payment of compensation for private property expropriated for public purpose as provided for under Article 40(8) of the Constitution.
NOW, THEREFORE, in accordance with Article 55 (1) of the Constitution, it is hereby proclaimed as follows:

PART ONE
GENERAL

1. Short Title

This Proclamation may be cited as the “Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No. 455/2005.”

2. Definitions

In this Proclamation, unless the context requires otherwise:

1/ “compensation” means payment to be made in cash or in kind or in both to a person for his property situated on his expropriated landholding;

2/ “region” means any region referred to in Article 47 of the Constitution and includes the Addis Ababa and Dire Dawa city administrations;

3/ “landholder” means an individual, government or private organization or any other organ which has legal personality and has lawful possession over the land to be expropriated and owns property situated thereon;

4/ “urban administration” means an organ to which urban administrative powers and duties have been given by law or delegated by the concerned government body to exercise such powers and duties;

5/ “public purpose” means the use of land defined as such by the decision of the appropriate body in conformity with urban structure plan or development plan in order to ensure the interest of the peoples to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development;

6/ “utility line” means water, sewerage, electric or telephone line existing on or under a land to be expropriated for public purpose;
implementing agency” means a government agency or public enterprise undertaking or causing to be undertaken development works with its own force or through contractors.

PART TWO
EXPROPRIATION OF LANDHOLDINGS

3. Power to Expropriate Landholdings

1/ A woreda or an urban administration shall, upon payment in advance of compensation in accordance with this Proclamation, have the power to expropriate rural or urban landholdings for public purpose where it believes that it should be used for a better development project to be carried out by public entities, private investors, cooperative societies or other organs, or where such expropriation has been decided by the appropriate higher regional or federal government organ for the same purpose.

2/ Notwithstanding the provisions of Sub-Article (1) of this Article, no land lease holding may be expropriated unless the lessee has failed to honor the obligations he assumed under the Lease Proclamation and Regulations or the land is required for development works to be undertaken by government.

4. Notification of Expropriation Order

1/ Where a woreda or an urban administration decides to expropriate a landholding in accordance with Article 3 of this Proclamation, it shall notify the landholder in writing, indicating the time when the land has to be vacated and the amount of compensation to be paid.

2/ The period of notification to be given in accordance with Sub-Article (1) of this Article shall be determined by directives; provided however, that it may not, in any way, be less than ninety days.

3/ Any landholder who has been served with an expropriation order in accordance with Sub-Article (1) of this Article, shall hand over the land to the woreda or urban administration within 90 days from the date of payment of compensation or, if he refuses to receive the payment, from the date of deposit of the compensation in a blocked bank account in the name of the woreda or urban administration as may be appropriate.
4/ Notwithstanding Sub-Article (3) of this Article, where there is no crop, perennial crop or other property on the expropriated land, the holder shall hand over the land to the woreda or urban administration within 30 days from the date of receipt of the expropriation order.

5/ Where a landholder who has been served with an expropriation order refuses to handover the land within the period specified in Sub-Article (3) of (4) of this Article, the woreda or urban administration may use police force to takeover the land.

5. Responsibilities of the Implementing Agency

The implementing agency shall have responsibilities to:

1/ prepare detail data pertaining to the land needed for its works and send same, at least one year before the commencement of the works, to the organs empowered to expropriate land in accordance with this Proclamation and obtain permission from them; and

2/ pay compensation in accordance with this Proclamation to landholders whose holdings have been expropriated.

6. Procedures for removal of Utility Lines

1/ Where land over or under which utility lines, owned by a federal or regional government office or public enterprise, pass is to be expropriated, the body requiring the land shall submit, in writing, its request to the owner by indicating the exact location of the lines to be removed.

2/ The body which has received a request under Sub-Article (1) of this Article shall, within 30 days from receipt of such request, determine a fair compensation required to replace the lines to be removed and send details of its valuation to the requesting body.

3/ The body which requested the removal of utility lines, shall pay compensation to the owner within 30 days from the date of receipt of the valuation under Sub-Article (2) of this Article. The owner shall also remove the utility lines and vacate the land within 60 days from the date of receipt of compensation.
PART THREE
DETERMINATION OF COMPENSATION

7. Basis and Amount of Compensation

1/ A landholder whose holding has been expropriated shall be entitled to payment of compensation for his property situated on the land and for permanent improvements he made to such land.

2/ The amount of compensation for property situated on the expropriated land shall be determined on the basis of replacement cost of the property.

3/ Where the compensation referred to under Sub-Article (2) of this Article is payable to an urban dweller, it may not, in any way, be less than the current cost of constructing a single room low cost house in accordance with the standard set by the concerned region.

4/ Compensation for permanent improvement to land shall be equal to the value of capital and labour expended on the land.

5/ The cost of removal, transportation and erection shall be paid as compensation for a property that could be relocated and continue its service as before.

6/ Valuation formula for determining compensation for various properties and detail prescription applicable there to shall be provided for by regulations.

8. Displacement Compensation

1/ A rural landholder whose landholding has been permanently expropriated shall, in addition to the compensation payable under Article 7 of this Proclamation, be paid displacement compensation which shall be equivalent to ten times the average annual income he secured during the five years preceding the expropriation of the land.

