Law of Collection of Due balances

Regulation concerning collection of Due balances

Justice Minister, Abdul Hakim Sharia Jozjani!

Ministry of Justice ratified the following in the determination No 1925 in the meeting of the Ministers hold in 1358 (1979) 27th of Aqrab by considering official document no 2735, Ministry of Justice ratified the following:

The statute of collection of due balances approved in 32 articles and taken as the legislative orders.

The ratification arranged in the meeting of ministers approved by the Head of Revolutionary Council of Democratic Republic of Afghanistan, announced to the government through legislative order no 3223 dated 28/8/1358 (1979). Therefore, that is notified to publish this statute in the official gazette.

Dr. Shah Wali
Deputy of Prime Minster and Foreign Affairs Minster
LAW OF COLLECTION OF DUE BALANCES

Chapter One

General Orders

Article No 1
All affairs related to collection of government and governmental organizations’ due balances are obliged to follow the order of this statute.

Article No 2
The collection of all due balance, which is related to this statutes, is the duty of police and other responsible due balance collectors.

Article No 3
The following terms of this statute has the subsequent meaning:

1- Balance: Cash and commodity that a person is obliged for payment according article no 1 of this statute.

2- Collectable Balance (debts): Legally it is payable if the payment is a kind of tax, outcome and lease while the legal term has been completed and if it is salary or expenses.

3- Property: Cash, valuable documents of financial claim, all moveable properties and unmovable commodities that are property of debtor and guarantor or their remainder.

4- Undividable property: It is the property, which its quality could be, change when divided.

5- Saleable property: Surplus of the following property

   (1) - The residential house that has the value in center of provinces up to 300000 Afghani and in the districts 100000 Afghani. The price of the house can be proved by the rules of the Ministry of Public Work.

   (2) - House equipment

   (3) - Five Jireeb (The traditional measuring, equal to 3003.04 square meters or 3600 square yards) the best forming land or its equivalent, if the debtor is former.
6- Governmental Organizations: State Enterprises, the firm or business enterprise which more than half fund belong to state, municipalities, Marastoon (the house of most vulnerable people or house of asylums) and all other Public organizations.

Chapter Two

Exemptions

Article No 4

The give up of collecting of balance (debt) will take place when the identity of debtor is confirmed as incognito through the Minster of Finance.

Article No 5

The debtor and guarantor who have no property to be sold, according to legal deed, can be exempted from the payment.

Article No 6

All the commodity of debts of a person, which are registered in office by name of used commodity, and its price is not more than 10000 Afghani, and the time of the debt has passed at less three years, can be considered as exemption. That can be deducted from the related office. Also, the total debt of the used commodity of a person which price is more than 10000 Afghani and not increase more then 20000 Afghani, and at less five years has passed on that, can be known as exemption, and can be deducted from the related office.

Chapter Three

Deadline (grace period) and payment by Installment

Article No 7

If the debtor agrees with the declared debt, but ask for the grace period of the payment, the debtor could be given once grace period according to the financial capacity condition and the amount of debt as follow:

(1) - By authorization of sub District Administrator of the region for maximum one month
(2) - By authorization of District Administrator of the region for maximum two months
(3) – By authorization of Chief Security Commander of the province for maximum three months
(4) – By authorization of State Accountant of the province for maximum six months.
(5) – By the authorization the Governor of the province for maximum one year

Article No 8

Grace period for the following debtors are given according to the following conditions:

1- The debtor who are in term of military service, general conscript period, or included partially in the military services, the grace period will be give till the end of military service.
2- To the officers and its counterpart during their fighting period till return.
3- For the Afghan student abroad who are authorized officially till the end of their study period.
4- For the sick people who got official authorization from medical center and are under the treatment in hospital or their house, till their recovery.
5- For those prisoners whose detention period is more then five year, till the end of their sentence period.

Article No 9

If the debtor has no property or his property could not be enough for the debt (due balance) and asked for the paying by installment, demander can be consider according to article No 12 of this statute.
The grantor is considering as debtor for the payment of the debt in installment.

Article No 10

If the collecting of the due balance is not possible or difficult to be paid without payment by installment, and has logical reasons. the remaining (debt) money can be paid as payment by installment.

Article No 11

If a government and government organization employee is being debtor of his or her salary or travel expenses, the due balance could be consider as payment by installment according to the level of income and amount of the debt by approval of authorized employer.

Article No 12
The approval of payment by installment of debt is authorized for 2 years by authorization of governor, for ten years by authorization of Finance Minister and for more then that, by authorization of Prime Minister.

Chapter Four

Collection Modus operandi or method

Article No 13

If a debtor has not paid the due balance (debt) till the end of his/her grace period in the according to article No 7 and 8 of this statute, his sellable property would be taken away from his/her possession. The property will be in the possession of concern Collection Due Balance Dept. The property will be sold according to the prescription of this statute.

Article No 14

If the due balance (debt) has not been completed from sold property of debtor, the rest amount would be deducted from that property of guarantor. The guarantor is not responsible for the extra amount of guarantee.

Article No 15

If the debtor and guarantor have not sold their properties for the payment of due balance, according to principle of auction, government can sell their property.

Article No 16

The cost of advertisements can be allocated from the government or governmental organizations’ fund, and later on the amount would be refunded from the sold property (of debtor).

Article No 17

When the property of debtor and guarantor has not been sold in the meeting of auction, in that case the government can sell the mentioned property according to fixed price of quotation committee. So, the due balance can be paid from the amount of sold property and the extra amount will be paid to owner of property.

Article No 18
When the owner of property rebelliously denies the completing of deed in the court while the rule of this statute has been observed. The authorized judge of court would be the proxy of ownership, would complete the deed and presents it to the customer.

Article No 19

The property of debtor and his/her guarantor who have share with commercial and industrial organizations can be sold according to rule of auction. If the property is not possible to be sold according to the rule of auction, it will be sold to the government according the rate of quotation committee and will be deducted from the debtor or guarantor. If the owner of the share keep himself away from signing the endorsement by name of customer, the authorized judge of court as being the proxy, can sign the endorsement and can submit the concerning document to the customer. Article No 17 of this statute is observed for the surplus of the price in this regard.

Article 20

If the debtor is death and his inheritance have not been distributed, the debt money is deducted from the total inheritance of deceased and if it has been inherited the debt money is collected from the heirs of debtor equivalent to the share that they have taken from their bequeather.

No one from the heirs of debtor is obliged to pay more money then the money that they have received from their bequeather.

About the guarantor heirs action is taken like debtor’s heirs, but the bailsman’s heirs are not obliged to pay more money than the certain limit of undertaking and guarantee bond of their bequeather.

Article 21

Whenever the debt money from bailsman’s or bailsman’s heirs is collected totally or partially, the approach right of guarantor or his heirs for the debtor’s or his heirs is safe according to the command of law.

Article 22

Whenever the debtor or guarantor is escaped and absent, his property is sold on the basis of auction according to the command (15 and 20) of this statute. If the conditions mentioned in this statute are observed in the legal tread deed of the property selling, is completed by the court judge and submitted to the customer.

Article 23

If the sellable property is undividable and the total value of sellable property is more than the sum of debt, in this cause the share of property landlord is sold in order to sufficient
for the payment of the debt. If the share of landlord hasn’t been sold all the undividable
mentioned property is soled and from the price of it the debt is collected and the balance
of it has been given to the landlord.

Article 24

Whenever the under guaranteed property, if it is obtainable by the bailsman and the
property has been sold less than the specific quality of the guaranty document, the debt
and bailsman haven’t had other sellable property and the arbitrators also don’t want to
buy the under guaranteed property in this cause the different between the amount of
certified by the arbitrators and the real price for selling of under guaranteed lands, the
price of mentioned property which be written to the guarantee documents is equally
collected from the arbitrators.

Article 25

(1) If the sellable property could be sold to the conditional sell and the money will be
enough for the paying of debt the mentioned property is sold in conditional
selling.
(2) If the sellable property were garden or land they are exceptional from the order of
first item of this article.

Article 26

(1) Commodity debts are collected according to the day price.
(2) The price of used goods is fixed lower 29-60 % than the similar new goods in the
day for collection by the comity for making quotation.

Article 27

In the comity for making quotation one or two professional persons are included. And the
opinion of this comity is valid after the certification of related state accounted
department.

Chapter 5
Miscellaneous order

Article 28
The Law of Correction and Punishment shall govern state civil servants and other employees of state institutions who are debtors and their guarantors and other persons who postponed in the order of debt collection or they don’t perform their duty or responsibility.

**Article 29**

In order to apply the orders of this statute effectively, regulations are imposed.

**Article 30**

Extra ordinary forgive of the debts is the competence of the president of revolutionary council of democratic republic of Afghanistan.

