

ON THE PROCEDURE FOR THE EXPROPRIATION OF PROPERTY FOR PRESSING SOCIAL NEEDS

Chapter I - General Provisions

Article 1 - Definition of terms used in the Law

The terms used herein have the following meanings:

- a) evaluation – the determination of the value of property to be expropriated and of equivalent compensation therefor by a specially authorised person;
- b) expropriator – a person who is granted the right of expropriation by a court decision;
- c) expenses – expenses incurred during the expropriation and legal proceedings, which include expenses for land evaluation services and other expenses;
- d) right of expropriation – a one-time right to expropriate property for pressing social needs as provided for by Article 21 of the Constitution of Georgia, and this Law, provided that full and fair compensation paid in advance is ensured;
- e) expropriation – the expropriation of property in accordance with Article 21 of the Constitution of Georgia and this Law, with full and fair compensation therefor paid in advance;
- f) compensation – full and fair compensation paid in advance as provided for by Article 21 of the Constitution of Georgia, and this Law, through the payment of the amount of compensation in return for the property expropriated from an owner, or the transfer of other property having the same market value as the expropriated property.

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Law of Georgia No 1054 of 6 September 2013 - website, 23.9.2013.

Article 2 - Goal of the Law

1. The goal of this Law is to define the procedures for granting the right of expropriation and for carrying out expropriation for pressing social needs. Expropriation for pressing social needs shall be carried out on the basis of an order of the Minister of Economy and Sustainable Development of Georgia (the Minister), and a court decision that has been taken in favour of the state body, or local self-government body, and/or legal entity under public or private law, who may be granted the right of expropriation in accordance with this Law.

2. Expropriation for pressing social needs shall be carried out for the implementation of the following works:

- a) construction of roads and highways;
- b) laying of railway lines;
- c) laying of pipelines for crude oil, natural gas, and oil products;
- d) construction of power transmission and distribution lines;
- e) laying of water supply, sewerage, and rainwater collector pipelines;
- f) laying of telephone lines;
- g) laying of TV cables;
- h) construction of structures and facilities for pressing social needs;
- i) works for national defence;
- j) operations for the extraction of natural resources.

Law of Georgia No 1417 of 22 April 2005 – LHG I, No 22, 18.5.2005, Art. 157

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Law of Georgia No 3717 of 15.10.2010 – LHG I, No 57, 25.10.2010, Article 373

Chapter II - Carrying out expropriation



Article 3 - Basis for obtaining the right of expropriation

1. Property may be expropriated for pressing social needs through expropriation in accordance with Article 21 of the Constitution of Georgia. The granting of the right of expropriation shall be carried out on the basis of an order of the Minister and a court decision. The order of the Minister shall define the necessity for expropriation for pressing social needs, and the party to whom the right of expropriation may be granted.

2. A decision on expropriation shall be made by a court only. In accordance with the court decision a state body, or a local self-government body, and/or a legal person under public or private law, shall be defined, to whom the right of expropriation is to be granted. The court decision shall also include a detailed description of the property to be expropriated and relevant instructions for the necessity of providing the owner with full and fair compensation paid in advance.

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Law of Georgia No 3717 of 15.10.2010 – LHG I, No 57, 25.10.2010, Article 373

Law of Georgia No 1054 of 6 September 2013 - website, 23.9.2013.

Article 4 - Publication of information

1. A person interested in obtaining the right of expropriation shall, after the promulgation of the relevant order of the Minister, provide all the owners whose property is subject to expropriation, with information that shall also be published in the national and relevant local press. Such information shall include a brief description of the project and the scope of its implementation, as well as a brief description of the area, and, presumably, the property to be expropriated.

2. The owners referred to in paragraph 1 shall also be notified of the date of filing an application to a court, and the date of the review of the application by the court.

Law of Georgia No 3717 of 15.10.2010 – LHG I, No 57, 25.10.2010, Article 373

Article 5 - Decision of a district (city) court on granting the right of expropriation

1. Matters related to granting the right of expropriation shall be reviewed by a district (city) court.

2. A person interested in obtaining the right of expropriation shall file an application with a district (city) court for granting the right of expropriation. The application shall include:

- a) the name of the district (city) court;
- b) the full name and legal address of the applicant;
- c) the title, name, surname and address of a representative, if the application is filed by the representative;
- d) the claim of the applicant;
- e) the circumstances upon which the applicant bases his/her claim;
- f) evidence confirming such circumstances;
- g) a list of documents attached to the application.

3. The following shall also be attached to the application:

- a) a detailed description of the project for the implementation of which the right of expropriation is requested;
- b) an appropriate order of the Minister;
- c) a detailed description of the property to be expropriated;
- d) a document confirming the publication of information provided for by Article 4 of this Law.

