

## **PART ONE**

### **GENERAL**

#### 1. Short Title

This Proclamation may be cited as the "Irrigation Water Users' Associations Proclamation No. 841/2014".

#### 2. Definitions

In this Proclamation, unless the context otherwise requires:

1/ "association" means an irrigation water users' association established and registered in accordance with this Proclamation;

2/ "irrigation and drainage system" means a canal or a system of canals or pipes that can be used to transmit water to a defined land area for irrigation including any associated weir, dam or diversion structure, storage reservoir or pond as well as any gates, pumps, land, buildings, equipments, access roads and structures which are necessary to operate, maintain and repair the system-together with any associated drainage canals;

3/ "service area" means the defined land area where the association operates;

4/ "water supply point" means a point at which an association takes responsibility for the management of irrigation water which may include a dam or weir, a diversion structure, a gate or turn-out in a main irrigation and drainage system, a canal, a hydrant, a well, a spring or a pumping station;

5/ "modern irrigation and drainage system" means an irrigation and drainage system constructed on the basis of a formal study and design or a modernized irrigation and drainage system;

6/ "traditional irrigation and drainage system" means an irrigation and drainage system constructed by farmers using their own indigenous knowledge and locally available materials;

7/ "unit" a defined part of the service area of an association;

8/ "unit representative" means a member elected to represent a unit at a meeting of the general assembly;

9/ "general assembly" means the supreme decision-making body of an association;

10/ "management committee" means the body elected by the general assembly to oversee and supervise the activities of an association;

11/ "main irrigation and drainage system" means an irrigation and drainage system that can be used to transmit water to the service areas of two or more associations;

12/ "federation" means a federation of water users' associations established pursuant to this Proclamation which is responsible for the administration and maintenance of a main irrigation and drainage system;

13/ "service provider" means any public or private enterprise, other than federation, which conducts the management, operation and maintenance of the main irrigation and drainage system;

14/ "Ministry" or "Minster" means the Ministry or Minister of Water, Irrigation and Energy, respectively;

15/ "region" means any state referred to in Article 47(1) of the Constitution of the Federal Democratic Republic of Ethiopia and includes the Addis Ababa and Dire Dawa city administrations;

16/ "supervising body" means the Ministry, regarding irrigation infrastructures constructed with federal government budget, and for irrigation infrastructures constructed with state government budget, a body designated by the state government as being responsible for organizing and registering associations, providing training and other technical assistance to associations or undertaking other activities specified in this Proclamation;

17/ "register of irrigation water users' associations" means the register required to be maintained by the supervising body pursuant to Article 40 of this Proclamation;

18/ "infrastructure body" means the Ministry, where the irrigation infrastructure constructed by the budget of the Federal Government, or the state government body responsible for the construction of irrigation infrastructure where such infrastructure is constructed by the budget of a State;

19/ "person" means any natural or legal person;

20/ any expression in the masculine gender includes the feminine.

### 3. Scope of Application

This Proclamation shall be applicable to irrigation water user' associations, which are formed on irrigation infrastructures constructed by federal government throughout Ethiopia.

### 4. Objectives of Association

An association formed pursuant to this Proclamation shall have the objectives to:

1/ manage an irrigation and drainage system wholly or partly in its service area and provide water equitably to its members for agricultural purpose;

2/ manage and operate the irrigation and drainage system within its service area in order to supply irrigation water and drainage services to its members;

- 3/ maintain, rejuvenate and improve the irrigation and drainage system within its service area and to undertake construction and reconstruction works as may be necessary;
- 4/ take appropriate measures to combat erosion, salinity and pollution;
- 5/ issue internal rules for consumption of irrigation water and collect fees from its members for the services provided;
- 6/ procure, substitute, maintain and operate irrigation equipments;
- 7/ train its members in irrigation techniques, irrigation farming methods, water saving methods and new technologies of irrigation.

## 5. Guiding Principles of Associations

Each association shall operate in accordance with the following guiding principles:

- 1/ fairness and equity in decision making and allocation of irrigation water;
- 2/ preventing wastage and pollution of water, combating erosion and salinity of soil and, protecting and administering irrigation and drainage system within the operation area so as to strengthen protection of the environment;
- 3/ non-discrimination among member of an association in the utilization of water on the basis of ethnicity, gender, religion or any other similar ground;
- 4/ applying transparency and participatory approach in decision making process;
- 5/ complying with system of cost recovery and efficient use of resources.

## 6. Service Area

- 1/ Each association shall operate within defined service area.
- 2/ The service area of each association shall comprise a distinct irrigation and drainage systems unit with a defined area of land that is capable of receiving irrigation water through the irrigation and drainage system operated by that association from one or more water supply points.
- 3/ The service area of an association may not overlap with another service area of an association.

## **PART TWO**

### **FORMATION AND REGISTRATION OF ASSOCIATION**

7. Formation of Association An association may be formed by:

- 1/ the will of interested persons; or
- 2/ the supervising body in accordance with Article 12(1) of this Proclamation, in order to utilize and administer irrigation water sustainably, equitably and efficiently.

## 8. Naming of Association

1/ Every association shall have its own name attached to its area of operation or some other distinct name.