**Article 31**

All the regulations, edicts and the bills that are different from the orders of this statute, will be abolished from the date this statute published.

**Article 32**

This statute will be in effect from the date published in the official gazette.

Justice Minister, Abdul Hakim Sharia Jozjani!
Ministry of Justice ratified the following in the determination No 1949 in the meeting of the Ministers hold in 1358 (1979)/09/11 by considering official document no 2803 date 1358 (1979) 09/04 through Ministry of Justice ratified the following:

The statute of collection of due balances by order of article no 29 of this statute approved in 19 articles.

The ratification arranged in the meeting of ministers approved by the Head of Revolutionary Council of Democratic Republic of Afghanistan, announced to you and a copy of statute of balance is sent for the stamp of secretariat in order to be published in the official gazette.

Dr. Shah Wali
Deputy of Prime Minster and Foreign Affairs Minster

REGULATIONS ON COLLECTION OF DEBTS

Chapter One

General aspects

Article 1

These regulations have been imposed according to the order of article 29 on collection of debts.

Article 2

The terms herein meaning the followings:
1- Finance office: this office has the responsibility to specify the type, quantity and to take care about the collection of the debts in the relevant administration.
2- Collection office: this office has the responsibility to organize administrative, accounting and collection of the debts in the relevant administration.
3- Collection authority: the police and the other authorities who are practically responsible for.

Chapter Two

Duties of finance

Article 3
The finance office has to write down the type and quantity of the debts and inform the relevant administrations for collection and has to be followed once a month.

**Article 4**

The quantity of the debts must be real. In case of difference in the amount, the assigned employee would be responsible for.

**Article 5**

In the debts report the following things must be considered:
1- Complete identification of the guarantor for the debt.
2- Complete identification of the debtor.
3- Number and date of guarantee letter and the specifications of the properties under guarantee.
4- Guarantee of monetary validity.
5- Quantity of debt.
6- Source of debt.
7- Date and type of deal.
8- Quantity of interest and fine.
9- Draft or photocopy of the guarantee letter.

**Chapter Three**

**Duties of the Collecting office**

**Article 6**

The collecting office has to record the debts that are announced by the financial office to the total state’s debts and count them to the separate local units. State’s debts account is performable in accordance with the accounting principles.

**Article 7**

Collecting Department, officially informs, the collecting offices of local units, on the obtaining of the debts according to the details given by the finance section. The relevant units are responsible to record the debts in certain books and take action for their collection.

**Article 8**

Collecting section is obliged to report in detail on the amount of collection of the debts
Related to each collecting section of the locality. This report should be prepared separately for the Governmental offices and Governmental associations, Proportionally and comparatively on the basis of the grand total of the debts in each month, and one copy of the report must be sent to the local departments, accounting Department, and the offices which have reported the said depts.

Article 9

Sub administration District administration and Governor, are obliged to take effective measures on the collection of debts, according to the monthly report of the collecting section and supervise the activity of the employees continuously.

Article 10

The State accountant is obliged to supervise the collection of local units debts, and take spatial action for the expedition of the work. The State accountant sends the collected debts report to the provincial Governor, the accountant department of Finance Ministry, and other relevant departments.

Article 11

A Provincial Governor is obliged to take rapid action and solve related problems promptly according to the report of state debts presented by the State accountant every month and decide on the status employees in accordance with their work for collecting debts.

Article 12

State Accountant sends the summarized report on the collection of the debts to the Finance Ministry every Month.

Article 13

The related Departments of Finance Ministry evaluates the summarized report of collected debts and submit their views to the Minister office on the success of the collecting offices and departments.

Chapter Four

Duties of the collecting authority

Article 14
Collecting authority is responsible to record the debts in the books, which has been reported by collecting section, together with all details, and inform the debtor on the payment of his debt and dates for payments

**Article 15**

Collecting force can give one-month time from the date of announcement to the debtor to pay his/her due balance.

**Article 16**

In case the debtor is absent, the collecting authority shall conduct the same action with the guarantor as it would with the debtor

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**Chapter Five**

**Miscellaneous Commands (orders)**

**Article 17**

The head of manning director pays the debts of firms and companies from the revenue of the company. In the companies, which are dissolved, the head of settlement is responsible for the payment of debts from the revenue of the company

**Article No 18**

The personnel officer while filling in the personnel forms are responsible to consider the financial offices and collecting force and

**Article No 19**

This statute will be in effect from the date it is published in the official gazette