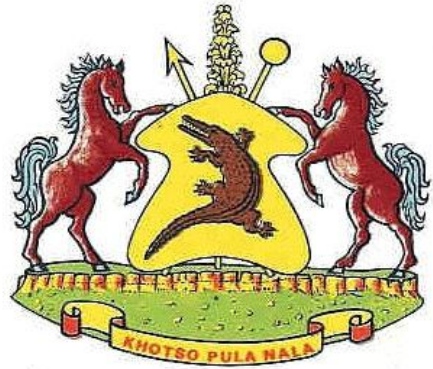




Government of the Kingdom of Lesotho

Ministry of
Public Works and Transport

THE COMPENSATION AND RESETTLEMENT POLICY AND PROCEDURES

Volume 2
COMPENSATION AND RESETTLEMENT POLICY

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THE COMPENSATION AND RESETTLEMENT POLICY AND PROCEDURES:

Volume 1: Executive Summary

Volume 2: Compensation and Resettlement Policy

Volume 3: Compensation and Resettlement Procedures

Volume 4: Supporting Documents

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ABBREVIATIONS AND ACRONYMS

CPI	Consumer Price Index
CRP	Compensation and Resettlement Policy
CRPF	Compensation and Resettlement Policy Framework
CRS	Catholic Relief Services
DRR	Department of Rural Roads
EIA	Environmental Impact Assessment
ESMU	Environmental and Social Management Unit
GIS	Geographic Information System
HIV/AIDS	Human Immune Virus/Acquired Immune Deficiency Syndrome
IMT	Intermediate Means of Transport
ITP	Integrated Transport Project
GOL	Government of Lesotho
LAA	Land Administration Authority
LFCD	Lesotho Fund for Community Development
LSPP	(Department of) Lands, Surveys and Physical Planning
MCA-Lesotho	Millennium Challenge Account - Lesotho
MOHWS	Ministry of Health and Social Welfare
MOLG	Ministry of Local Government and Chieftainship Affairs
MOPWT	Ministry of Public Works and Transport
NGO	Non-Governmental Organisation
PME	Participatory Monitoring and Evaluation
PRS	Poverty Reduction Strategy
RP	Resettlement Plan
TSP	Transport Sector Programme

GLOSSARY OF TERMS

Affected household - All members of a household, whether related or not, operating as a single economic unit, who are affected by a project.

Assets - All individual and communal properties for which compensation is due. It also includes government and institutional properties and facilities, including infrastructure.

Assets Inventory - Assembly of specified individual, communal and government assets as determined or collected at a certain point in time through cadastral and other field surveys, aerial photos, mapping, satellite imagery, etc.

Commercial property - Facility or asset used for the purposes of commercial activity.

Communal land - Land shared by multiple users for grazing and the gathering of resources such as medicinal plants and useful grasses. Access may be controlled or open. **Public land** generally refers to land set aside for a public purpose or use, e.g. road reserves.

Communal resources - Grazing land, brushwood, medicinal plants, useful grasses, wild vegetables – all commonly used by communities.

Compensation - Payment in cash or in kind, as determined by current land legislation and supplemented by the provisions of the Compensation and Resettlement Policy, for an asset or a resource that is acquired or affected by a project at the time the asset needs to be replaced.

Cut-off date - Date of completion of the census and assets inventory of persons affected by the project, or any other mutually agreed date. Persons occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops, fruit trees, and woodlots) established in the project impact area after the date of completion of the assets inventory, or an alternative mutually agreed on date, will not be compensated. Properties/assets affected by subsequent project design changes are treated as affected assets and compensated accordingly.

Economic displacement - Loss of income streams or means of livelihood as a result of land acquisition or obstructed access to resources (land, water, or forest) due to the construction or operation of a project or its associated facilities.

Entitlement - Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected people, depending on the nature of their losses, to restore and improve their economic and social base.

Host community - Community residing in or near the area to which affected people are to be relocated.

Injurious affection - Means the amount of any reduction in the market value of the land retained by the affected person or in land adjacent to acquired land, which is attributable to the implementation of a project. It is the depreciation in value of the retained land as a result of the proposed construction on, and use of, the land acquired by the implementing agency/acquiring authority for the project. Asset verification and compensation exercises should determine the reductions in value that require compensation.

Involuntary resettlement - Resettlement is involuntary when it occurs without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement.

Land expropriation - Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses.

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.

Rehabilitation - Re-establishing incomes, livelihoods, living, and social systems.

Relocation - Rebuilding housing, assets, including productive land, and public infrastructure in another location.

Replacement cost - The rate of compensation for lost assets must be calculated at full replacement cost, that is, the market value of the assets plus transaction costs. With regard to land and structures, IFC defines “replacement costs” as follows:

- agricultural land—the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, plus the cost of any registration and transfer taxes;
- land in urban areas—the market value of land of equal size and use, with similar or improved public infrastructure facilities and services preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;
- household and public structures—the cost of purchasing or building a new structure, with an area 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.

Resettlement Plan - The document in which the implementing agency or other responsible entity specifies the procedures that it will follow and the actions that it will take to mitigate adverse effects, compensate losses, and provide development benefits to persons and communities affected by transport sector project.

Severance - Refers to the reduced value of the land retained by the affected owner, attributable to its being severed from the acquired land. Severance occurs when the land acquired contributes to the value of the land which is retained, so that when severed from it, the retained land loses value.

Stakeholders - Any and all individuals, groups, organisations, and institutions interested in and potentially affected by a project or having the ability to influence a project.

Voluntary resettlement - Non-compulsory move (removal) of a household due to the effects of a project (safety, isolation, inconvenience, social considerations, loss of resources, etc.).

Vulnerable group - People who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.

1 INTRODUCTION

1.1 Background

The Government of Lesotho's Ministry of Public Works and Transport (MOPWT) has prepared a Transport Sector Programme that provides for the maintenance and development of the country's transport sector services, infrastructure and administration. Developments will mainly focus on road construction, upgrading and rehabilitation activities, although investments will also occur in other areas, such as the aviation and rail sub-sectors.

Transport sector developments are likely to lead to a range of positive and negative social impacts. For example, road improvements could improve the mobility of people resident within a road's region of influence, and create a potential for diversification of local economic activities. Negative impacts will vary according to the degree of involuntary land acquisition: some civil works projects will require limited or no involuntary land acquisition (e.g. road upgrading/maintenance work within an existing reserve that is free of encumbrances, or road works in rural areas on public land); others may necessitate substantial acquisition of private assets (e.g. construction of new roads in urban areas). Overall, the extent of involuntary land acquisition and population displacement for transport sector developments is anticipated to be fairly limited. Nevertheless, international experience shows that involuntary land acquisition, if not properly mitigated, can give rise to severe social and economic risks.

This Compensation and Resettlement Policy (CRP) aims to ensure that these risks are properly addressed. It consists of the following volumes:

- Volume 1: Executive Summary;
- Volume 2: Compensation and Resettlement Policy (this Volume);
- Volume 3: Compensation and Resettlement Procedures;
- Volume 4: Supporting Documents.

The Policy has been prepared with reference to national laws and international and local social safeguard policies, as well as through the inputs of stakeholders. A Compensation and Resettlement Working Group was established to provide professional input into the preparation of the Policy and Procedures. The Working Group was chaired by MOPWT and included representation from the Ministry of Local Government and Chieftainship Affairs; the Ministry of Agriculture and Food Security; the Ministry of Law, Constitutional and Parliamentary Affairs; the Ministry of Justice and Human Rights; the National Environment Secretariat; the Department of Lands, Surveys and Physical Planning (Valuation Section); the Lesotho Highlands Development Authority; the Lowlands Water Unit; the Transformation Resource Centre; Contractors; and resettlement and compensation consultants.

Stakeholder participation also included individual consultations with key government ministries and other institutions, group and individual discussions with a sample of communities and people who have been or are likely to be affected by road sector developments, and a national stakeholder workshop.¹

Finally, a public review was undertaken from 1-30 November 2010. English and Sesotho copies of the Executive Summary and Policy document were placed at public libraries and all District Administration Offices. In the Maseru District, copies were also placed at LSPP, TRC, the State Library and the Thomas Mofolo library of the National University of Lesotho. English and Sesotho advertisements, calling for

¹ The results of the consultation activities are summarised in Sections 5 to 10 of Volume 4.

public comments, were placed in the Public Eye and Mololi newspapers; the advertisements and documents were also posted on MOPWT's website. No comments were received through the public review process.

1.2 Scope and Application

The Policy is applicable to all transport sector projects, irrespective of the source of funding or implementing agency, whose implementation result in:

- relocation or loss of shelter;
- loss of assets or access to assets; or
- loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

The Roads Directorate is required to have a similar policy, and this Policy will therefore be adopted by the Directorate.

1.3 Goal, Objectives and Guiding Principles

The overall goal of the Policy is to ensure that the livelihoods and living standards of people that are directly affected by transport sector developments are restored, and where possible improved. Specific Policy objectives are:

- to minimise the involuntary taking of land on transport sector projects by exploring all viable alternative project designs;
- to ensure that people and communities affected by transport sector projects, including host communities affected by resettlement programmes, are meaningfully consulted on project designs, alternatives and impacts;
- to ensure that affected people are promptly, fairly and fully compensated for their losses;
- to ensure that direct compensation is accompanied by additional measures where necessary to help restore livelihoods;
- to ensure that any relocation of households and businesses is undertaken in a participative, systematic and beneficial manner, involving both resettler and host communities;
- to promote the participation of affected people and communities in the planning, implementation and monitoring of compensation, mitigation and development measures.

The Policy promotes the participatory design of compensation, resettlement and livelihood restoration measures that are fair to displaced households and appropriate to the local socio-economic context. It also aims to protect transport sector projects and genuinely affected people from speculative incursions into project areas or other attempts at speculative gains.

In support of the Policy objectives, the following principles have been prepared to ensure that the social and economic risks associated with involuntary land acquisition and resettlement are dealt with consciously and consistently:

Land acquisition and involuntary resettlement will be avoided or minimised. The overriding principle will be that involuntary resettlement on transport sector projects will be avoided or minimised wherever feasible, by exploring all viable alternative project designs. Where land acquisition and involuntary resettlement occur, it will be documented why this is unavoidable. Efforts to reduce the extent of involuntary resettlement will also be demonstrated.

