

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Islamic Emirate of Afghanistan

Law on the Procedure for Acquiring Rights

25 Mar 2023

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Table of Contents

Base 7

Article One: 7

Objectives 7

Article Two: 7

Terminologies 7

Article Three: 7

The enforcement authority 8

Article Four: 8

Cooperation 8

Article Five: 8

Debtor 8

Article Six: 8

Composition 8

Article Seven: 8

Organizational Structure 9

Article Eight: 9

Duties of Huqooq departments 9

Article Nine: 9

The Jurisdiction to settle the legal petitions 9

Article Ten: 9

Submission of Petitions 10

Article Eleven: 10

Contents of a legal petition 10

Article Twelve: 10

The authority where a legal petition is submitted 10

Article Thirteen: 10

Adjudicating legal claims 11

Article Fourteen: 11

Summoning of the Defendant 11

Article Fifteen: 11

Explaining the petition of the claimant 11

Article Sixteen: 11

Co-operation of the claimant 12

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Article Seventeen:.....	12
Securing Bail from the Defendant	12
Article Eighteen:.....	12
Responsibilities of Police	12
Article Nineteen:	12
Responsibilities of guarantor (guardian) and defendant	12
Article Twenty:.....	12
Passenger or Nomads as debtor and creditor	12
Article Twenty One:.....	12
Representation on behalf of the creditor and debtor	13
Article Twenty Two:.....	13
Place of residence	13
Article Twenty Three:	13
Calling for Conciliation	13
Article Twenty Four:	13
Chapter Three.....	13
Actions of Huqooq department on the legal claims.....	13
Claim of debt.....	13
Article Twenty Five:.....	13
Acquiring rights based on documents	14
Article Twenty Six:	14
Acquiring the debt in installments.....	14
Article Twenty-Seven:	14
Acquiring the debt from wages or a banking account.....	14
Article Twenty-Eight:.....	14
Chapter Four	15
Vacating and handover of property	15
Article Twenty Nine:	15
Notification of the evacuation	15
Article Thirty:	15
Evacuation of commercial premises.....	15
Article Thirty One:	15
Evacuation of non-commercial premises.....	15
Article Thirty Two:	15

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

The absent tenant 15

Article Thirty-Three: 15

Proceedings regarding the property of an absent person 15

Article Thirty Four: 15

Appointment of Guardian 16

Article Thirty Five: 16

Chapter 5 16

Execution and Enforceable Implementation of the Court's Final Judgment 16

Taking guarantee for presenting before the court 16

Article Thirty Six: 16

The summon of the representatives of legal persons and Emirate entity 16

Article Thirty Seven: 16

Implementation of the definitive and final verdict of the court 17

Article Thirty Eight: 17

Obtaining the debt through compulsory enforcement 17

Article Thirty Nine: 17

Debtor's basic needs 17

Article Forty: 17

Delegation for Enforcing the Court's Final Judgment 18

Article Forty-One: 18

Duties of the delegation for the implementation of the definitive and final verdict of the court 18

Article Forty-Two: 18

Violation of the Delegation of Implementation 18

Article Forty Three: 18

Bidding Terms and Conditions 18

Article Forty Four: 18

Determining the price of Residence (shelter) 19

Article Forty Five: 19

Encumbrance of the debtor's immovable property 19

Article Forty Six: 19

Creditor Equality in Property Claims 19

Article Forty-Seven: 19

Providing information about the property 20

Article Forty-Eight: 20

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Bankrupt debtor	20
Article Forty Nine:.....	20
Taking Precautionary Measures	20
Article Fifty:.....	20
In Absence of Movable and Immovable Property by the Debtor	20
Article Fifty-One:	20
Transferring money from another bank account	20
Article Fifty-Two:.....	20
Judicial prosecution of the disobedient.....	21
Article Fifty-Three:	21
Notification of the implementation of the definitive and final verdict of the court to a third party	21
Article Fifty Four:	21
Chapter Six.....	21
Establishment of a coordination committee between entities	21
Article Fifty Five:	21
Chapter Seven.....	21
Terms and conditions of recruiting employees for the Huqooq department and their privileges.....	21
Terms and conditions of recruitment	21
Article Fifty Six:	21
Conducting legal capacity-building programs.....	22
Article Fifty-Seven:	22
Graduation certificate of legal capacity building programs	22
Article Fifty-Eight:	22
Exceptional rights and privileges.....	22
Article Fifty Nine:	22
Submission and publication of the report	22
Article Sixty:	22
Preparation of registration books	23
Article Sixty-One:	23
Procedures	23
Article Sixty-Two:	23
Stamp and Journal of Huqooq Administration	23
Article Sixty-Three:.....	23

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Enforcement.....	23
Article Sixty-Four:.....	23

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

The Law on the Procedure for Acquiring Rights

Chapter One General Provisions

Base

Article One:

This law has been developed based on Decree No. (1308) dated 24 February 2023 (3/8/1444) of His Highness Amirul Momenin, may Allah protect him and the principles of Hanafi jurisprudence of Islamic Sharia.

