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**EXTRAORDINARY**

**THE GOVERNMENT OF THE REPUBLIC OF LIBERIA ANNOUNCES A REGULATION PROMULGATED BY THE FORESTRY DEVELOPMENT AUTHORITY IN PURSUANT TO CHAPTER 19, SECTION 19.1 OF THE NATIONAL FORESTRY REFORM LAW OF 2006, HAS ISSUED A REGULATION NO. 117-17 HEREINUNDER:**

**REGULATION ON THIRD PARTY ACCESS TO FOREST RESOURCE LICENSE AREAS**

**BY ORDER OF THE PRESIDENT**

**MARJON V. KAMARA  
MINISTER OF FOREIGN AFFAIRS**

**MINISTRY OF FOREIGN AFFAIRS  
MONROVIA, LIBERIA  
OCTOBER 24, 2017**

# Forestry Development Authority

## Regulation No. 117-17 on Third Party Access to Forest Resource License Areas

### PREAMBLE

**WHEREAS**, the National Forestry Reform Law of 2006 (“**NFRL**”) establishes a transparent framework for the sustainable use, management, and protection of forest resources that balances the commercial, community and conservation priorities of the Republic of Liberia.

**WHEREAS**, the NFRL conferred on the Forestry Development Authority the power to make, promulgate, issue, amend and rescind rules and regulations to ensure the accomplishment of all the policies and objectives of the Forestry Development Authority (Chapter 19, Section 19.1);

**WHEREAS**, past regulations did not regulate Third Party Access to Forest Resource License Areas Resource License;

**WHEREAS**, the Forestry Development Authority deems it necessary to make specific rules to regulate Third Party Access to Forest Resource License Areas;

**NOW, THEREFORE**, the Forest Development Authority hereby issues the following rules and regulations on Third Party Access to Forest Resource License Areas as follows -

### PART ONE: DEFINITION AND PURPOSE

#### Section 1: Definitions

In this regulation, the following terms have the following meaning indicated unless the context otherwise requires -

- **“Area Community”** means a Community residing entirely within a Forest Resource License Area, partially within a Forest Resource License Area and within three (3) kilometers of the boundary of a Forest Resource License Area, or entirely or partially within three (3) kilometers of the boundary of a Forest Resource License Area.
- **"Authority"** means the Forestry Development Authority, established pursuant to the Act Creating the Forestry Development Authority of 1976, as amended.
- **"Community"** means a self-identified and publicly or widely-recognised coherent social group or groups who share common customs and traditions, irrespective of administrative and social sub-divisions, residing in a particular area of land over

which members exercise jurisdiction, communally by agreement, custom or law, and includes a single village or town, or a group of villages or towns or a chiefdom.

- **“Community Representatives”** means individuals selected by Communities living within a Forest Resource License Area or within three (3) kilometers of the boundary of a Forest Resource License Area; they may include individuals from Community Forestry Development Committees (**“CFDCs”**) or other persons selected by the relevant Communities.
- **“Forest Resources License”** means any legal instrument pursuant to which the Authority allows a person, subject to specified conditions, to extract Forest Resources or make other productive and sustainable use of Forest Land, including, but not limited to, Forest Management Contract (**“FMC”**), a Timber Sales Contract (**“TSC”**), Forest Use Permit (**“FUP”**), or a Private Use Permit (**“PUP”**) as defined and governed by the NFRL, as amended, and its implementing regulations.
- **“Fuel wood”** means wood grown, harvested, collected, sold or used for fuel.
- **“Holder”** means a Person holding a valid Forest Resources License.
- **“Non-Timber Forest Products”** means resources or products that may be extracted from forest land and are utilized within the household, marketed, or have social, cultural or religious significance, including, but not limited to, plants and plant materials used for food, fuel, fibre, storage and fodder, medicine, and bio-chemicals, as well as mammals, birds, reptiles, fish, and invertebrates; it does not include minerals.
- **“Person”** means any individual, partnership, joint venture, association, corporation, trust, estate, unincorporated entity, community, government or state, and any branch, division, political sub-division, instrumentality, authority, or agency thereof.
- **“Third Party”** means any individual, collective member, or other Person registered under the Authority as residing in a Forest Resource License Area who wishes to sign an agreement with the Authority for the use of non-timber forest products for commercial or conservation purposes. Fuel wood for commercial purposes and chainsaw milled wood products are not authorized to be produced by Third Parties from Forest Resource License Areas, and shall be addressed under different specific regulations.