2/ The phrase "irrigation water users' association" shall be included in the name of every association.

3/ No association shall use registered name of another association.

4/ The name of every association shall be written boldly and be placed where the association conducts its activity. It shall also be written or stamped on every notice, letter, or document signed on behalf of the association.

## 9. Formation of Association by the Initiation of Members

1/ An association may be formed by the will of the following members:

a) persons possessing land on the basis of landholding system and use such land with water supplied from a traditional irrigation and drainage system; or

b) persons possessing land on the basis of landholding system and use such land with water supplied from a modern irrigation and drainage system in respect of which the supervising authority not decided to establish an association pursuant to this Proclamation.

2/ An association formed to manage a traditional irrigation and drainage system pursuant to sub-article (1) of this Article shall be entitled to apply for and to obtain a water use permit in accordance with the Ethiopian Water Resources Management Proclamation No. 197/2000.

## 10. Procedures for the Formation of Association Initiated by Members

1/ Irrigation water users not less than five may form association; to this effect they shall organize provisional initiative team to identify the service area of the proposed association and also founders committee which may not exceed twelve potential members of the association.

2/ The founders committee shall be composed of persons representing different units of the proposed service area so as to ensure fair representation of potential members of the proposed association.

3/ The founders committee shall elect its chairperson and adopt its own rules of procedure to carry out activities preceding the formation of the association.

4/ The founders committee, in consultation with the supervising body regarding the proposed association, shall prepare:

a) draft memorandum and by-laws of association;

b) a plan of the proposed service area that shows the size and location of the units, if any;

c) application of the potential members for the formation of association; and

d) the lists of potential members of the proposed association, which shall include the name, address, signature and description of each potential member landholding and land certificate number, where available, and a draft budget and work-plan.

5/ The founders committee shall:

a) give opportunity for the potential members of the association to comment on the documents listed in sub-article (4) of this Article; and

b) organize signing of the application for the formation of the association.

6/ The founders committee shall convene founders meeting, when, at least half of the potential members of the proposed association have signed the application for the formation of the association and by taking into account comments on the draft by-laws, budget and work-plan to:

a) approve the draft memorandum and articles of association, budget and work-plan of the proposed association; and

b) elect the provisional management committee and other officers of the association.

7/ There shall be a quorum of founders meeting where more than half of potential members of the proposed association are present at the meeting; the formation of the proposed association and decision on the approval of the memorandum and articles of association shall be passed by the majority vote of the members found at the meeting.

8/ The provisional management committee shall submit an application for registration to the supervising body together with:

a) the minutes of the founders meeting;

b) three copies of memorandum and by-laws of association;

c) the plan of the proposed service area and the location of the units, if any;

d) the application of the members for the formation of association;

e) the draft budget and work-plan; and

f) other particulars that may be specified in regulations or directives to be issued for the implementation of this Proclamation.

9/ The supervising body shall examine the documents within 15 days and if it is satisfied with the application and documents annexed thereto register an association in the register of irrigation water users' associations and issue a certificate of registration.

10/ If the supervising body rejects the application for the registration of an association, it shall give a written explanation to the provisional management committee within 15 days.

#### 11. An Association Formed by the Supervising Body

The supervising body, after the entry into force of this Proclamation, may make associations to be formed, using irrigation water from a modern irrigation and drainage systems or traditional irrigation and drainage systems upgraded to modern irrigation and drainage systems pursuant to Article 12(1) of this Proclamation.

#### 12. Procedures for the Formation of Association by the Supervising Body

1/ The supervising body shall, following the consultation with potential members of the association and relevant stakeholders and after the acceptance of its opinion, announce its decision as to the formation of an association.

2/ The announcement shall be accompanied by copies of the draft documents specified in Article 10(4) of this Proclamation and shall be made available for inspection by potential members of the association.

3/ The supervising body shall conduct series of discussion with potential members of the association and finalize the draft documents specified in Article 10(4) of this Proclamation.

4/ The supervising body shall announce the date of the meeting of the founders of the association to adopt the draft budget and work plan of the association and to elect the members of the provisional management committee and other officers of the association.

5/ The provisional management committee shall submit the documents specified in Article 10(8) of this Proclamation for registration.

6/ With respect to the registration of the association, Article 10(9) of this Proclamation shall similarly apply to associations formed pursuant to this Article.

#### 13. Legal Personality and Liability

1/ Any association formed and registered in accordance with this Proclamation shall acquire legal personality as of the date of its registration.

2/ Any association formed in accordance with this Proclamation shall have limited liability and may not be held liable beyond its total assets.

#### 14. By-laws of Association

1/ Every association shall have its own by-laws.

2/ The content of the by-laws shall include the following particulars:

- a) the name and address of the association;
- b) the objective and activity of the association;
- c) the service area of the association supported by plan or map;
- d) requirements for membership of the association;
- e) the rights and duties of the members of the association;
- f) the powers, responsibilities and duties of the management bodies of the association;
- g) the procedures for calling and holding meetings of the general assembly of the association;
- h) conditions for the election, term of office suspension and removal of elected officials of the management committee and other bodies of the association;
- i) provisions on the setting of fees; and
- j) conditions for the termination of the activities of the association.

3/ The by-laws of an association may be amended by the special resolution of the general assembly; provided, however, that any such amendment of the association shall be effective on the date of its approval and registration by the supervising body.

### **PART THREE**

#### **MEMBERSHIP OF ASSOCIATION AND RIGHTS AND DUTIES OF MEMBERS**

##### 15. Membership of Association

1/ Any person, who possess and uses land in accordance with the appropriate land holding system which is located within the service area of an association formed pursuant to this Proclamation, shall be a member of the association.

2/ Any person, who acquires use right of the land located within the service area of an association by succession or any other legal method, shall become a member of that association upon payment of any outstanding contributions and fees due to the association from the previous user of that land that have not been collected.

3/ The rights and duties derive from the formation of an association are inseparable to the plots located within the service area of an association and shall be transferred with those plots while the association is existing or until such plots no longer lie within the service area folio wing an amendment to the by-laws of that association.

4/ A person, who uses land located within the service area of an association on the basis of lease contract for more than three years, shall be considered as a member of the association until the termination or throughout the term of that lease.

5/ A person, who leases his land possession located within the service area of an association for three and less than three years, shall continue as member of that association; provided, however, that the lessee:

- a) shall comply with the laws of the association;
- b) may exercise the membership rights of lessor in the association by written authorization of the latter.

## 16. Rights and Duties of Members

1/ Any member of an association shall have the following rights:

- a) to get a fair share of the irrigation water distributed by the association;
- b) to benefit from other services provided by, or through, the association;
- c) to elect or to be elected for the different bodies of the association upon discharging fees of the association;
- d) to propose agenda for discussion at general assembly meetings;
- e) to propose candidates to the different bodies of the association for election;
- f) to receive compensation from the association for damages caused on his crops or land as a result of the intentional or negligent act of any employee of the association or as a result of the maintenance activities undertaken by the association;
- g) to visit the office of the association during working hour, to peruse records of the association and to be provided, on request, with information regarding the association's accounts, and management plans.

2/ Any member of an association shall have the duties:

- a) to respect the by-laws, directives and the decision of the association;
- b) to pay fees of the association;
- c) to use irrigation water only in accordance with the association's water distribution schedule;
- d) to repair or to pay replacement costs of any equipment or infrastructure of the association damaged as a result of his intentional or negligent act;
- e) to provide relevant information, on request, to the association about his land and use of water;
- f) to allow entrance of employees of the association, or service providers agreed with the association, to his land, with machines and equipments as necessary, in order to undertake operation and maintenance of the irrigation and drainage system;



g) to carry out activities related to cleaning and repairing of the irrigation and drainage systems;

h) to comply with applicable technical rules concerning the operation and maintenance of the irrigation and drainage system.

#### 17. Termination of Membership

1/ Any member, who has ceased his use right over the land located within the service area of an association, may terminate his membership, in writing, upon notifying the association.

2/ Any member shall be liable for the outstanding fees due to the association at the date on which his membership terminates.

#### 18. Voting

1/ Any member shall have one vote in the election of unit representatives or at any meetings of the general assembly.

2/ Notwithstanding the provision of sub-article (1) of this Article, if there are significant difference in the sizes of the landholdings of members or the volume of water used, the supervising body may authorize the allocation of votes based on one of the following grounds:

a) in proportion to the size of plot of land within the service area; or

b) in proportion to the amount of fees paid to the association.

3/ In the event of allocation of vote pursuant to sub-article (2) of this Article, each member shall have a minimum of one vote; provided, however, that no member may hold more than 20 percent of the total amount of votes in a unit or in the general assembly.

### **PART FOUR**

#### **MANAGEMENT BODIES**

##### 19. Management Bodies of an Association

1/ The management bodies of an association shall be:

a) the general assembly;

b) the management committee;

c) the control committee; and

d) the dispute settlement committee.

2/ An association may provide in its by-laws for the establishment of such other committees as may be necessary.

3/The powers and duties of the management bodies of an association shall be as determined by this Proclamation and the association's by- laws.

## 20. The General Assembly

1/ The general assembly shall constitute representatives of units unless it is provided in the by-laws of the association that all members of the association can reasonably participate in the meetings of the general assembly due to small size of members. However, members who are not unit representatives shall have the right to attend meetings of the general assembly without having the right to vote.

2/ The by-laws of the association shall:

- a) specify the term of service of each unit representative;
- b) specify the number of unit representatives in proportion to the size of the unit;
- c) describe the procedures for the election, substitution and removal of unit representatives;
- d) stipulate how the unit representatives can reflect the opinion of the members they represent in the meetings of the general assembly and report back the results of the meeting to their members;
- e) specify the number of votes each unit representative may have at meetings of the general assembly.

## 21. Powers and Duties of the General Assembly

1/ The supreme organ of any association shall be the general assembly.

2/ The general assembly shall have the powers and duties to:

- a) approve the annual work plan and budget of the association;
- b) elect and dismiss the members of the management body, the control committee, the dispute settlement committee and members of other sub-committees;
- c) approve or amend the by-laws and internal regulations of the association;
- d) set the amount of fees and fines payable by the members;
- e) approve the annual income and expenditure statement and balance sheet and the annual report of the management bodies;
- f) make decisions on the re-organization or liquidation of the association;
- g) set limitation on the sale, purchase, mortgaging or pledging of any assets owned by the association, investment or conclusion of loans, overdrafts or other financial liabilities of the association;

h) approve contracts above a certain value or of high significance to the association as may be specified in the bylaws ;

c) describe the procedures for the election, substitution and removal of unit representatives;

d) stipulate how the unit representatives can reflect the opinion of the members they represent in the meetings of the general assembly and report back the results of the meeting to their members;

e) specify the number of votes each unit representative may have at meetings of the general assembly.

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c) approve or amend the by-laws and internal regulations of the association;

d) set the amount of fees and fines payable by the members;

e) approve the annual income and expenditure statement and balance sheet and the annual report of the management bodies;

f) make decisions on the re-organization or liquidation of the association;

g) set limitation on the sale, purchase, mortgaging or pledging of any assets owned by the association, investment or conclusion of loans, overdrafts or other financial liabilities of the association;

h) approve contracts above a certain value or of high significance to the association as may be specified in the bylaws ;

i) decide on any issue submitted to it by the management bodies or other committees.

## 22. Meetings of the General Assembly

1/ The general assembly of an association shall hold ordinary meeting at least once in a year.

2/ The quorum of the general assembly shall be specified in the by-laws of the association.

3/ The management committee may call an extraordinary meeting of the general assembly upon written request of the control committee or one third of the members of the association or their unit representatives.

4/ The procedure for calling the meeting of the general assembly, setting agendas, proposing additional agendas and informing the agendas to the unit representatives and their members shall be specified in the by-laws.

5/ The meetings of the general assembly shall be presided by the chairperson or in his absence by the deputy chairperson of the management committee.

6/ The decisions of the general assembly shall be passed by a simple majority vote except in case of dissolution, liquidation or re-organization of the association or amendment to its by-laws or any other matters directly specified in its bylaws to be decided by a two third majority vote.

7/ The procedures for voting shall be described in the by-laws.

8/ The minutes of the general assembly shall be kept in the record of the association, signed by the management committee members and contain, as annex, the names and signatures of members of the association in attendance of the general assembly.

### 23. Management Committee

1/ Every association shall have a management committee to be elected in accordance with the by-laws of the association, which is accountable to the general assembly and whose members shall not exceed eleven and not be less than five.

2/ The term of office of the management committee shall be five years; provided, however, that not to expire the terms of the committee members elected at the same time at once, the stagger for three of them shall be specified in the by-laws of the association.

3/ A member of the management committee shall not be elected for more than two consecutive terms.

4/ The by-laws of the association may provide that a member of the management committee shall be represented from one or more than one units within the service area and to be elected from among those represented.

5/ Any member of the management committee shall declare and cease his participation in the discussions and decisions of the management committee when there is conflict of interest.

6/ No member shall have the right to stand for election to the management committee when he is subject to outstanding liabilities including fines to the association.

7/ Those members elected for management committee shall elect chairperson, secretary and treasurer from among themselves.

#### 24. Powers and Duties of the Management Committee

The powers and duties of the management committee shall be specified in the by-laws of the association and in particular shall include the following:

- 1/ to implement decisions given by the general assembly;
- 2/ to prepare the annual work program and budget of the association and implement same upon approval;
- 3/ to prepare agenda for the meeting of the general assembly;
- 4/ to call the general assembly in accordance with the by-laws of the association;
- 5/ to maintain the minutes of meetings of the general assembly in writing;
- 6/ to submit report to the general assembly on the activity and budget of the association;
- 7/ to maintain the documents and books of accounts of the association;
- 8/ to implement such other activities specified in this Proclamation or in the by-laws or determined by the general assembly.

#### 25. Meetings of the Management Committee

- 1/ The management committee shall convene its ordinary meeting once in every month; provided, however, that it may hold extraordinary meetings at any time as may be necessary.
- 2/ The quorum for the meeting of the management committee shall be as specified in the by-laws of the association.
- 3/ The decisions of the management committee shall be passed by consensus; in case of lack of consensus, the by laws may authorize the passing of decision by majority vote.
- 4/ Without prejudice to the provisions of this Article, the management committee may adopt its own rules of procedure.

#### 26. The Chairperson of the Management Committee

- 1/ The chairperson of the management committee shall be the chairperson of the association.
- 2/ The chairperson shall have powers and duties to:
  - a) call and chair the meeting of the management committee, and chair the meetings of the general assembly;
  - b) represent the association in its dealings with third parties;

c) sign contracts and other legal documents in accordance with resolutions of the management committee;

d) undertake other duties specified in the bylaws.

3/The vice-chairperson shall act in place of the chairperson where the latter is not in a position to discharge his duties.

#### 27. Powers and Duties of the Secretary

The powers and duties of the secretary of the association shall be the following:

1/ organize the secretariat of the association;

2/ keep properly the documents of the association;

3/ ensure that the minutes of the association are properly kept;

4/ responsibly direct the secretarial activities of the association;

5/ perform other duties assigned to him by the chair person and the management committee.