Objectives

Article Two:

The objectives of this law are:

- 1- To regulate the issues related to the initial review of legal documents before presenting them to the courts.
- 2- To provide a way for reconciliation between the parties of the case before the judicial proceedings.
- 3- To speed up the process of Acquiring the civil and commercial rights of natural and legal persons.
- 4- Ensuring cooperation between the Huqooq administration and other relevant authorities when enforcing the definitive and final verdicts of the courts regarding legal cases.
- 5- Avoiding the congestion of legal cases in the courts.

Terminologies

Article Three:

The following terms in this law shall have the following meanings:

- 1- **Huqooq Administration:** consists of the General Directorate of Huqooq of Supreme Court, Huqooq Offices in provinces, city administrative offices, and Huqooq offices districts.
- 2- **Legal Cases:** including civil lawsuits (real estate, debts, personal status (family) or commercial debts), which are filed by the claimant in a written petition in accordance with the provisions of the law and submitted to the Huqooq office.
- 3- **Debt:** An obligation or promise based on which a person shall be obligated to pay and execute it.
- 4- **Creditor:** A person whose right or promise towards the right is proven in his/her favor against the debtor.
- 5- **Debtor:** A person whose right or promise to fulfill the right is proven against him/her. (The right means that a person is a borrower of another person, and the promise to fulfill the right means that a person is a borrower of another person, and a third person promises to pay the debt.)
- 6- **Bidding:** is the method of selling the debtor's movable or immovable property.
- 7- **Incapacity (Hajar):** a debtor being forbidden from selling, renting, leasing, depositing, donating, bequeathing, and endowing all of his/her movable and immovable property.

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

- 8- **Guarantor (Guardian):** a person who undertakes to summon or pay the debtor's debt before the Huqooq department or the court.
- 9- **Grounded excuse:** the death of one of the sanguinity relative or Causal relative up to the third degree, unexpected events, or religious reasons that prevent the person from attending.
- 10- **Disobedient:** a person who refuses the definitive or final verdict of the court or the provisions of this law.
- 11- **Experts:** professionals with sufficient expertise, information, or experience in specific fields.
- 12- **Legal person:** According to this law, they are non-governmental companies and organizations.
- 13- **The definitive and final verdicts of the courts:** The definitive verdicts are the rulings that have been finalized, or there are no appeals and cassation, or the deadlines for appeals and cassation have been legally expired. The verdicts that have gone through three stages of court are called final verdicts.

The enforcement authority

Article Four:

- (1) The Supreme Court shall be the enforcement authority for the provisions of this law.
- (2) Huqooq departments, which are part of the structure of the Supreme Court, shall operate in the center and the provinces and enforce the provisions of this law and the rules of Hanafi jurisprudence of Islamic Sharia in their activities.

Cooperation

Article Five:

All Emirate authorities, legal persons, experts, and other natural persons shall be obliged to cooperate with the Huqooq departments of the Supreme Court in implementing the provisions of this law.

Debtor

Article Six:

Being indebted to a person shall not cause him/her to be deprived or restricted of his/her right unless he is recognized as disobedient according to the provisions of the law.

Chapter Two:

Structure, Duties, and Powers of Huqooq Departments

Composition

Article Seven:

- (1) The Huqooq Administration of the Supreme Court shall be composed of the General Directorate of Huqooq, the Directorate of Huqooq of Kabul Province, and managers and departments.
- (2) The headquarters of the General Directorate of Huqooq of the Supreme Court and the Directorate of Huqooq of Kabul Province are in Kabul City. The provincial Huqooq directorates are located in the centers of provinces, and the Huqooq offices are located in the districts.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Organizational Structure

Article Eight:

(1) The General Directorate of Huqooq of the Supreme Court shall have the following departments:

- 1- A department of legal experts consisting of real estate, commercial, and family debt committees
- 2- Advertisement and publications department
- 3- Administrative department
- 4- The legal cases registration department

(2) The General Directorate of Huqooq of Kabul Province has the following sections:

1. The four sub-directorates of Huqooq of Kabul administrative Areas
2. Sub-directorate of Huqooq of surrounding areas,
3. Sub-directorate of enforcement of the definitive and final verdicts of the courts.
- 4- Administrative department

(3) Provincial Huqooq Departments

- 1- Administrative department
- 2- Professional member, member of enforcement and execution of provisions of the courts
- 3- Districts Huqooq Offices.

