Ministerial Order determining Modalities for Management of Abandoned Property and Collaboration between Organs Involved in their Management

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Ministerial Order 3-MOJ-AG of 2017

Published in Official Gazette 7 on 13 February 2017

Assented to on 7 February 2017

Commenced on 13 February 2017

[This is the version of this document from 13 February 2017.]

The Minister of Justice/Attorney General,

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 121, 122 and 176;

Pursuant to Law nº 39/2015 of 22/08/2015 relating to management of abandoned property, especially in Articles 11 and 17;

After consideration and approval by the Cabinet, in its session of 11/11/2016;

HEREBY ORDERS:

Chapter One

General provisions

Article One – Purpose of this Order

This Order determines modalities for management of abandoned property and collaboration between organs involved in their management.

Chapter II

Modalities for management of abandoned property

Section One – Establishment of Committees in charge of management of abandoned property

Article 2 – Establishment of the Committee

The District Council, on behalf of the Minister of Justice, establishes at District level the Committee in charge of efficient management of abandoned property, referred to as “the Committee” in this Order.

However, if it is evident that there is no abandoned property in a District or that the income derived from abandoned property is insignificant, the District Council may not establish the Committee in that District or may dissolve the existing one if it is evident that it is inefficient and appoint individuals to manage any abandoned property in such a District.
Article 3 – Composition of the Committee

The Committee is composed of the following five (5) members:

1° the District Vice Mayor in charge of Economic Development who is also the Chairperson of the Committee;

2° one representative of the Private Sector Federation in the District;

3° a representative of youth in the District;

4° a representative of the National Women’s Council in the District;

5° one representative of the District land office.

Article 4 – Appointment of members of the Committee

The District Council appoints members of the Committee as mentioned in Article 3 of this Order and informs the Minister of Justice.

Article 5 – Term of office of members of the Committee

Members of the Committee, except the District Vice Mayor in charge of Economic Development, have a term of office of three (3) years renewable only once.

Article 6 – Administration of the Committee

The Committee is headed by the District Vice Mayor in charge of Economic Development.

The Committee elects the Vice Chairperson, the Accountant and the Secretary among its members in its first meeting to assist the Vice Mayor in charge of Economic Development in the administration of the Committee.

Article 7 – Main responsibilities of the Committee

Without prejudice to the provisions of Article 4 of Law nº 39/2015 of 22/08/2015 relating to management of abandoned property, the Committee has the following main responsibilities:

1° to support the Sector authorities in making an inventory of any abandoned property in a respective District, if any;

2° to effectively manage and make the abandoned property productive;

3° to resolve disputes related to abandoned property;

4° to analyze reports and any other information related to abandoned property submitted to the District authorities before consideration by the District Council;

5° to take decisions on abandoned property, unless stipulated otherwise in this Order;

6° to ensure that rental agreements of abandoned property reflect the real market value of the property.

Article 8 – Meeting of the Committee and its convening

The District Vice Mayor in charge of Economic Development convenes and chairs meetings of the Committee.

In the absence of the District Vice Mayor in charge of Economic Development, the meeting is convened and chaired by the Vice Chairperson.

The meeting of the Committee is held at least once in three (3) months and whenever deemed necessary.
Article 9 – Quorum

The Committee meets if at least three fifths (3/5) of its members are present.

Article 10 – Taking decisions

The Committee takes decisions by consensus. If consensus is not obtained, decisions are made by an absolute majority vote of the members present at the meeting.

In case of a tie, the Chairperson has a casting vote.

The minutes of the meeting of the Committee are signed by the Chairperson and the Secretary of the Committee and submitted to the Minister of Justice, a copy is provided to the Chairperson of the District Council.

Article 11 – Submission of report

The District Vice Mayor in charge of Economic Development, not later than 25th of every month and whenever deemed necessary, submits a report on the status of the abandoned property to the Minister of Justice and provides a copy to the Chairperson of the District Council.

Article 12 – Invitation of a resource person to the meeting of the Committee

The Committee may, in writing, invite in its meeting any resource person from whom it may seek advice on a certain issue on the agenda.

The invited person is not allowed to vote or discuss other issues for which he/she was not invited.

Article 13 – Personal interest in issues related to abandoned property

In case a member of the Committee has a direct or indirect interest in any issue under examination related to an abandoned property, he/she must inform the Committee on where such interest lies. The member who communicates his/her interest is not allowed to vote while taking decisions on the issue.

If it is evident that at least three fifths (3/5) of members of the Committee have a direct or indirect interest in the issue under examination related to an abandoned property in such a way that members may not be able to take a decision on the issue, the Chairperson of the Committee, in writing, submits the issue to the Minister of Justice in order to take an appropriate decision.

Article 14 – Sitting and transport allowances for members of the Committee and modalities for their allocation

The sitting and transport allowances granted to each member of the Committee when sitting in session are fixed as follows:

1° sitting allowances:
   a) Chairperson of the Committee: twenty thousand Rwandan francs (FRW 20,000);
   b) Vice-chairperson and Secretary of the Committee: fifteen thousand Rwandan francs (FRW 15,000) for each;
   c) other members of the Committee: ten thousand Rwandan francs (FRW 10,000) for each;

2° transport allowances: ten thousand Rwandan francs net (FRW 10,000) each.

Allowances provided for in Paragraph One of this Article shall not be granted more than once in a term even if meetings of the Committee are held more than once in the same period.
Article 15 – Reasons for cessation of membership of the Committee

A member of the Committee ceases to be a member if:

1° he/she resigns in writing;
2° he/she manifests behaviors contrary to his/her responsibilities;
3° he/she jeopardises the functioning of the Committee;
4° he/she is sentenced to imprisonment of six months or above in a final judgement;
5° he/she is absent at three (3) consecutive meetings without valid reasons;
6° he/she is no longer able to perform his/her duties due to any permanent impediment;
7° he/she no longer fulfills requirements for becoming a member of the Committee provided for in Article 3 of this Order.

Article 16 – Replacement of a member of the Committee

Replacement of a member of the Committee is conducted in accordance with provisions of Article 4 of this Order within thirty (30) days from the day the member left the Committee.

Article 17 – Internal rules and regulations of the Committee

Each Committee establishes internal rules and regulations in regard to the conduct of its members and its employee governed by a contract.

Chapter III
Management of deposit accounts related to abandoned property

Article 18 – Deposit accounts related to abandoned property

The Committee of each District is responsible for the management of the deposit accounts related to abandoned property.

The District Vice Mayor in charge of Economic Development, the Vice Chairperson in case of absence of the District Vice Mayor in charge of Economic Development, the Accountant and the Secretary are the signatories on the account.

Article 19 – Use of money from abandoned property

A half (½) of the amount collected from abandoned property is used in all activities aimed at efficient management and maintenance of that property.

Article 20 – Employee responsible for the management of abandoned property

In case there is an abandoned property with an income equal to at least two million Rwandan Francs (FRW 2, 000,000) per month, the Committee may, on a contractual basis, recruit an estate manager to help in the management of that property.
Chapter IV
Collaboration between organs involved in the management of abandoned property

Article 21 – Collaboration between the Ministry of Justice and Committees in relation to rental agreement for abandoned property

The Ministry of Justice prepares a model contract and submits it to the Committee to be used in order for abandoned property to generate income.

In case there is a need to rent an abandoned property, the Committee is required to inform the Minister of Justice so as to provide guidance on the abandoned property rental agreement and to assess if all other legal requirements are observed.

The abandoned property rental agreement referred to in the Paragraph 2 of this Article is concluded between the members of the administration of the Committee and the prospective tenant.

Article 22 – Collaboration between the Ministry of Justice and Committees regarding field visits of abandoned property

For purposes of conducting any assessment of the content of reports submitted by the Districts to the Ministry of Justice, the Ministry employees in charge of abandoned property go for field visits in all Districts wherever there is an abandoned property that generates income and make an audit thereof once (1) a year and whenever necessary.

Article 23 – Collaboration in matters of renovation of abandoned property

In case of necessity to carry out renovations, the Committee prepares a report indicating the required renovations and submits it to the Minister of Justice to give comments thereon.

In case the Minister considers renovating the property appropriate, he/she authorizes the Committee, in writing, to identify persons to carry out renovations on the property.

Renovation of such abandoned property is carried out in the following procedure:

1° if the property is unproductive or the income derived from the property is insufficient to renovate it, the person who intends to rent the property may pay the money for renovations and it is included in the rental agreement and later be deducted from the entire rental payment;

2° in case the money derived from the abandoned property is sufficient to carry out renovations and when there is need for tender depending on the value of required works, the Committee seeks assistance from the District Tender Committee;

3° in case the abandoned property is unproductive and no potential tenant intends to rent the property and the property needs to be renovated to generate income, the abandoned property may be renovated by the funds derived from other abandoned property to be refunded once this renovated property begins to generate income.

Article 24 – Collaboration in matters of search for and safe keeping of titles of abandoned property

In case there is any property inventoried as abandoned property, the Committee is required to seek its titles and submits original copies to the Minister of Justice and keeps the copies.

The Committee is also required to submit to the Office of Registrar of Land Titles the inventory of all abandoned property for annotation.
Article 25 – Collaboration in matters of restitution of the property

If the owner of the property managed as abandoned property shows up, he/she submits any evidence of ownership to be examined by the Committee, which transmits it to the Minister of Justice within fifteen (15) working days in order to ascertain ownership of the property.

If the Minister of Justice ascertains that the person who showed up is the rightful owner of the property, he/she is required to authorize the restitution of the property to the owner within a period provided for by the law relating to management of abandoned property with a report thereon.

The verbatim report of the proceedings of the handover is signed by the District Vice Mayor in charge of Economic Development, the Vice-Chairperson in case of absence of District Vice Mayor in charge of Economic Development, the Accountant and the Secretary of the Committee and the rightful owner of the property. It is submitted to the Minister of Justice and a copy is provided to the Chairperson of the District Council.

Article 26 – Collaboration in case of power of attorney to manage abandoned property

If a person shows up with a power of attorney to manage an abandoned property, the Committee must verify whether the power of attorney complies with the requirements of the law and informs the Minister of Justice within five (5) days in order to provide relevant advice.

Article 27 – Collaboration in matters of public auction of abandoned property

If the property managed is subject to a public auction, the concerned court bailiff informs the Committee to ensure that there is no fraud in the process. The Committee must, in writing, inform the Ministry of Justice of the public auction in fifteen (15) working days before the public auction is affected.

If fraud is identified in the public auction, the Committee, in a period not exceeding forty-eight (48) hours, informs the Minister of Justice in order to inform other relevant authorities to cancel the auction in accordance with the law.

In case the abandoned property is productive, the payment ordered is effected from such production on own volition without conducting any public auction of the property.

Article 28 – Collaboration in matters of transfer of a plot, an unfinished or a demolished house and associated facilities abandoned by owners

Without prejudice to provisions of Law n° 39/2015 of 22/08/2015 relating to the management of abandoned property, the Committee, in its report referred to in Article 11 of this Order must also identify any plots with or without building foundations, unfinished or demolished houses, houses beyond repair which were abandoned by owners and give suggestions on their efficient management to the Minister of Justice for his/her approval.

Article 29 – Collaboration in matters of selecting the person to be allocated a plot, an unfinished house or demolished house and associated facilities

Any person who intends to acquire a plot, an unfinished or demolished house and associated facilities makes a written application to the Committee.

The application must specify the following:

1° the location of the plot or the house applied for;

2° the financial and technical capacity to exploit the house or the plot and the associated facilities in respect of requirements of the master plan of the location of the property.
**Article 30 – Examination of the application for transfer of a plot, an unfinished or demolished house in a state of abandonment**

The Committee, after receipt of the application for a plot, unfinished or demolished house and the associated facilities, examines it and determines the selected person after consultations with the Ministry of Justice and the District Executive Committee, transfers the property thereof.

The Committee notifies the person to whom the property is transferred in a period of forty-five (45) days from the date of reception of the application.

In case the Committee does not approve the application, it notifies the applicant in the period specified in Paragraph 2 of this Article. The notification must indicate reasons for rejecting the application.

**Article 31 – Moveable property**

In case the abandoned property is moveable, the Committee may rent or sell it in order to mitigate risks related to its management or deterioration.

The amount collected from the sale or rent of the abandoned property is used in accordance with the Law relating to management of abandoned property.

**Chapter V**

**Transitional and final provisions**

**Article 32 – Transitional period**

The existing committees in charge of management of abandoned property in Districts are required to continue operating until they are replaced by new committees in a period not exceeding three (3) months from the date of publication of this Order in the Official Gazette of the Republic of Rwanda.

**Article 33 – Repealing provision**

All prior provisions contrary to this Order are repealed.

**Article 34 – Commencement**

This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.