The reserves of all new roads will be publicly declared. In the road sector, the practice of not strictly enforcing regulations pertaining to the clearance of road reserves has often reduced the extent of involuntary resettlement. However, this practice has significant implications for human safety, for the maintenance of road reserves, and for land tenure arrangements. Therefore, from the date of the publication of the Policy the reserves of all new roads will be publicly declared and officially acquired for road construction and maintenance. All persons affected by the declaration of reserves, and who meet the eligibility requirements, will be compensated for their losses in accordance with the Policy stipulations.

MOPWT will ensure that the reserves of newly constructed roads remain free of illegal encumbrances, and that any activities allowed in road reserves are properly recorded and legalised. Persons who occupy reserves illegally will be informed in writing of their illegal status and instructed to vacate the reserves.

Affected people are defined inclusively. Affected people are defined as those whose livelihoods and standards of living are adversely affected by project activities - whether through the loss of assets or access to assets, through being deprived of resources, through loss of income sources or means of livelihood, through physical relocation, or through other losses that may be identified during the process of resettlement planning. Host communities affected by resettlement activities will be considered as project-affected parties.

Ongoing and meaningful consultation with affected people and disclosure of information will occur. Affected people have the right: (a) to be informed in time of project proposals and implementation schedules; (b) to be consulted and participate in issue pertaining to them such as the identification, selection and development of measures to restore their livelihoods; (c) to be informed of displacement and land acquisition dates sufficiently in advance of actual implementation; and (d) to have access to relevant project documents, such as Resettlement Plans, at a place accessible to them, and in a form, manner, and language that are understandable to them.

Compensation and resettlement planning, budgeting and implementation will be an integral part of a project. To ensure that land acquisition and involuntary resettlement are integral components of transport sector projects: (a) land acquisition and resettlement costs will be built into project budgets as an upfront cost; (b) an institutional framework will be developed within MOPWT and on specific projects to ensure that appropriate social impact management mechanisms are set up and maintained during implementation; and (c) land acquisition and resettlement schedules will be integrated with project civil works schedules, and construction will commence only after acquisition procedures have been successfully initiated.

Affected persons will be assisted to at least restore, and preferably to improve, their livelihoods. The pre-project livelihoods of affected persons will be restored, and preferably improved, through: (a) the prompt provision of fair and equitable compensation for the loss of assets directly attributable to a project; (b) the provision of housing support (cash or replacement housing) and residential site support (replacement site or cash) where physical relocation is required; (c) the provision of relocation support measures where physical relocation is required; and (d) the implementation of other livelihood restoration and development measures as required.

Vulnerable groups and severely project-affected persons will be specifically catered for. Particular attention will be paid to collective adverse impacts on groups/social categories (such as the elderly and physically disabled, households below the poverty line and households victimised by HIV/AIDS), who because of their social position may be vulnerable to changes brought about by project activities or excluded from its benefits. An important vulnerable category is households headed by orphaned children. Where such households are affected, measures will be implemented under the project to ensure that their compensation entitlements and well-being are properly managed and catered for.

Cultural and religious practices will be respected. Existing cultural and religious practices will be respected and, to the maximum extent practical, preserved. This extends to cultural heritage.

Grievance redress and monitoring procedures will be in place. Accessible grievance procedures will be implemented to ensure that grievances and disputes are promptly addressed. Monitoring procedures will be implemented to assess the effectiveness of land acquisition, compensation and resettlement procedures. Monitoring will be an ongoing activity, employing mechanisms such as internal (performance) monitoring, standardised (quantitative) socio-economic monitoring, participatory (qualitative) socio-economic monitoring, culminating in a completion audit.

All legal obligations will be complied with. Compensation and resettlement planning and implementation will comply with the provisions of relevant local legislation.

1.4 Legal and Policy Context

1.4.1 Applicable Laws

The key laws governing the application of this Policy are the Constitution of Lesotho, the Land Act of 2010, the Roads Act of 1969 and the Legal Capacity of Married Persons Act of 2006.²

The Constitution, the supreme law of the country, is committed to the principle of human rights. The power over rights to land is vested in the King in trust for the Basotho Nation (article 108), but this power “shall be exercised in accordance with the Constitution and any other law”. The Constitution provides for the prompt payment of full compensation for the compulsory acquisition of property, and direct access to the High Court for persons with an interest in or right over compulsorily acquired property.

The Land Act of 2010 provides for the grant of titles to land, the conversion of titles to land, and the better securing of titles to land; the administration of land; expropriation of land for public purposes; the grant of servitudes; the creation of land courts and the settlement of disputes relating to land; and systematic land regularisation and adjudication.

The Act stipulates expropriation principles, including prior adjudication of the land proposed for expropriation and negotiations with the holders of the land rights before resorting to expropriation. The Act stipulates that in all cases of compulsory acquisition compensation must be paid before conclusion of expropriation. Compensation for acquired property shall be at market value, having regard to the present and future replacement value, and include expenses incidental to any necessary change of residence or of place of interest.

The Roads Act (1969), which is currently under review, provides for the “locating, constructing, opening, maintaining, protecting, deviating, working and closing of roads.” It provides for the declaration of road reserves for the purposes of road construction, maintenance and protection, as well as for compensation for any direct damage resulting from road construction or maintenance.

The Legal Capacity of Married Persons Act (2006) confers equal powers on both spouses married in community of property, giving them equal capacity to dispose of the assets of the joint estate, contract debts for which the joint estate is liable, and administer the joint estate. The Land Act has similar provisions with regard to the power of spouses married in community of property.

² See Volume 4, Section 2, for further details on these and other relevant laws.

Other laws of relevance to compensation and resettlement planning include the Valuation and Rating Act, 1980; the Town and Country Planning Act, 1980; the Building Control Act, 1980; the Environment Act, 2008; the Mines and Minerals Act, 2005; the Historical Monuments, Relics, Fauna and Flora Act, 1967 and the Natural Heritage Bill, 2006; and the Forestry Act, 1998.

1.4.2 International and Local Social Safeguards Policies

International best practice, as embodied in the social safeguards policies of agencies such as the World Bank, the International Finance Corporation as part of the World Bank Group, and the Asian and African Development Banks requires that appropriate compensation, resettlement and related policies and procedures are in place to address any social impacts resulting from the compulsory acquisition of land for development projects.³

Various compensation and resettlement policies, based mainly on the social safeguard guidelines of the World Bank, have been prepared for developments in Lesotho. These include policies for the Lesotho Highlands Water Project, the Water Sector Improvement Project, and the Metolong Dam and Water Supply Programme.⁴

1.5 Effective Date

The Policy and Procedures will come into operation on the appointed date as indicated by the Minister through the publication of a notice in the Government Gazette.

1.6 Revision and Amendments

The Minister of Public Works and Transport is the custodian of the Policy. MOPWT will undertake a mandatory review of the Policy and Procedures every five years and incorporate changes to relevant laws and policies as applicable.

1.7 Public Disclosure

As soon as the Policy and Procedures come into operation MOPWT will have the documents translated into Sesotho. The English and Sesotho documents will be made available to the public via the Ministry website and through the local authority structures (District Councils, Community Councils and Chiefs). Where required, English and Sesotho versions of amended documents, once approved, will be made available to the public in the same manner.

³ See Volume 4, Section 3.

⁴ See Volume 4, Section 2.5.

2 COMPENSATION AND RESETTLEMENT MANAGEMENT

2.1 Institutional Framework

The key stakeholders in the planning and implementation of compensation and resettlement programmes on transport sector projects are:

- MOPWT's two Environmental and Social Management Units (ESMUs), established to provide guidance on environmental and social/resettlement matters;
- implementing agencies, both within and outside MOPWT, who will be responsible for the design, preparation, implementation and management of compensation and resettlement programmes;
- land and property valuation agencies, such as the Department of Lands, Surveys and Physical Planning (LSPP) within the Ministry of Local Government and Chieftainship Affairs, that is responsible for coordinating the determination of compensation norms and rates;
- affected households, communities and their representatives;
- non-governmental organisations (NGOs) contracted to undertake specific components of a resettlement programme; and
- contractors on MOPWT civil works projects.

MOPWT's two ESMUs (one within the Ministry and one in the Roads Directorate) will manage, coordinate and provide guidance on environmental and social programmes on transport sector projects. The ESMUs will amongst others conduct environmental and social awareness campaigns, collaborate with implementing agencies, ensure adherence to Policy stipulations, coordinate and monitor the requisite social aspects studies (e.g. Social Impact Assessments, Resettlement Plans and asset verification/adjudication surveys), monitor community consultation/participation processes, and ensure adherence to public disclosure requirements. The ESMUs will play a supportive and facilitative role to ensure that implementing agencies and other stakeholders can fulfil their obligations in the compensation/resettlement planning and implementation process.⁵

Implementing agencies will undertake and manage all social aspects work as required, such as Social Impact Assessments and Resettlement Plans, consultation and public disclosure programmes, asset verification exercises, compensation determination (in collaboration with LSPP), and compensation disbursement and resettlement implementation. They will also ensure that civil works contractors adhere to environmental and social safeguard stipulations.

Implementing agencies will establish appropriate institutional structures for projects under their control to provide an avenue for the planning and coordination of compensation and resettlement activities with stakeholders. Depending on the type of project and scope of land acquisition and resettlement it would consist of institutions such as a Steering Committee, a Compensation and Resettlement Committee, a Grievance Redress Committee, and Working Groups on employment (to promote the employment of affected people on civil works) and vulnerable households/groups. A Compensation and Resettlement Committee is likely to be required on all projects to regulate consultation and negotiation between affected households/ communities and the implementing agency. Apart from representatives of affected households/ communities and the implementing agency, the institutional structure would, depending on the scope of the project, include local chiefs, community councils, district councils and contractors.

⁵ See Volume 4, Section 4.

LSPP⁶, in collaboration with the ESMUs and implementing agencies, will establish compensation rates for the assets affected by transport sector projects, or verify the valuations and rates prepared by property valuation consultants.