#### 28. The Control Committee

1/ Every association shall have a control committee composed of not less than three members elected by the general assembly.

2/ The term of office of the control committee shall be three years.

3/ The terms of the members of the control committee shall be staggered in the by-laws not to expire the terms of all members elected at one time.

4/ A member of the control committee may not at the same time serve as a member of the management committee.

5/ The control committee shall be accountable to the general assembly.

#### 29. Powers and Duties of the Control Committee

The powers and duties of the control committee shall be specified in the by-laws of the association and in particular shall include the following:

1/ to follow up that the management committee is discharging its responsibility properly;

2/ to follow up that the funds and property of the association are properly utilized;

3/to follow up that the financial and other activities of the association are undertaken in accordance with the by-laws and internal regulation; and carry out audit at least once in a year;

4/ to submit an annual audit report to the general assembly.

### 30. Common Provisions of the Management Bodies

1/ The members of the management, the control and the dispute settlement committees are not entitled to receive salary as they may not be employees of the association; provided, however, that they may be entitled to reimbursement of reasonable expenses incurred during their functions and minimum sitting allowance in accordance with the budget of the association.

2/ A member of the management, control or dispute settlement committee may be removed from office pursuant to a decision of the general assembly on the grounds of:

a) failure to discharge his duty;

b) failure to attend scheduled meetings for more than two times without having good reason; or

c) not able to attend the meeting of the committee for more than one month on the grounds of force majeure.

3/ The general assembly, in the event of removal of elected committee member, shall replace him by another member.

### 31. Employees of the Association

1/ An association may employ a director and other administrative supporting staff.

2/ Subject to specific regulations to be issued in the by-laws of the association, an employed director shall be a person with suitable qualifications and relevant experience of irrigation management and may not be member of that association.

3/ The director shall be accountable to the management committee and attend meetings when so requested, but may not participate in decision making and voting.

4/ Subject to specific regulations to be issued in the by-laws of the association, the management committee may authorize the director to sign contracts of specific small amount of money.

5/ The recruitment of the administrative staff shall be conducted in accordance with the by-laws and internal regulation of an association.

6/ An employee of an association may not at the same time serve as a unit representative or an elected official of that association.

## **PART FIVE**

### **INCOME OF ASSOCIATION**

#### 32. Sources of Income of an Association

1/ The sources of income of an association shall be:

- a) the annual membership fee payable by members of the association;
- b) water delivery fee of the members;
- c) gift or grant;
- d) interest on outstanding fees due to the association;
- e) interest on any money it deposited in bank accounts or interest from other similar sources;
- f) the proceeds of fines or other sanctions imposed on members; and
- g) payments for services provided by the association.

2/ Every association shall keep reserve fund for emergency repairs, for improvement or for the rejuvenation of the irrigation and drainage system.

3/ The reserve fund mentioned in sub-article (2) of this Article shall be kept in interest-bearing bank account until such time as the fund is required.

### 33. Annual Membership Fee

1/ Every association shall collect from its member an annual membership fee in proportion to the size of the plot of land of member in the service area to cover its costs.

2/ The amount of the annual membership fee payable by each member shall be used to:

- a) cover the cost of operating and maintaining the irrigation and drainage system and the cost of cleaning any drainage ditches;
- b) pay to the service providers for the operation of the irrigation and drainage system or the removal of obstructions from the irrigation canal;
- c) pay salaries of staff and other costs of the association; and
- d) maintain reserve fund for the association.

3/ Members of an association which has small financial cost may agree to make some or the entire annual membership fee to be paid in kind including contribution of labour.

### 34. Water Delivery Charge

An Association may impose water delivery charge on each member in proportion to the volume of irrigation water used or by the size of the plot of the land of that member.

## **PART SIX**

### SUPERVISION MECHANISM

#### 35. Supervising Body



1/ A supervising body shall have the powers and duties to:

- a) provide training and awareness creation in connection with the establishment and operation of associations;
- b) provide technical assistance and support to associations including on issues of water management, accounting, financial planning, irrigation techniques and practices, maintenance and gender issues;
- c) form new associations in accordance with this Proclamation;
- d) establish and maintain the register of irrigation water users' associations;
- e) conduct legal and financial supervision in accordance with the provisions of this Chapter.

2/ The supervising body, while exercising the legal and financial supervision of associations, shall be limited to the activities of the association whether it complies with the provisions of this Proclamation and applicable accounting rules.

3/ A supervising body may delegate some or all of its powers and duties specified in sub-article (1) (a), (b) and (e) of this Article to other appropriate bodies.

### 36. Annual Reports

1/ Every association shall, within 120 days, at the end of each budget year submit an annual report to the supervising authority, in the approved format, together with a copy of its accounts.

2/ The annual assets and liabilities, and income and expenditure statement association shall be approved by the assembly.

### 37. Legal and Financial Supervision

1/ The records of an association may be inspected by the supervising body when:

- a) there is written request of two fifths of the members of that association alleging the incorrectness or impropriety of the function of the association; or
- b) there is prima facie evidence of legal or financial malpractice.

2/ If the supervising body having inspected the records of an association finds evidence of financial malpractice or non-observance of the provisions of this Proclamation or the bylaws or internal regulation of the association, it may require the management committee to call an extraordinary meeting of the general assembly within 30 days to present the findings to the members.

3/ If the management committee fails to call the meeting of the general assembly in accordance with sub-article (2) of this Article, the supervising body itself may call such extraordinary meeting.

4/ The supervising body after having called the meeting in accordance with sub-article (3) of this Article shall have the power to present the findings to the general assembly and to facilitate the removal of the management committee involved in the malpractice and the election of new management committee at the same time.

### 38. Matters Requiring Authorization of Supervising Body

1/ Any association shall obtain prior written authorization of the supervising body to conduct the following activities:

- a) to amend the by-laws of an association;
- b) to modify the service area of an association;
- c) to form a federation;
- d) to pledge or mortgage assets of an association;
- e) to initiate court case to cancel the water use right of any member of the association in accordance with this Proclamation.

2/ The supervising body shall, pass decision on the application submitted to it to obtain authorization in accordance with sub-article (1) of this Article, within the time limit determined by a regulation to be issued for the implementation of this Proclamation.

### 39. Records to be Kept by Associations

Any association shall maintain:

- 1/ a plan showing the service area;
- 2/ a register of members containing a description of the size and location of each member's landholding, which shall be renewed and, as necessary, updated every three months;
- 3/ a register of the volume of water received or discharged by the association;
- 4/ a register of the volume of water received by members;
- 5/ a register of fees paid and owed by members;
- 6/ a register containing the minutes of the meetings of the general assembly and management committee;
- 7/ a register containing transactions and contracts;
- 8/ a register of an inventory of assets;
- 9/ a register containing inspections, studies and surveys conducted on the irrigation and drainage system used by the association;
- 10/ a record of maintenance activities;

11/ complete and accurate books of accounts and financial documents; and

12/ other records specified in the by-laws of the association.

#### 40. Register to be Kept by Supervising Body

1/ The supervising body shall establish and maintain a register of irrigation water users' associations.

2/ The register shall contain the following details of each association:

a) name and address of the association;

b) the date of registration of each association;

c) the size and location of the service area;

d) the number of members;

e) the name, address and telephone number of the members of the management committee and the chairperson;

f) the condition of government owned infrastructure transferred to the association, if any.

3/ Members of the public shall have the right to see the register kept with the supervising body at any time during ordinary office hours.

#### 41. Trans-State Water Users' Associations

In the event that the service area of an association crosses the boundaries of two or more States the Ministry shall be the supervising body in respect of the formation and operation of such association.

### **PART SEVEN**

#### **DISSOLUTION OF ASSOCIATION AND LIQUIDATION**

##### 42. Dissolution of Association

The general assembly of an association may, by a two thirds majority vote and upon approval of the supervising body, dissolve an association on one of the following grounds:

1/ the purpose for which it was formed no longer exist;

2/ the purpose for which it was formed can no longer be practically implemented; or

3/ its existence is no longer required for any other reason.

##### 43. Liquidation of Association

1/ When the dissolution of an association has been decided in accordance with Article 42 of this Proclamation, the management committee or the supervising body shall assign liquidator.

2/ A liquidator assigned pursuant to sub-article (1) of this Article, shall have the following powers and duties:

a) receive records, documents and properties of the association and protect them from damage;

b) collect the assets and properties of the association;

c) call on creditors of the association;

d) distribute the assets and properties of the association in accordance with the decision of the general assembly which is approved by the supervising body;

e) carry out necessary activities of the association for the proper liquidation of the affairs of the association;

0 represent the association in legal proceedings.

3/ Until the dissolution is concluded, the provisions of this Proclamation and the relevant by-laws and internal regulation of the association shall continue to apply to the association and its members.

4/ The remuneration of liquidator shall be paid from the accounts of the association.

#### 44. Cancellation of Association from Register

1/ Upon conclusion of the liquidation process, the supervising body shall cancel the registration of the association from the register of irrigation water users' association.

2/ An association shall be considered dissolved from the date of its cancellation from the register of irrigation water users' association.

### **PART EIGHT**

#### **FEDERATIONS**

##### 45. Formation of Federation

1/ To administer the whole or part of the main irrigation and drainage system and to supply irrigation water to users', federation of irrigation water users' association may be formed.

2/ A federation may be formed by the decision of the supervising body or by the decision of the majority of the association using irrigation water from the main irrigation and drainage system which could be managed by such federation.

3/ Every association that can receive water from a main irrigation and drainage system managed by a federation shall be a member of that federation.

4/ A federation may not supply irrigation water to anyone other than its member and undertake any activity within the service area of one of its members except by the written permission of that association.

#### 46. Naming, Powers and Duties of Federation

1/ Every federation shall have its own unique name which shall consist of the name of the place where it manages or some other distinctive name followed by the words "federation of irrigation water users' associations".

2/ The powers and duties of a federation are:

a) to manage, operate and maintain a main irrigation and drainage system and conduct construction works so as to upgrade;

b) to issue internal regulations for irrigation water consumption and to collect fees from its member associations for the services provided to them;

c) to procure, substitute, operate and maintain irrigation equipment on behalf of its members;

d) to support its members in the capacity building activities.

