

Rwanda

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Ministerial Order determining Modalities for Concluding a Concession Agreement for Tourism Investment in a Protected Area
 Contents

Chapter One – General provisions 1

 Article One – Purpose of this Order 1

 Article 2 – Definitions 1

 Article 3 – Requirements for a concessionaire investing in tourism in a protected area 1

 Article 4 – Principles governing concession for tourism investment in a protected area 2

Chapter II – Concession agreement for tourism investment in a protected area 2

 Article 5 – Guidelines for concluding concession agreement for tourism investment in a protected area 2

 Article 6 – Investment made in a zone that becomes a protected area 2

 Article 7 – Parties to the concession agreement for tourism investment in protected areas 3

 Article 8 – Validity period of a concession agreement for tourism investment in a protected area 3

 Article 9 – Procedures for granting a license to carry out tourism investment in a protected area 3

 Article 10 – License to carry out tourism investment in a protected area 3

 Article 11 – Transfer of a concession agreement for tourism investment in a protected area 3

 Article 12 – Requirements for a special activity 3

 Article 13 – Concession fees paid for the use of a protected area 3

 Article 14 – Modalities for services delivery in a protected area 4

 Article 15 – Merchandise, souvenirs and gifts 4

 Article 16 – Compliance with rules of management for archaeological, cultural and natural resources 4

 Article 17 – Compliance with requirements for environmental conservation 4

 Article 18 – Determination of prices 4

 Article 19 – Risk management 4

 Article 20 – Insurance 5

 Article 21 – Ownership of the immovable property after expiration of agreement 5

Chapter III – Investment in facilities in a protected area 5

 Article 22 – Primary infrastructure 5

 Article 23 – Design of a facility in a protected area 5

 Article 24 – Maintenance and repair of facilities 5

 Article 25 – Commercial business permits 5

 Article 26 – Benefits sharing 6

 Article 27 – Termination of a concession agreement for investment in tourism in a protected area 6

Chapter IV – Final provisions 6

 Article 28 – Repealing provision 6

 Article 29 – Commencement 6

Rwanda

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Ministerial Order 27 of 2018

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Commenced on 24 September 2018

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The Minister of Trade and Industry;

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

Pursuant to Law n° 12 ter/2014 of 19/05/2014 regulating the Tourism Industry in Rwanda, especially in Article 50;

After consideration and approval by the Cabinet, in its session of 14/02/2018;

ORDERS:

Chapter One General provisions

Article One – Purpose of this Order

This Order determines modalities for concluding a concession agreement for tourism investment in a protected area.

Article 2 – Definitions

For the purpose of this Order, the following terms are defined as follows:

- 1° **Board:** a Government organ in charge of tourism;
- 2° **concessionaire:** a person who undertakes to invest in a protected area;
- 3° **place:** a clear space within a protected area reserved for various activities and services as may be provided for in the concession agreement for tourism investment in protected areas.

Article 3 – Requirements for a concessionaire investing in tourism in a protected area

A concessionaire who invests in tourism in a protected area complies with the fundamental objective of conserving the surrounding environment, wildlife as well as the nature and historic objects.

Article 4 – Principles governing concession for tourism investment in a protected area

The principles that govern concession for tourism investment in a protected area are the following:

- 1° the accommodation facilities, places and service appropriate for public use and enjoyment of the protected area in which they are located;
- 2° the access to accommodation facilities, places and services do not cause any harm to resources located in the protected area;
- 3° the accommodation facilities, places and services are developed in a specific high standard location with appropriate measures for preservation and conservation of the resources of that protected area;
- 4° the accommodation facilities, places and services do not interfere with public security;
- 5° the accommodation facilities, places and services comply with broader development goals of the country;
- 6° the accommodation facilities, places and services contribute to the promotion of the Rwandan culture;
- 7° the accommodation facilities, places and services serve to enhance the availability of services to the visitors of protected areas.

The principles that govern concession for tourism investment in a protected area mentioned in this Article apply only to accommodation facilities, places and services.

Chapter II Concession agreement for tourism investment in a protected area

Article 5 – Guidelines for concluding concession agreement for tourism investment in a protected area

Guidelines on concession agreement for tourism investment in a protected area provide:

- 1° details on the conclusion of concession agreements for tourism investment in a protected area and modalities for selection of a concessionaire;
- 2° necessary requirements for a person to consider when applying for the concession to operate in a protected area.

The guidelines for concluding concession agreement for tourism investment in a protected area are a component of such agreement.

The Board puts in place guidelines for concluding concession agreement for tourism investment in a protected area.

Article 6 – Investment made in a zone that becomes a protected area

Investment made in a zone that becomes a protected area is:

- 1° subject to a concession agreement for tourism investment in a protected area; or
- 2° made, after the compensation for the concession agreement for tourism investment in a protected area, in accordance with legal provisions relating to expropriation in the public interest.

Article 7 – Parties to the concession agreement for tourism investment in protected areas

The concession agreement for tourism investment in protected areas is concluded between the Board and a concessionaire.

Article 8 – Validity period of a concession agreement for tourism investment in a protected area

The validity period of a concession agreement for tourism investment in a protected area is from five (5) to forty-nine (49) years renewable depending on the size and nature of investment.

Article 9 – Procedures for granting a license to carry out tourism investment in a protected area

A tourism investment license in a protected area is granted in conformity with relevant provisions governing public-private partnerships.

The Board collaborates with other relevant institutions in the decision-making process to grant the license to tourism investment in a protected area.

Article 10 – License to carry out tourism investment in a protected area

Multiple licenses may be granted to carry out tourism investment in a protected area at the same approximate location or on resources within a specific national protected area to provide similar or related services.

To obtain a tourism investment operating license in a protected area from the Board, the applicant pays license fees provided for by relevant provisions governing tourism industry in Rwanda.

Article 11 – Transfer of a concession agreement for tourism investment in a protected area

A concessionaire cannot transfer, assign, sell, convey or pledge the concession agreement for tourism investment in a protected area without prior written notification to the Board, which gives an approval.

Article 12 – Requirements for a special activity

The special activity must fulfill the following requirements:

- 1° to be carried out when the owner possesses a written authorisation from the Board; in order to protect the resources available in a protected area and in public interest;
- 2° not to be prohibited by law.

A special activity carried out in a protected area is an activity which is beneficial to an individual, a group of people or an organisation in public interest.

Article 13 – Concession fees paid for the use of a protected area

The concessionaire is required to pay annual concession fees.

A concession agreement for tourism investment in a protected area specifies fees to be paid for this purpose. Fees paid for the use of the protected area are equivalent to a percentage of the concessionaire's gross income.

The concession fees paid for the use of the protected area may be modified due to changes unforeseen on the date of entry into force of the agreement. Those changes are notified to the concessionaire.

Article 14 – Modalities for services delivery in a protected area

A concession agreement for tourism investment in a protected area obliges the concessionaire to provide all services in compliance with goals and responsibilities provided for in the protected area's management plan.

Article 15 – Merchandise, souvenirs and gifts

The concessionaire provides to the Board details and types of merchandise, souvenirs and gifts for sale.

The Board has the discretion to determine the sensitivity or the appropriateness of an item for sale.

However, the following items may only be sold if it is evident that they are replicas and are clearly labeled as:

- 1° traditional art crafts;
- 2° replicated historic specimen;
- 3° archaeological;
- 4° paleontological;
- 5° study related to biological remains.

Article 16 – Compliance with rules of management for archaeological, cultural and natural resources

A concessionaire complies with applicable laws, regulations and policies applied to the protection of archeological, cultural and natural resources.

Article 17 – Compliance with requirements for environmental conservation

A concessionaire complies with applicable laws pertaining to the protection of public health and the environment.

Article 18 – Determination of prices

A concession agreement for tourism investment in a protected area gives the concessionaire the right to charge reasonable price for facilities, goods and services provided to the public.

Determination of the price of goods and services is based on comparison with the current market price for similar goods and services, unless provided otherwise in the concession agreement.

The concessionaire must communicate in writing to the Board all prices set before they are effective.

However, the Board may review the prices set by the concessionaire.

Article 19 – Risk management

A concession agreement for tourism investment in a protected area obliges a concessionaire to develop a risk management program, which is proportional to the size and nature of the activity.

The Board conducts an annual risk management evaluation based on activities and performance throughout the year, in order to ensure compliance with provisions of Paragraph One of this Article.

Article 20 – Insurance

The concession agreement for tourism investment in a protected area obliges the concessionaire to acquire insurance for his or her activities.

During the assessment of compliance with the terms of the agreement, the Board verifies whether the concessionaire insured his or her activities in compliance with the agreement.

Article 21 – Ownership of the immovable property after expiration of agreement

Subject to provisions of Article 5 of this Order, immovable property constructed by the concessionaire or any additional materials on existing property becomes State owned property on the expiry of the concession agreement for tourism investment in a protected area.

Chapter III Investment in facilities in a protected area

Article 22 – Primary infrastructure

The concession agreement for investment in tourism in a protected area determines the use of primary infrastructure including, electricity, fuel, natural gas and water. It also determines system of disposal of waste water, solid waste and communication systems.

Article 23 – Design of a facility in a protected area

The Board may determine the size and location of a facility in a protected area, depending on its intended purpose.

The Board assesses the suitability of the facility in a protected area in order to ensure its compliance with national construction standards.

Article 24 – Maintenance and repair of facilities

A concession agreement for tourism investment in a protected area compels a concessionaire to be responsible for all activities of maintenance and repair of the facilities assigned to his or her for use in accordance with standards acceptable to the Board, except in exceptional circumstances, as may be determined by the Board.

Article 25 – Commercial business permits

A public institution, a business operator or any other person requesting for commercial business operation in a protected area, including a right of way, erection of transmission towers, commercial filming, bio prospecting or research is required to submit a written request to the Board.

The right of way in a protected area referred to in Paragraph One of this Article covers:

- 1° a passage to primary infrastructure;
- 2° use of existing roads in national protected areas.

Permits for right of way in a protected area are considered as temporary documents and do not convey an interest in the land. A person who is granted the permit for right of way in a protected area may be deprived depending on the activities carried out.

A public institution, a business operator or any person seeking to erect a primary infrastructure over, under or across an immovable property located in a protected area applies for a permit in writing to the Board. The Board responds in thirty (30) days from the date of the reception of his or her request.

Article 26 – Benefits sharing

A person who is granted a commercial business permit shares proceeds from those activities with the Board. The percentage ratio of benefits to be shared must be agreed upon between the Board and the person who has been granted a commercial business permit to operate in a protected area.

Specific benefits are negotiated separately for each agreement.

Article 27 – Termination of a concession agreement for investment in tourism in a protected area

A concession agreement for tourism investment in a protected area may be terminated by:

- 1° the expiry of the concession agreement for tourism investment in a protected area period;
- 2° the failure by the concessionaire to comply with provisions of the concession agreement for tourism investment in a protected area;
- 3° the request of either party to the concession agreement.

Details for termination of the concession agreement for tourism investment in a protected area provided for in item 3° of this Article are articulated in the concession agreement.

Chapter IV Final provisions

Article 28 – Repealing provision

All prior provisions contrary to this Order are repealed.

Article 29 – Commencement

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