Duties of Huqooq departments

Article Nine:

Huqooq offices have the following duties:

- (1) Registration of legal petitions
- (2) Submitting receipts to applicants (Registration Number of petition).
- (3) Requesting required documents
- (4) Summoning of defendant
- (5) Taking guarantee from the defendant according to the related procedure
- (6) Real estate research, collecting information from the court achieve department regarding the accuracy of the Sharia documents in a principled way and submitting a legal report about the review of the proceedings to the relevant court.
- (7) Resolving legal cases through reconciliation
- (8) Acquiring the civil and commercial rights of natural and legal persons
- (9) Submitting the legal petitions along with collected records to the authorized courts in accordance with the provisions of paragraph (3) of Article twenty-four of this law.
- (10) Implementing and enforcing the contracts and final decisions of the courts.
- (11) Submitting the quarterly and annual performance reports of the provincial Huqooq departments to the General Directorate of Huqooq.
- (12) The General Directorate of Huqooq shall be responsible for controlling and supervising the administrative, professional, and enforcement of court verdict proceedings and coordinating provincial Huqooq units' affairs.

The Jurisdiction to settle the legal petitions

Article Ten:

(1) The settlement of the legal petitions shall be the jurisdiction of the General Directorate of Huqooq of the Supreme Court.

(2) The Huqooq departments of the Supreme Court shall not accept or intervene in legal petitions in which the Emirate administration is one of the parties.

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

(3) When the General Directorate of Huqooq of the Supreme Court determines that the subject of the petition is related to public law, it shall be obliged to refer the case to the relevant authority of the Emirate cases.

Submission of Petitions

Article Eleven:

(1) The natural or legal persons can submit their petitions directly to the General Directorate of Huqooq of the Supreme Court.

(2) The emirate authorities shall be obliged to refer the legal petitions submitted to them for settlement to the Supreme Court Law Department.

(3) If the applicant does not pursue his/her petition in the Huqooq office within one month, his/her petition shall be kept. If he/she pursues the matter again, he/she can submit his petition again to the Huqooq department according to the provisions of this law.

Contents of a legal petition

Article Twelve:

(1) A legal petition shall contain the following information:

1. The date of the petition in detail (day, month, and year)
2. The name of the claimant and the defendant, personal information, occupation, nationality, place of residence, and original place of residence
3. Summary of the purpose of the lawsuit with the date of the accident
4. The Hijri date shall be obligatory to be put in all proceedings
5. Signing or putting a fingerprint on the petition by the applicant
6. Writing the petition on the official paper and writing the tazkira number.
7. When the applicant is a lawyer or guardian, the power of attorney or testamentary document and its number should be inserted in the petition, and the name of the court where the document was prepared should be mentioned.
8. The claimant's capability shall be a must in a lawsuit. In case of lack of capability, the lawsuit shall be submitted through the guardian or executor.

The authority where a legal petition is submitted

Article Thirteen:

- (1) Submitting a legal petition to the Huqooq department or the court of the defendant's residence.
- (2) If the defendant is a married woman, the residence of her husband shall be valid, and if the defendant is a minor or insane, the place of residence of the executor or guardian shall be valid.
- (3) The legal claim of a foreign citizen against an Afghan citizen, even if the place of the incident was outside the country, shall be processed at the place of residence of the defendant during the referral of the claimant.
- (4) When the claimant and the defendant appear in a judicial court as passengers, the court shall resolve their legal case according to Sharia and principles.
- (5) If the defendant has been present at the place of residence of the claimant for one year, even if he/she does not have the original residence as an owner, the judicial court of the claimant's residence can hear his/her claim, when referring along with the defendant, and decide according to the regulations.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

- (6) If the defendant has multiple residences, the defendant can submit a petition to any residence of the defendant.
- (7) The place of residence of incapable, missing, and absent persons shall be the place of residence of their legal guardians.
- (8) If the defendant is a member of the emirate or military, the claimant can file a lawsuit in the court of his place of duty or the court of his permanent residence.
- (9) If the conflict is between a civilian and a military person, in this case, if the claimant is a military person, the military court shall decide, and if the claimant is a civilian person, the civil court shall decide on the case.
- (10) Whenever a person has a claim against a foreign national residing in Afghanistan, the relevant court of Afghanistan (where the foreign national resides) shall have the jurisdiction to resolve it.
- (11) When the subject of the claim is an immovable property and is not in the court area, and the defendant is in the court area, even if he is a passenger, the court where the defendant is located can hear and decide the case according to Sharia regulations and shall send a letter for the purpose of execution to the court of the place where the subject of the claim is located.
- (12) If there is more than one defendant and their residences are separate, in this case, the claimant shall have the right to file a lawsuit in the court of each of their residences, provided that the lawsuit is against one person and for different reasons.
- (13) If the defendant resides in a foreign country, the petition shall be submitted to the Huqooq Administration or the court of the original residence of the defendant.

Adjudicating legal claims

Article Fourteen:

Resolving the legal claims of natural or legal persons after receiving a printed petition shall be made based on its jurisdictional and thematical competencies.