3/ A federation shall have legal personality; and subject to the provisions of this Part, the provisions of this Proclamation applicable to associations shall also apply to federations.

4/ The members of a federation may agree in the by-laws of the federation that each association shall delegate a specified number of members of its management body to the federation which shall thereafter assume the functions of the general assembly.

### **PART NINE**

#### **IRRIGATION AND DRAINAGE SYSTEMS**

##### 47. Transfer of Modern Irrigation and Drainage Systems

1/ The infrastructure body may, in agreement with the association based on the principle of cost recovery, transfer the use right of the part of the modern irrigation and drainage system constructed or rehabilitated by government finance, if such irrigation and drainage system lies within the service area of an association.

2/ An association may apply to the appropriate infrastructure body to transfer to itself, for indefinite period, part of a modern irrigation and drainage system constructed or rehabilitated by government finance, if such infrastructure lies within its service area.

3/ In the cases where the service area of an association lies in the water supply point of dam, weir, diversion structure, pump station or other type of infrastructure to which water is abstracted from a river, stream, reservoir, pond or other natural source such infrastructure may also be transferred to the association.

4/ The transfer agreement of irrigation and\_ drainage system shall be in the form prescribed and contain:

a) description of the condition of irrigation and drange system to be transferred ; and

b)the rights and duties of the parties to the agreement in terms of the maintenance of the infrastructure.

5/ The infrastructure body \_shall in any event ensure the protection and maintenance of the parts of irrigation and drainage systems that are not transferred to any association and which remain under its control.

#### 48. Use Certificate relating to Traditional Irrigation and Drainage Systems

1/ An association may apply to the appropriate infrastructure body to obtain use right certificate in respect of a traditional irrigation system that lies within its service area.

2/ A use certificate shall contain major description of such traditional irrigation system and shall establish the right of the association to use that system.

#### 49. Provision of Information and Technical Supervision

1/ An association shall provide current information to the infrastructure body concerning the maintenance and condition of transferred irrigation and drainage system.

2/ A duly authorized officer of the infrastructure body may enter in to the service area of the association and inspect the condition of irrigation and drainage system transferred to it.

3/ The authorized officer of the infrastructure body, after having inspected the irrigation and drainage system, may require the association to undertake specified works where this is necessary as a matter of urgency:

a) to prevent damage or harm on the irrigation and drange system; or

b) to prevent damage on government or third party property due to the usage of irrigation and drange system.

#### 50. Servitudes

An association, upon approval by the supervising body and payment of compensation to the land possessor in accordance with appropriate law, shall be entitled to acquire servitude right over any one land necessary to rehabilitate or develop irrigation and drainage system for its members.

## **PART TEN**

### **PROVISION OF SERVICES TO ASSOCIATIONS**

#### 51. Service Providers

1/ In the cases where the water supply point of the service area of an association is a gate, turnout, pumping station or other infrastructure on the main irrigation and drainage system that is not managed by a federation, the irrigation water and other related services shall be provided to an association by a service provider responsible for the operation and maintenance of the main irrigation and drainage system.

2/ The conditions for the establishment of public enterprises or licensing private entities to provide the service shall be specified by regulation to be issued for the implementation of this Proclamation.

3/ A service provider shall provide irrigation water and other related services to an association on the basis of service agreement reached with the association.

#### 52. Service Agreement

1/ The term of every service agreement shall be not be less than ten years; provided, however, that by the request of the association it could be less than ten years, but in no case it shall be less than five years.

2/ Any service agreement shall made in a standard

format and include, in particular, the following:

a) information of the water supply point;

b) season of the year in which irrigation water is to be supplied;

c)the procedure for requesting water supply

during the irrigation season;

d)the maximum volume of water the association requires during each irrigation season in accordance with a monthly schedule, subject to any restriction on the service provider to supply such water by any appropriate body;

e) measures to be taken to reduce water wastage, pollution and salinity;

0 charges and payment conditions;

g) liabilities and limitations on the use of water;

h)penalties for non-compliance with the conditions of the contract; and

i)other conditions necessary to promote the effective use of water or to implement any legal obligations of the service provider concerning the provision of water as stipulated in the water provision license;

### 53. Variation of Service Agreements

1/ The service agreements may be varied or amended by the agreement of both parties.

2/ A service provider may suspend the supply of water and other services under a service agreement only if the association delays payment of any outstanding charges for more than 120 days.

3/ A service agreement concluded in accordance with this Proclamation may be terminated:

a) by the decision of the court when one of the parties persistently fail to comply with the terms of the agreement; or

b) on the dissolution of the association.

### 54. Liability of the Service Provider

1/A service provider shall be liable to pay compensation equitable to the damage the association sustained due to his failure to supply water in the agreed quantity or in accordance with the time schedule.

2/ Any member of an association who has sustained losses as a result of the inability of the service provider to provide irrigation water to the association shall be deemed to be a party to the contract for the purpose of calculating the amount of compensation to be claimed from the service provider.

3/ Compensation may not be payable in cases of force majeure as defined in the Civil Code of Ethiopia.

### 55. Setting of Water Delivery Charge

1/ The amount of charge payable by an association to a service provider for the delivery of water shall be determined by the supervising body.

