No. 110/2007

The Southern Nations, Nationalities and Peoples Regional State Rural Land Administration and Utilization Proclamation

Preamble

WHEREAS, it is confirmed in the Constitution of the Federal Democratic Republic of Ethiopia that the right to ownership of land is exclusively vested in the state and in the people;

WHEREAS, the 1994 revised constitution of SNNPRG stipulates that the right to ownership of land is exclusively vested in the state and in the people.

WHEREAS, Article 52(2) (d) of the Constitution stipulates that the power entrusted to regions to administer land and natural resources is to be implemented in accordance with the law to be enacted by the federal state;

WHEREAS, it is necessary to sustainably conserve and develop natural resources and pass over to the coming generation through the development and implementation of a sustainable rural land use planning based on the different agro-ecological zones of the region.

WHEREAS, it is necessary to establish a data base system for different types of land holdings such as private, communal and state land holdings so that it may enable to identify land use rights.

WHEREAS, it is necessary to resolve problems that arise in connection with encouraging individual farmers, pastoralists and agricultural investors and establish a conducive system of rural land administration,
WHEREAS, it is believed that ensuring women's land holding right is necessary for agricultural production and productivity and to speed up the environment development.

WHEREAS, it is deemed necessary to put in place legal conditions which are conducive to enhance and strengthen the land use right of farmers to encourage them take the necessary conservation measures in areas where mixed farming of crop and animal production is prevalent and where there is threat of soil erosion and forest degradation;

WHEREAS, it has become necessary to establish a conducive system of rural land administration that promotes the conservation and management of natural resources, and encourages private investors in pastoralist areas where there is tribe based communal land holding system;

WHEREAS, the Federal government has vested powers to regions in the Proclamation No. 456/2005 to promulgate law taking in to account the pragmatic realities of the regions. Now Therefore in accordance with the revised constitution of Southern Nations, Nationalities and Peoples region article 51 sub article 3(A), it is where by proclaimed as follows.

SECTION ONE
GENERAL

1. Short title
This Proclamation may be cited as the state of Southern Nations, Nationalities and Peoples land administration and use proclamation no. 110/2007.

2. Definitions

In this proclamation unless the context requires otherwise.

1) “Region" means the Southern Nations, Nationalities and Peoples Region;

2) “Rural land" means any land outside of a municipality holding or a town designated as such by the relevant law.

3) “Rural land administration" means a process whereby rural land holding security is provided, land use planning is implemented, disputes between rural land holders are resolved and the rights and obligations of any rural land holder are enforced, and information on farm plots and grazing land holders are gathered analyzed and supplied to users;

4) "Rural land use” means a process whereby rural land is conserved and sustainable used in a manner that gives better output;

5) “Rural land use plan” means a practice whereby the options that give greater economic benefits with out causing land degradation and environmental pollution are determined and implemented from among the different use options rural land can give on the basis of physical, economic and social information;
6. “Holding right” means the right of any peasant farmer or semi-pastoralist and pastoralist shall have to use rural land for the purpose of agriculture and natural resource development, lease and bequeath to members of his family or other lawful heirs, and includes the right to acquire property produced on his land; thereon by his labour or capital and to sale, exchange and bequeath same;

7. “Family member” means any person who permanently lives with land holder sharing the livelihood of the later;

8. “Guardian” means a legal person who takes care of orphans or children that have missed their parents by death or by any other reason.

9. “Peasant” means a member of a rural community who has been given rural land holding right and the livelihood of his family and himself is based on the income from the land;

10. “Pastoralist” means a member of a rural community that raises livestocks by holding rangeland and moving from one place to other and the livelihood of himself and his family is based mainly on the produce from livestocks.

11. “Semi pastoralist” means a member of a rural community whose livelihood is based mainly on livestocks raising and to some extent on crop farming.

12. “Minimum size holding” means size of rural land holding the productivity on which can ensure the food security of a peasant, semi-pastoralist and pastoralist, family, or which suffices for crop farming, perennial crop farming grazing, house building and garden;

13. “Private holding” means a rural land which is occupied by peasants, semi pastoralists, pastoralists or by others that have legal right to possess rural land;

14. “Communal Holding” means a land out of government or individual possession and is being under the common use of the local community as a common holding for grazing, forest and other social services;

15. “State holding” means rural land demarcated and those lands to be demarcated in the future as federal or regional state holdings and include forest lands, wildlife protected areas, state farms, mining lands, lakes, rivers and other rural lands;

16. “Holding certificate” means certificate of title issued by a competent authority to ensure rural land use right;

17. “Land registration” means the process whereby information on the description of rural land use right and holding is gathered and analyzed;
18) "Land information system" means a system whereby rural land related information is gathered, analyzed and distributed to users;
19) "Competent authority" means a body established in accordance with the constitution of a region to ensure that a system of rural land administration and utilization is realized in the region;
20) "Re-allocation" means an activity of reallocating land to individual(s) applicable only on the irrigated land or on the land its necessity being determined by the law;
21) "Rent" means a system by which investors of other legal bodies rent in land from peasants for specific period of time;
22) "Lease" means a system by which investors get land by rent from government for specific period of time.
23) "Public use " means public common service obtained from infrastructures such as school, health, road, water, etc.
24) "Person" means a natural or legal person

3. Gender Reference
The provisions of this proclamation that are referring to masculine gender shall also apply to feminine gender.

