

**KINGDOM OF CAMBODIA
NATION RELIGION KING**

ROYAL GOVERNMENT OF CAMBODIA

No 26 អនក្រ. បក

**SUB-DECREE
ON RULES FOR GRANTING USER RIGHTS TO PLANT
TREES WITHIN STATE FOREST LANDS**

THE ROYAL GOVERNMENT

- have seen the Constitution of the Royal Government of Cambodia (RGC);
- have seen the Royal Decree no NS/RKT/0704/124 dated 15th July 2004 on the establishment of the RGC;
- have seen the Royal Code no 02/NS/94 dated 20th July 1994 on the promulgation of the law on arrangement and implementation of the Council of Minister;
- have seen the Royal Code no NS/RKM/0196/13 dated 24th January 1996 on the promulgation of the law on the establishment of the Ministry of Agriculture Forestry and Fisheries;
- have seen the Royal Code no 01 NS dated 28th December 1993 on the promulgation of the law on the Financial System;
- have seen the Royal Code no NS/RKM/0801/14 dated 30th August 2001 on the promulgation of the Law on Land Management;
- have seen the Royal Code no NS/RKM/0802/016 dated 31st August 2002 on the promulgation of the Law on Forestry;
- have seen the Sub-Decree no 17 អនក្រ.បក dated 07th April 2000 on the arrangement and implementation of the Ministry of Agriculture Forestry and Fisheries;
- have seen the Sub-Decree no 64 អនក្រ.បក dated 11th September 2003 on the change of name of the Department of Forestry & Wildlife to Forestry Administration;
- have seen the Sub-Decree no 53 អនក្រ.បក dated 1st April 2005 on the Rule of Procedure for the Establishment, Classification, and the Registration of the Permanent Forest Estate;
- have seen the Sub-Decree no 118 អនក្រ.បក dated 7th October 2005 on the Management of State Land;
- receiving the adoption from the plenary session of the Council of Ministers on 7th March 2008;

Hereby decided as follows

**Chapter 1
General Provisions**

- Article 1** The objective of this Sub-Decree is to define the rules for granting rights to plant trees within state forest lands in the Kingdom of Cambodia.
- Article 2** The purpose of this Sub-Decree is to increase productivity and services of forest to ensure maintenance of forest cover and to secure timber supplies for general use demands in accordance with the National Forest Policy and National Forest Management Plans.

**Chapter 2
Responsible Institutions and Authorities**

- Article 3** The Ministry of Agriculture Forestry and Fisheries is authorized to manage tree plantations within state forest lands, with the following responsibilities:
- Issuing declaration for approval, rejection or cancellation of tree plantations within state forest lands based on Forestry Administration proposals;

- Authorizing the Forestry Administration to sign agreements with local communities, community forestry management committees, or individual households granting user rights for tree plantations within state forest lands;
- Facilitating effective management of tree plantations within state forest lands in co-operation with appropriate ministries, institutions, and other relevant stakeholders;

Article 4

The Forestry Administration is authorised to strengthen law enforcement, technical application and to evaluate all types of tree planting and harvesting activities, in order to ensure the effective use of forest resources and forest products. The Forestry Administration is responsible for:

- Issuing permission letter for tree planting on state forest lands;
- Conducting assessments and identification of state forest areas and regions suitable for tree plantations;
- Submitting proposals to the Ministry of Agriculture Forestry and Fisheries for approval, rejection or cancellation of tree plantations within state forest lands;
- Signing agreements with local communities, community forestry management committees, or individual households for user right to plant tree within state forest lands;
- Reviewing, considering and approving forest plantation management plans;
- Evaluating, monitoring, and assessing the implementation of agreements and forest plantation management plans;
- Coordinating activities with relevant ministries, institutions, and other stakeholders toward granting the user right for the management of tree plantations within state forest lands;
- Coordinating and resolving conflicts that may occur during implementation of agreements;
- Providing technical services for tree planting.

Chapter 3

Conditions and Legislative Procedures for Application and Approval of User Rights for Trees Planting within State Forest Lands

Article 5

Areas suitable for tree plantations within State forest lands must be approved by Declaration from the Ministry of Agriculture Forestry and Fisheries within the framework of classified level of permanent forest reserve registered at the Forestry Administration according to the Law on Forestry.