Summoning of the Defendant

Article Fifteen:

- (1) The defendant shall be summoned through the police to his place of residence.
- (2) The employee of the Emirate's administration and the legal person, except the military personnel of the three organs of the Ministries of Defense and Interior Affairs and the General Directorate of Intelligence, shall be summoned through the relevant organ and the police of his place of residence in case of non-cooperation of the related organ.
- (3) The defendant, who is a foreign resident, shall be brought to court through the Ministry of Foreign Affairs upon the Huqooq Administration's proposal and the Supreme Court's approval.

Explaining the petition of the claimant

Article Sixteen:

- (1) The Huqooq department shall be obliged to explain the claim in writing to the defendant after being summoned.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

(2) The defendant or his legal representative shall be obliged to provide information and reasons regarding the claim within (3) working days. This period can be extended upon receiving a valid excuse.

Co-operation of the claimant

Article Seventeen:

The Huqooq department can ask for the cooperation of the defendant when he/she is summoned.

Securing Bail from the Defendant

Article Eighteen:

(1) The Huqooq department may require bail from the defendant, who is obligated to provide it. Failure to provide the required bail for ensuring appearance and preventing escape will result in the defendant being referred to the police department.

(2) The police are required to secure bail from the defendant and submit it in writing to the relevant Huqooq department.

(3) If the defendant is unwilling to provide the required bail, he/she will be treated as non-compliant.

Responsibilities of Police

Article Nineteen:

(1) Summoning of the defendant and taking the summon security from him/her, acquiring the right, and enforcement of the court verdict shall be done by the police under the supervision of the Huqooq department.

(2) Whenever implementing the court's definitive and final decision requires forced execution, the police shall be obliged to take special security measures and ensure the delegation's security.

Responsibilities of guarantor (guardian) and defendant

Article Twenty:

(1) A person who has given a summon security as a guarantor to the Huqooq department shall be obliged to present the defendant within three days in case of request.

(2) When a defendant is an Emirate employee or a legal person, the related organ shall be obliged to present the defendant in the Huqooq department within a given period based on the written request of this office.

Passengers or Nomads as debtor and creditor

Article Twenty One:

When the creditor and the debtor are passengers or nomads, the creditor shall submit his petition to the nearest Huqooq department or court of their temporary residence.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Representation on behalf of the creditor and debtor

Article Twenty Two:

When the village residents are jointly interested in cases related to pastures, public roads, water floodways, etc., the presence of some of them as a representative of the claimant or defendant in the law Huqooq department shall be sufficient.

Place of residence

Article Twenty Three:

(1) The residence of the natural person according to the provisions of this law shall be as follows:

1- The place where the person resides for more than one year.

2- Places where the person has official duties.

3- A place the person has selected as a center of his/her business activity or specific profession.

(2) The place of residence of the wife shall be the place of residence of the husband, except in cases of annulment of engagement, demand for alimony, and separation that the place of residence of the wife shall be the place of residence of her guardian, executor, or legal representative.

(3) The place of residence of the absent, missing, incapable person shall be in accordance with the circumstances of the location of residence of his/her executor, custodian, or guardian.

(4) The place of residence of the legal person shall be the place where its head office is located. If the head office of the legal person is abroad and its representative is a resident of Afghanistan, the place where its representative is residing shall be considered as its residence.

Calling for Conciliation

Article Twenty Four:

(1) Upon receipt of a case, the Huqooq Department shall conduct an initial review before escalating it to court and will invite the parties for conciliation if dissatisfaction exists.

(2) If the parties reach a settlement through conciliation, they must either sign or affix their fingerprints to the conciliation document. This document will be officially registered upon approval by the pertinent Huqooq Department professional member and the office supervisor.

(3) Should the case remain unresolved following conciliation or mediation efforts, the petition and all associated documents will be forwarded to the competent court.

Chapter Three

Actions of Huqooq department on the legal claims

Claim of debt

Article Twenty Five:

(1) The creditor can claim his/her debt from the debtor at any time. Deferred debt shall be excluded from this rule.

(2) The debtor shall be obliged to pay his fixed debt to the creditor upon demand unless otherwise agreed upon.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

(3) If the guarantor has committed in writing to pay the debt to the debtor, he/she shall be obliged to pay the fixed debt of the debtor.

Acquiring rights based on documents

Article Twenty Six:

The Huqooq department shall take action to obtain the rights based on the following documents:

- 1- Official documents developed, registered, and issued by the emirate authorities according to the law and are free of forgery.
- 2- Customary documents if the defendant is satisfied with them.
- 3- Documents arranged and issued by the authorized courts have a reserved registration and are free of forgery.
- 4- Definitive and final decisions of the courts
- 5- Definitive and final rulings issued by the court of a foreign country and confirmed by the Ministry of Foreign Affairs of Afghanistan and approved by the Supreme Court.
- 6- Mediation letters developed by the Huqooq department and approved by the court shall be considered an official document.
- 7- Other documents considered valid according to the provisions of the law.