2/ A rural landholder or holders of common land whose landholding has been provisionally expropriated shall, in addition to the compensation payable under Article 7 of this Proclamation, be paid until repossession of the land, compensation for lost income based on the average annual income secured during the five years preceding the expropriation of the land; provided, however, that such payment shall not exceed the amount of compensation payable under Sub-Article (1) of this Article.
An urban landholder whose landholding has been expropriated under this Proclamation shall:

a/ be provided with a plot of urban land, the size of which shall be determined by the urban administration, to be used for the construction of a dwelling house; and

b/ be paid a displacement compensation equivalent to the estimated annual rent of the demolished dwelling house or be allowed to reside, force charge, for one year in a comparable dwelling house owned by the urban administration.

Where the house demolished is a business house, the provisions of Sub-Article (4) of this Article shall, mutatis mutandis apply.

When an urban land lease holding is expropriated prior to its expiry date, the leaseholder shall, in addition to the compensation referred to under Article 7 of this proclamation and this Article, be provided with a new plot of land to use it for the remaining lease period. The lessee may also be allowed to use the new plot of land for a longer period if its rent is less than the former land.

The detail prescriptions applicable to compensation payable under the Article shall be provided for by regulations.

9. Valuation of Property

1/ The valuation of property situated on land to be expropriated shall be carried out by certified private or public institutions or individual consultants on the basis of valuation formula adopted at the national level.

2/ Until such time that the Ministry of Federal Affairs, in consultation with the appropriate federal and regional government organs, ascertains the creation of the required capacity to make valuation of property as specified under Sub-Article (1) of this Article, such valuation shall be carried out by committees to be established in accordance with Article (10) of this Proclamation and owners of utility lines in accordance with Article (6) of this Proclamation.
10. Property Valuation Committees

1/ Where the land to be expropriated is located in a rural area, the property situated thereon shall be valued by a committee of not more than five experts having the relevant qualification and to be designated by the woreda administration.

2/ Where the land to be expropriated is located in an urban center, the property situated thereon shall be valued by a committee of experts having the relevant qualification and to be designated by the urban administration.

3/ Where the property situated on a land to be expropriated requires specialized knowledge and experience, it shall be valued by a separate committee of experts to be designated by the woreda or the urban administration.

4/ The working procedures for the committees established in accordance with this Article shall be determined by directives.

11. Complaints and Appeals in Relation to Compensation

1/ In rural areas and in an urban center where an administrative organ to hear grievances related to urban landholding is not yet established, a complaint relating to the amount of compensation shall be submitted to the regular court having jurisdiction.

2/ Where the holder of an expropriated urban landholding is dissatisfied with the amount of compensation, he may lodge his complaint to the administrative organ established by the urban administration to hear grievances related to urban landholdings.

3/ The organ referred to in Sub-Article(2) of this Article shall examine the complaint and give its decision within such short period as specific by directives issued by the region and communicate its decision to the parties in writing.

4/ A party dissatisfied with a decision rendered in accordance with Sub-Article (1) and (3) of this Article may appeal, as may be appropriate, to the regular appellate court or municipal appellate court within 30 days from the date of the decision. The decision of the court shall be final.
5/ The period specified in Sub-Article (4) of this Article for submitting an appeal shall not include the time taken to provide the appellant with a copy of the decision.

6/ An appeal submitted, pursuant to Sub-Article (4) of this Article, by any landholder served with an expropriation order may be admitted only if it is accompanied with a document that proofs the hand over of the land to the urban or woreda administration.

7/ The excusion of an expropriation order may not be delayed due to a complaint regarding the amount of compensation.

PART FOUR
MISCELLANEOUS PROVISIONS

12. Powers and Duties of the Ministry of Federal Affairs

With respect to the implementation of this Proclamation, the Ministry of Federal Affairs shall have the powers and duties to:

1/ follow up and ensure that the provisions of this Proclamation are complied with in all regions;

2/ give technical and capacity building support to regions so that they will be able to implement this Proclamation;

3/ prepare, in collaboration with other relevant organs of the Federal Government, national valuation formula for the determination of compensation payable under this Proclamation and submit same to the Council of Ministers for approval.

13. Responsibilities of Woreda and Urban Administrations

With respect to the implementation of this Proclamation woreda and urban administrations shall have the responsibilities and duties to:

1/ pay or cause the payment of compensation to holders of expropriated land in accordance with this Proclamation, and provide them with rehabilitation support to the extent possible.
maintain data of properties removed from expropriated landholdings. Particulars and conditions of maintaining such data shall be prescribed by directives.

14. Power to Issue Regulations and Directives

1/ The Council of Ministers may issue regulations necessary for the proper implementation of this Proclamation.

2/ Regions may issue directives necessary for the proper implementation of this Proclamation and regulations issued hereunder.

15. Repelled and Inapplicable Laws

1/ The Appropriation of Land for Government Works and Payment of Compensation for Property Proclamation No. 401/2004 is hereby repealed.

2/ No law, regulation, directive or practice shall, in so far as it is inconsistent with this Proclamation, be applicable with respect to matters provided for by this Proclamation.

16. Effective Date

The Proclamation shall enter into force on the 15th day of July, 2005.

Done at Addis Ababa, the 15th day of July, 2005

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA