

ETHIOPIA

**NEGARIT GAZETA
OF THE TRANSITIONAL GOVERNMENT OF ETHIOPIA**

PROCLAMATION NO. 92/1994

**A PROCLAMATION TO PROVIDE FOR THE
UTILIZATION OF WATER RESOURCES**

WHEREAS the Country is endowed with abundant water resources suitable for various uses;

WHEREAS, it is necessary to issue law to ensure that such resources are allocated in an equitable manner and utilized properly;

NOW, THEREFORE, in accordance with Article 9 (d) of the Transitional Period Charter, it is hereby proclaimed as follows:-

1. *Short Title*

This proclamation may be cited as the "Water Resources Utilization proclamation No. 92/1994."

2. *Definitions*

In this proclamation, unless the context requires otherwise:

1. "water resources" means any surface or ground water but excludes mineral water and geothermal deposits as defined in the Mining Proclamation No. 52/1994."
2. "regional water resources" means any water resource existing within a region, and includes tributaries of water that flows across or lies between more than one National/Regional Self-Government;
3. "trans-boundary river" means a river which crosses the Ethiopian boundary and flows into another country;
4. "water works" means construction works executed for the purpose of water resources development and includes other related works;
5. "fishery resources development" means development activities relating to fishery resources and other faunas;
6. "Appropriate Authority" means the Ministry as regards trans-boundary rivers and water that flows across or lies between more than one National/Regional Self-Government, and the Natural Resources Development and Environmental Protection Bureau as regards regional water resources;
7. "Ministry" means the Ministry of Natural Resources Development and Environmental Protection;

8. "Peasant" includes persons whose traditional occupation is animal rearing;
9. "Person" means a natural or juridical person.

3. *Water Uses Requiring Permits*

1. A permit issued by the Appropriate Authority shall be required to use water resources for the following purposes:
 - a) irrigated agriculture;
 - b) commercial animal rearing;
 - c) commercial fishery resources development;
 - d) industry and agro-industry;
 - e) mining;
 - f) municipal and urban water supply;
 - g) hydro-electric power generation;
 - h) recreation and tourism;
 - i) water transport;
 - j) any use requiring construction of water works.
2. Notwithstanding the provisions of sub-Article (1) of this Article, no permit shall be required for use of water by peasants, artisanal miners, traditional fishermen and persons rendering traditional water transport services.

4. *Application for a permit*

1. An application to be submitted to the Appropriate Authority for a water use permit shall contain the following information:
 - a) name and address of the applicant;
 - b) the intended use of the water resources;
 - c) location of the water resources and the intended place of use;
 - d) the intended method and manner of use of the water resources;
 - e) the volume of water required monthly and annually;
 - f) where appropriate, investment certificate and other information required by the Appropriate Authority.
2. Where reasonably required by the Appropriate Authority, maps, plans and designs shall be submitted together with the application mentioned in sub-Article (1) of this Article.

5. *Issuance of Permit*

1. The Appropriate Authority shall issue the requested permit within 60 days, where it is satisfied that the intended use of the water:
 - a) is not detrimental to the interests of other water users but without prejudice to the provisions of Article 7(3) of this Proclamation; and
 - b) does not entail harmful effects on or pollution of the water resources and the environment.
2. Where the Appropriate Authority rejects the application, it shall notify the applicant, in writing, within the time limit specified in sub-Article (1) of this Article, stating the reason thereof.

6. *Duration and Renewal of Permit*

1. The Appropriate Authority shall, at the time of issuing a permit, determine the duration of the permit taking into account the nature of the project.
2. The holder of a permit may apply for renewal of the permit six months prior to its expiry date.
3. The Appropriate Authority shall renew the permit for such period as it may determine, where it finds that the holder has fulfilled his obligation under the permit and the conditions laid down under Article 5(1) of this proclamation.
4. Where an application or renewal of permit is rejected, the Appropriate Authority shall notify, in writing, the permit holder in the manner prescribed under Article 5(c) of this proclamation.

7. *Amendment and transfer of Permit*

1. The permit holder may apply for the amendment of the permit in order to decrease or increase the volume of water permitted or to use the water for other purposes.
2. Upon receipt of an application under sub-Article (1) of this Article, the Appropriate Authority shall decide on the application on the basis of the provisions of Article 5(1) of this proclamation.
3. The Appropriate Authority may, on its own initiative, amend a water use permit where a re-adjustment of allocation of water becomes necessary due to changes in environmental conditions, increase in the demand for water uses or due to any other satisfactory ground; provide, however, that the permit holder shall be compensated for damages resulting from the amendment except where the amendment is caused by changes in environmental conditions.
4. A water use permit may be transferred to another person upon the approval of the appropriate authority.