Any other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

## **Section 2: Purpose**

The purposes of this Regulation are to:

- (a) define the rights and responsibilities of Area Communities and their individual members to access and use of Non-Timber Forest Products in Forest Land areas covered by a Forest Resources License;
- (b) define the roles and responsibilities of Holders, communities and their individual members to ensure socio-economic and environmental viability of Forest Resource License Areas;
- (c) ensure that the Authority has effective control over harvesting of forest products within the Forest Resource License Areas;
- (d) ensure respect for and balancing of the rights and interests of Communities, their members, and Holders; and
- (e) define the role of the Authority regarding Third Party Access to Forest Resource License Areas.

## **PART TWO: THIRD PARTY ACCESS TO FOREST RESOURCE LICENSE AREAS**

### **Section 3: Guiding Principles for Third Party Access**

- (a) Third Party access to a Forest Resource License Area shall be the result of a consultative process between a Holder and Community Representatives and approved by the Authority.
- (b) Third Party access to Forest Resource License Areas shall be reasonable, orderly, and shall ensure that the operations of the Holder are not disrupted, impeded, or compromised in any substantial manner.
- (c) Any Third Party that accesses a Forest Resource License Area shall not damage, abuse, waste, spoil or otherwise interfere with any of the Concession Holder's facilities, equipment, machines, infrastructure, inventories, or any other property in the Forest Resource License Area.
- (d) Third Parties shall respect the presence of other persons authorized by the Authority to conduct scientific research within Forest Resource License Areas.

### **Section 4: General Access Rights and Responsibilities of Area Communities**

(a) Area Communities, subject to the terms and conditions of the Forest Resources License and other applicable instruments (such as a Social Agreement), may have access to:

- (1) existing agricultural produce that was planted prior to a concession agreement entering into force;
- (2) access to water collection points in Forest Resource License Areas;
- (3) pursue subsistence agricultural activities, including but not limited to growing rice, cassava, eddoes, vegetables; subsistence fishing, subsistence hunting excluding protected and endangered species, and harvesting natural palm nuts, except where provided differently in the forest management plan corresponding to the Forest Resource License Area;
- (4) traditional cultural shrines in the Forest Resource License Area, except for areas provided in the management plan;
- (5) search for, identify, and collect herbs for traditional medicinal purposes;
- (6) collect fuelwood for household consumption from logging residues and or felled dead trees;
- (7) search for and harvest Non-Timber Forest Products, such as bamboo and rattans for community consumption purposes;
- (8) road networks including foot paths, and primary, secondary, and tertiary roads normally used to access and exit Forest Resource License Areas;
- (9) social services in Forest Resource License Areas, including but not limited to schools, health facilities, recreational facilities (such as football fields), and religious facilities (such as churches, mosques, etc.);
- (10) meet any other needs identified by the Community, agreed to by the Concession Holder, and approved by the Authority.

(b) Consultations between Holders and Community Representatives shall take place as needed under the facilitation of the Authority and shall determine:

- (1) selected areas for access;
- (2) purposes for access;
- (3) timing of access; and
- (4) rules of engagement once Third Parties are operating in Forest Resource License Areas.

- (c) The framework for Third Party access to a Forest Resource License Area shall be agreed to in writing and attested to by the Holder, Community Representatives, and the Authority.
- (d) The framework for Third Party access to Forest Resource License Areas shall be annually reviewed and amended, where necessary.
- (e) The Holder and the Community Representatives shall meet at least once in every three months (quarterly) to discuss matters of mutual interest to the parties. These quarterly meetings shall be convened by the respective Community Forestry Development Committees (“**CFDCs**”).