Acquiring the debt in installments

Article Twenty-Seven:

- (1) If the debtor cannot pay the fixed debt to the creditor, the Huqooq department can propose the debt payment in installments and submit it to an authorized court for decision-making if the creditor and the debtor do not reach an agreement.
- (2) Setting installments shall be made according to the decision of the authorized court, taking into account the financial capacity of the debtor.

Acquiring the debt from wages or a banking account

Article Twenty-Eight:

- (1) If the debtor does not have movable or immovable assets to pay the debt but is employed against wages, the debt shall be obtained from the debtor's wages and paid to the creditor with the cooperation of the relevant authority considering the debtor's basic needs.
- (2) When the debtor does not pay the creditor's debt, the Huqooq department shall take action to confirm his property. If the debtor has a bank account or has movable property, the Huqooq department shall block his account at the claimant's request after getting the approval of the authorized court and take action regarding acquiring the right, considering the debtor's basic requirements.
- (3) When a final and definitive court verdict is issued regarding the payment of the claimant's right, and the defendant is not willing to pay the claimant's right, the Huqooq department shall try to confirm his property. If the defendant has a bank account, the Huqooq department will block his account and shall take steps to obtain the rights of the claimant, considering the basic needs of the defendant.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Chapter Four

Vacating and handover of property

Article Twenty Nine:

Pursuant to paragraphs (1 and 2) of Article 41 of this law, a designated delegation shall relinquish possession of the owner's property to its rightful owner. This action is contingent upon a valid legal document that is not superseded by another and upon the request of the owner or their legal representative, as well as the approval of the authorized court.

Notification of the evacuation

Article Thirty:

The Huqooq Department will notify the property owner regarding the evacuation of immovable assets. Upon receiving this notice, the owner is required to vacate the property within fifteen days from the date of notification. This timeframe may be extended with the owner's consent.

Evacuation of commercial premises

Article Thirty One:

If the owner needs the location and commercial premises and the tenant does not vacate, it shall be forcibly evacuated after the expiry of the rental agreement after the approval of the court.

Evacuation of non-commercial premises

Article Thirty Two:

(1) In case of the owner's request to vacate the non-commercial premises that he has been renting for a certain period of time, the tenant cannot keep it in his/her possession when the contract expires.

(2) If the tenant needs a residence (shelter), the primary district court and the appealing court in the provinces can extend the contract based on the tenant's circumstances and necessity.

The absent tenant

Article Thirty-Three:

(1) Should the tenant be absent for a period exceeding three months, thereby disrupting rent payments and the owner's income, the Huqooq Department shall publicize the matter. This announcement, made at the owner's expense, will be disseminated through widely read mass media outlets with the aim of reaching the absent tenant.

(2) If the absent tenant fails to respond within a maximum of three months from the date of the notification, the Huqooq Department will recommend property evacuation to the authorized court. Upon receiving the proposal, the court is mandated to make a decision within ten days, ruling in absentia on vacating the property.

Proceedings regarding the property of an absent person

Article Thirty Four:

(1) If the absent person does not have a guardian, the goods obtained from the vacated property shall be mentioned and explained in four copies by a delegation mentioned in paragraph (1) of Article 41 of this law, and one copy of them shall be kept with an

authorized court (for issuing the ruling), municipality, related Huqooq department, and the area police.

- (2) If the property mentioned in paragraph (1) of this Article is subject to further technical explanation, the opinion of experts should be obtained in this regard. Of course, it can be possible to refer to the property owner in the presence of the absent person.
- (3) The goods obtained from the evacuated property shall be officially handed over to the original owner of the vacated property in the presence of the absent person or his legal guardian as prescribed by the court or stored in the safe place approved by the court.
- (4) If the property mentioned in paragraph (3) of this Article is under the guarantee of the bank, the goods obtained from it will be handed over to the bank. The delegation mentioned in paragraph (1) of Article forty-one of this law shall sell it through a tendering process after obtaining the decision of the authorized court, and the money earned from the sale shall be transferred to the bank by the name of the deposit account of the absent tenant.
- (5) If the absent person does not appear or his/her legal guardian does not appear for one year, or if the goods obtained from the evacuated property are perishable or lose their characteristics in terms of the model, the said goods shall be sold by the delegation mentioned in paragraph (1) of this Article with the approval of the authorized court, and the money earned from the sale shall be transferred to the bank by the name of deposit account of the absent tenant.

Appointment of Guardian

Article Thirty Five:

- (1) If the court rules in favor of the winning party for the surrender of the subject of the claim, and the winning party or their legal representative fails to appear to claim it, the Huqooq Department shall recommend appointing a guardian to the authorized court.
- (2) The asset or subject matter detailed in paragraph (1) of this Article will be transferred by the delegation outlined in paragraph (1) of Article 41 of this law to an individual appointed by the court as a guardian.

Chapter 5

Execution and Enforceable Implementation of the Court's Final Judgment

Taking guarantee for presenting before the court

Article Thirty Six:

- (1) The Huqooq department shall notify the creditor and the debtor of the definitive and final verdict of the authorized court regarding obtaining the debt and taking a guarantee from them.

The summon of the representatives of legal persons and Emirate entity

Article Thirty Seven:

- (2) If the winning party is a legal person or an emirate entity, their authorized representative shall be officially summoned through the Huqooq department. In this case, the emirate entity shall be obliged to introduce its representative to the Huqooq department within three (3)

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

working days with a decree. In case of no introduction, the Emirate entity shall be responsible for the next actions.

Implementation of the definitive and final verdict of the court

Article Thirty Eight:

(1) After issuing the definitive and final verdict of the court, the losing party shall be obliged to comply with the judgment's contents within fifteen days.

(2) When the losing party fails to comply with the final verdict of the court within the specified period mentioned in paragraph (1) of this Article, without a valid excuse, the Huqooq department shall, according to the provisions of this law, take action on the forcible implementation of the verdict within a period of twenty days and through the delegation mentioned in article 41 of this law.

(3) If problems arise during the implementation of the court's definitive and final ruling, the Huqooq department will refer the matter to an authorized court to resolve the issues.

(4) If the winning party is absent, the Huqooq department shall be obliged to implement the definitive and final verdict of the court as follows:

1- If the subject of the claim is immovable property, the action shall be taken in accordance with the provisions of Article 40 of this law.

2- If the subject of the claim is in cash, it shall be transferred to the deposit bank account of the winning party, and the expenditure also shall be charged to the winning party.

Obtaining the debt through compulsory enforcement

Article Thirty Nine:

(1) If the fixed debt of the debtor cannot be acquired according to the provisions of this law, obtaining the right shall be done through compulsory enforcement.

(2) Compulsory enforcement shall be used in properties not included in the debtor's basic needs. This is done based on the Huqooq department's proposal and the authorized court's approval.

(3) The delegation mentioned in Article forty-one of this law shall sell the properties referred to in paragraph (2) of this Article commensurate with the debtor's debt through the bidding process and in the presence of the debtor or his legal representative.

(3) When the debtor or his legal representative refuses to attend the bidding event, the delegation referred to in Article twenty-one of this law shall take action regarding the sale of the property and record the issue.

Debtor's basic needs

Article Forty:

(1) The debtor's essential needs shall include housing and equipment, without which the debtor cannot live normally.

(2) The list of properties mentioned in paragraph (1) of this Article shall be summarized by the delegation mentioned in Article forty-one of this law and shall be approved by the president of the appellate court in the center and provinces.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Delegation for Enforcing the Court's Final Judgment

Article Forty-One:

(1) The delegation for implementation of the definitive and final verdict of the court shall be composed of authorized representatives of the prosecution office, police, local authority, and local and municipal authorities under the chairmanship of the Huqooq department. The experts and other Emirate entities can also be invited if deemed necessary by the Huqooq department.

(2) When the court's final verdict is regarding the real estate cases, the authorized representatives of the Real Estate and Lands are also can be invited and included in the structure of the delegation mentioned in paragraph (1) of this Article

(3) Entities mentioned in paragraphs (1) and (2) of this Article shall be obliged to introduce and send their representatives within two days if required.

Duties of the delegation for the implementation of the definitive and final verdict of the court

Article Forty-Two:

(1) The delegation of the implementation of the definitive and final verdict of the court shall have the following duties and powers:

1- To implement the definitive and final verdict of the court,

2- To inform the court's verdict to the losing party in writing about the evacuation and handover of the subject of the claim.

3- To introduce the disobedient losing party to the authorized police authority and do the evacuation and handover in his/her absence.

4- To prepare the list of acquired properties and take action regarding them per the provisions of Article 39 of This Law.

(2) If the losing party does not appear during the execution of the definitive and final verdict of the court, the verdict of the court shall be implemented in his/her absence, and the fact that the subject of the claim is blocked or confined in any way shall not prevent from the execution of the sentence.

Violation of the Delegation of Implementation

Article Forty Three:

(1) In case of violation of the duty obligation by a member of the implementation delegation mentioned in Article 1 of this law, the issue shall be officially informed by the Huqooq department to the relevant authority.

(2) When the person in charge of the Huqooq department commits a violation during the implementation and enforcement, the matter shall be reviewed by the General Directorate of Huqooq and referred to the Supreme Court for Judicial Inspection.

Bidding Terms and Conditions

Article Forty Four:

(1) The delegation mentioned in Article forty-one of this law shall publish the bidding notice in one of the widely published newspapers after determining the estimated price of the property by the experts.

(2) The application period determined for candidates shall not be less than (7) days.

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

(3) The delegation mentioned in Article forty- 40 of this law shall take two percent of the estimated price of the property as a guarantee when referring after the expiration of the period mentioned in paragraph (2) of this Article and conduct the bidding meeting and announce the winner party

(4) The bidding meeting shall be held when at least two candidates are present.