8. *Suspension and Revocation of Permit*

The Appropriate Authority may suspend or revoke water use permit on any one of the following grounds:

1. failure to observe obligations arising from the permit;
2. wasteful use of water or misuse in any other manner;
3. failure to comply with directives issued for the protection of public health, the environment and water quality control;
4. failure to commence utilizing the allocated water for four months without good cause;
5. submission of false or misleading information relating to the permit;
6. transfer of the permit to another person without the permission of the Appropriate Authority;
7. voluntary surrender of the permit by the holder.

9. *Obligations of Permit Holders*

Any permit holder has the obligation:

1. to use the water only for the authorized purpose;
2. to pay water charges on time;

3. to take due care, in accordance with the relevant directives, so that the water works constructed by him cause no harm to persons or property;
 4. to take the necessary care, in accordance with the relevant directives, so that effluent discharged or flowing from the project cause no harm to persons or property or pollution to the environment.
 5. to submit on time information required by the Appropriate Authority;
 6. to observe laws, regulations and directives relating to water resources.
10. *Permit Fees and Water Charges*
1. Fees for water permits and permit renewals shall be paid in accordance with directives to be issued by the appropriate authority.
 2. Water charges shall be paid by any permit holder in accordance with directives to be issued by the appropriate authority.
 3. Water charges shall be paid annually effective from the date of issuance of the permit.
11. *Responsibilities of the Appropriate Authority*
The Appropriate Authority shall:
1. take the necessary cautionary measures during issuance of permits to avoid excessive allocation or depletion of a water resource;
 2. ensure that water resources are utilized in sustainable and most beneficial manner.
 3. take necessary measures so that the issuance of water use permit to investors does not adversely affect the interest of peasants in any manner whatsoever;
 4. establish and maintain water register to record measures taken affecting water use permits;
 5. assign supervisors to ensure that permit holders utilize the water in conformity with the condition of the permit.
12. *Servitude*
1. a permit holder may, with the approval of the Appropriate Authority, construct water works on land under the possession of another person for the purpose of abstracting the required water from its source;
 2. the possessor of the land encumbered pursuant to sub-Article (1) of this Article, is entitled to adequate compensation from the permit holder.
 3. the provision of sub-Article (1) of this Article shall not apply to land under peasant holding unless the peasants themselves have given their consent and provided that the construction of the water work does not in any way entail eviction of the peasants.
13. *Settlement of Disputes*
1. The Appropriate Authority shall hear and adjudicate disputes arising between permit holders or between a permit holder and other person concerning rights and obligations emanating from the permit.
 2. An appeal may be lodged to the competent court within thirty (30) days against the decision of the Appropriate Authority rendered under sub-Article (1) of this Article.

14. *Utilization of trans-boundary Rivers*
1. Utilization of trans-boundary rivers shall be administered in accordance with the provisions of this Proclamation and international treaties to which Ethiopia is a party.
2. The Appropriate Authority shall consult with the concerned Central Government organs before issuing water use permits relating to trans-boundary rivers.
15. *Utilization of Tributary Rivers*
Utilization of tributaries of trans-boundary rivers or tributaries of water resources that flow across or lie between more than one National/Regional Self-Government shall be administered in accordance with this Proclamation and in line with specific directives to be issued by the Council of Ministers.
16. *Delegation of Power*
The Ministry may, as it deems it necessary, delegate some of its powers and duties to National/Regional Natural Resources Development and Environmental Protection Bureaus.
17. *Transitory Provisions*
1. Any person who is already utilizing water resources for any of the purposes specified in Article 3 of this proclamation, shall apply to the Appropriate Authority for a permit within three (3) months from the coming into force of this proclamation.
2. A water user who fails to apply within the time limit set in sub-Article (1) of this Article, may, subject to payment of 50% of the permit fee as a penalty, submit his application within the next three months.
3. Upon receipt of an application under sub-Article (1) or (2) of this Article, the Appropriate Authority shall issue the required permit, provided that the manner of the utilization of the water resource does not clearly violate the provisions of this Proclamation.
18. *Penalty*
Any person violating the provisions of this proclamation shall be punishable in accordance with the penal Code.
19. *Inapplicable laws*
No Law, regulations, directives or practices which are inconsistent with the provisions of this proclamation shall have force or effect with respect to matters provided for in this Proclamation.
20. *Effective Date*
This proclamation shall enter into force on the date of its publication in the Negarit Gazeta.

Done at Addis Ababa, this 21st day of March, 1994

MELES ZENAWI
PRESIDENT OF THE TRANSITIONAL
GOVERNMENT OF ETHIOPIA