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OTHER NOTICES

(See Supplement of the Gazette)

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LEGAL NOTICE NO. 9 OF 2017

Lesotho Highlands Water Project Compensation Regulations, 2017

In exercise of the powers conferred upon me by section 59 of the Lesotho Highlands Development Authority Order, 1986¹, I,

KIMETSO MATHABA

Minister responsible for water make the following Regulations -

Citation and commencement

1. These Regulations may be cited as the Lesotho Highlands Water Project Compensation Regulations, 2017 and shall come into operation on the date of their publication in the Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires -

“affected household” means a household which suffers asset losses as a result of being affected by the project activities and for which compensation and resettlement are due;

“affected person” means a person who is adversely affected by project activities, whether through a loss of assets or access to assets, being deprived of resources, loss of income sources or means of livelihood, physical relocation, or other losses resulting from project activities;

“affected village” means a village that is completely or partially inundated, or within the reservoir demarcation line, or affected by construction works, or situated in a place regarded as dangerous in relation to the reservoir or to construction works, or affected as a result of reservoir impoundment;

“allottee” means a person other than the holder of a lease to whom an allocation of land is made;

“approved compensation rates” means approved rates of compensation

by the Minister of Water and annually escalated by the Consumer Price Index (CPI) at the end of March of each year;

“arable land” means land which is under cultivation at the time of disturbance;

“assets” means all individual or communal properties for which compensation is due;

“Authority” means the Lesotho Highlands Development Authority;

“brushwood” means a naturally growing shrub which is a communal fuel resource;

“commercial property” means a building used primarily for the purpose of any commercial activity;

“communal assets, property and resources” means property such as land and vegetation to which rights have traditionally been held by the community and which are currently under the management authority of Community Councils, District Councils or Principal Chiefs in terms of the Local Government Act, 1997² as amended;

“compensation” means payment in kind or other legal payment tendered for the property or resource that is acquired or affected by the project;

“demarcation line” means a surveyed and marked line above a reservoir, below which no human habitation may occur;

“development” means activities designed to improve the standard of living of individuals and communities affected by the project;

“discounted rate” means the rate at which future compensation is discounted to establish its present value for the purpose of lump sum payments;

“field” means land not on a residential site allocated and used for the cultivation of crops other than trees and vegetables;

“food garden” means land on a residential site used for the cultivation

of vegetables other than field crops or trees for non-commercial purposes;

“head of household” means a person who generally runs the affairs of the household and is looked on by other members of the household as the main decision-maker;

“homestead” means a building occupied by a household;

“host village” means a village which receives relocated households;

“house” includes a building in which people live or sleep as a household;

“household” means a person or group of persons living and sharing accommodation with a legally recognised family head and enjoy a blood, marital or legal relationship;

“improvements” means any features constructed or installed on an area of land which enhance the value of that land;

“medicinal plants” means naturally growing plants which are used for medicinal purposes;

“non-owning occupant” means a person, excluding visitors, who lives in a house he or she does not own;

“project” means the Lesotho Highlands Water Project;

“recipient” means the household head or its representative who is entitled to receive compensation;

“rehabilitation” means re-establishing incomes, livelihoods and social systems;

“relocation” means the physical removal of a household or business to a new site;

“reservoir” means a dam resulting from the project;

“resettlement” means the process of addressing the effects of physical and economic displacement and which incorporates compensation, relocation and livelihood restoration;

“residential land” means land allocated or leased for residential purposes;

“secondary rights” means rights of temporary usage as opposed to permanent rights of ownership, in the case of a house, or of customary rights to arable land which are acknowledged by the traditional or local authorities;

“temporary use” means use after which land is returned to the holder in a condition such that there can be a reversion to its original use;

“thickets” means a dense growth of shrubs or underbrush;

“tree” means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground; *

“urban area” means an area recognised by the Minister of Local Government and Chieftainship Affairs as urban in terms of the Town and Country Planning Act, 1980³ and its Regulations as amended;

“useful grass” means grass which has a practical use, apart from providing fodder for livestock, in construction and handicrafts; and

“vulnerable household” means a household headed by a child, a disabled person, an elderly or an indigent person.

Eligibility for relocation

3. (1) Relocation, even if arable land rights remain intact, shall be effected to the following -

- (a) households below the demarcation line of project reservoirs;
- (b) affected households in villages severely affected by construction work; and

-
- (c) affected households situated in a place regarded by the Authority as unacceptably dangerous in relation to a reservoir or to construction works or to other project components.

(2) Where an affected village whose access to important facilities and resources is severely impaired by the reservoir, and where access is not restored by the construction of roads and bridges or any other means, the households in the affected village shall be considered for relocation.

Land acquisition

4. (1) Where the Authority permanently acquires land for the construction of permanent structures such as dams, roads and buildings, all previous rights over the land shall be extinguished, and unauthorised access to or use of the land shall be prohibited.

(2) Where the Authority acquires land for temporary occupation, at the end of such occupation it shall be rehabilitated before it is returned to its previous occupant or used for other public purposes.

(3) Where land that was temporarily occupied by the project is returned to its previous owner, compensation shall be at applicable rates for temporary occupation.

(4) Any permanent asset losses that occur on land that is temporarily occupied by the project shall be compensated at the applicable rates for permanent losses.

(5) Any temporary loss of access to productive assets shall be compensated for, based on the duration of lost access.

Compensation for arable land

5. (1) Where arable land, greater than 1000 square metres is acquired by the project, the affected household shall be compensated with land for land and the Authority shall arrange for alternative land in a place acceptable to the affected household provided that there is land available for redistribution by the Authority.

(2) Where there is no available land for redistribution, compensation shall be made in terms of subregulation (5) or (7).

(3) Where arable land is acquired and the remaining portion is less than 500 square meters, the Authority may, by agreement with the land owner, acquire and compensate for all the land that the landholder holds.

(4) The land rights granted to a family compensated with land for land shall provide security of tenure at least equivalent to that which the family held over its previous fields.

(5) The Authority shall compensate the landholder for loss of arable land in cash in the form of an annual cash payment, or a lump sum in the following manner -

- (a) the total amount of annual cash paid to each recipient over a period 50 years for the loss of arable land, shall be determined on the basis of area of land lost and of established annual production capacity of the land, as determined in the approved compensation rates set out in Schedule 1. If at any point from commencement of the annual payments, the recipient converts to lump sum payment, subregulation (b) shall apply.
- (b) the amount of lump sum compensation paid in terms of these Regulations shall be calculated at a present value for a period of 50 years of equal annual payment, discounted at the rate established under the approved compensation rates. In the case where the recipient has already been paid annual compensation for one or more years, the calculation for the lump sum payment shall be calculated for the remaining period after deducting the years for which payment has been made.

(6) Where the Authority acquires a field area of less than 1000 square meters, compensation shall be in the form of land for land if suitable replacement land is available or payable by a cash lump sum calculated in terms of the annual cash payment discounted rate established under the approved compensation rates.

(7) Where the recipient chooses grain compensation, the payment shall be made in such a way that the quantities of grain received are directly proportional to the annual production capacity of the land.

Compensation for gardens

6. (1) The Authority shall provide food gardens to all households relocated to project designated sites up to a maximum of 300 square metre, irrespective of whether they had a food garden or not.

(2) For households which had a larger garden, the Authority shall provide an equivalent area or pay the balance in cash as a lump sum.

(3) When the households are not relocated to a project designated resettlement site, the Authority shall ensure that compensation for the affected household for the loss is in the form of a once off lump sum payment.

(4) The Authority shall not arrange new garden land for households relocating to sites of their own choice outside the project area.

Compensation for trees and thickets

7. Compensation for the lost production from private thickets and fruit-bearing and non-fruit-bearing trees shall be according to the approved compensation rates for these resources as a once off lump sum payment.

Compensation for rights and access to communal assets

8. (1) The affected communities shall be compensated for loss of assets where such loss has been brought about by the project.

(2) Compensation funds for the loss of these resources shall be made available for investment in community development ventures. The funds will be managed by the Authority for the implementation of development projects that have been agreed and prioritised by the affected communities and their local authorities.

- (3) The communal compensation -
- (a) shall be dispensed by the Authority itself in building such development projects; and
 - (b) to be dispensed by the Authority for loss of assets shall be calculated in terms of the approved compensation rates.

(4) Where some physically displaced households move outside their local community or village to other host communities or villages, the funds shall be apportioned between the concerned communities or villages based on the number of households relocating.

(5) A household which relocates to urban or peri-urban area with no communal natural resources may qualify for cash compensation for the loss of access to natural resources. Eligibility shall be assessed on a case by case basis and where approved, compensation shall be paid as once off lump sum.

Compensation for houses

9. (1) Where the Authority acquires residential land on which one or more habitable houses are standing, it shall build or cause to be built one or more new houses, having the same total floor area as the habitable houses on the residential land acquired and being of at least equal quality to them. Such new houses shall be built on the same residential site or on replacement residential land.

(2) The Authority shall consult with the owners of houses replaced under subregulation (1) as to the number and style of the replacement houses to be provided.

Compensation for commercial buildings

10. Where the Authority acquires land on which a building used for commercial purposes is standing, it shall, if the owner of such building so desires, make arrangements with the appropriate authorities for the allocation of replacement commercial land, and shall either -

-
- (a) make a cash compensation payment to the owner for the full replacement value of the building; or
 - (b) pay the construction costs of new commercial building on the basis of the replacement value of the commercial building acquired.

Compensation in other cases

11. In cases not specifically provided for by these Regulations, where the Authority deprives a person of his property or income, the Authority shall compensate such person in accordance with the principles of compensation laid down in the Lesotho Highlands Development Authority Order, 1986 as amended, and in these Regulations.

Public infrastructure and amenities

12. (1) Public infrastructure, amenities and access to services lost to a community as a result of the project shall be either replaced by the Authority or substituted at the sole discretion of the Authority, with some other compatible public infrastructure or amenities.

(2) Communal compensation for loss of public infrastructure and amenities brought about by the project shall be assessed on the basis of the amount of money required to replace that which is lost.

(3) The Authority shall, where water supply is reduced as a result of the project, from an established source, whether natural or artificial, for a community, reinstate the source or replace it with another source of at least equal yield, quality and convenience where feasible.

(4) The Authority shall replace any Government owned local infrastructure and amenities it acquires and effect required repairs where damage does not require replacement.

(5) Where the Authority affects public buildings and land belonging to a group or section of the public, such as a church or an association, its replacement shall be on the same basis as that of the replacement of individually owned premises.

(6) Where the Authority acquires land or buildings of a school or church which are owned by a religious institution, compensation shall be paid to the rightful owner, either by means of a once-off lump sum, covering the replacement value of the property, or by restoring the equivalent capacity for teaching or conducting religious activities, at places chosen by the institution concerned, in consultation with the owners of the institution, the Ministry of Education and any other Government body which has a mandate of laying out property specifications and allocating replacement land.

Repeal

13. The Lesotho Highlands Water Project Compensation Regulations of 1990⁴ are repealed.

DATED:

KIMETSO MATHABA
MINISTER OF WATER

NOTE

1. Act No. 23 of 1986
2. Act No. 6 of 1997
3. Act No. 11 of 1980
4. L.N. No. 50 of 1990

(SCHEDULE 1)

**GOVERNMENT OF
THE KINGDOM OF LESOTHO**

LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY

**Compensation Rates for
Phase II of the Lesotho Highlands Water Project
(2016/2017 Fiscal Year)**

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ACRONYMS / ABBREVIATIONS

| | |
|----------------|---|
| ACP | - Annual Cash Payment |
| CPI | - Consumer Price Index |
| GIS | - Geographic Information System |
| LAA | - Land Administration Authority |
| LHDA | - Lesotho Highlands Development Authority |
| LHWC | - Lesotho Highlands Water Commission |
| LHWP | - Lesotho Highlands Water Project |
| M | - Maloti |
| m | - Metre |
| m ² | - Square metre |

GLOSSARY OF TERMS

Annual Cash Payment (ACP): the annual payment to a recipient for the loss of production on acquired agricultural fields and food gardens, calculated from the time of acquisition.

Brushwood: naturally growing shrub, which is a communal fuel resource.

Commercial property: facility or asset used primarily for the purposes of commercial activity.

Communal natural resources: property such as land and vegetation to which rights have traditionally been held by the community and which are currently under the management authority of Community Councils, District Councils or Principal Chiefs in terms of the Local Government Act 1997 as amended.

Compensation: payment in kind or lump sum/annual payments (cheque or other acceptable mechanism) for an asset or a resource that is acquired or affected by the project. **Devaluation compensation** is compensation paid to the rights holder for foregoing the future benefit of using agricultural land within the servitude of a power line for other developments.

Discounted rate: the rate (4.5%) at which future compensation is discounted on the Project to establish its present value for the purpose of lump sum payments.

Disturbance allowance: an allowance paid to physically displaced households and businesses intended to meet the unforeseen but inevitable initial costs of moving, as well as compensating for the intangible emotional costs inflicted by the relocation process.

Field: land used for cultivation of non-horticultural crops.

Food Garden: land on a residential site or a piece of land that is used for the cultivation of vegetables (not field crops or trees) for non-commercial purposes. This excludes land used for commercial vegetable production.

Household: a group of persons with one family head bound by blood, marital or legal relationship living together in a dwelling (home or homestead).

Medicinal plants: naturally growing plants that are used for medicinal purposes.

Lump Sum Payment: a once-off payment made to a recipient. In the case of lump sum payments for agricultural fields and food gardens, the amount is calculated at a present value, from the time of acquisition, for a period of 50 years of equal annual payment, discounted at the rate established under the approved compensation rates. Where a recipient has been paid annual compensation for one or more years, the lump sum payment is calculated for the remaining period after deducting the years for which payment has already been made.

Orphan: a person younger than 18 years who has lost both parents.

Phase II Scheme: the programme of developments for Phase II of the Lesotho Highlands Water Project that is approved in terms of Part VIII of the Lesotho Highlands Development Authority Order 1986, as amended.

Physical displacement: loss of shelter and assets resulting from the acquisition of land associated with a project that requires the affected person(s) to move to another location.

Relocation: the physical removal of a household or business to a new site.

Replacement cost for buildings and structures: the cost of purchasing or building a new structure, with size and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labour and contractors' fees and any registration and transfer taxes. In determin-

ing the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

Resettlement: the process of addressing the effects of physical and economic displacement, which incorporates compensation, relocation and livelihood restoration.

Residential site: a piece of land that is legally owned, allocated or leased to a household head or any individual for residential purposes.

Thickets: a dense growth of shrubs or underbrush.

Tree: a woody perennial plant, typically, but not always, having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground. Fruit-bearing trees are trees bearing edible fruit (e.g. peach tree); non-fruit bearing trees are timber trees such as willows and poplars.

Urban area: an area declared by statutory law (the Town and Country Planning Act 1980 and its regulations and/or successor legislation).

Useful grasses: those which have a practical use, apart from providing fodder for livestock, such as for construction, handicrafts, etc.

1. BACKGROUND

- 1.1. This document contains the compensation rates for the 2016/2017 Fiscal Year for Phase II of the Lesotho Highlands Water Project (LHWP). The rates are mainly based on those used on Phase I of the LHWP, which have been annually adjusted using Lesotho's Consumer Price Index (CPI). The CPI applied for the 2016/2017 Fiscal Year is 7.5% (Bureau of Statistics; Statistical Report No.3: 2016; Consumer Price Index, March 2016).
- 1.2. The document provides a short description of the entitlements and the associated compensation rates. Further details on the entitlements can be found in the Phase II Compensation Policy.
- 1.3. The compensation rates are adjusted annually for price escalation using the Lesotho CPI, and disseminated to affected communities and their local authorities.

2. HOMESTEAD STRUCTURES/DWELLINGS

- 2.1. Houses will be compensated based on the principle of replacement cost. Compensation will be in the form of either:
 - 2.1.1. the provision of replacement housing, through a contractor procured by LHDA or through direct construction by the owner (owner-builder or owner-appointed contractor); or
 - 2.1.2. lump sum compensation, which will be assessed on a case-by-case basis.
- 2.2. Homestead structures such as kraals, stables and sheds will be compensated as a lump sum. For vulnerable households, replacement structures will be constructed if requested.
- 2.3. VIP toilets will be provided to all households relocated to project-designated/approved relocation sites or compensated as a lump sum to households who relocate to areas of their own choice.

- 2.4. Homestead fencing will be erected at all project relocation sites or compensated as a lump sum to households who relocate to areas of their own choice.

Table 1: Compensation Rates for Homestead Structures

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|------------------------------------|----------------|----------------------------------|----------------------|--|
| Primary structures/ dwellings | m ² | Replaced / lump sum compensation | To be determined | <ul style="list-style-type: none"> • In the case of lump sum compensation, a square metre rate, based on replacement cost, will be determined by a quantity surveyor. |
| Secondary structures/ outbuildings | m ² | Lump sum compensation | 744.49 | <ul style="list-style-type: none"> • These include outbuildings and incomplete structures. • Replaced for vulnerable households if requested. |
| Kraals | m ² | Lump sum compensation | 111.67 | <ul style="list-style-type: none"> • Replaced for vulnerable households if requested. |
| Fencing | Running metre | Replaced / lump sum compensation | 161.25 | <ul style="list-style-type: none"> • Replaced or lump sum compensation if household self-relocates to area of own choice. |
| Toilets (VIP) | Household | Replaced / lump sum compensation | To be determined | <ul style="list-style-type: none"> • Provided to all households relocated to project-designated sites. • Lump sum compensation for households who relocate to areas of own choice, irrespective of whether they had a pit latrine or not. Unit rate to be determined by a quantity surveyor. |

3. RESIDENTIAL PLOTS

- 3.1. Residential plots will be replaced at relocation sites or compensated as a lump sum for households who wish to relocate to areas of their own choice.
- 3.2. Lump sum compensation for residential plots in rural areas will be on the basis of the square metre rate for agricultural fields; the value of residential plots in urban areas will be determined in accordance with the Land Act 2010 and in collaboration with the Land Administration Authority (LAA).
- 3.3. Temporary occupation of residential plots will be compensated on an annual basis for the duration of occupation as per the confirmed rates.

Table 2: Compensation Rates for Residential Plots

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|---|----------------|----------------------------------|----------------------|---|
| Residential plot - rural area | m ² | Replaced / lump sum compensation | 16.13 | • Replaced at relocation sites or compensated as a lump sum for households relocating to areas of own choice. 2015 base rate (M15.00 /m ²) provided by LAA. |
| Residential plot - urban area | m ² | Replaced / lump sum compensation | To be determined | • To be determined in -collaboration with LAA. |
| Residential plot in rural area - temporary occupation | m ² | Annual basis | 0.78 | • Calculated through application of ACP-lump sum ratio for agricultural fields to rate for permanent acquisition of rural residential plot (M16.13 /m ²). |

| | | | | |
|---|----------------|------------------|------------------|---|
| Residential plot in urban area - temporary occupation | m ² | As per agreement | To be determined | To be determined in collaboration with LAA. |
|---|----------------|------------------|------------------|---|

4. FOOD GARDENS

- 4.1. Where a household is relocated to a project-designated resettlement site, LHDA will ensure, as far as reasonably possible, that garden land ready for cultivation is provided at the new residential site, irrespective of whether the household had a garden or not. The area of the new garden will be 300 m². For households who had a larger garden, LHDA will endeavour to provide an equivalent area, failing which the balance will be paid as a lump sum. LHDA will not arrange new garden land for households relocating to sites of their own choice outside the project area.
- 4.2. Monetary compensation payment for garden land will be made in the following circumstances:
 - 4.2.1. when garden land is acquired without necessitating the relocation of the household;
 - 4.2.2. when it is not feasible to replace the full extent of garden land that existed at the original site;
 - 4.2.3. when a household with affected garden land chooses to relocate to an area of their own choice outside the project area.
- 4.3. The compensation rate was determined on the basis of the annual production capacity of the land and a 50-year payment period.
- 4.4. Compensation payments for garden land will be made as a lump sum or annually (50 years), except where a household who had a food garden relocates to an area of its own choice outside the project area, in which case lump sum compensation will be made:

- 4.4.1. **Annual cash payment.** The total amount of annual payments (over a 50-year period) for the loss of food gardens will be determined on the basis of the area of land lost and the compensation rate, on an index-linked basis. At any point from commencement of annual payments, the recipient may convert to a lump sum payment.
- 4.4.2. **Lump sum.** The amount of lump sum compensation paid will be calculated at a present value for a period of 50 years of equal annual payment, discounted at the rate established under the compensation rates. Where a recipient converts from annual payment to a lump sum payment, the lump sum payment will be calculated for the remaining period after deducting the years for which annual payment has already been made.
- 4.5. Households who did not have garden land, and who elect to relocate to an area of their own choice outside the project area, will not be eligible for compensation for garden land.
- 4.6. Temporary occupation of food gardens will be compensated on an annual basis for the duration of temporary occupation as per the confirmed rates.
- 4.7. Where a power line crosses food gardens, the affected owners will receive a lump sum devaluation compensation for the portion of land within the servitude, and the following land use restrictions will apply:
 - 4.7.1. no structures (houses or other buildings);
 - 4.7.2 no vegetation above 3m height; and
 - 4.7.1 no storage of flammable or explosive materials.
- 4.8. The garden land for which devaluation compensation has been paid will remain the property of the owner and horticultural activities and other land uses will be permitted, subject to the land use restrictions noted above. These restrictions will remain in force in the event that the land is sold/transferred to another

owner. The owner will allow access for maintenance work on the power lines. Any disturbances during maintenance work will be mitigated by the project.

Table 3: Compensation Rates for Food gardens

| Compensation Item | Unit | Rate (M) (2016/2017) | | Notes |
|---------------------------------------|----------------|----------------------|---------------------|---|
| | | ACP | Lump Sum (50 Years) | |
| Food garden: permanent acquisition | m ² | 11.17 | 230.68 | <ul style="list-style-type: none"> • Lump sum rate is calculated through application of ACP rate, a 50-year payment period and the discount rate. • If a lump sum is selected after having received previous ACPs, the unit rate is calculated taking account of the number of previous ACPs. |
| Food garden: devaluation compensation | m ² | - | 115.34 | <ul style="list-style-type: none"> • 50% of rate for permanent acquisition (landholder retains ownership with restrictions). |
| Food garden: temporary occupation | m ² | 11.17 | - | <ul style="list-style-type: none"> • Compensation paid annually for the duration of the occupancy agreement. |

5. BUSINESS STRUCTURES

- 5.1. Owners of formal commercial properties that have to be relocated will be compensated for their structures through a lump sum or the provision of a replacement structure, based on replacement cost.
- 5.2. Informal business structures will be compensated through a lump sum using the rate for secondary homestead structures.

Table 4: Compensation Rates for Business Structures

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|----------------------------------|----------------|----------------------------------|-----------------------------|---|
| Formal business structures | m ² | Replaced / lump sum compensation | To be determined | To be determined during assessment and valuation. |
| Informal/ small scale structures | m ² | Lump sum compensation | 744.49 | |

6. BUSINESS PLOTS

- 6.1. Commercial/business plots will either be replaced or compensated through a lump sum. Compensation rates for commercial plots in urban and rural areas will be established in accordance with the Land Act 2010 and in collaboration with the LAA.
- 6.2. Temporary occupation of commercial/business plots will be compensated on an annual basis for the duration of temporary occupation as per the confirmed rates.

7. BUSINESS ENTERPRISES

- 7.1. Where a business that is forced to close cannot be re-opened, the value of the business, as distinct from the premises, will be established through a detailed impact assessment, upon which the compensation will be based. In such cases the owner will be required to sign an indemnity, exonerating the project from any further claims.
- 7.2. Where a business is temporarily affected during construction activities, the owner will be compensated for loss of profit during the period of impact, as determined through a detailed impact assessment. The owner will be required to sign an indemnity, exonerating the project from further claims.

8. AGRICULTURAL FIELDS

- 8.1. Agricultural fields will be compensated by one or a combination of replacement land, lump sum or annual payments, and annual grain payments.

-
- 8.2. Where field land greater than 1,000 m² is acquired, compensation will be in the form of any of the above options. Where the acquired land is less than 1,000 m², compensation will be in the form of a lump-sum payment or land-for-land (where available).
- 8.3. Where LHDA requires part of a field, and the remainder of the field is less than 500 m² in area, LHDA will, if the landholder agrees, acquire and compensate for the entire field. Where the field owner wishes to continue cultivating the remaining portion, LHDA will normally permit him/her to do so.
- 8.4. Households that are relocated from their localities and who can no longer access and use their unaffected fields will be compensated for all their fields in full. The unaffected fields will be available for reallocation (as a compensation option) to other affected households in the vicinity.
- 8.5. The compensation rate was determined on the basis of the annual production capacity of the land and a 50-year payment period.
- 8.6. Compensation payments for agricultural fields will be made as a lump sum or annually (50 years):
- 8.6.1. **Annual cash payment (ACP).** The total amount of annual payments (over a 50-year period) for the loss of agricultural fields will be determined on the basis of the area of land lost and the compensation rate, on an index-linked basis. At any point from commencement of annual payments, the recipient may convert to a lump sum payment.
- 8.6.2. **Lump sum.** The amount of lump sum compensation paid will be calculated at a present value for a period of 50 years of equal annual payment, discounted at the rate established under the compensation rates. Where a recipient converts from annual payments to a lump sum payment, the lump sum payment will be calculated for the remaining period after deducting the years for which annual payment has already been made.
- 8.7. Where a power line crosses agricultural fields, the affected owner will receive a lump sum devaluation compensation for the portion of land within the servitude, and the following land use restrictions will apply:
- 8.7.1. no structures (houses or other buildings);
- 8.7.2. no vegetation above 3m height; and

- 8.7.3. no storage of flammable or explosive materials.
- 8.8. The agricultural field for which devaluation compensation has been paid will remain the property of the owner and agricultural activities and other land uses will be permitted, subject to the land use restrictions noted above. These restrictions will remain in force in the event that the land is sold/transferred to another owner. The owner will allow access for maintenance work on the power lines. Any disturbances during maintenance work will be mitigated by the project.
- 8.9. Temporary occupation of agricultural fields will be compensated on an annual basis for the duration of temporary occupation as per the confirmed rates.

Table 5: Compensation Rates for Agricultural Fields

| Compensation Item | Unit | Rate (M) (2016/2017) | | Notes |
|---|----------------|----------------------|----------|---|
| | | ACP | Lump Sum | |
| Agricultural land: permanent acquisition | m ² | 0.68 | 14.04 | <ul style="list-style-type: none"> . The lump sum rate is calculated through application of the ACP rate, a 50-year payment period and the discount rate. . If a lump sum is selected after having received previous ACPs, the unit rate is calculated taking account of the number of previous ACPs. |
| Agricultural land: devaluation compensation | m ² | - | 7.02 | <ul style="list-style-type: none"> . 50% of rate for permanent acquisition (landholder retains ownership with restrictions). |
| Agricultural land: temporary occupation | m ² | 0.68 | - | <ul style="list-style-type: none"> . Compensation paid annually for the duration of the occupancy agreement. |

9. FRUIT TREES

- 9.1. The compensation rate for productive fruit trees was determined on the basis of production from a fully productive peach tree (being the most common in the Highlands) for a period of 10 years, until a replacement sapling has become fully productive.

Fruit trees are compensated on a lump sum basis. The rate is calculated through application of the ACP rate, a 10-year payment period and the discount rate.

- 9.2 Fruit trees that are not yet in production (saplings) will be compensated on a lump sum basis based on an average market rate for saplings.
- 9.3 For each affected fruit tree, three saplings will be provided to the concerned owners.

Table 6: Compensation Rate for Fruit trees

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|--|---------|-----------------------|----------------------|---|
| Fruit trees in production: permanent acquisition | Tree | Lump sum compensation | 2,154.68 | <ul style="list-style-type: none"> . Rate calculated through application of the ACP rate (M260.58 for 2016/2017), a 10-year payment period and the discount rate. . Uniform rate applied to all species of fruit trees. . Provision of three saplings per affected fruit tree. |
| Saplings not yet in production | Sapling | Lump sum compensation | 100.00 | <ul style="list-style-type: none"> . Uniform rate applied to all species of fruit trees. |
| Commercial orchard | Orchard | Lump sum compensation | To be determined | <ul style="list-style-type: none"> . Determined through valuation. |

10. FUEL/TIMBER TREES AND THICKETS

- 10.1. The compensation rate for fuel/timber trees was determined on the basis of production from a fuel/timber tree for a period of 10 years until a replacement sapling has become productive. Timber/fuel trees are compensated on a lump sum basis. The rate is calculated through application of the ACP rate, a 10-year pay-

ment period and the discount rate.

- 10.2. Thickets are compensated on a lump sum basis. The rate is calculated through application of the ACP rate, the area acquired, a 50-year payment period and the discount rate.
- 10.3. Individual trees in thickets are compensated at the timber/fuel tree rate; and defined as trees with a minimum trunk girth of 30 cm at breast height (1.3 m from ground).

Table 7: Compensation Rates for Timber/Fuel trees and Thickets

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|--|----------------|--------------------------|----------------------|---|
| Timber/ fuel trees: permanent acquisition | Tree | Lump sum compensation | 769.49 | <ul style="list-style-type: none"> Rate calculated through application of the ACP rate (M93.06 for 2016 /2017), a 10-year payment period and the discount rate. Uniform rate applied to all species of timber/fuel trees. |
| Thickets: permanent acquisition | m ² | Lump sum compensation | 9.09 | <ul style="list-style-type: none"> Rate calculated through application of the ACP rate (M0.44 for 2016/ 2017), a 50-year payment period and the discount rate. Uniform rate applied to all species of timber/fuel trees. |
| Individual trees in thickets | Tree | Lump sum compensation | 769.49 | <ul style="list-style-type: none"> Defined as trees with minimum trunk girth of 30 cm at breast height (1.3 m from ground). |

11. REEDS (INDIVIDUALLY OWNED)

- 11.1 Individually-owned reeds are compensated on a lump sum basis. The rate is calculated through application of the ACP rate, the area acquired, a 50-year payment period and the discount rate.

Table 8: Compensation Rate for Individually Owned Reeds

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|-------------------------------|----------------|-----------------------|----------------------|---|
| Individually owned reeds rate | m ² | Lump sum compensation | 9.09 | . Rate calculated through application of the ACP (M0.44 for 2016/2017), a 50-year payment period and the discount rate. |

12. AGAVE/ALOE

- 12.1. The Agave plant is used for various purposes, including for medicinal purposes, shelter and fencing. Compensation will be on a lump sum basis.
- 12.2. Where indigenous plants are affected, three saplings per affected plant will be provided to the concerned owners.

Table 9: Compensation Rate for Agave

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|------------------------------------|-------|-----------------------|----------------------|--|
| Permanent acquisition: Agave plant | Plant | Lump sum compensation | 57.51 | . Based on average rate for large and small plants used on Metolong Project and adjusted using annual CPI. |

13. STANDING CROPS AND CULTIVATED FIELDS

- 13.1 Civil works will be planned to allow, as far as possible, for the orderly acquisition of agricultural fields and food gardens prior to the commencement of cultivation activities. Where fields and food gardens have been cultivated prior to a declared cut-off date and the destruction of crops is unavoidable, a once-off compensation will be paid for the loss of the standing crops, including for fields and food gardens that have been cultivated but the seeds have not yet germinated. The ACP rates for fields and food

gardens are applied.

Table 10: Compensation Rates for Field and Garden Crops

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|-------------------------------|----------------|------------------|----------------------|--|
| Standing crops (fields) | m ² | Once-off-payment | 0.68 | . The ACP rate for agricultural fields is applied. |
| Standing crops (food gardens) | m ² | Once-off-payment | 11.17 | . The ACP rate for food gardens is applied. |

14. GRAVES

- 14.1. Graves (including ash heaps of stillborn babies) will be treated according to the wishes of the surviving relatives.
- 14.2. Ceremonial treatment, exhumation and re-interment will be carried out with all due ceremony as agreed with the surviving relatives. The costs associated with exhumation and reburial, including associated and traditional ceremonies, will be borne by the Project.
- 14.3. Funds for the reburial ceremony will be paid directly to the concerned household. These funds are paid on a per household/family basis, not per affected grave.

Table 11: Compensation Rate for Graves

| Compensation Item | Unit | Payment Option | Rate (M) (2016/2017) | Notes |
|---------------------------------------|-------|-----------------------|----------------------|--|
| Exhumation and re-interment of graves | Grave | Undertaken by Project | - | Project pays for relocation and re-interment of graves (e.g. through funeral undertakers). |

| | | | | |
|-------------------|-----------|------------------|-----------|---|
| Reburial ceremony | Household | Lump sum payment | 11,167.39 | • Paid on a per household basis not per affected grave. |
|-------------------|-----------|------------------|-----------|---|

15. HOUSEHOLD DISTURBANCE ALLOWANCE

- 15.1. A disturbance allowance will be paid to households whose primary residential structure or structures are required to be relocated.
- 15.2. The Full Disturbance Allowance will be paid to a household who is required to relocate to a new residential/homestead plot.
- 15.3. The Partial Disturbance Allowance will be paid where a primary residential structure(s) is relocated on the existing homestead plot and the household is not required to move to a new site.
- 15.4. Households whose outbuildings or secondary structures (such as a pit latrine) are relocated on the existing homestead site, but whose primary residential structures are not affected, will not be eligible for the disturbance allowance.
- 15.5. The allowance will be paid in three tranches: 1/2 on the date of relocation, 1/3 one year after relocation, and 1/6 two years after relocation. The second and third payments will be adjusted by the CPI of the year under consideration. For households electing to relocate to a destination of their own choice (self-relocation) the allowance will be paid as a lump payment.

Table 12: Household Disturbance Allowance

| Compensation Item | Unit | Payment Option | Rate M (2016/2017) | Notes |
|---|-----------|--|--------------------|---|
| Household disturbance allowance (full relocation) | Household | Three annual tranches from date of relocation/ lump sum when relocating to | 44,669.60 (total) | <ul style="list-style-type: none"> • Paid to a household who is required to relocate to a new residential/homestead site. • The three instalments are as follows: |

| | | | | | |
|---|-----------|---|----------------------|--|--|
| | | area of own choice | | | -First payment: M22,334.80; -Second payment: M14,889.87 + CPI for the FY; -Third payment: M7,444.93 + CPI for the FY. |
| Household disturbance allowance (partial relocation) | Household | Three annual tranches from date of relocation/ lump sum when relocating to area of own choice | 22,334.80 (total) | | <ul style="list-style-type: none"> • Paid to a household where a primary residential structure is relocated on the existing homestead site and the household is not required to move to a new site. Not applicable where only secondary structures (e.g. pit latrine) are relocated. • The three instalments are as follows: <ul style="list-style-type: none"> -First payment: M11,167.40; -Second payment: M7,444.93 + CPI for the FY; -Third payment: M3,722.47 + CPI for the FY. |

16. BUSINESS DISTURBANCE ALLOWANCE

- 16.1. A lump sum disturbance allowance, equal to 10% of the value of the informal structure, will be paid to informal traders whose business structures are required to be relocated.
- 16.2. Owners of formal commercial enterprises that are required to be relocated will receive a lump sum disturbance allowance (solatium), which will be calculated as follows after the valuation of the enterprise:

- 16.2.1. M0.00 to M100,000- solatium = 10% of the valuation
- 16.2.2. M100,000 to M400,000 - solatium = 10,000 up to 5% of the valuation
- 16.2.3. Above M400,000 - solatium = 20,000 up to 1% of the valuation.

17. PHYSICAL EVACUATION ASSISTANCE

- 17.1. LHDA will provide transport to physically displaced households and businesses for the removal of their assets, belongings and livestock to project-designated and approved relocation sites. Households electing self-relocation to sites of their own choice will be paid a lump sum evacuation amount based on the following relocation destinations:

- 17.1.1. Relocation within Mokhotlong District - M6,037.20.
- 17.1.2. Relocation to Butha Buthe and Leribe Districts - M9,329.93.
- 17.1.3. Relocation to Berea and Maseru Districts and beyond - M11,525.08.

18. MINIMUM HOUSEHOLD INCOME THRESHOLD PAYMENT

- 18.1. The annual compensation income of physically displaced households - defined as the combined annual compensation for fields, gardens, trees, residential plots and communal resources, as applicable - will be measured, at the time of initial compensation calculations, against the minimum household income threshold used by the project (M14,740.97 for the 2016/2017 fiscal year). If the household's annual compensation income, as defined above, is below this threshold, LHDA will pay the difference, up to the level of the threshold, for a maximum period of ten (10) years.
- 18.2 Owners who receive lump sum devaluation compensation for agricultural fields in a power line servitude are not eligible for

this entitlement as they will retain ownership of their fields.

19. ORPHANS

- 19.1. LHDA will pay the school fees of orphans under the age of 18 whose assets it has acquired.
- 19.2. Subject to a maximum per family, LHDA will pay a monthly food and clothing allowance to the Master of the High Court in respect of orphans whose assets it has acquired. This allowance will be paid to the Master of the High Court on an annual basis until the orphan reaches the age of 18.

Table 13: Allowances for Orphans

| Compensation Item | Unit | Payment Option | Rate M (2016/2017) | Notes |
|--------------------------------------|--------|----------------|--------------------|---|
| Orphans: food and clothing allowance | Orphan | Annual payment | 2,340.24 | <ul style="list-style-type: none"> The allowance is paid on an annual basis, using a monthly rate of M195.02 for 2016/2017 Fiscal Year. Only applicable to orphans under the age of 18 years. |
| Orphans: school fees | Orphan | Annual payment | To be determined | <ul style="list-style-type: none"> The school fees will be paid directly to the concerned school based on the individual school prospectus. Only applicable to orphans under the age of 18 years. |

20. COMMUNAL NATURAL RESOURCES

- 20.1. Compensation rates are determined for the different communal resources (grazing land, brushwood, useful grasses and wild veg-

etables) on the basis of the lost production and a 50-year payment period.

- 20.2. LHDA will calculate the total compensation amount payable for communal natural resources it is to acquire, per village, in the area of each Community Council. The loss of grazing land will be calculated by means of GIS interpretation, while the loss of other natural resources will be determined on the basis of affected households per village. Rangeland within the servitude of a power line is not compensated for, nor unaffected rangeland within a road reserve.
- 20.3. Compensation funds will be made available for investment in community development ventures. The funds will be managed by LHDA for the implementation of development projects that have been agreed and prioritised by the affected communities and their local authorities.
- 20.4. Where some physically displaced households move outside their local community/village to other host communities/villages, the funds will be apportioned between the concerned communities/villages based on the number of households relocating to the host communities/villages.
- 20.5. Except as indicated in Paragraph 20.6, no compensation funds in respect of communal assets will be directly transferred to individuals, Community Councils or other legal entities.
- 20.6. A household who relocates to an urban or peri-urban area with no communal natural resources may qualify for compensation for the loss of access to natural resources. Eligibility will be assessed on a case by case basis involving the relevant stakeholders. The compensation amount will be calculated with reference to the communal compensation entitlement of the village of origin and the number of affected households and paid as a lump sum.

Table 14: Compensation Rates for Grazing Land and Other Natural Resources

| Compensation Item | Unit | ACP Rate (50 Years) (M) (2016/2017) | Notes |
|-------------------|----------------|--|--|
| Grazing land | m ² | 0.20 | . Development funds to be determined uniquely for each village/community based on grazing land lost, number of affected households, ACP rate, 50-year payment period and the discount rate, as applicable. |
| Wild vegetables | Household | 744.49 | |
| Brushwood | Household | 930.62 | |
| Medicinal plants | Household | 372.25 | |
| Useful grasses | Household | 409.47 | |

- 20.7. Compensation for communally-owned fruit and timber/fuel trees and thickets is determined on the same basis as individually-owned trees. Compensation funds will be made available for investment in approved community development ventures.