Article 6

Tree planting activities on state forest lands could be conducted by the followings:

- Forestry Administration;
- Community Forestry Management Committees;
- Forestry Administration in co-operation with local communities or private sector;
- People or individual households.

Article 7

The Forestry Administration must assess the availability of state forest lands, evaluate every request to establish tree plantations within state forest lands and provides recommendations to the Ministry of Agriculture Forestry and Fisheries. The evaluations and recommendations will be based on the following criteria:

- Forest lands vulnerable to natural disaster such as flooding, draught, and storm;

- Degraded forest lands, degraded or bare mountain areas, forest areas destroyed by fire or any other areas which are not yet developed;
- Forest areas in need of rehabilitation;
- Forest areas reserved for re-forestation;
- Forest areas reserved for watershed protection;
- Forest areas reserved for water source protection and water regulation;
- Cancelled forest concession areas or economic land concessions;
- State forest plantation areas;
- Other forest lands compatible with re-forestation objectives.

Each request will be evaluated in close consultation with local authorities and communities.

Article 8

Requests for user rights to plant trees on state forest lands could be made in the following ways:

- Appeals for partners to develop forest plantations on state forest lands compatible with locations, areas, and geography, as stipulated in the Declaration on Establishment of Tree Plantations within State Forest Lands issued by the Ministry of Agriculture Forestry and Fisheries;
- Requests from individuals or legislative bodies to the Forestry Administration (Ministry of Agriculture Forestry and Fisheries) supported by relevant documents as instructed by FA.

Article 9

Granting of user rights for forest plantations in state forest lands to a joint operation between the Forestry Administration and the private sector will be based upon approval from the Royal Government of Cambodia.

Granting of user rights for forest plantations in state forest lands to a joint operation between the Forestry Administration and local communities, community forestry management committees, people or individual households will be based upon approval from the Ministry of Agriculture Forestry and Fisheries. The agreements must be made with the Forestry Administration.

Every planting activity on state forest land requires permission letter issued by the Forestry Administration.

As required in the management of state property, the Ministry of Agriculture Forestry and Fisheries must inform the Ministry of Economy and Finance of the user rights granted for tree plantations in state forest lands before the end of each fiscal year.

Article 10

Local communities who request user rights to plant trees in state forest lands must develop individual management structure. Each community must be recognized by local administrative authorities.

Communities, people or individual households living within or in close vicinity of the requested areas will be given priority for user rights on tree planting in state forest lands. They must be recognized by their local administrative authorities.

In order to be granted user right for planting trees in state forest lands, representatives of communities, people or individual households must be Cambodian citizens with ability and legal status.

Private companies who request user rights to plant trees in state forest lands must have an established office in the Kingdom of Cambodia with financial and technical resources capability, registered and officially recognized by ministries or authorized institutions of the Royal Government of Cambodia.

Article 11 **Benefit sharing**, between the Royal Government of Cambodia and the approved users, derived from tree planting in state forest lands, is stipulated in Article 12 of this Sub-Decree.

Chapter 4 Agreement for Granting of User Rights on Trees Planting within State Forest Lands

Article 12 Elements and conditions stipulated in agreements for granting user rights to plant trees in state forest lands apply to both joint operations between the Forestry Administration and the private sector and between the Forestry Administration and local communities must be at least describe the followings:

- **Timeframe of user rights and validity of agreements;**
- **Definition of location and areas of forest land supported by a map showing UTM;**
- **Tree species and silvicultural methods will be applied;**
- **Harvesting and re-planting plans for the next cycle;**
- **Rights and responsibilities of the Forestry Administration and Ministry of Agriculture Forestry and Fisheries;**
- **Benefit sharing conditionality;**
- **Obligations of users of state forest lands for tree planting in the development and implementation of management plan;**
- **Monitoring and reporting activities;**
- **Other conditions which are necessary to ensure sustainable and effective management process.**

A sample agreement for granting of user rights for tree planting in state forest lands must be developed under a joint Declaration framework between the Ministry of Agriculture Forestry and Fisheries and the Ministry of Economy and Finance.