4. A district (city) court shall review the application in accordance with this Law, and within the time limits and procedures defined by the Civil Procedure Code of Georgia. A decision of the district (city) court shall be enforced immediately under procedures for the enforcement of decisions to be enforced.

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Law of Georgia No 3717 of 15.10.2010 – LHG I, No 57, 25.10.2010, Article 373

Article 6 - Necessary preconditions for expropriation



1. An expropriator, who has obtained the right of expropriation, shall reach a prior agreement with the owner of the property, in accordance with Article 3 of this Law, on the procedures for compensation for the property to be expropriated. The expropriator shall carry out all relevant measures to obtain the property through agreement with the owner. Before the start of negotiations on the purchase of the property, the expropriator shall, at his/her own expense, and with the assistance of an independent expert, evaluate the property and determine the estimated amount of compensation to be transferred to the owner of the property as compensation, or other property in accordance with the market value of the property to be expropriated. The owner may, at his/her own expense, use the assistance of other independent experts.

2. Before the start of negotiations on the purchase of the property, the expropriator shall submit to the owner of the property a proposal on the purchase of the property, and the procedures for compensation therefor. The market value of other property proposed as compensation, or the amount of compensation, shall be full, fair and paid in advance, and shall not be less than the amount determined by the expropriator on the basis of evaluation. The transfer of other property to the owner as compensation for the property to be expropriated, shall be permitted only with his/her consent. The expropriator shall submit to the owner the evaluation in writing, where the basis for determining the amount of compensation shall be indicated. The compensation shall be exempted from any taxes and fees.

3. During the signing of an agreement on compensation for a property to be expropriated, the expropriator shall not interfere with the negotiation or the transfer of the amount of compensation, or other property as compensation, and shall not carry out any other coercive action against the owner of the property.

4. The proposal on the purchase of property shall also include the compensation for such property, the size, form and condition of which is insignificant, or is less valuable due to its non-feasibility, but which is related to the property to be purchased, and which is useless without such property.

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Law of Georgia No 1054 of 6 September 2013 - website, 23.9.2013

Article 7 - Actions to be carried out before expropriation

1. An expropriator, or an independent expert invited by the expropriator, may, with the consent of the owner of the property, survey the property, carry out a study, take samples and perform other actions for the purposes of the evaluation of the property.

2. Before the start of the expropriation, the expropriator shall transfer to the owner of the property a written document, which shall include:

a) substantiation of the existence of social needs which require the expropriation of the property, wherein the relevant order of the Minister and the court decision shall be indicated, on the basis of which the expropriator has been granted the right of expropriation;

b) substantiation of the use of the property for public needs;

c) a detailed description of the location and volume of property to be expropriated, and the amount of compensation, or a detailed description of other property to be transferred as compensation, and its market value in accordance with Article 6(2) of this Law.

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Law of Georgia No 3717 of 15.10.2010 – LHG I, No 57, 25.10.2010, Article 373

Article 8 - Dispute on the market value of property and compensation therefor

1. If an expropriator and an owner of property fail to agree on the market value of the property and the amount of compensation therefor, or on the transfer of property proposed as compensation, then each party may file an action with a court of relevant jurisdiction, in the manner established by the civil legislation of Georgia.

2. The following shall be enclosed in an action filed by an expropriator:

a) a detailed description of the property to be expropriated;

b) documents certifying the existence of social needs which require the expropriation of the property;

c) documents on the project to be implemented for social needs;

d) a decision of the district (city) court on granting the right of expropriation.

3. A court may define independently the type of compensation for the property to be expropriated on the basis of a reasonable request of a party.

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Article 9 - Evaluation of property by a court

A court may appoint an independent expert for the evaluation of property in accordance with the procedure established by the Civil Procedure Code of Georgia. The independent expert shall, within the defined period, submit to the court an opinion on the market value of the property to be expropriated, and also on the market value of other property proposed to the owner as compensation in return for the expropriated property. On the basis of the opinion of the independent expert, and evidence presented by the parties, the final evaluation of the property to be transferred to the owner of the property in return for the property to be expropriated shall be carried out by a court.



Article 10 - Obligations of an expropriator

An expropriator shall cover all the expenses incurred by the parties, including the expenses of legal proceedings, as well as expenses related to the evaluation and transfer of the property to be expropriated.

Article 11 - Evaluation of agricultural lands

During the evaluation of agricultural lands the value of crops existing on such lands shall also be taken into consideration, which shall be calculated in accordance with the income that the owner of the property would have received during the current economic year. If the sowing of agricultural lands is completed after the evaluation of the property, the value thereof shall not be taken into consideration during the determination of compensation.

Law of Georgia No 4204 of 29 December 2006 - LHG I, No 4, 12.1.2007, Art. 49

Chapter III - Final Provision

Article 12 - Entry into force of the Law

This Law shall enter into force on the 15th day after its promulgation.

The President of Georgia

E. Shevardnadze

Tbilisi

23 July 1999

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