

In the name of Allah, Most Compassionate, Most Merciful

Transitional Decree – Environment Protection Ordinance 2000

On the strength of Article 90 (1) of the constitution of the Republic of the Sudan 1998, the President of the republic has issued the following transitional decree which states:-

Chapter I

Preliminary regulations

The name of the transitional decree and the date of effectiveness

1. This transitional decree is herein called "The Environment Protection Ordinance 2000. It is effective on the date it is signed.

Abrogation or Exclusion

2. The Higher National Council for Environment and Natural Resources Act 1991 is herein repealed, but all the regulations and arrangements practised on its strength shall remain in force until it is further revoked or modified according to this Ordinance.

Explanations

3. In this Act, unless the context otherwise requires:-
"The general Secretariat" means:-

The General Secretariat for the Higher National Council of Environment and Natural Resources, established on the strength of the regulations of Article 8 (2)

"The Secretary General" means

The person appointed on the force of the regulations of Article 8 (2)

"Environment" means:-

The group of natural systems including their basic component elements, such as air, water, soil and plants. They also include the social and cultural conditions in which man and other creatures exist, derive their energy and perform their activities.

Pollution means:-

Environmental man-made changes and their resulting effects pertinent to man and other living creatures such as disturbances, harms, direct or indirect death, or damaging the basic elements of environment, or

violating the prevailing conditions such as the contamination of air, water, soil and plants

“Protection of Environment” means:-

Maintenance of the strict environmental balance, non-encroachment on such balance, prevention of pollution, deterioration and the best utilization of the existing resources.

“Relevant authority” means:-

The Higher National Council for Environment, established on the regulations of Article 5.

“The State Council” means:-

The State Council for the Protection of Environment, established on the regulations of Article 15

“The Natural Resources” means:-

renewable and the non-renewable natural resources.

“ Ministry” means:-

Ministry of Environment and Tourism.

“The Minister” means:-

The Federal Minister of Environment and Tourism.

The Environmental Objectives

4. The relevant channels when performing their tasks or putting their policies into practice, aim to achieve the following:-
 - a. to protect environment, its purity, its natural balance and to preserve its components of the basic elements, its social and cultural systems to lead to safety and sustainable development in the interest of the coming generations.
 - b. Promotion of environment and the sustainable exploitation of the natural resources for the purpose of developing and their preservation
 - c. Coupling the issues of development and environment

- d. Emphasizing the responsibility of the relevant authority for the protection of environment and serious endeavours to provide such protection.
- e. Activating or promoting the role of the relevant authority and the affiliated organs and prevention of relaxation or retrogression in performance

Chapter II

The Council

The initiation of a Council

1. A council shall be established and would be called "The Higher National Council for Environment and Natural Resources" and would possess an artificial identity (person), a permanent characteristic, a general stamp and the right to sue to courts on its name.
2. The Headquarters of the Council shall be in Khartoum State
3. The Council shall be under the supervision of the President of the Republic.

The Formation of the Council

1. The Council shall be established on the force of a resolution of the Council of Ministers and shall be presided over by the Minister, and the membership of the relevant ministers and the secretary for the National Fund for the Protection of Environment and some other members equipped with adequate experience and are concerned over the issues of environment and natural resources.
2. The Secretary General for the Council shall be a member as well a secretary for the Council.

The Assignments and the Powers of the Council

The Council shall be endowed with the following assignments and powers:-

- a. Drawing the general policy in coordination with the relevant channels in connection with the following issues:-

First: the assessment of the natural resources, their development and the best utilization of their use, administration, and protection from deterioration in a comprehensible and balanced way to ensure everlasting and ever increasing availability of such resources.

- b. Second: the protection of environment in general. To coordinate the Work of the state councils and all efforts intended to assess and evaluate

the natural resources of the country and to define its present and future utilization and to record resulting changes and to define the zones that become subject to the risks of deterioration, desert creeping and environmental pollution and to plan priorities for complete surveys and integrated general studies for these national resources.

Laying out a long range federal programme for the best sustainable and balanced utilization of the natural resources, their maintenance, preservation of environment and follow up of implementation of the programme with the relevant channels.

- c. Periodical revision of relevant legislation with the appropriate authorities to ensure conformity with the international standards for the development of environment and natural resources, their utilization, maintenance and making recommendations to the authorities concerned.
Coordinating the efforts of the government in relation to joining environment related and to specify channels assigned to implement these conventions
- d. The formation of specialised technical committees to assist in performing assignments.
- e. To attract government, popular, local and international funding resources to implement the programme of the development, maintenance and protection of environment in cooperation with the relevant channels.
- f. To foster scientific research in all aspects of environment and natural resources and support in cooperation with the National Centre for Research.
- g. Formulating a federal plan for the promotion environmental awareness, the sustainable utilization of the natural resources and their maintenance and to include that in school curriculum in cooperation with the appropriate authorities.
- h. Approving the administrative skeleton for the general secretariat
- i. Formulating internal regulations to organize meeting procedures

The administrative organization of the council

- a. The Council shall meet at least twice annually whereas it is for the President of the Council to call for a meeting whenever he deems necessary. The internal regulation shows how the meetings are conducted, the legal forum and the system of voting at such meetings.
- b. The Council shall have a general secretariat, presided by a secretary general appointed by the Council of Ministers on the basis of a recommendation by the President of the Council. The Council shall

have memberships of presidents of specialized or technical councils cited by the Council.

4. The General Secretariat shall have the following assignments:-
 - a. Supervision over all the council administrative, clerical, financial and personnel works
 - b. Preparation of the agendas of the council and all its technical committees meetings in consultation with the president of the council.
 - c. Preparation of details and maps necessary for the drawing and the implementation of the policies as decided by the Council
 - d. Keeping files, documents and all that is related to the technical, administrative and financial aspects at the Council Headquarters
 - e. Any other assignments the Council may demand from the Secretariat General.

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Specialized Councils

1. The Council may establish specialized council but taking into consideration the opportunity of benefiting from the existing specialized councils.
2. The specialized councils shall be under the umbrella of the appropriate channels as specified by the Council.
3. The specialized Councils shall practise and are endowed with the following:-
 - a. Provide the Council with technical advice whenever required to do so
 - b. Assist to lay out the general policies of the Council.
 - c. To evaluate the programmes and projects produced by the general policies.

The Financial Resources of the Council

10. The financial resources of the Council shall be made of the following:-
 - a. Financial allocations by the government
 - b. Donations, gifts and aid

- c. Any other resources agreed by the minister

The budget of the council

11. 1. The Council shall have an independent budget laid out in accordance to the sound accounting systems. A budget plan shall be prepared and submitted to the Council three months before the end of the financial year. The budget suggestions have to be raised to the Council through its president for approval.

Depositing the Council Funds

12. 1. The Council shall deposit its funds in current or saving accounts at the Sudan Bank or any other bank agreed by the Bank of Sudan.
2. The money shall be disposed of through the method specified by the Regulations.

Accounts and Auditing

13. 1. The Council shall keep regular and precise accounts of all revenues and expenses according to sound accounting systems
2. The accounts of the Council shall be audited by the Auditor General's Chambers at the end of each financial year.

The National Fund for the Protection of Environment

14. 1. A fund shall be created under the supervision of the council and shall be called "the National Fund for the Protection of Environment" It shall have an artificial person and a continuous sequential identity, a general stamp and enjoys the right to sue in courts.
2. The fund mentioned in item (1) endeavours to provide funds for emergencies and environmental disasters.
3. The resources of the fund mentioned in item (1) are derived from the Following:-
- a. Allocations by the government
 - b. Donations and presentations made by individuals, national and foreign artificial persons

4. Regulations shall organize the administration of the National Fund.
5. A fund shall be established in every state, on the strength of a state ordinance and under the supervision of the Wali (governor of the state) for the protection of environment and to finance the state environmental programme.