(5) The creditor and the debtor can participate in the bidding meeting, and the debtor has the right to be prioritized.

(6) If none of the persons mentioned in paragraph (3) of this Article win the bidding meeting, the guarantee, the secured guarantee, shall be returned to them.

(7) If the first bidder is unwilling to buy the goods, the right to buy shall be transferred to the second bidder. In case of no interest of the winning party, selling is allowed by the court's permission when the surplus amount from the creditor's debt can satisfactorily provide a residence (shelter) for the debtor.

Determining the price of Residence (shelter)

Article Forty Five:

(1) The price of residence (shelter) shall be determined based on the daily rate and the price of similar residence (shelter).

(2) If the price of the residence (shelter) mentioned in paragraph (1) of this Article is more than the determined amount of the debt, it shall be allowed to sell it as prescribed by the court if the additional amount of the creditor's debt provides a usual residence (shelter) for the debtor.

Encumbrance of the debtor's immovable property

Article Forty Six:

(1) Should the sale of the debtor's movable assets prove insufficient to settle the debt, the Huqooq Department may, upon creditor request, submit a list of the debtor's immovable property to the authorized court.

(2) If the debtor either refuses to sell the immovable assets listed in paragraph (1) or is absent, the Huqooq Department will recommend compulsory sale of the property to the authorized court.

(3) In cases requiring official bonding and acknowledgment before the court for transferring ownership of movable assets, actions will be executed in accordance with the provisions outlined in paragraph (2) of this Article.

Creditor Equality in Property Claims

Article Forty-Seven:

(1) All creditors hold equal claims to the debtor's property, except for those granted priority rights under Sharia law provisions.

(2) When multiple creditors share equal priority status, their rights accrue concurrently.

(3) If the debtor's property is inadequate for satisfying the established rights of the creditors, the property will be proportionally allocated among them according to the stipulations of this law.

(4) The procedures described in this Article will be initiated based on a proposal from the Huqooq Department and the directive of the authorized court.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Providing information about the property

Article Forty-Eight:

- (1) The debtor shall be obliged to provide complete information about his/her movable and immovable property and income to the Huqooq department.
- (2) The Huqooq department, with the prescription of the authorized court, can provide information about the debtor's property from the relevant Emirate and non-Emirate departments. In this case, the aforementioned departments shall be obliged to provide such information.
- (3) Whenever the creditor has reliable information about the debtor's property, he/she shall be obliged to inform the Huqooq department in writing about the issue.

Bankrupt debtor

Article Forty Nine:

- (1) The debtor's bankruptcy shall be determined based on his/her request from the authorized court according to the provisions of the Sharia law.
- (2) If the debtor is declared bankrupt by the court, the Huqooq department shall stop acquiring the debt after receiving the bankruptcy notice until the bankruptcy is resolved.

Taking precautionary measures

Article Fifty:

- (1) Upon issuance of a definitive and final court verdict, the Huqooq Department may enact the following measures in addition to those outlined in this law:
 - 1- Prohibiting the debtor from transferring or selling assets prior to forced enforcement.
 - 2- Freezing the debtor's bank and financial accounts.
 - 3- Encumbering the debtor's assets.
 - 4- Seizing assets and receivables of the debtor that are under third-party control.
 - 5- Petitioning for the rescission of actions specified in this paragraph.
- (2) If the court verdict is not definitive and final, the Huqooq Department is required to secure authorization from the competent court to enact the measures listed in paragraph (1) of this Article within a span of ten (10) working days.

In Absence of Movable and Immovable Property by the Debtor

Article Fifty-One:

Should the debtor lack both movable and immovable assets during the enforcement process, the matter will be submitted to the competent court for adjudication.

Transferring money from another bank account

Article Fifty-Two:

- (1) If there is no money, which has been mentioned in the debtor's bank account mentioned in the custodial ruling and the debtor has a bank account in the same bank or other banks, the money shall be transferred as per the amount specified in the custodial ruling to the introduced account and shall be paid to the creditor.
- (2) Whenever there are no assets in the debtor's bank account, the bank shall be obliged to inform the Huqooq department of the non-existence of assets and records of the debtor's transactions within three days after receiving the notification of the enforceable ruling.

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

Judicial prosecution of the disobedient

Article Fifty-Three:

(1) A person who, during the execution of the court's definitive and final verdict, resists against the assigned delegation and does not allow the court's verdict to be implemented, the losing party shall be introduced to the police department for the purpose of custody according to the decision of the delegation mentioned in article 45 of this law and the definitive and final verdict of the court is forcibly implemented.

Notification of the implementation of the definitive and final verdict of the court to a third party

Article Fifty Four:

(1) The Huqooq department shall be obliged to notify the third party of the court's final verdict issued against him/her and inform him/her of the amount the debtor is obligated to pay.