Representatives of affected communities will sit on project committees such as Compensation and Resettlement Committees, negotiate overall agreements on behalf of their communities, advise affected households of project-related matters (e.g. resettlement schedules and compensation issues), assist with the identification/confirmation of vulnerable households, and act as the first point of call for the resolution of grievances and disputes.

Contractors appointed by an implementing agency to undertake the civil works will be required to adhere to all the environmental and social requirements and instructions contained in Environmental Management Plans and other contract documentation.

On projects with significant social impacts qualified NGOs may be contracted to assist with aspects of the resettlement and rehabilitation activities.

The main roles and responsibilities of the key stakeholders in the compensation and resettlement process are summarised below.

Key Responsibilities for Compensation and Resettlement Management

Agency	Key Responsibilities
MOPWT ESMU	• Develop and revise Policy and Procedures, compensation norms/rates for MOPWT and implementing agencies, and obtain Government approval. • Coordinate training, capacity-building and awareness campaigns. • Ensure adherence to social safeguards policies. • Coordinate the design and implementation of social impact assessments and Resettlement Plans. • Coordinate and monitor consultation and participation processes.
Roads Directorate ESMU	• Develop and revise Policy and Procedures, compensation norms/rates for the Roads Directorate and implementing agencies in consultation with MOPWT ESMU. • Coordinate training, capacity-building and awareness campaigns in consultation with MOPWT ESMU. • Ensure adherence to social safeguards policies. • Coordinate the design and implementation of social impact assessments and Resettlement Plans for road sector projects. • Coordinate and monitor consultation, participation and grievance redress processes.
Implementing Agencies	• Procure and manage contracts for design, construction and maintenance/rehabilitation of minor roads. • Undertake planning and implementation of compensation and resettlement programmes in line with Policy directives and procedural guidelines. • Manage compensation and resettlement programmes, including determination and disbursement of compensation entitlements. • Manage community participation, grievance redress and monitoring processes.
Contractors	• Comply with all social impact management and resettlement instructions as contained in a project's Environmental Management Plan and other contract documentation.

⁶ LSPP is due to be re-established as the Land Administration Authority (LAA). Other functions/anticipated responsibilities of LSPP/LAA include establishing and maintaining a database of land ownership in the country; providing permission for transfers, subleases, and mortgages; issuing leases to land; and maintaining a record of all land registrations.

Agency	Key Responsibilities
Community Representatives	Represent affected households and communities on compensation and resettlement programmes, including on compensation determination committees and with the resolution of grievances and disputes.
LSPP/LAA	- Establish compensation norms and rates for the various categories of affected assets. - Review and adjustment of compensation rates. - Periodic review of valuation standards and procedures.
NGOs/CBOs	Assist with information dissemination, social preparation, livelihood restoration and monitoring programmes as required.

2.2 Disclosure and Consultation

Implementing agencies, assisted by the ESMUs, will ensure that appropriate consultation and disclosure programmes are in place for all projects requiring the acquisition of private, communal and public assets. They will ensure that public disclosure of project information and documentation is undertaken in accordance with local legislation/regulations and the requirements of funding agencies.

2.3 Identification of Affected People and Socio-Economic Surveys

A socio-economic census will be undertaken by the implementing agency of all the people affected by a project, regardless of the size of the project or the legal status that the affected people have to the land they are occupying or using. Affected people are defined as those whose livelihoods and standards of living are adversely affected by project activities - whether through the loss of assets or access to assets, through being deprived of resources, through loss of income sources or means of livelihood, through physical relocation, or through other losses identified during the process of resettlement planning.

The socio-economic census survey will entail enumerating each affected household (including each household member) and enterprise (e.g. general dealer) in a project's impact area, as well as the gathering of pertinent socio-economic information on these households and enterprises.

Depending on the scale of the project and the social context, other socio-economic studies should be undertaken to identify (or refine the description of) impacts, and to inform the compensation and resettlement planning process. This would include investigations into:

- land tenure and transfer systems, including an inventory of common property resources and land allocation mechanisms,
- the patterns of social organisation in the affected community, including social networks and support systems,
- the social and cultural characteristics of the affected community, including formal and informal institutions.

The socio-economic census and other socio-economic studies will be used to compile baseline information on affected households and communities, and assist with the assessment of livelihoods and standards of living. This baseline information will provide a set of socio-economic indicators against which to measure, as part of a project's monitoring programme, any changes in the livelihoods and income of affected households.

2.4 Preparation of Resettlement Plans

Resettlement Plans (RPs) will be prepared for all projects where the involuntary acquisition of land results in relocation or loss of shelter, loss of assets or access to assets, or loss of income sources or means of livelihood. The scope of a RP will depend on the extent of the impacts, primarily the number of affected persons, and will be prepared in accordance with the guidelines contained in the Compensation and Resettlement Procedures. Land acquisition requirements and the need for RPs will be identified and refined through the following cycle:

- **Project Identification: Concept/Pre-Feasibility Stage:** Early identification of potential adverse social impacts, and efforts to reduce involuntary resettlement, should be undertaken through review of census, district and other socio-economic information, interviews with key stakeholders, and the incorporation of social considerations into screening exercises of potential project alternatives.
- **Project Preparation: Feasibility Stage:** During the feasibility stage, a Social Impact Assessment (SIA) should be undertaken as part of a project EIA. This would include scoping exercises, identification of the potentially affected population, detailed site investigations, consultations with interested and affected parties, socio-economic (quantitative) surveys and qualitative research (e.g. focus group discussions, and other participatory research). The social research would contribute to the determination of baseline conditions and the selection of the preferred project configuration. Depending on the type of project and the extent of social impacts, it may be possible to prepare a RP (where final figures on land acquisition and population displacement are available) or only an outline/draft RP (where only estimates are available).
- **Project Preparation: Detailed Design Stage:** A detailed RP will normally be completed during this stage. An important component of the RP is a census of affected persons/households and an inventory of their affected assets. For some projects it may be necessary to extend the inventory to cover the entire landholdings of affected persons, in order to determine the magnitude of land acquisition at individual level and to decide on the need for additional support measures for any severely affected persons.

The RP will include an Entitlement Matrix (see Appendix 1) that identifies:

- all categories of affected people, including property owners and land right holders, tenants, occupiers of public land, sharecroppers, natural resource users, shopkeepers, vendors and other service providers, communities, and vulnerable groups;
- all types of loss associated with each category, including loss of physical assets; loss of access to physical assets; loss of wages, rent, or sales earnings; loss of public infrastructure and elements of cultural significance (as identified in the inventory of losses); and
- all types of compensation and assistance to which each category is entitled, including: compensation for or replacement of land and natural resources; compensation for structures, assets, wages, rent, or sales earnings; moving assistance and post-resettlement support (such as technical assistance, extension and skills training, and access to credit).

The RP will contain a consolidated overview, consisting of an itemised budget, of the estimated costs associated with the implementation of the compensation and resettlement plans. This will include:

- compensation for affected assets;
- household rehabilitation/livelihood restoration measures;
- management and administration;
- contingencies; and
- monitoring and evaluation requirements.

The RP will indicate the funding sources for each item, and the RP budget will be included in the overall project cost. Values for compensation amounts and other support measures will be adjusted annually, based on the Consumer Price Index (CPI).

The RP will contain a detailed implementation schedule for all key resettlement and rehabilitation activities. The schedule will be synchronised with the project's civil works construction schedule.

2.5 Asset Adjudication, Valuation and Acquisition

Proper asset verification/adjudication and valuation exercises will be undertaken on all projects requiring the compulsory acquisition of land and other assets. The activities must be successfully completed prior to the acquisition of any land or asset.

2.5.1 Asset Verification and Adjudication

Asset verification and adjudication, undertaken to determine all land rights and assets for which compensation will be payable, will be undertaken during a project's planning stages. The exercise will record all permanent and temporary losses incurred by households, enterprises and communities. Losses would mostly be physical (e.g. land, buildings, trees) but may also include loss of income-earning activities (e.g. small-scale brick makers relocated away from clay and other raw materials). The inventory of affected assets will differentiate between private/individual assets (e.g. residential properties and cultivation land) and communal assets and facilities (e.g. water sources, rangeland and schools). With regard to affected land, surveys will be undertaken to accurately record the size of the required land as well as the remaining land.

As inventories and registers of assets are compiled, owners/household heads should countersign them, witnessed by project authorities, local authorities and community representatives as required.

2.5.2 Land and Asset Valuation

The establishment of compensation norms and rates will be coordinated by the ESMU's of MOPWT and involve key stakeholders such as implementing agencies, LSPP, representatives from affected communities and private land assessors/valuers.

The overall principles for the determination of compensation rates will be as follows:

- compensation rates should be determined by LSPP in consultation with representatives of affected households and communities to ensure that rates are fair and adequate;
- compensation for land, crops, trees, and other fixed assets should be sufficient to enable affected people to restore their standard of living after resettlement, based on the principle of market value or equivalent reinstatement where a market value cannot be determined;
- compensation for structures should cover full replacement cost exclusive of depreciation and inclusive of all fees (such as construction permits and title charges) and labour costs;
- compensation payments should be made before any acquisition of assets or physical resettlement takes place unless those payments are staggered to enable affected people to begin preparation of new sites;
- compensation for dismantled infrastructure or disrupted services should be paid to local government or affected communities at full replacement cost before civil works begin;

- compensation for lost earnings should be paid to proprietors and employees for the duration of valid work stoppages resulting directly from the relocation of enterprises, and assessed on a case-by-case basis.

In the case of urban land and property where land markets exist, valuation will be carried out by an odd number of valuers (as stipulated in the Land Act of 2010), one of whom will be the Government valuer, allowing for negotiations with affected property owners. All valuations will be certified by LSPP.

In rural areas, valuation of lost assets will be made at their full replacement cost (equivalent reinstatement). In the case of the provision of replacement land (land-for-land option), the following principles should apply to the new land:

- it should be equivalent or superior in productive potential to the lost land;
- it should as far as possible be located in reasonable proximity to where the displaced reside;
- it should be provided free of any “transaction costs” such as registration fees, transfer taxes, or customary tributes;
- it should be prepared for productive levels similar to those of the land from which people will be displaced; where the land is fundamentally different from the lost land, the project should provide technical support and appropriate inputs to farmers to bring the land into full productive potential.

To ensure fair compensation, determination of compensation rates for individual entitlements will be done not more than six months prior to property acquisition. Rates for compensation items and allowances will be adjusted annually for price escalation, using the Consumer Price Index (CPI).

When assessing compensation for land acquisition, the following assessments, particularly applicable to road projects, should be considered and compensation awards made where necessary:

- severance - refers to the reduced value of the land retained by the affected owner, attributable to its being severed from the acquired land;
- injurious affection - means the amount of any reduction in the market value of the land retained by the affected person or in land adjacent to acquired land, which is attributable to the implementation of a project.

Both severance and injurious affection can reduce the value of the retained land. Severance occurs when the land becomes separated whereas injurious affection occurs as a result of the construction and use of the implementing agency’s project/scheme. These are two separate and distinct impacts that may result from a compulsory acquisition - compensation for them should be separately assessed and measured, and separately defined/claimed.

2.5.3 Land Acquisition

The acquisition of land and other assets will not take place until compensation is paid and, where applicable, resettlement sites and moving allowances are provided to displaced persons. In situations where the responsibility for some resettlement-related tasks (e.g. preparation of resettlement sites), is given to contractors, the implementing agency will ensure that appropriate arrangements are written into contracts.

The obligation to compensate and disburse the compensation will lie with the body/implementing agent conducting the expropriation.

2.6 Cut-Off Date to Entitlements

Where entitlements are made available because of land and asset acquisition and other social impacts, a cut-off date to entitlements will be publicly declared. The cut-off date will in all instances be mutually agreed with affected communities and local authorities, and comply with the stipulations of relevant legislation. The cut-off date and any moratoriums on further developments in a project area cannot be declared prior to a project having been officially approved and declared for implementation. Any changes to the design/configuration of a project will be subject to a new cut-off date.

Persons occupying a project area after the cut-off date will not be eligible for compensation and/or resettlement assistance. Similarly, fixed assets (e.g. new structures) established after the cut-off/moratorium date will not be compensated.

2.7 Funding and Management of Compensation

2.7.1 Funding

Land acquisition and involuntary resettlement can cause severe social and economic impacts unless properly budgeted for and mitigated. Furthermore, unless included as an upfront project cost, these components are often under-budgeted and marginalised during project implementation. This often leads to delays or inadequacies in the implementation of the resettlement programme, with concomitant delays in the overall implementation of the project and consequences for the restoration of the livelihoods of affected persons.

An important Policy aim is therefore to ensure that land acquisition and involuntary resettlement, and the associated costs, are seen as integral components of transport sector projects. These costs include:

- costs for the replacement/compensation of affected assets (direct costs);
- costs associated with household rehabilitation/support measures;
- costs associated with the implementation and monitoring of the resettlement process.

On all transport sector projects, the direct costs will be the responsibility of Government. Costs for rehabilitation/support measures can be covered through the funds provided under loans/credits of funding organisations. Some items of the third component (implementation, management and monitoring) may similarly be funded from these loans/credits.

2.7.2 Compensation Disbursements

The management and disbursement of compensation will be the responsibility of the concerned implementing agencies. The ESMUs will provide technical advice and oversight to ensure that proper compensation management systems are established. The following principles will apply:

- A timetable will be prepared for the disbursement of compensation entitlements. Affected persons will be given advance notice of the date, time and place of payments through the project participation structure, public announcements and other suitable methods.
- An implementing agency will not take possession of any private property prior to the full payment of compensation entitlements and, where applicable, initiation of relocation arrangements.
- Households electing for “self-relocation” to new residential sites identified by them will be paid their full compensation entitlements sufficiently in advance of their relocation dates to allow them

to make evacuation arrangements. The same arrangement will apply to households who are resettled as a group to a designated resettlement site, if they opt to construct their own replacement housing. Where they opt for the provision of replacement housing by the project, they will not be moved until their new housing is ready for occupation.

- Compensation and (where required) occupation certificates will be issued to each entitled person, who will be required to sign an acknowledgement of their acceptance of the compensation amount as full and final payment for their losses.
- All government taxes and duties related to the acquisition and registration of affected and new assets will be the responsibility of the project.
- The payment of compensation will be monitored and verified by project representatives and representatives of the affected communities.

2.8 Monitoring the Implementation Process

The effectiveness of compensation and resettlement programmes will be monitored, including physical progress with resettlement and rehabilitation activities, disbursement of compensation, effectiveness of consultation and participation, and the sustainability of livelihood restoration efforts. The overall objective of monitoring will be to provide feedback on the implementation process, and to identify problems and successes as early as possible in this process so that timely adjustment of implementation arrangements can be made.

A completion audit will be undertaken by an independent agency at the end of the resettlement programme. The aim of the audit will be to verify that the required compensation and resettlement activities have been undertaken in compliance with the Policy and project specific social safeguards documents (e.g. Resettlement Plan).

3 COMPENSATION AND RESETTLEMENT ENTITLEMENTS

3.1 Impacts of Transport Sector Projects

3.1.1 Direct Impacts

- (1) The acquisition of private and community assets for civil works projects may affect:
 - (a) property owners with recognised rights to their properties, and their dependants;
 - (b) tenants, particularly in peri-urban and urban areas, through having to vacate their rented accommodation in buildings acquired by a project;
 - (c) persons without recognisable legal or customary rights to the land they occupy; and
 - (d) communities and community groups.
- (2) Project impacts would thus manifest at individual level, and possibly also at community level. Men and women (and in some instances minors) and their households who suffer one or a combination of the following losses directly attributable to a project would be eligible for compensation, resettlement and rehabilitation assistance:
 - (a) loss of residential and cultivation land;
 - (b) loss of residential buildings, structures and improvements;
 - (c) loss of commercial buildings, structures and improvements;
 - (d) loss of graves;
 - (e) loss of income sources;
 - (f) temporary loss of land or income sources; and
 - (g) loss of rented accommodation (tenants).

3.1.2 Additional Impacts

- (1) Transport sector projects can also have impacts on:
 - (a) homesteads and properties outside a road reserve; and
 - (b) villages and settlements adjacent to a road development.
- (2) These impacts are often less quantifiable or unforeseen and may be both positive and negative.
 - (a) Positive impacts may occur spontaneously or require co-operation between different government and non-governmental agencies and communities.
 - (b) Potential negative impacts on properties outside the road reserve could occur because of construction activities, whilst impacts on villages and settlements adjacent to roads may include impacts on social infrastructure and communal resources. Where these impacts occur, they will be mitigated under the concerned project.

3.2 Entitlements

3.2.1 Units of Entitlement

- (1) The unit of entitlement for compensation against the loss of privately-held assets and resources will be the owner or household head, including orphaned minors who are entitled to their parents' estate.
- (2) The unit of entitlement for resettlement and rehabilitation assistance will be the household and business owner.

3.2.2 Scope of Entitlements

- (1) Compensation and resettlement entitlements will be applicable to all transport sector projects, including all roads that are part of, or scheduled to become part of, MOPWT's/the Road Directorate's road network, which include minor roads constructed and maintained by local authorities.
- (2) For purposes of the Policy, affected persons and their associated entitlements will be classified as follows:

Categories of Affected Persons	Compensation Entitlements
Persons with formal legal rights to land or assets, including customary and traditional rights recognised under the laws of Lesotho.	Compensated for the land and assets they lose, and entitled to other assistance as provided for in the project's Resettlement Plan.
Persons with no formal legal rights to land, but with a claim to such land or assets, provided that such claims are recognised under the laws of the country or become recognised through a process identified in the Resettlement Plan.	Compensated for the land and assets they lose, and entitled to other assistance as provided for in the project's Resettlement Plan.
Persons with no recognisable legal right or claim to the land they are occupying.	Rehabilitation assistance (such as access to livelihood restoration programmes) in lieu of compensation for the land they occupy, as well as other assistance as provided for in the project's Resettlement Plan, if they have occupied the area prior to an agreed cut-off date for entitlements.

- (3) Entitlements on projects will be subject to a publicly declared cut-off date, mutually agreed between the project agencies, affected communities and local authorities, and in compliance with the stipulations of relevant legislation. Any changes to the design/configuration of a project will be subject to a new cut-off date.

3.3 Entitlements for Individual Assets

3.3.1 Heads of Compensation

- (1) The categories of entitlements (heads of compensation) that would generally be applicable under transport sector projects include:
 - (a) the loss of houses, buildings and structures;
 - (b) the loss of residential, business and agricultural land (entitlements for residential/business land and agricultural land are discussed separately in the CRP);
 - (c) the loss of trees and crops; and
 - (d) the loss of family graves.

- (2) Entitlements are also specified for the temporary loss of income through the relocation of business enterprises, and for the loss of income from wage labour.

3.3.2 Houses and Structures

- (1) The full or partial loss of houses, outbuildings, kraals/stables, outside toilets and any other fixed asset and amenity or service on a property required for transport sector developments will be duly compensated. This entitlement will be applicable to all transport sector projects, including all roads that are part of, or scheduled to become part of the Road Directorate's road network, which include minor roads constructed and maintained by local authorities.
- (2) Compensation for houses and structures will be paid to:
 - (a) owners of houses and structures who hold the land under traditional allocation or a lease agreement or any other recognised system of land tenure;
 - (b) owners of houses and structures in informal settlements where land regularisation and the registration of leases are yet to occur;
 - (c) tenants who have constructed their own house on land rented from another person and who will receive cash compensation for full or partial loss of the housing structure, subject to any agreement between the two parties.
- (3) Owners of houses or structures in the reserves of existing roads at the time of a project's socio-economic census survey will not be entitled to compensation for their structures unless:
 - (a) they occupy a road reserve with approval from a local authority; or
 - (b) the road reserve has never been officially declared, or there is no proof that the clearance of the reserve has been enforced and eviction orders **served** on them not less than 12 months prior to the implementation of the project.
- (4) Compensation for houses will preferably be in the form of the provision of replacement housing. The provision of replacement housing will entail the following:
 - (a) Houses will be replaced, at an equivalent floor area, using standard modern materials. Households may "trade in" some of the floor area to which they are entitled for additional house fittings.
 - (b) Households will participate in the design and layout of replacement houses and be provided with a number of final designs from which to choose.
 - (c) Replacement houses will be constructed on project-designated sites or on sites within the defined project area identified by the households themselves.
- (5) Cash compensation or a combination of provision of replacement housing and cash will be considered where requested and feasible. Requests for cash compensation for houses will be assessed on a case-by-case basis, taking account of the economic status and means of the household, and the wishes and preferences of the spouse and other household members. In all instances where cash compensation is requested and offered, the project authorities will ensure that the concerned households are ready to vacate their affected houses on an agreed evacuation date.
- (6) In the following instances compensation for the loss of houses and structures will be in the form of cash compensation only:

- (a) A household opting for self-relocation to a site identified by the household itself which is outside the defined project area will be offered cash compensation only, including cash compensation for the acquired residential site.
 - (b) Compensation for outbuildings such as kraals/stables and sheds will be in cash, unless replacement structures are expressly requested.
 - (c) Tenants who have constructed their own house on land rented from another person, as defined in paragraph (2) above.
 - (d) Owners of houses or structures in the reserves of existing roads at the time of a project's socio-economic census survey as defined in paragraph (3) above.
- (7) Where more than one nuclear household occupy a single homestead and request relocation to separate residential plots, the housing credit for each nuclear household will be based on the current allotment of rooms to each nuclear household. Only nuclear households who were recorded as such in a project's socio-economic census survey will qualify for the resettlement entitlements and support measures under the project, such as the provision of residential plots.
- (8) On-site amenities/services such as water points and electricity will be reinstated at the replacement residential site, or through the provision of suitable alternatives, or compensated in cash where replacement is not possible.
- (9) Owners of buildings, including owners of buildings and structures on public land, will have the right to salvage materials from their affected buildings.
- (a) Salvageable materials will be removed at the owners' cost and within a period as agreed by the project authorities, after which the structures will be demolished.
 - (b) The value of salvaged materials will not be deducted from compensation entitlements.

3.3.3 Business Enterprises

- (1) Owners of displaced commercial properties, including informal traders operating on public land with a licence or written approval from the relevant local authority, will be compensated in cash or through the provision of a replacement structure.
- (a) Apart from the resettlement assistance discussed in Section 4.2, informal traders operating on public land without a licence or written approval from the local authority will not be provided compensation for their affected structures located on that land, unless their status has been legalised through a process in a project's Resettlement Plan.
- (2) The project will facilitate acquisition of a replacement site, in coordination with the relevant authority, but where a site cannot be agreed upon, compensation will be in cash.
- (3) Where a business that is forced to close by a project cannot be re-opened, the value of the business, as distinct from the premises, will be established through the use of mutually agreed-upon and legal methods. In such cases the owner will be required to sign and indemnify, exonerating the project from any further claims.
- (4) Where the normal flow of business in a commercial property that remains in situ is adversely affected by the project, resulting in a decrease in turnover, the project will compensate the owner for loss of profit during the period of impact, as determined through a detailed impact assessment.

- (5) Owners will have the right to salvage materials from their affected buildings.
 - (a) Salvageable materials will be removed at the owners' cost and within a period as agreed by the project authorities, after which the structures will be demolished.
 - (b) The value of salvaged materials will not be deducted from compensation entitlements.

3.3.4 Residential Land

- (1) Landowners of residential plots will be compensated for all permanent losses of residential land, including food gardens. This entitlement will be applicable to all transport sector projects, including all roads that are part of, or scheduled to become part of the Road Directorate's road network, which include minor roads constructed and maintained by local authorities.
- (2) Compensation for residential land will be due to:
 - (a) landowners who hold the land under traditional allocation or a lease agreement, or any other recognised system of land tenure;
 - (b) persons with no recognisable legal right to the land they occupy for residential or business purposes but whose status has been legalised either through the history of their occupation of the land or through a process in the Resettlement Plan.
- (3) Informal traders and squatters on public land do not qualify for compensation for the land they occupy if the land is required for transport sector projects.
- (4) The form of compensation for residential land will be determined by the nature/extent of the loss of land and the need for relocation.
 - (a) If continued occupation of the land is no longer possible, or if it is agreed that relocation is needed, compensation for the loss of residential land will be in the form of the provision of a replacement site. Cash compensation will only be considered where an owner who declines the offer of a replacement site of 'equivalent reinstatement' provides acceptable reasons.
 - (b) Compensation for the partial loss of residential land will be in the form of cash compensation.
- (5) Where land is sub-leased in terms of a written agreement, or where any other sub-lease agreement can be confirmed, compensation for the land will be paid to the holder or leaseholder of the land. The holder or leaseholder will be expected to settle any outstanding liabilities with the sub-leaseholder. The sub-leaseholder will be entitled to compensation for any crops or trees grown on the land, or structures erected on the land, by him/her.

3.3.5 Cultivation Land

- (1) The full or partial loss of productive or fallow cultivation land required for transport sector developments will be compensated.
 - (a) Fallow land includes land that remains unproductive for one or more successive seasons and for various reasons, including resting or in anticipation of an appropriate opportunity to till the land.
 - (b) The ownership of abandoned cultivation land will be confirmed with local authorities and compensation will be in accordance with the provisions of prevailing land legislation.

- (2) Compensation for cultivation land losses will be in the form of cash compensation or where possible, the provision of replacement land. Cash compensation will be in accordance with an agreed per square meter rate.
- (3) The form of payment of cash compensation for agricultural land losses will be considered on a case-by-case basis, taking account of the economic status and means of the household, and the wishes and preferences of the spouse and other household members. Cash compensation can entail either:
 - (a) a once-off lump sum payment; or
 - (b) annual/quarterly payments by means of an investment with a financial institution, or with assistance provided by the project authorities as required.
- (4) Where the acquired land is less than 1000m², compensation will be in the form of a once-off lump-sum cash payment only.
- (5) Where agricultural land greater than 1000m² is acquired and the owner wishes to be provided with replacement land, or where the provision of replacement land is considered to be in the best interests of the affected household, the project authorities will endeavour to secure acceptable replacement land. This would entail one or more of the following:
 - (a) enquiring from the local authorities (e.g. the Land Allocation Standing Committees of Community Councils) about the availability of land, either through allocation or by purchasing;
 - (b) arranging for the payment of fees from the compensation entitlement, for the purchasing of identified replacement land, and for the payment of the remaining (if any) compensation entitlement to the affected landowner (lump sum or investment);
 - (c) securing legal tenure (lease) to the land in the name of the affected owner; or
 - (d) arranging for compensation in cash (lump sum or investment) where suitable replacement land could not be found.
- (6) A landowner who loses more than 75% of his/her total landholding will have the option to relinquish the remainder of that landholding, in return for cash compensation, or assistance with the identification and purchase of replacement land.
- (7) If the land in question was cultivated according to a sharecropping arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Sharecroppers will be given advice on alternative subsistence and livelihood strategies, and assisted (through MOHSW) to gain access to poverty alleviation/social welfare programmes if required.
- (8) With the exception of cultivators as defined in paragraph (a) below, encroachers using public land for the cultivation of crops at the time of a project's socio-economic census survey will not be entitled to compensation for land losses:
 - (a) Households cultivating land in a road reserve that have traditionally belonged to them will not be considered as encroachers, and will qualify for compensation for land losses, if (i) the reserve was never officially declared and the household informed of this, or (ii) if the land was never officially expropriated, or (iii) if there are no records of the reserve having been declared and the land expropriated.
 - (b) All investigations into the use of public land for cultivation purposes will be undertaken and communicated by the implementing agency, assisted by the EMUs as required.

- (c) Where possible and if requested, encroachers will be assisted with the identification of alternative cultivation land or opportunities.

3.3.6 Trees and Thickets

- (1) Compensation for the lost production from individually owned fruit-bearing and non-fruit-bearing trees that are mainly used for own consumption will be in the form of one of the following options:
 - (a) compensation at net present value based on the total loss of production over the whole productive life of trees, irrespective of the age or production cycle stage of lost trees; or
 - (b) compensation at net present value calculated for the period of lost production (i.e. for the period until the replacement saplings reach maturity and start producing) plus five replacement saplings per affected tree.
- (2) Commercial orchards will be compensated at commercial rates.
- (3) All resources from privately-owned trees that are felled (e.g. timber/fuelwood) will remain the property of the concerned owner.
- (4) Trees that are not required to be moved from a road reserve will either remain the property of the owner if not compensated for (as agreed), or become the property of the road authority where compensation is paid.

3.3.7 Standing Crops

- (1) Civil works will as far as possible be planned to allow for the harvesting of standing crops before land is acquired permanently or temporarily. Where crops cannot be harvested or the destruction of crops is unavoidable, cash compensation will be paid for the loss of crops. Land owners as well as encroachers using public land for the cultivation of crops prior to the cut-off date will be entitled to compensation. Rates will be based on the loss of a season's production on the area of land lost.
- (2) If the land in question was cultivated according to a sharecropping or lease arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Where required sharecroppers will be assisted with livelihood restoration programmes as discussed in Section 5.2.

3.3.8 Graves

- (1) Affected graves will be treated in accordance with the wishes and preferences of the affected families. Compensation of next-of-kin for the re-internment of graves is of a personal and sensitive nature and should, therefore, be discussed and negotiated on an individual basis. Graves can either be re-interned in a designated cemetery or at a site as identified in consultation with the local authorities.
- (2) Exhumation and re-interment will be carried out with all due ceremony as agreed with the surviving relatives. All costs associated with exhumation and reburial, including all associated and traditional ceremonies, will be borne by the project.
- (3) No area will be occupied by a project until all graves have been removed or treated according to the wishes of the surviving relatives.

3.4 Entitlements for Communal and Public Assets

3.4.1 Communal Natural Resources

- (1) It is not envisaged that transport sector projects will have significant impacts on communal land and natural resources (e.g. grazing land). However, where communal land and associated natural resources are acquired or affected by a project, appropriate compensatory measures will be introduced to mitigate any impacts. Where measures are required they will be funded out of the project, based on the following principles:
 - (a) Compensation funds for the loss of communal assets such as grazing land, brushwood, medicinal plants, useful grasses, wild vegetables and river sand will be channelled through the applicable local authority (e.g. Community Councils and their Standing Committees on Natural Resource Management) for investment in approved community development ventures.
 - (b) Where some displaced households are relocated outside their areas to a host community, while others are relocated within their area, the funds will be apportioned between the concerned local authorities based on the number of displaced households relocating within/to each area.

3.4.2 Public Infrastructure and Amenities

- (1) Affected community buildings and facilities will be repaired to their previous condition or replaced in areas identified in consultation with affected communities and the relevant authorities. This includes schools, churches, community halls, water points, trails/footpaths, crossings and foot-bridges.
- (2) Permanent or temporarily impeded access will be restored or mitigated through the provision of an acceptable practical alternative.
- (3) Consultation and coordination will occur between government ministries regarding impacts on government assets caused by transport sector projects. To minimise impacts, MOPWT will undertake complementary planning with other ministries to facilitate coordination of planned developments.

3.4.3 Cultural Assets

- (1) Cultural assets such as rock-art and historical and heritage sites will be recorded, documented and, where feasible, rescued before commencement of civil works at the concerned sites.
- (2) Palaeontological artefacts found during construction activities will be rescued and stored in a suitable facility.

3.5 Other Compensation Provisions

3.5.1 Temporary Occupation of Land

- (1) For temporary occupation of land during construction work, contractors will be required to sign a temporary occupation contract with the affected landowners.
- (2) The owner of the land will be entitled to compensation for any other disturbances and damages caused to the property during the construction works.
- (3) All contract agreements for temporary land occupation and compensation amounts for disturbances/damages will be checked and confirmed by the implementing agency and the ESMUs.

3.5.2 Mitigation of Unforeseen Impacts

- (1) Unforeseen impacts that occur during the construction/implementation of a project will be assessed and appropriate mitigation or compensation measures prepared.

3.6 Resettlement Entitlements

3.6.1 Relocation Options

- (1) Relocation options include the following:
 - (a) 'No relocation' - this is the preferred option; where involuntary resettlement is unavoidable, it should be reduced or minimised as much as possible by considering alternative options for the project.
 - (b) On-site relocation - when affected households are allowed to occupy part of their residential sites not required for servitudes, and which is possible when the number of affected households is limited, when population density is relatively low, or where the project involves small scattered sites or narrow alignments.
 - (c) Local relocation - when affected households relocate within the vicinity of their homes, allowing them continued use of unaffected assets.
 - (d) Self-relocation - when affected households take individual or collective initiatives to relocate to a place of their own choice because of social and/or economic factors (as opposed to a project resettlement site).
 - (e) Relocation to project-designated sites selected by implementing agencies in collaboration with resettler communities.
- (2) Relocation options are determined by factors such as:
 - (a) the magnitude of the resettlement;
 - (b) the type of project and its location;
 - (c) the existing economic base and livelihoods of the resettler community; and
 - (d) the preferred forms of livelihood restoration at the new site (land-based, non-land-based).
- (3) In preparing resettlement options it is important that both the implementing agency and the affected people fully appreciate these variables, since they may have a strong influence on the sustainability of the resettlement programme. A project that involves the resettlement of households from an isolated rural area will have a different set of resettlement options and measures than one involving the resettlement of households from an urban area where wage-based livelihoods dominate.

3.6.2 Resettlement Eligibility

Determining Eligibility

- (1) The resettlement eligibility of each affected household should be determined through:
 - (a) the systematic identification of all affected people. This should include a census survey and comprehensive consultation with affected persons, local communities, local and national government and other agencies and NGOs that may be operating in the area; and
 - (b) a participatory assessment with affected households and communities, and their local authorities and representatives.

Involuntary Resettlement

- (1) Households located in a project displacement area will have to be relocated, and eligibility criteria should be established to determine the relocation options available to these households. Criteria will include:
 - (a) the impact on displaced households' productive assets;
 - (b) social considerations and displaced households' socio-economic relations.
- (2) Involuntary resettlement may entail:
 - (a) on-site or local relocation within the vicinity to allow the continued use of displaced households' unaffected productive assets; or
 - (b) self-relocation to an area identified by the household;
 - (c) relocation to a project designated site because of social and socio-economic considerations even though productive assets could only be marginally affected (e.g. vulnerable households whose livelihoods are based relationships with resettler households).

Voluntary Resettlement

- (1) Eligibility criteria must be established for households located outside project displacement areas who would qualify for voluntary resettlement because of severe livelihood impacts resulting from the loss of productive resources and/or social considerations.
- (2) Voluntary resettlement may entail:
 - (a) relocation to a project resettlement site if a household's livelihood is severely affected because of the loss of productive assets and/or social considerations;
 - (b) self-relocation if household qualifying for relocation to a project-designated site prefers to use its compensation to invest in alternative livelihood earning opportunities in an area of its own choice.

3.6.3 Eligibility Criteria

- (1) The following factors should be considered in the determination of resettlement eligibility:
 - (a) location of the household relative to the project's displacement area;
 - (b) loss of productive resources;
 - (c) social and village/neighbourhood considerations;
 - (d) the household's socio-economic characteristics.
- (2) The final classification of households will be undertaken as a joint exercise with affected households and their representatives. A proper record will be kept of the entire process.

4 REHABILITATION ASSISTANCE AND SUPPORT

4.1 The Resettlement Programme

The resettlement programme should provide displaced persons with assistance prior to, during and following their physical relocation, including provision of relevant information, replacement housing (where required), relocation expenses, transitional financial support, income restoration assistance (where required) and provision of social infrastructure (where required).

4.2 Allowances

A range of cash allowances to facilitate and promote the rehabilitation of displaced and non-displaced persons will be provided to eligible households:

- (1) Housing Displacement Allowance - paid to households who are required to relocate, including households recorded on public land at the time of a project's socio-economic census.
- (2) Business Displacement Allowance - paid to owners of commercial enterprises who are required to relocate, including business recorded on public land at the time of a project's socio-economic census. The allowance will be calculated based on the type and nature of the enterprise.
- (3) Evacuation Allowance - paid to displaced households for the removal of personal, household and business belongings from a project area.
- (4) Cultivation Disruption Allowance - paid to non-displaced households whose productive assets are severely affected by land acquisition. These households will be determined in consultation with community representatives and local authorities.
- (5) Vulnerable Household Rehabilitation Grant - paid to affected households who are classified as vulnerable. These households will be determined in consultation with community representatives and local authorities. Apart from the provision of this allowance, vulnerable households will additionally be supported through advice regarding project impacts, compensation alternatives and risks, and resettlement options (where required); advice on alternative subsistence and livelihood strategies; and assistance (through MOHSW) to gain access to poverty alleviation/social welfare programmes.
- (6) Rental Allowance - paid to displaced tenants of rented accommodation in a project displacement area. An enumerated tenant who voluntarily vacates his/her rented accommodation more than three months prior to the implementation of a project's physical relocation programme will not qualify for this entitlement; a tenant who occupies bona fide (adjudicated) rented accommodation in a project displacement area after the census, but not less than three months prior to the implementation of the relocation programme, will be eligible. Mechanisms will be put in place on each project to discourage opportunistic claims to this entitlement.
- (7) Income Support Grant - paid to a worker whose employment is terminated due to the business where he/she is employed being forced to close permanently by the implementation of a transport sector project, provided that he/she is (a) of working age and (b) was enumerated as a worker of the affected business during the project's socio-economic census survey. An enumerated wage employee who leaves his/her employer prior to the implementation of a physical relocation programme will not qualify for the grant.

5 SPECIAL PROVISIONS

5.1 Vulnerable Groups and Social Categories

- (1) Particular attention will be paid to adverse impacts on groups/social categories who because of their social position may be vulnerable to changes brought about by project activities or excluded from its benefits. Persons and groups that may be considered as vulnerable groups are female-headed households, households victimised by HIV/AIDS, child-headed households, households whose members are impoverished, and households made up of the aged or handicapped. These persons are often not able to make their voices heard effectively, and account will be taken of this in the consultation and planning processes, as well as in the establishment of grievance procedures.
 - (a) An important vulnerable social category may be households headed by orphaned children. Where such households are affected, measures will be implemented under the project to ensure that their compensation entitlements and well-being are properly managed and catered for. This would include registering their compensation entitlements with the Registrar of the High Court.
 - (b) In all cases, proper socio-economic baselines should be established of potentially vulnerable households to establish impoverishment levels, eligibility and parameters for subsequent monitoring.
- (2) Support measures to identified vulnerable social categories should specifically be included in all compensation and resettlement programmes. To promote the restoration of their livelihoods, vulnerable groups should be fully involved in decisions affecting their lives. Consideration should also be given to the following:
 - (a) criteria and process for identifying vulnerable individuals/households/groups;
 - (b) responsibility of government to these groups; and
 - (c) agreement on monitoring procedures.
- (3) Support measures to vulnerable social categories will include:
 - (a) a vulnerable household rehabilitation grant (as discussed in Section 4.2);
 - (b) skills training opportunities as applicable;
 - (c) income-generating/alternative livelihood earning opportunities (subject to detailed feasibility studies); and
 - (d) assistance to get access to any available poverty alleviation/social welfare programmes.
- (4) Vulnerability is not a given or static condition and households may become more, or less, vulnerable to project activities as their development cycles and socio-economic circumstances change. Projects should, therefore, adopt an approach that acknowledges this dynamic quality of vulnerability - the identification, assessment and monitoring of vulnerable households and groups should be an ongoing activity, carried out in conjunction with the project's community participation structure, throughout the compensation and resettlement programme.

5.2 Livelihood Restoration Initiatives

- (1) Compensation for land and assets, as well as other support measures such as grants for the temporary loss of income and displacement and evacuation allowances, are important components in the restoration of affected livelihoods. For some categories of affected persons these measures will be

sufficient; for others, additional measures to support the restoration of their livelihoods may be necessary. In short, some income-earning activities will be relatively easily re-established, others will diminish, while new opportunities may be created.

- (2) Livelihood restoration initiatives will therefore be required on some projects and for some categories of affected people. These initiatives should focus on:
 - (a) land-based livelihoods;
 - (b) wage-based livelihoods;
 - (c) enterprise-based livelihoods.
- (3) Livelihood restoration initiatives should be undertaken within the framework of sustainable development so that individuals and communities can continue with improved income-earning activities after withdrawal of project inputs and support.
- (4) Identified livelihood restoration opportunities should be subjected to detailed feasibility studies, after which detailed planning, design, costing and funding options should be undertaken of selected options.

5.3 Host Communities

5.3.1 Resettlement Impacts on Host Communities

- (1) Resettlement should be planned to avoid impacts on other communities. Impacts on communities living in, or with resources in the area to which the resettlers are moved however occur frequently.
- (2) Increased pressure on social services (schools particularly) and the communal natural resource base frequently arise in host communities as resettlement impact.

5.3.2 Mitigating Resettlement Impacts on Host Communities

- (1) Host communities will be considered as project-affected parties and will therefore be compensated according to the same principles as resettlers for any losses incurred as a result of resettlement activities.
- (2) Impacts on host communities will be mitigated through the Resettlement Plan, which will describe mitigation proposals for additional social infrastructure and services and the implementation of programmes to improve the production capacity and management of the natural resource base.
- (3) Formal consultation mechanisms involving representatives of the host and resettler communities will be institutionalised to promote social integration.

5.4 Management of Construction Impacts

- (1) MOPWT and their implementing agencies will ensure that appropriate measures are implemented to manage construction impacts. This will be achieved through the commissioning of project social impact assessments and resettlement plans, the incorporation of social impact management measures into civil works documentation, and the preparation of environmental management plans.
- (2) Procedures will be implemented to ensure that any damages to buildings and structures resulting from construction activities (e.g. blasting and subsidence) are repaired.

5.5 Grievance and Dispute Resolution

- (1) A grievance redress procedure is fundamental to achieving transparency in the resettlement process: it is an essential mechanism for people to voice their concerns, for corrective actions to be implemented, and for the overall satisfactory implementation of compensation and resettlement programmes. Effective implementation of project-related developments will require the placement of a formal grievance management system on a project level, and access by stakeholders to national institutions. The resolution of all grievances and disputes will be according to applicable national legislation.
- (2) The following principles will be upheld, essential prerequisites in the management process:
 - (a) openness/transparency and accessibility to all stakeholders;
 - (b) independence and impartiality on the part of any individual or body reviewing grievances or disputes, to foster the trust and confidence of all parties involved; and
 - (c) the maintenance of confidentiality – confidentiality of the complainant, if so requested, and to information provided by any of the parties to a complaint.
- (3) Consideration will be given to the establishment of a Tribunal made up of representatives from MOPWT and other stakeholders to sit as required with dispute resolution.
- (4) Legal costs will be apportioned/paid according to applicable national practice and procedures. Lesotho's Legal Aid Department will offer free legal representation to those who cannot afford their own lawyers.

APPENDIX 1: ENTITLEMENT MATRIX FOR TRANSPORT SECTOR PROJECTS

TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
1. HOUSES AND STRUCTURES			
1.1 Houses, residential structures and improvements	Property owner	(1) The full or partial loss of houses, outbuildings, kraals/stables, outside toilets and any other fixed asset and amenity or service on a property required for transport sector developments will be duly compensated. This entitlement will be applicable to all transport sector projects, including all roads that are part of or scheduled to become part of the Road Directorate's road network, which include minor roads constructed and maintained by local authorities. (2) Preferred form of compensation is the provision of replacement housing. This will entail the following: a. Houses will be replaced, at an equivalent floor area, using standard modern materials. Households may "trade in" some of the floor area to which they are entitled for additional house fittings. b. Households will participate in the design and layout of replacement houses and be provided with a number of final designs from which to choose. c. Replacement houses will be constructed on project-designated sites or on sites within the defined project area identified by the households themselves. (3) Cash compensation or a combination of provision of replacement housing and cash will be considered where requested and feasible. The following measures and conditions will apply: a. Requests for cash compensation will be assessed on a case-by-case basis, taking account of the economic status and means of the household, and the wishes of the spouse and other household members. b. Where necessary, the housing credit can be disbursed in phases (e.g. an initial advance payment, followed by four payments for construction up to foundation level, window level, roof level and for roof construction). c. Households can choose to have their houses constructed by conventional construction (i.e. a project-appointed contractor), or by a contractor of their own choice. The	• Where more than one nuclear household occupy a single homestead and request relocation to separate residential plots, the housing credit for each nuclear household will be based on the current allotment of rooms to each nuclear household. Only nuclear households who were recorded as such in a project's socio-economic census survey will qualify for the resettlement entitlements and support measures under the project, such as the provision of residential plots. • Displaced households will receive a housing displacement allowance as described in Section 8.1. Loss of structures other than houses does not entail payment of a displacement allowance. • Notice to vacate will be served at least 120 days prior to acquisition date. • Cash compensation for losses payable prior to acquisition. Where displacement occurs, payments to be made in accordance with the Resettlement Plan schedule to allow households sufficient time to make relocation arrangements. • In all instances where cash compensation is requested and offered, the project authorities will provide technical supervision to ensure that houses are constructed to the required standards, and ensure that the concerned households are ready to vacate their affected houses on an agreed evacuation date. • Owners of buildings, including owners of buildings and structures on public land, will have the right to salvage materials from their affected buildings. Salvageable materials will be removed at the owners' cost and within a period as agreed by the project authorities, after which the structures will be demolished. The value of salvaged materials will not be deducted from compensation entitlements. • To ensure fair compensation, determination of rates will

TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
		project will provide technical supervision to ensure that houses are constructed to the required standards and within the required timeframe. (4) In the following instances compensation for the loss of houses and structures will only be in the form of cash compensation: - A household opting for self-relocation to a site identified by the household itself which is outside the defined project area will be offered cash option only, including cash compensation for the acquired residential site. - Compensation for outbuildings such as kraals/stables and sheds will be in cash, unless replacement structures are expressly requested. (5) On-site amenities/services such as water points and electricity will be reinstated at the replacement residential site, or through the provision of suitable alternatives, or compensated in cash where replacement is not possible.	be done not more than six months prior to property acquisition. Rates for compensation items and allowances will be adjusted annually for price escalation, using the Consumer Price Index (CPI). - All transfer costs/taxes will be the responsibility of the project. - People who occupy a project impact area after the cut-off date do not qualify for project entitlements.
	Tenant	(1) Where a tenant has constructed his/her own housing or business structure on land rented from another person, cash compensation will be paid for full or partial loss. (2) Cash compensation for full or partial loss of other improvements (e.g. fencing) erected by tenant.	In assessing compensation entitlements, the agreement between the tenant and land owner should be studied and any appropriate agreements applied.
	Owner occupying housing structure in road reserve	(1) Owners of houses or structures in the reserves of existing roads at the time of a project's socio-economic census survey will not be entitled to compensation for their structures unless: - they occupy a road reserve with approval from a local authority; or - the road reserve has never been officially declared or there is no proof that the clearance of the reserve has been enforced and eviction orders previously served on them.	Squatters who do not meet the eligibility criteria will not be entitled to compensation for their structures.
1.2 Rented accommodation	Tenant in rented accommodation	(1) Payment of a rental allowance as defined in Section 8.1. An enumerated tenant who voluntarily vacates his/her rented accommodation more than three months prior to the implementation of a project's physical relocation programme will not qualify for this entitlement; a tenant who occupies bona fide (adjudicated) rented accommodation in a project displacement area after the census, but not less than three months prior to the implementation of the relocation programme, will be eligible.	Compensation for building/structure payable to owner.

TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
2. COMMERCIAL/BUSINESS ENTERPRISES			
2.1 Commercial enterprise	Owner of commercial enterprises; informal traders operating on public land with a licence/written approval from the relevant local authority	(1) Owners of displaced commercial properties, including informal traders operating on public land with a licence or written approval from the relevant local authority, will be compensated in cash or through the provision of a replacement structure. (2) Informal traders operating on public land without a licence or written approval from the local authority will not be provided compensation for their affected structures located on that land, unless their status has been legalised through a process in the Resettlement Plan. (3) The project will facilitate acquisition of a replacement site, in coordination with the relevant authority, but where a site cannot be agreed upon, compensation will be in cash. (4) Where a business is forced by a project to close and cannot be re-opened elsewhere, the value of the business, as distinct from the premises, will be established from audited financial records or another mutually acceptable method and compensation paid to the owner. In such cases the owner will be required to sign an indemnity, exonerating the project from any further claims. (5) Where the normal flow of business in a commercial property that remains in situ is adversely affected by the project, resulting in a decrease in turnover, the project will compensate the owner for his loss of profit during the period of the effect. This arrangement is only applicable to registered businesses with proper records of purchases and sales.	• Owners of displaced businesses will receive a business displacement allowance as described in Section 8.2. • Owners will have the right to salvage materials from their affected buildings. Salvageable materials will be removed at the owners' cost and within a period as agreed by the project authorities, after which the structures will be demolished. The value of salvaged materials will not be deducted from compensation entitlements
3. RESIDENTIAL LAND			
3.1 Residential land	Landowner	(1) Landowners of residential plots will be compensated for all permanent losses of residential land, including food gardens. This entitlement will be applicable to all transport sector projects, including all roads that are part of, or scheduled to become part of the Road Directorate's road network, which include minor roads constructed and maintained by local authorities. (2) Compensation for residential land will be due to: a. landowners who hold the land under traditional allocation or a lease agreement, or any other recognised system of land tenure; b. persons with no recognisable legal right to the land they	• Where household displacement and relocation to a designated resettlement site occur, other re-establishment measures to be specified in the Resettlement Plan. • Informal traders and squatters on public land do not qualify for compensation for the land they occupy if the land is required for transport sector projects. • Notice to vacate will be served at least 120 days prior to acquisition date. • Compensation for all losses payable prior to acquisition. • All transfer costs/taxes will be the responsibility of the project.

TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
		occupy for residential or business purposes but whose status has been legalised either through the history of their occupation of the land or through a process in the Resettlement Plan. (3) The form of compensation for residential land will be determined by the nature/extent of the loss of land and the need for relocation. a. If continued occupation of the land is no longer possible, or if it is agreed that relocation is needed, compensation for the loss of residential land will be in the form of the provision of a replacement site. Cash compensation will only be considered where an owner who declines the offer of a replacement site of 'equivalent reinstatement' provides acceptable reasons. b. Compensation for the partial loss of residential land will be in the form of cash compensation. (4) Where land is sub-leased in terms of a written agreement, or where any other sub-lease agreement can be confirmed, compensation for the land will be paid to the holder or leaseholder of the land. The holder or leaseholder will be expected to settle any outstanding liabilities with the sub-leaseholder. The sub-leaseholder will be entitled to compensation for any crops or trees grown on the land, or structures erected on the land, by him/her.	

4. CULTIVATION LAND

4.1 Permanent loss of cultivation land	Landowner	(1) The full or partial loss of productive or fallow cultivation land required for transport sector developments will be compensated. a. Fallow land includes land that remains unproductive for one or more successive seasons and for various reasons, including resting or in anticipation of an appropriate opportunity to till the land. b. The ownership of abandoned cultivation land (<i>moshoqa</i>) will be confirmed with local authorities and compensation will be in accordance with the provisions of prevailing land legislation. (2) Compensation for cultivation land losses will be in the form of cash compensation or where possible, the provision of replacement land. Cash compensation will be in accordance with an agreed per square meter rate.	• If the land in question is cultivated according to a sharecropping arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Sharecroppers will be given advice on alternative subsistence and livelihood strategies, and assisted (through MOHSW) to gain access to poverty alleviation/social welfare programmes if required. • Notice to vacate will be served at least 120 days prior to acquisition date. • Compensation for all losses payable prior to acquisition. • All transfer costs/taxes will be the responsibility of the project.
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TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
		(3) The form of payment of cash compensation for agricultural land losses will be considered on a case-by-case basis, taking account of the economic status and means of the household, and the wishes and preferences of the spouse and other household members. Cash compensation can entail either: a. a once-off lump sum payment; or b. annual/quarterly payments by means of an investment with a financial institution, or with assistance provided by the project authorities as required. (4) Where the acquired land is less than 1000m², compensation will be in the form of a once-off lump-sum cash payment only. (5) Where agricultural land greater than 1000m² is acquired and the owner wishes to be provided with replacement land, or where the provision of replacement land is considered to be in the best interests of the affected household, the project authorities will endeavour to secure acceptable replacement land. This would entail one or more of the following: a. enquiring from the local authorities (e.g. the Land Allocation Standing Committees of Community Councils) about the availability of land, either through allocation or by purchasing; b. arranging for the payment of fees from the compensation entitlement for the purchasing of identified replacement land and for the payment of the remaining (if any) compensation entitlement to the affected landowner (lump sum or investment); c. securing legal tenure (lease) to the land in the name of the affected owner; or d. arranging for compensation in cash (lump sum or investment) where suitable replacement land could not be found. (6) A landowner who loses more than 75% of his/her total landholding will have the option to relinquish the remainder of the landholding in return for cash compensation or assistance with the identification of replacement land.	

TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
4.2 Loss of access to public land	Encroacher (using public land for cultivation)	(1) With the exception of cultivators as defined in paragraph (b) below, encroachers using public land for the cultivation of crops at the time of a project's socio-economic census survey will not be entitled to compensation for land losses. (2) Households cultivating land in a road reserve that have traditionally belonged to them will not be considered as encroachers, and will qualify for compensation for land losses, if (i) the reserve was never officially declared and the household informed of this, or (ii) if the land was never officially expropriated, or (iii) if there are no records of the reserve having been declared and the land expropriated. (3) Encroachers who do not qualify for compensation for land losses: assistance with identification of alternative cultivation land or opportunities where possible.	• Where project and local authorities consider the impact on an encroacher to be severe, he/she will qualify for rehabilitation assistance as specified in Section 8.6. • Encroachers who occupy the project impact area after the cut-off date do not qualify for project entitlements.
4.3 Temporary occupation of land	Property owner	(1) Compensation for crop losses for the duration of temporary occupation. (2) Compensation for other disturbances and damages caused to property.	• A temporary occupation contract should be signed with the affected landowner, specifying: ○ period of occupation; ○ formula for the calculation of production losses (the market value of crops normally produced on the land) and annual inflation adjustments; ○ frequency of compensation payment; and ○ land protection and rehabilitation measures.

5. OTHER PRIVATE RESOURCES

5.1 Trees and thickets	Property owner; other evidence of ownership	(1) Compensation for the lost production from individually owned fruit-bearing and non-fruit-bearing trees that are mainly used for own consumption will be in the form of one of the following options: a. compensation at net present value based on the total loss of production over the whole productive live of trees, irrespective of the age or production cycle stage of lost trees; or b. compensation at net present value calculated for the period of lost production (i.e. for the period until the replacement saplings reach maturity and start producing) plus five replacement saplings per affected tree. (2) Commercial orchards - compensated at commercial rates. (3) All resources from privately-owned trees that are felled (e.g. timber/fuelwood) will remain the property of the concerned owner.	• Affected persons to receive advance notice to harvest crops, if applicable.
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TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
		(4) Trees that are not required to be moved from a road reserve will either remain the property of the owner if not compensated for (as agreed), or become the property of the road authority where compensation is paid	
5.2 Standing crops	Person farming the land, whether owner-cultivator, lessee or sharecropper	(1) Civil works will as far as possible be planned to allow for the harvesting of standing crops before land is acquired permanently or temporarily. (2) Where crops cannot be harvested or the destruction of crops is unavoidable, cash compensation will be paid for the loss of crops. a. Land owners as well as encroachers using public land for the cultivation of crops prior to the cut-off date will be entitled to compensation. b. Rates will be based on the loss of a season's production on the area of land lost. (3) If the land in question was cultivated according to a sharecropping or lease arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Where required sharecroppers will be assisted with livelihood restoration programmes.	Affected persons to receive advance notice to harvest crops, if applicable.

6. GRAVES

		(1) Affected graves will be treated in accordance with the wishes and preferences of the affected families. Compensation of next-of-kin for the re-internment of graves is of a personal and sensitive nature and should, therefore, be discussed and negotiated on an individual basis. Graves can either be re-interned in a designated cemetery or at a site as identified in consultation with the local authorities. (2) Exhumation and re-interment will be carried out with all due ceremony as agreed with the surviving relatives. All costs associated with exhumation and reburial, including all associated and traditional ceremonies, will be borne by the project.	No area will be occupied by a project until all graves have been removed or treated according to the wishes of the surviving relatives.
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TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
7. COMMUNAL AND PUBLIC FACILITIES AND RESOURCES			
7.1 Land and other natural resources	Local community or user groups	(1) Where communal land and associated natural resources are acquired or affected by a project, appropriate compensatory measures will be introduced to mitigate any impacts. Where measures are required they will be funded out of the project, based on the following principles: a. Compensation funds for the loss of communal assets such as grazing land, brushwood, medicinal plants, useful grasses, wild vegetables and river sand will be channelled through the applicable local authority (e.g. Community Councils and their Standing Committees on Natural Resource Management) for investment in approved community development ventures. b. Where some displaced households are relocated outside their areas to a host community, while others are relocated within their area, the funds will be apportioned between the concerned local authorities based on the number of displaced households relocating within/to each area.	
7.2 Buildings, infrastructure, access	Local community; Government departments/ parastatal organisations	(1) Affected community buildings and facilities will be repaired to their previous condition or replaced in areas identified in consultation with affected communities and the relevant authorities. (2) Permanent or temporarily impeded access will be restored or mitigated through the provision of an acceptable practical alternative. (3) Consultation and coordination will occur between government ministries regarding impacts on government assets caused by transport sector projects. To minimise impacts, MOPWT will undertake complementary planning with other ministries to facilitate coordination of planned developments.	Community buildings and structures include: schools, churches, community halls, water points, trails/footpaths and bridges.
7.3 Cultural assets	Community/public	(1) Affected cultural assets such as rock-art and historical and heritage sites will be recorded, documented and, where feasible, rescued before commencement of civil works. (2) Palaeontological artefacts found during construction activities will be rescued and stored in a suitable facility.	

TYPE OF LOSS	ENTITLEMENT UNIT	DESCRIPTION OF ENTITLEMENTS	IMPLEMENTATION GUIDELINES
8. ASSISTANCE WITH HOUSEHOLD RE-ESTABLISHMENT/LIVELIHOOD RESTORATION			
8.1 Displacement of household	Property owner	(1) Housing displacement allowance for loss of residential accommodation. (2) Evacuation allowance for removal of belongings, or moving to be done by project.	- The housing displacement allowance will be determined in consultation with the affected persons. - All allowances will be paid at the time of serving the notice to vacate.
	Tenant	(1) Rental allowance for loss of rented accommodation.	To be determined during resettlement planning.
8.2 Displacement of commercial enterprise	Property owner	(1) Business displacement allowance for loss of commercial establishment. (2) Evacuation allowance for removal of belongings, or moving to be done by project.	As for housing displacement allowance.
8.3 Cultivation disruption allowance	Household with severe impacts on cultivation prod.	(1) Cultivation disruption allowance.	These households will be identified and confirmed with local community structures and authorities.
8.4 Vulnerable household rehabilitation grant	Vulnerable households	(1) Affected households who are classified as vulnerable will receive a vulnerable household rehabilitation grant.	These households will be identified and confirmed with local community structures and authorities.
8.5 Grant for loss of labour		(1) Cash grant to a worker whose employment is terminated due to the business where he/she is employed being forced to close permanently, provided that he/she is (i) of working age and (ii) was enumerated as a worker of the affected business during the project's socio-economic census. (2) An enumerated wage employee who leaves his/her employer prior to the implementation of a physical relocation programme will not qualify for the grant.	
8.6 Other disturbances to livelihood	Vulnerable social categories/ groups; sharecroppers	(1) Advice on alternative subsistence and livelihood strategies, and assistance (through MOHSW) to gain access to poverty alleviation/social welfare programmes.	Inter-ministerial/departamental consultation will be necessary to ensure effective delivery of community development products and to avoid duplication.
9. GENERAL AWARENESS			
All project impacts	Persons in and proximate to project impact area.	(1) Advice on project impacts; construction schedules and acquisition dates; valuation, compensation and grievance resolution mechanisms; construction employment procedures; and local development initiatives.	- This will be done through the periodic distribution of information sheets and a consultation programme. - Cooperation with other Government ministries and departments to support effective resource utilisation and community development.