2/ In determining the amount of charge payable to the service provider, the supervising body shall take into account:

a) the necessary reserve fund to be deposited for maintenance by the members of the association;

b) the ability of the members of the association to pay for irrigation water; and

c) the service provider's reasonable benefit of investment.

## **PART ELEVEN**

### **DISPUTE SETTLEMENT**

#### 56. Dispute Settlement Committee



1/Every association shall have dispute settlement committee elected by the general assembly consisting of not more than five persons of high reputation and impartiality.

2/ The term of office of a dispute settlement committee shall be four years. No member of such committee may be elected for more than two consecutive terms.

3/ Members of a dispute settlement committee elected by the general assembly shall elect one of them to be the chairperson of the committee.

4/ A member of the management committee may not at the same time serve as a member of a dispute settlement committee.

#### 57. Powers and Duties of Dispute Settlement Committee

1/ A dispute settlement committee shall have the powers and duties to hear and determine:

- a) disputes on water use and distribution between members of the association;
- b) disagreements related to the violation of the association's by-laws, or internal regulations;
- c) matters related to non-observance of watering schedule; and
- d) appeals lodged against the administrative decisions of the management committee.

2/ Upon receiving written or oral complaint on the grounds specified under paragraphs (a) to (c) of sub-article (1) of this Article, the dispute settlement committee shall:

- a) promptly inspect the source of the problem by the chairperson;
- b) where the allegation is lodged in writing, issue summon on the respondents so as to respond on the complaint and avail himself for the hearing;
- c) the chairperson of the dispute settlement committee shall call the members of the committee to hear the issue within two days;
- d)hear both parties, examine their documentary evidence or may undertake site inspection, if necessary;
- e) decide and announce its decision to the parties not more than two days.

#### 58. Execution

Any decision or order made in accordance with this Proclamation shall be considered as the decision of regular civil bench and shall be executed unless reversed by appeal.

#### 59. Appeal

Any party dissatisfied with the decision of dispute settlement committee may lodge appeal to the state first instance court having jurisdiction.

## **PART TWELVE**

### **MISCELLANEOUS PROVISIONS**

#### 60. Administrative Sanctions

1/ The association may

impose administrative sanctions against a member who fails to:

a) observe the by-laws or any internal regulations adopted by the general assembly of the association;

b) pay timely any charges determined in accordance with the by-laws and this Proclamation or to provide labour service whenever necessary;

c) use irrigation water in accordance with the association's watering schedule;

d) pay the repair or replacement costs of any property or equipment of the association damaged as a result of his negligent or intentional act;

e) provide relevant information to the association about his use of land or water;

f) allow employees of the association or other persons ordered by the association to enter his land, with vehicle or equipment as necessary, in order to undertake works concerning the operation and maintenance of the irrigation system; or

g) comply with applicable technical rules concerning the operation of the irrigation and drainage system.

2/ The type and amount of sanction shall be specified in the by-laws of each association and in particular it could be fine or the suspension of the provision of services including the supply of irrigation water.

3/ A sanction shall be imposed by the management committee, and an appeal against such sanction may be submitted to a dispute settlement committee.

#### 61. Cooperation of other Organs for Enforcement

The woreda and kebele administration officials shall assist the management committee of an association as regards the enforcement of sanctions against a defaulting member.

#### 62. Relationship of Association with Local Administrations

1/ Regional governments as well as officials at the woreda and kebele level, may not interfere in the affairs of an association during the formation of the association or in the function of the association after its formation, unless there is a written request of the management committee.

2/ The woreda and kebele administrations shall provide support necessary for the operation of associations within their jurisdiction by respecting their autonomy.

3/ If the service area of the association transcends from one state, woreda or kebele administration to another state, woreda or kebele administration following the natural flow of the river, there shall be delegated committee members from each administration to communicate the affairs of the association with the local administrations.

### 63. Transitory Provision

1/ Irrigation cooperative society established pursuant to Cooperative Societies Proclamation No. 147/1998 (as amended by Proclamation No. 402/2004.), within two years from the date of entry into force of this Proclamation, shall be registered again as an association of irrigation water users' pursuant to this Proclamation.

2/ The cooperative society which had been operating the irrigation and drainage system shall support the formation of irrigation water users' association to take responsibility for the irrigation and drainage system.

3/ Following the formation of association pursuant to sub-article (2) of this Article, the existing cooperative society which had been supporting the formation of association shall:

a) gratuitously transfer the rights and duties of the former irrigation and drainage cooperative society to the newly formed association;

b) cooperate with the association in order to support irrigated agriculture within the service area of the association.

### 64. Inapplicable Laws

No law or customary practice may, in so far as it is inconsistent with this Proclamation, have effect with respect to matters provided for by this Proclamation.

### 65. Power to Issue Regulations and Directives

1/ The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.

2/ The Ministry may issue directives necessary for the proper implementation of this Proclamation and regulations issued in accordance with sub-article (1) of this Article.

### 66. Effective Date

This Proclamation shall enter into force on the date of publication in the Federal Negarit Gazette.

Done at Addis Ababa, this 26th day of September, 2014.

MULATU TESHOME (DR.)

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA