

STATUTORY INSTRUMENT

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THE CUSTOMARY LAND RIGHTS REGULATIONS, 2023.

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THE CUSTOMARY LAND RIGHTS ACT, 2022
(ACT NO. 20 OF 2022)

Short title

THE CUSTOMARY LAND RIGHTS REGULATIONS, 2023.

In exercise of the powers conferred upon the Minister responsible for land under section 47 of the Customary Land Rights Act, 2022, the Minister hereby makes the following Regulations -

PART I-PRELIMINARY

1. In this Act, unless the context otherwise requires - Interpretation
- "Act" means The Customary Land Rights Act, 2022 (Act No. 20 of 2022);
- "arbitration" means a commercial arbitration whether or not administered by a permanent arbitral institution;
- "authorised officer" carries the meaning in section 1 of the Act;
- "boliland" means lands that are flooded in the rainy season but dry in the dry season;
- "carbon investments or projects" mean investments or projects that aim to preserve wetlands, wildlife habitats, steep slopes, old growth or virgin forests, or other ecologically sensitive areas;

"co-management" means the joint control or management of ecologically sensitive areas by a Village Area Land Committee, Chiefdom Environment Committee, or Chiefdom Council Committee and the responsible government agency based on agreed terms;

"displacement" includes physical and economic displacement;

"ecologically sensitive area" carries the meaning in section 1 of the Act;

"foreign company" means -

- (i) a company incorporated under the laws of Sierra Leone in which the majority shares are not held by citizens of Sierra Leone;
- (ii) a company incorporated under the laws of a country other than Sierra Leone;
- (iii) a partnership in which the controlling interest is owned by a person who is not a citizen of Sierra Leone;

"foreign land-based investment" means an investment owned by a foreign company;

"investor" means an individual or legal entity undertaking an investment;

"land stress" means the acquisition or use of land under the Act, within a village or chiefdom that results in more than a 70 % reduction of available land for use by the community;

"lease agreement" means a grant of a specifically defined area of land in writing for a term of years and contain an obligation to pay rent, signed by the landowners as lessors and those renting the land as lessees;

"Minister" means the ministry responsible for land and Ministry shall be construed accordingly;

"resettlement action plan" means a comprehensive plan developed by an investor with the full participation of the communities or persons to be resettled that covers the issues in the Third Schedule of the National Development-Induced Resettlement Act, 2023 (Act No. 20 of 2023).

2. (1) These Regulations shall apply to -

(a) land subject to customary law; or

(b) an investment in land under customary tenure, whose activity will result in the displacement of a community or persons within a community. Application.

(2) An investment to which these Regulations apply, shall comply with the Act, these regulations, the provisions of the National Development-Induced Resettlement Act 2023 and other applicable laws.

(3) Unless otherwise expressly stated in these Regulations, in the event of inconsistency, the Act shall take precedence over the National Development-Induced Resettlement Act, 2023 or any other law.

PART II - STANDARDS FOR INVESTMENT INDUCED DISPLACEMENT AND RESETTLEMENT

3. (1) An investor shall, in accordance with section 29 of the Act, provide to concerned communities the following relevant information relating to investment before the start to of negotiation to acquire the land- Disclosure of information to concerned community.

- (a) the nature, scope, risks and opportunities of the investment;
- (b) business plan;
- (c) agreement obtained from the government and
- (d) any other relevant information.

(2) In addition to the information required under sub-regulation (1), an investor whose operation is likely to lead to displacement and resettlement in the short, medium or long term shall, in accordance with subsection (3) of section 43, provide that information, including preliminary studies or assessments, to the family or community whose land is being sought.

(3) An investor who fails to disclose the likelihood of displacement at the start of negotiations for the acquisition of land, and whose operations subsequently make displacement unavoidable, shall -

- (a) suspend its operations immediately, if there is a real and present danger to the life or livelihood of the community;
- (b) undertake the studies and assessments required by section 43 of the Act;
- (c) provide the outcomes of the studies and assessment to the communities, including where likely, a proposal to redesign the investment to avoid displacement and resettlement, in the language that they understand;
- (d) be liable in damages to the community or persons that will be displaced, without prejudice to any other remedy that may be available to such persons by law

(4) An investor who fails to comply with sub-regulation (1) shall be issued an enforcement notice under subsection (1) of section 32 of the National Development-Induced Resettlement Act, 2023, requiring the investor to comply with the Act.

(5) An investor shall not be allowed to resume operations unless-

- (a) such operations no longer constitute a danger to the life or livelihood of the community; and
- (b) the investor shows evidence of compliance with paragraphs (a) to (d) of sub-regulation (3).

(6) An investor shall, where displacement is allowed to proceed in accordance with subsection (6) of section 43 of the Act, -

- (a) employ a credible professional or professionals, to conduct a comprehensive socio-economic baseline study in advance of any displacement and resettlement; and
- (b) submit to Government and the community, a resettlement action plan for approval and action, in accordance with subsection (9) of section 43 of the Act and section 22 of the National Development-Induced Resettlement Act, 2023.

4. (1) An investment-induced displacement and resettlement of a community shall not be undertaken unless, in accordance with paragraph (b) of subsection (6) of section 43 of the Act, the number of persons consenting to the displacement is at least 60% of the affected adult male and female members of the community that will be displaced.

Persons to consent to displacement.

(2) The document of consent to the displacement shall be in such form as specified in Schedule 5.