## **Section 5: Other Access Rights of Third Parties**

(a) Any Third Party that requires access to a Forest Resource License Area that is not otherwise provided for in Section 4 of this Regulation shall provide advance written notice of twenty-one (21) calendar days to the Holder. In case of an emergency, the request to access shall be directly resolved between the Third Party and the Holder. This written notice shall provide at least the following information to the Holder:

- (1) time of access;
- (2) place of access;
- (3) reason for access;
- (4) number of people to gain access; and
- (5) duration of access.

This notice requirement shall not affect rights and prerogatives of Government authorities to access the Forest Resource License Area defined by law or contract.

- (b) Notwithstanding Section 5(a) of this Regulation, members of an Area Community are not required to notify the holder of the Forest Resource License for access related to non-commercial purposes.
- (c) The Holder shall only deny Third Party access to the Forest Resource License Area, in writing within twenty-one (21) calendar days upon the receipt of request, for the following reasons:
  - (1) to protect the personal safety of communities and/or other persons in the Forest Resource License Area; and
  - (2) to protect and/or conserve natural resources, biological diversity, ecosystems and/or natural habitats.
- (i) In the event that a Third Party is denied access, the Third Party may request in writing an administrative hearing with the Authority within ten (10) calendar days

after receipt of the denial notice. The Authority shall proceed with the Hearing process within thirty (30) calendar days.

## **Section 6: Rights of Other Parties**

- (a) Only Area Communities and Third Parties, as defined in Section 1, shall be able to exercise the rights provided for by this Regulation.
- (b) The rights provided for by this Regulation cannot be delegated to persons who do not qualify as an Area Community or Third Party, as defined in Section 1.
- (c) Any person who is not a member of an Area Community or a Third Party, as defined in Section 1, is prohibited from trespassing on or using resources in a Forest Resource License Area, unless otherwise authorized by law.

## **PART THREE: ROLES AND OBLIGATIONS OF PARTIES**

### **Section 7: Obligations of Third Parties**

- (a) While in a Forest Resource License Area, a Third Party shall be responsible for:
  - (1) protection and responsible use of forest resources;
  - (2) ensuring that the collection and use of forest resources is in accordance with seasonal availability;
  - (3) ensuring the use of sustainable harvesting methods;
  - (4) attending and participating in meetings with respect to their access to the Forest Resource License Area;
  - (5) paying community-based user fees for non-timber forest products as collectively determined by the Area Community and approved by the Authority; and
  - (6) participating in obligatory Area Community activities in support of conserving and preserving natural resources, biological diversity, ecosystems and habitats of the Forest Resource License Area as determined by the Authority or the Area Community.

### **Section 8: Obligations of Area Communities**

- (a) Area Communities shall have the responsibility to -

- (1) ensure that their individual members comply with the provisions of the Social Agreement reached with the Holder in respect of the Forest Resource License Area;
- (2) educate their members about their rights, duties, and obligations with respect to the Forest Resource License Areas, as well as any specific manner how they should conduct themselves while in Forest Resource License Areas;
- (3) ensure that their members use forest resources in the Forest Resource License Areas efficiently and wisely to ensure collective and individual sustainability of the forest resources; and
- (4) develop, maintain and apply a common set of rules and guidelines for accessing and sustainably using forest resources in the Forest Resource License Area.

### **Section 9: Obligations of a Holder**

(a) A Holder:

- (1) shall treat any Third Party and/or Area Community in a Forest Resource License Area with dignity and respect;
- (2) provide the first opportunity for employment to Area Community members for skilled and non-skilled work within the framework of the Social Agreement between the Holder and the Area Community;
- (3) provide adequate information and safety instructions to Third Parties while in a Forest Resource License Area; and
- (4) may provide emergency assistance to Third Parties and/or Area Communities while in Forest Resource License Areas, for example, to address sickness or accidents.

### **Section 10: Obligations of the Authority**

(a) The Authority shall:

- (1) facilitate consultation between Area Communities and Holders, and ensure agreement on the framework determining the rules and procedures for Third Party and/or Area Communities' access to and/or use of Forest Resource License Areas, including to harvest Non-Timber Forest Products;
- (2) assist Area Communities and Holder to capture in writing their Social Agreement;
- (3) ensure that the Social Agreement between the Area Community and the Concession Holders is fully respected and complied with by all parties; and



- (4) mediate disputes between the Area Community, Third Parties, and Holders with respect to access to and use of ForestResource License Areas.

## **PART FOUR: OFFENSES AND REPEAL**

### **Section 11: Offenses**

- (a) A person commits an offense if that person -
  - (1) intentionally or negligently fails to comply with the provisions of Sections 3, 4, 5, 6, 7, 8, and 9 of this Regulation;
  - (2) intentionally and materially interferes with someone fulfilling their obligations under this Regulation; or
  - (3) intentionally or negligently aids and abets another person in violating provisions of Sections 3, 4, 5, 6, 7, 8, and 9 of this Regulation.

### **Section 12: Penalties**

- (a) A person committing an offense under Section 11(a)(1) or 11(a)(3) shall be subject to:
  - (1) A fine not exceeding three hundred United States Dollars (\$300.00 USD), or its equivalent in Liberian Dollars, for a first violation;
  - (2) A fine of six hundred United States Dollars (\$600.00 USD), or its equivalent in Liberian Dollars, for each further violation of a similar offense; and / or
  - (3) Damages to Area Communities or Third Parties for any economic or other harms caused by the violation.
- (b) A person committing an intentional offense under Section 11(a)(2) is liable for:
  - (1) A fine not exceeding one thousand United States Dollars (\$1,000 USD), or its equivalent in Liberian Dollars; and
  - (2) Forfeiture of their Forest Resources License or other relevant licenses.
- (c) If the Authority finds that the damage caused by an offense under Section 11(a) is more than six hundred United States Dollars (\$600.00 USD), or its equivalent in Liberian Dollars, the maximum amounts of the fine under Section 12(a) and 12(b) shall be increased to the amount of the damage for a first violation and three times the value of the damage for subsequent violations.
- (d) All fines shall be paid into the general revenue account of the Government of the Republic of Liberia.
- (e) In addition to issuing a fine under Section 12(a) or 12(b), a court may -

- (1) issue injunctive relief to redress damage caused by the violation;
- (2) issue injunctive relief to take actions to prevent future violations;
- (3) in instances of intentional violations, revoke a Forest Resources License or other relevant actions; and/or
- (4) issue other orders as may be appropriate.

### **Section 13: Review and Amendment**

- (a) This Regulation may be reviewed and amended from time to time as warranted by circumstances and in accordance with the provisions of Regulation No. 101-07 with respect to public participation in the promulgation of regulations, codes and manuals and Chapter 10.5 of the Executive Law, as amended.

### **Section 14: Effect of Previous Regulatory Actions**

- (a) Notwithstanding this Regulation, anything lawfully done before the commencement of this Regulation shall continue to have full legal force and effect until anything lawfully done under this Regulation overrides it.

### **Section 15: Effective Date**

The effective date of this Regulation shall be the date of its publication into the Official Gazette under the authority of the Ministry of Foreign Affairs as posted on the cover page.



Office of the Board Chairperson

# REPUBLIC OF LIBERIA

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**NOW THEREFORE**, for the forgoing reasons above stated, it is hereby resolved by the Board of Directors:

1. That the Regulation on Third Party Access to Forest Resource License Area having being reviewed by the members of the Board of Directors from May 25, 2017 up to and including the present; followed by no written comments is hereby considered adopted;
2. That the FDA Board of Directors adopted Regulation on Third Party Access to Forest Resource License Area shall be presented to the Office of the President of Liberia for approval before the implementation of the said regulation takes effect;
3. That upon taking effect, this Regulation on Third Party Access to Forest Resource License Areas shall be published in two (2) widely read newspapers and posted onto FDA Website.

**IN WITNESS WHEREOF**, we have hereunto subscribed our names and affixed the seal of the Forestry Development Authority on this <sup>31st</sup>-----day of May AD.2017 in the City of Monrovia, Montserrado County, Republic of Liberia.

SEAL

Darlington S. Tuagben

SECRETARY

Approved:

Sr. Mary Laurene Browne, OSF

CHAIRPERSON