(2) The third party can refer and complain about the case to the authorized court if he/she has the proofing evidence.

Chapter Six

Establishment of a coordination committee between entities

Article Fifty Five:

(1) To coordinate between the entities regarding the implementation of the provisions of this law, a committee shall be established under the chairmanship of the head of the court with the following structure:

- 1- Deputy Technical Minister of Justice, as a member.
- 2- Deputy General Prosecutor, as a member.
- 3- Deputy Security Minister of the Ministry of Interior, as a member
- 4- Deputy to the General Directorate of Intelligence, as a member
- 5- Head of the Department of Legal, Legislative, and Judicial Affairs of the General Directorate of Affairs Management, as a member.

(2) The procedure for how to work and organize the meetings of the committee referred to in paragraph (1) of this Article shall be specified in the separate procedure that the said committee approves.

Chapter Seven

Terms and conditions of recruiting employees for the Huqooq department and their privileges

Terms and conditions of recruitment

Article Fifty Six:

(1) A person who is recruited as the head of the Huqooq department shall have the following qualifications, in addition to the conditions stated in the Civil Servants Law:

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

1- Having a bachelor's degree in Sharia law or being a graduate of higher religious schools and more.

2- Having at least work experience in justice and judicial authorities

3- Ability to lead and manage relevant departments.

4- Non-deprivation of civil rights and conviction to crimes of administrative corruption, misdemeanor, or felony.

5- Other conditions required for this post.

(2) A person who is appointed as a manager in the Huqooq department shall have work experience in the justice and judicial authorities and have the other qualifications mentioned in parts 3, 4, and 5 of paragraph (1) of this Article in addition to the conditions stipulated in the Civil Servant Law and having a bachelor's degree in Sharia, law, or graduating from high religious schools,

(3) A person who is appointed as a professional member of the Huqooq department shall have the other qualifications mentioned in parts 4 5 of paragraph (1) of this Article, in addition to the conditions stipulated in the Civil Servants Law and having at least a bachelor's degree in law or Sharia.

Conducting legal capacity-building programs

Article Fifty-Seven:

In order to increase the level of professional knowledge of the heads, managers, and professional members of the Huqooq department, the Supreme Court shall be obliged to conduct programs to improve the legal capacity of the service section per the relevant procedures.

Graduation certificate of legal capacity building programs

Article Fifty-Eight:

Qualified persons mentioned in paragraph (3) of Article (56) of this law who have a certificate of graduation from the Judicial Training Programme shall be given priority during recruiting for the positions in the Huqooq department.

Exceptional rights and privileges

Article Fifty Nine:

(1) The head of the Huqooq department and the professional members of the law departments shall be entitled to other financial benefits in addition to the monthly salary, the size of which shall be proposed by the Supreme Court and approved by the Prime Minister.

(2) The professional employees of the Huqooq department shall be entitled to the cadre ranks, the rank of which shall be determined by a separate procedure.

(3) The employees of the administrative department law department shall be subject to the provisions of the Civil Servants Law.

Submission and publication of the report

Article Sixty:

(1) The Provincial Huqooq department shall be obliged to send the report of their activities regularly and annually to the General Directorate of Huqooq.

(2) The General Directorate of Huqooq shall be obliged to unify and submit the quarterly and annual reports of the provincial units to the Supreme Court.

This document was translated by the International Development Law Organization (IDLO) for the Afghanistan Rule of Law Observatory (ARLO) initiative. To find out more about ARLO, please visit our website at www.arlo.online.

Disclaimer: This is an unofficial translation of an official document and is not endorsed or approved by any government agency. Every effort has been made to ensure accuracy however, some inaccuracies or differences in wording may exist.

(3) Departments mentioned in paragraph (1) of this Article shall have an obligation to inform the definitive and final verdict to the related authorities and publish it on the website of the Supreme Court.

(4) The department mentioned in paragraph (2) of this Article shall be obliged to publish its performance report in the monthly Judicial Magazine of the Supreme Court for public information.

Preparation of registration books

Article Sixty-One:

The General Directorate of Huqooq of the Supreme Court shall develop uniform registration books for the Huqooq departments to register the petitions, conciliations, and the implementation of decisions of the authorized court.

Procedures

Article Sixty-Two:

The General Directorate of Huqooq of the Supreme Court can establish separate procedures for reviewing legal applications, conciliation in legal cases, and other issues related to implementing court rulings.

Stamp and Journal of Huqooq Administration

Article Sixty-Three:

(1) The Huqooq department shall have special stamps

(2) The Huqooq department shall have a Journal.

Enforcement

Article Sixty-Four:

This law shall expire from the date of approval and shall be published in the official gazette, and the Law on the Procedure for Obtaining Rights mentioned in the official gazette number (1309) dated September 22, 2018 (31/6/1397) and the amendment of its Article (60) published in the official gazette number (1339) dated March 23, 2019 (1398 1/3) shall be considered invalid.