4. Scope of Application
This proclamation shall apply to any type of rural land found in the southern nations, nationalities and peoples region.

SECTION TWO
THE RIGHT TO HOLD AND USE RURAL LAND

5. Acquisition and use of rural land:
1. Peasant farmers, pastoralists and semi-pastoralists engaged in agriculture shall have the right to get rural land freely.
2. Any resident of the region, eighteen years old or more, who wants to engage in agriculture, has the right of getting rural land holding and use.
3. Women who want to engage in agriculture shall have the right to get and use rural land.
4. Rural youths who wish engage in agriculture shall have the right to get & use rural land which is possessed by the community or government. Details shall be determined by the regulation.
5. A husband and wife have equal use right on their common land holdings. They do not lose their land holding because of their marriage that they possessed individually before. Details shall be determined by the regulation.
6. Women house hold heads shall have full use right on their land holdings.
7. Women whose husbands are found being engaged in government services or in any other activities shall have the right to use rural lands.
8. Underage orphans have the right to use their land holdings through their guardians until they become 18 years old.
9. The family shall not lose the right of using their holding in case of living in other area or death of the husband or wife or both.

10. The right of getting land for communal use of both peasant Semi pastoralists and pastoralist, that is for grazing, social and cultural affairs and religion shall be reserved.

11. any person who is a member of a peasant, semi pastoralist and pastoralist family have the right to use rural land that may be obtained from his family by gift or inheritance or from the competent authority.

12. Any resident of the region who wants to engage in agriculture shall have the right to get land by settlement.

13. Aged disabled people and member of physically weak families have land holding and use right.

14. Government, being the owner of rural land, can change communal rural land holdings to private holdings as may be necessary.

15. Subject to giving priority to peasants, semi pastoralists and pastoralist.

a) Private investors that engaged in agricultural development activities shall have the right to use rural land in accordance with the investment policies and laws at federal and regional levels;

b) Governmental and non-governmental organizations, social and economic institutions shall have the right to use rural land in line with their development objectives.


1. The sizes of rural lands under the holdings of individuals, communities, governmental and non-governmental organizations shall be measured using cultural and modern measuring equipments: their land use and level of fertility shall be registered in the data base center by the competent authorities established at all levels.

2. Rural land holdings described under Sub-Article 1 of this Article shall be measured by the competent authority and shall be given cadastral maps showing their boundaries.

3. Any holder of rural land shall be given land holding certificate prepared by the competent authority which describes the size of the land, land use type and cover, level of fertility and boarders, as well as the obligation and right of the holders.

4. Where land is jointly held by husband and wife or by other persons, the holding certificate shall be prepared in the name of all the joint holders. Details shall be determined by the regulation.
5. A house hold head woman, she shall be given a land holding and use right certificate in her name.

6. A women shall get a land use right certificate prepared in her name even her husband is found being engaged in government services or in and others services.

7. The possession of underage or orphans can be measured and registered and the orphans shall be given land holding certificate in care of their guardians.

8. Governmental and non governmental organizations, private investors and social institutions shall be given land holding certificate .

9. When change of possession right is made, the respective change of landholding certificate shall be made.

10. The information that describes the holder of rural land, the holders of the bordering lands, fertility status of the land, the types of use, rights and obligation of the holder there of shall be registered in the database and kept by the competent authority.

11. A rural land that is held on rent or lease shall be registered by the competent authority. Details shall be determined by the regulation.

12. land holding certificate for communal land shall be prepared in the name of the beneficiary community and be kept at kebele administration office.

7. Duration of Rural Land Use Right

1. The rural land use right of peasant farmers, Semi -pastoralists and pastoralists shall have no time limit.

2. The duration of others rural land users right shall have time limit. Details shall be determined by the regulation.

3. Holder of rural land who is evicted for purpose of public benefit shall be given compensation in advance proportional to the development he has made on the land and the property acquired and shall be given other land.

a) When the rural land holder is evicted by the federal government, the rate of compensation would be determined based on the federal land administration law.

b) When the rural land holder is evicted by regional governments, the rate of compensation would be determined based on the rural land administration regulation of the region.

8. Transfer of Rural Land Use Right

1. Peasant farmers, semi-pastoralist and pastoralist who are given land holding certificates can rent out land for farmers or investors from their holding of a size sufficient for the intended development in a manner that it shall not displace them. The duration of the contract:-

a) From peasants to peasants, the duration shall be up to five years.

b) From peasants to investors, the duration shall be up to ten years.

c) From peasants to investors who cultivate perennial crops shall be up to 25 years.

d) Land described in this article sub article 1. a, b, c, d, may be transferred to another holder when the
2) The rental agreement made according to this Article Sub Article 1 has to be accomplished based on the agreement of the family of the land holder and shall be approved and registered by the competent authority as follows.

(a) the contract agreement with duration of up to two years shall be registered at Kebele Administration office.

(b) the contract agreement with duration of more than two years shall be registered by the concerned Authority.

3) A landholder, using his land use right, may undertake development activities jointly with an investor in accordance with their contractual agreement. The contract agreement shall be approved and registered by the competent Authority.

4) An investor who held rural land by lease may present his use right as collateral.

5) Any holder shall have the right to transfer his rural land use right through inheritance to members of his family.

6) Any legal person who is given the right to use land has the right to sale, lease, bequeath and pledge the property produced by his labor or capital on his land.

9. Re-allocation of Rural Land

1) Farmlands whose holders are deceased and have no heirs or have gone for settlement or left of the locality on own wish and stayed over a given period of time shall be re-allocated to landless or small land holding peasant farmers, semi pastoralist and pastoralist. Details shall be determined by the regulation.

2) Re-allocation shall be made when irrigation structure is constructed by the expense of the government and held by peasants, semi pastoralists or pastoralists in order to use irrigable land properly and equitably. Details shall be determined by the regulation.

3) Where peasant farmers, semi pastoralist or pastoralists are evicted from their holdings for the purpose of constructing irrigation structure, land re-allocation shall be undertaken to make them get equitable benefit from the irrigation development to be established. Details shall be determined by the regulation.

4) Privately unoccupied land as well as lands under the possession of community or government which are potential for agriculture shall be re-allocated to landless youths and peasants who have less farm land.
10. Obligation of Rural Land Users.

1) A holder of rural land shall be obliged to properly use and protect his land. When the land gets damaged the user of the land shall lose his use right. Details shall be determined by the regulation.

2) Where irrigation canals are constructed, the holder is obliged to allow the construction of irrigation lines to cross over his holding. Details shall be determined by the regulation.

3) The holder of rural land shall be obliged to cooperated when requested by the competent authority to measure and survey his land.

4) Any rural landholder shall be obliged to notify the competent authority when he abandons at will his land use right. He shall return his land holding certificate. Details shall be determined by the regulation.

5) The development plan proposed by individuals, investors and governmental and non governmental organizations must not lead to land or environmental degradation. If any person is found guilty of damaging the land or the environment, he shall be subjected to the court and sentenced then after and, he shall have the obligation to rehabilitate the land or the environment. Details shall be determined by the regulation.

6) Any investors shall be obliged to manage the land he held by rent or lease and the natural resource thereon. Details shall be determined by the regulation.

7) Any individual or organization shall be obliged to properly manage the land and the natural resources thereon that he held by rent to lease through out the contract periods. Details shall be determined by the regulation.


1) Without prejudice to the existing farmer holding or farm plot size of the family, the farm plot to be given in the future shall be as follows:

   a) If the plot is meant for rain fed agriculture its size shall not be less than half a hectare.
   b) If it is irrigable land constructed by the expense of the government which is to be given to peasants, Pastoralists or semi-pastoralists, the size shall not be larger than half a hectare.

2) When a rural land is transferred by inheritance it shall be accomplished in such a way that the size of the land to be transferred is not less than the minimum size of holding. Details shall be determined by the regulation.

3) If possession of the divorced spouses is less than a minimum holding size they shall use their holding by any means other than subdivision. Details shall be determined by the regulation.

4) In order to consolidate and make small farm plots convenient for development, farmers are encouraged to voluntarily exchange farm lands. Details shall be determined by the regulation.
5) The information about the farm plots which farmers intend to exchange, shall be disseminated through kebele administration to let other farmers know about it. Details shall be determined by the regulation.

6) A settlement and villagization which is undertaken by the request and participation of the community shall be accomplished considering land consolidation.

12. Dispute Resolution

1) when dispute arises over rural land holding right, the case shall be brought to kebele land administration committee. The committee shall let the dispute be resolved by negotiation & arbitration through local elders set by the choice of the two parties.

2) If any one who is not satisfied by the decisions made by the elders according to this Article Sub Article 1, he shall appeal the case to woreda court.

3) If any one who does not agree with the decision made by the woreda court according to this Article Sub Article 2, he shall appeal the case to the higher court.

4) If any one who does not agree with the decision made according to this Article Sub Article 3, he shall appeal the case to the supreme court. The decision made at this stage shall be final.

5) If it is believed that there is fundamental error of law in the decisions made according to this article sub article 4 the case shall be seen by regional Supreme Court of cassation.

SECTION THREE
RURAL LAND USE RESTRICTIONS

13. Land use planning and proper use of sloppy, gully and wetlands.

1) A guiding land use master plan, which takes in to account soil type, landform, slope, weather condition, vegetation cover and socio-economic conditions and which is based on a water shed approach, shall be developed by the competent authority and implemented.

2) an equitable water use system shall be established between upper and lower watershed communities.

3) In any type of rural land where soil and water conservation works have been undertaken, a system of free grazing shall be prohibited and a system of cut and carry feeding shall be gradually introduced.

4) The management of rural lands the slope of which is less than 30 percent shall follow the strategy of soil conservation and water harvesting. The details shall be determined by the regulation.

5) Cultivation of annual crops on rural lands that have slopes between 31-60 percent may be allowed only through making bench terraces.
6) rural lands, the slope of which is more than 60 percent, shall not be used for farming and free grazing, they shall be used for plantation of trees, perennial crops and forage production.

7) A rural land which is sloppy and degraded shall be protected from human and animal contact, so that it may rehabilitate. When it gets well rehabilitated, it shall be used.

8) rural lands that have gullies shall be made rehabilitate by private and neighboring holders and, as appropriate, by the local community, using biological and physical conservation works.

9) Rural lands that have gullies and are located on hilly areas shall be held communally or privately and be properly managed, rehabilitated and developed.

10) The biodiversity in rural wetland shall be conserved and utilized as necessary, in accordance with a suitable land use strategy. Details shall be determined by the regulation.

11) Any legal user of rural land may lose his right of using when the land is found more important for public use and when this is determined by the participation of the community. Details shall be determined by the regulation.

12) When the land exposed for damage due to lack of proper care or utilization, and if this can’t be excused by penalty the user of the land shall lose his use right. Details shall be determined by the regulation.

13) when any land user leaves the land uncultivated beyond the time limit given, the competent authority with out sufficient reason, he shall lose his right of using the land. Details shall be determined by the regulation.

14) Any individual or organization shall not use rural land with out land holding certificate.

15) Degraded communal lands shall be protected and rehabilitated by the community. Details shall be determined by the regulation.

16) Rural lands that are demarcated for soil conservation, mining and historical importance shall be protected in sustainable manner and shall be administered by the law issued by competent authority.

17) The local community has the right to use non-timber forest product (Forest coffee, Cardamom, incenses, gum ... etc) under state owned forests. Details shall be determined by the regulation.

SECTION FOUR
MISCELLANEOUS PROVISIONS

14. Responsibility of the Regional Bureau of Agriculture and Rural Development

1 Have the responsibility to implement this proclamation by providing the necessary professional support and by coordinating the community.
2. Initiates development of new policy ideas and amendment of the existing policy as necessary, on the basis of the information gathered at zonal and special woreda level and obtained from time to time through monitoring and evaluation.

3. Creates a system for the exchange of information between regions and the Federal government pertaining to rural land administration and use.

4. Establishes institutions at all levels that shall implement rural land administration and land use systems, and shall strengthen the institutions already established.

5. Have the responsibility to establish rural land administration and use committee at kebele level.

6. A strategy of settlement, villagization and development of social services that helps to bring about a better system of rural land utilization shall be formulated.

15. **Obligation to Cooperate**

Any person shall have the obligation to cooperate with relevant bodies for the implementation of this proclamation.

16. **Penalty**

Any person who violates this proclamation or the regulations and directives issued for the implementation of this proclamation shall be punishable under the applicable of criminal Law.

17. **Repealed and Inapplicable laws**

1) The regional government land administration and use proclamation No 53/2003 is here by repealed.

2) No law, regulation, directive or practice shall, in so far as it is inconsistent with this proclamation, be applicable with respect of matters provided in this proclamation.

18. **The Power Of Issuing Rules And Regulations**

1) The administration council of the region may issue implementation regulation for this proclamation.

2) Bureau of agriculture and Rural Development of the Region shall make directives based on this proclamation and its implementation regulation.

19. **Transitory Provisions**

1) All land holding dispute cases under Arbitration (not decided) shall be resolved according to this proclamation.

2) Land holding dispute cases, at all levels under appeal, cassation and implementation phases, that are being treated based on proclamation No 53/2003 shall be resolved by the court according to previous proclamation.

20. **Effective Date**

This proclamation shall enter in to force on this Feb .... date of 19, 2007.

Awassa February 19th, 2007

Shiferaw Shigute

President of the Regional State of Southern Nations, Nationalities and Peoples