The State Councils

15. A state council for environment and natural resources shall be established in every state on the strength of a state ordinance and by a resolution of the Wali, under the presidency of the relevant state minister and the membership of state ministers whose assignments are related to environment in addition to other members equipped with experience in environment and natural resources.

The Assignments of the Higher Council

16. The Higher Council practises the assignments contained in the state ordinance, bearing in mind the assignments bestowed upon the council in conformity with the terms of this ordinance, and the policies drawn by the council concerned.

The competent authorities

17. The following organs are considered authorities identified to protect environment and are expected to work towards the achievement of the goals stated in Article four.
These organs are:-
 - a. The Council, on the strength of the assignments and powers conferred up it, based on the terms of this ordinance.
 - b. Ministries, organs and federal institutions associated with environmental health and environmental protection in all aspects of life such as health, agriculture, industry, housing, economics, culture and social life etc, according to powers endowed upon them by the terms of the prevailing laws.
 - c. Ministries and state councils.
 - d. Societies, national and foreign corporations which are authorised and are concerned with the protection and promotion of environment on the assumption that the protection of environment is a popular activity intended to enable the community to play its role in organizing people effort at both the federal and state levels.

Chapter III
Policies and general trends for the protection of environment
Evaluation and environmental follow up

18. 1. Despite the regulations of any other Act related to an approval for an individual intending to embark on projects or programmes expected to have a negative effect on environment or the natural resources, such an individual shall submit a feasibility study signed by the Evaluation and Follow-up Committee formed by the Council.
2. The feasibility study for a project must demonstrate the following:-
- a. The effect of the proposed project on environment
 - b. The negative effects of the project that could be avoided on the implementation of the project.
 - c. Possible alternatives for the proposed project.
 - d. An adequate clarification that the short range utilization of the environ and the natural resources shall not affect the long range productivity of these resources.
 - e. If the project is related to the utilization of the non-renewable natural resources, the feasibility study shall include the continuity of utilizing these resources.
 - f. Precautions undertaken to assimilate the negative effects of the project and their reduction.

The obligations of the competent authority to observe the
environmental policies

- 19 - The relevant authority shall observe and follow the policies and the following directives for the protection and promotion of environment in the country:-
- a. Laying out standards and quality control specifications for the protection of environment, non deterioration and to follow up that these regulations are strictly observed..
 - b. Preservation of the different water resources, their protection from pollution and the best utilization of the water.

- c. Preservation of air, food, soil, and the botanical earth crust and their protection from pollution and deterioration.
- d. Protection of animals and other forms of life and protection of these from the hazards of extinction due to excessive hunting or poaching.
- e. The promotion of exploration and mining programmes according to sound environmental standards and specifications.
- f. Safe-keeping of archaeological and tourist sites and their protection from deterioration and encroachment
- g. Spreading environmental awareness and environmental culture among the people and activating the role of the mass media in relation to environmental protection.
- h. Introducing environment protection into the school curriculum, universities and teaching institutions within the country.
- i. Coordination and cooperation with societies, institutions, council, national and foreign artificial persons that are concerned with environment and its protection.
- j. Following the strict application of the terms of the environmental ordinance without any infringement on the judiciary code.

The duty of all to report dangers

- 20. 1. It is imperative on every individual whether be he or she a natural or an artificial person to report risks on environment and violations of of the terms of this ordinance and other Acts, which are related to health, environmental protection, and to provide assistance and the required facilities for environmental protection. Such a person shall have the right to recover the expenses he incurred in carrying out such duties from the competent authorities entrusted with such obligations.
- 2. Observing the laws that regulate human rights, and civil procedures, every individual shall have the right to lodge a civil claim in case some damage has befallen the environment, irrespective of the need to prove his relation or connection with such damage.

Chapter IV
Violations, penalties and punishments.

Violations

21. Despite the rules of any other Act, any of the following actions is considered a violation of the terms of this ordinance.:-
- a. Pollution of air by introducing any changes in its composition, which may lead to harm to man or any other living creatures or other elements of the environment.
 - b. Pollution of the water resources such as rivers, seas, lakes, water pools, streams, canals, natural or industrial water reservoirs for domestic human or animal use.
 - c. Pollution of food with living organism such as harmful bacteria, worms or disease causing insects, natural or industrial residues or chemicals, or heavy minerals or dust.
 - d. Soil pollution through the addition of compounds affecting soil structure, or increasing soil salinity, or throwing rubbish or some industrial or natural residues, which may harm health..
 - e. Epidemic pollution, which may cause contagious diseases such a rampant cholera, plague, leprosy and other diseases.
 - f. Atomic pollution resulting from atomic explosions.
 - g. Sound pollution resulting from strong sounds.
 - h. Light pollution, resulting from strong inappropriate industrial illumination.
 - i. Space pollution resulting from physical or chemical reaction, which affect the higher atmospheric layers of the earth or the outer space.
 - j. Threatening wildlife and other living creatures with excessive hunting or aggression or encroachment against their natural habitats.

Penalties

- 22- Without infringement on the powers bestowed upon the evaluation and follow-up committee formed on the force of Section 18 (1), it is permissible for the relevant authority to enact the following penalties on the violation of any of the terms of this ordinance:-
- a. Partial or total ceasing of the project or the establishment which is the subject of dispute.
 - b. Partial or total invalidation, cancellation or revocation of licence.
 - c. Alerting or warning
 - d. Removal of the resulting damage and payment of fees incurred and compensation either in cash or kind.
 - e. Termination or invalidation of contracts related to trading in, or importing of prohibited insecticides or harmful stuff or atomic fallouts or any sort of dealing with them that may endanger environment.
 - f. Fine, not exceeding three folds of the material value of the damage incurred by the violation. The penalty may be increased in case of repetition of the damage or the violation.

Punishments

- 23.1. Whoever violates Section 21 shall be imprisoned for a period not exceeding three years, or be fined with not more than a million Sudanese dinars or may receive both punishments. It is possible to confiscate the stuff, which is the subject of the violation, for the benefit of the environment protective authority.
2. The punishment stated in item (1) may be doubled in case the violation is repeated.
 3. It is possible to issue a compensation sentence to compensate the resulting material damage emanating from the violation of the rule of this ordinance.

The relevant court

- 24 - Violations of the rules and regulations of this ordinance, are seen by special courts for environment established by the chief justice. Ordinary criminal courts shall look into such cases in areas where there are no courts for environmental violations.

Applying the severest penalty

- 25 - If the penalty stated in Section 23, contradicts with any other penalty stated by any other Act, which enacts a penalty on the same violation, the court shall apply the more severe penalty.

Chapter V

General Rules

The standards and methods of combating pollution

- 26 - The ministry, in coordination with the council and the relevant authority the standards and the methods of combating pollution and its reduction or alleviation in different fields for the purpose of advertisement and publicity through all means of mass media.

The measures for entry into establishments and their inspection

- 27 The relevant authority, having received prior permission of the relevant attorney general may enter any project or an establishment, or location to find or to stop or to prohibit any violations to the terms of this ordinance.

The application of the rules of the international conventions

28. Without infringement of any of the rules of this Act, the appropriate authority undertakes to apply the rules of the international conventions, bilateral and international protocols, which the government has ratified, or about to ratify, or to join in the future.

Authority to issue regulations

29. It is possible for the council, with the approval of the minister, to issue the relevant regulations to put into practice the terms of this law.

Issued under my signature, on the 8th. Day of the month of Zul Haga, 1420 Hijriah, which concurs with the 14th Day of March, the year 2000.

General (PSC) Omer Hassan Ahmed Al Beshir
President of the Republic of the Sudan