Article 13 Approved users of state forest land for tree planting may request an **extension** of their agreements by submitting a letter of applications to the Forestry Administration before its expiry dates. The Forestry Administration will make recommendations to the Ministry of Agriculture Forestry and Fisheries for consideration and approval.

Article 14 **Suspension, or closure of operations before the end of agreements, cancellation of agreements, and seizure of user rights to tree planting in state forest lands from a joint operation between the Forestry Administration and the private sector due to violation of terms and conditions of agreements or in the interests of the public, socio-economy, or environmental protection, must be decided by the Royal Government of Cambodia.**

Suspension or cancellation of an agreement or seizure of user rights to plant tree in state forest lands from a joint operation between the Forestry Administration and local communities due to violation of terms and conditions of agreement must be decided by the Ministry of Agriculture Forestry and Fisheries. Before the end of each fiscal year, the Ministry of Agriculture Forestry and Fisheries must inform the Ministry of Economy and Finance of these decisions.

Chapter 5

Rights and Obligations of Users of State Forest Lands for Tree Planting

- Article 15** Users of state forest lands have the right to develop, use, sell and distribute products derived from tree planting in accordance with the agreement between users and the Forestry Administration or users and the Ministry of Agriculture Forestry and Fisheries.
- Article 16** Users of state forest lands do not have rights to:
- Sell, exchange, rent, give, jointly operate, distribute, lend, pawn, or transfer state forest lands by any means;
 - Search for any types of mines within the state forest lands;
 - Farm rice or agricultural crops or build houses other than planting tree.
- Article 17** Users of state forest lands for tree planting are obliged to:
- Develop sustainable forest plantation management plans in accordance with guidance from the Forestry Administration;
 - Plant trees and manage plantations sustainably in accordance with laws, regulations, and agreements;
 - Abide by laws, technical regulations, and guidance from the Forestry Administration and the Ministry of Agriculture Forestry and Fisheries.
- Article 18** Users of state forest lands for tree planting, who encounter violations or actual forest offenses within the state forest lands, must report immediately to the nearest Forestry Administration or authorized officials. In this case, the users of state forest lands could arrest offenders and send them immediately to authorized Forestry Administration officials to continue the legislative procedure.

Chapter 6

Forest Plantation Management Plans

- Article 19** Sustainable and effective management of forest plantations requires a management plan based on its level, dimension and timeframe. There are two levels of forest plantation management plan:
- Master plan for the overall management;
 - Annual plan of activities.
- Users of state forest lands must develop these two levels of forest plantation management plans in accordance with technical guidelines and regulations for sustainable management of forest plantations. Users of state forest lands may hire technical services or request technical support from the Forestry Administration. Users of state forest lands must submit their forest plantation management plans to the Forestry Administration for approval.

- Article 20** Forest plantation management plans must be of the same timeframe as the agreement. The forest plantation management plan is subject to review by the Forestry Administration every five years or earlier if necessary. Monitoring, review, and evaluation of implementation of the forest plantation management plans must be conducted with participation of all parties to the agreement.

Chapter 7 Final Provisions

- Article 21** Any regulation that is in contrast to this Sub-Decree is nullified.
- Article 22** The Minister in charge of the Council of Ministers, Minister of Agriculture Forestry and Fisheries, Minister of Economy and Finance, Minister of Interior, Minister of Land Management Urbanization and Construction, Ministers, and State Secretaries, of all relevant ministries, and Governors of cities and provinces, must implement this Sub-Decree in accordance with their respective duties from this date of signature onward.

Phnom Penh, 25th March 2008

**Prime Minister
Signed and Sealed
SAMDECH AKKA MOHA SENA PADEI TECHO HUN SEN**

- Receivers:
- Ministry of the Royal Palace
 - General Secretariat of the Constitutional Council
 - General Secretariat of the Senate
 - General Secretariat of the National Assembly
 - General Secretary of the Royal Government
 - Cabinet of SAMDECH Prime Minister
 - Cabinet of H.E. Deputy Prime Minister
 - Same as article 22
 - Royal affair
 - Chronological files