

Rwanda

Ministerial Order determining Modalities for Land Sublease

Ministerial Order 9 of 2022

Legislation as at 6 June 2022

FRBR URI: /akn/rw/act/mo/minister-of-environment/2022/9/eng@2022-06-06

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Published in Official Gazette 23 bis on 6 June 2022

Assented to on 12 May 2022

Commenced on 6 June 2022

[This is the version of this document from 6 June 2022.]

The Minister of Environment;

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° 27/2021 of 10/06/2021 governing land, especially in Article 26;

After consideration and approval by the Cabinet, in its meeting of 09/04/2022;

ORDERS:

Chapter One

General provisions

Article One – Purpose of this Order

This Order determines modalities for sublease of agriculture, livestock and forest land.

Article 2 – Definitions

In this Order, the following terms have the following meanings:

- 1° **parties:** both the sub-lessor and sub-lessee;
- 2° **sublease:** a written contract between a sub-lessor and a sub-lessee to exploit the land in return for payment of an agreed rent fee;
- 3° **sub-lessor:** the owner of a subleased land;
- 4° **new sub-lessor:** a person who has acquired rights on the subleased land through transfer of land rights;
- 5° **sub-lessee:** a person who enters an agreement with a land owner to be given rights to use his or her land in return for payment of a rent fee.

Article 3 – Clauses of sublease

The sublease is made of at least the following clauses:

- 1° identification of the sub-lessor and the sub-lessee;
- 2° characteristics of the subleased land;
- 3° activities to be carried out on the subleased land;
- 4° duration of the sublease;
- 5° amount and payment of rent fee;

- 6° rights of the sub-lessor and sub-lessee;
- 7° obligations of the sub-lessor and sub-lessee;
- 8° termination of sublease;
- 9° procedures of dispute settlement.

The sublease may include other clauses favourable to the parties.

Chapter II

Core elements of clauses of sublease

Article 4 – Identification of the sub-lessor and sub-lessee

Identification of the sub-lessor and the sub-lessee indicates at least—

- 1° names;
- 2° numbers of identification documents;
- 3° place of residence; and
- 4° marital status.

Article 5 – Characteristics of subleased land

Subleased land is characterised by, at least—

- 1° a Unique Parcel Identifier of the subleased land;
- 2° the surface area of the subleased land; and
- 3° location of the subleased land.

Article 6 – Activities carried out on subleased land

Parties agree upon activities to be carried out on the subleased land, through determination of types of crops, forestry, nurseries or livestock; in compliance with land use consolidation.

Article 7 – Sublease period

Parties agree upon the sublease period, while mentioning the starting date and ending date.

Article 8 – Amount and payment of rent fee

The amount of the rent fee is agreed upon by parties.

The rent fee is paid through modalities mutually agreed by parties, prior to using the subleased land.

Article 9 – Rights of a sub-lessee

A sub-lessee is entitled to, at least, the following rights:

- 1° to freely use the leased land in accordance with the sublease;
- 2° to benefit from the produce of the subleased land;
- 3° to mortgage activities carried out on a subleased land in respect of the remaining duration of the sublease;

4° to terminate the sublease.

The sub-lessee does not have rights to sublease the leased land to a third party. However, if the State or a company of which the State is a shareholder subleases the land developed by the State or its partner, it can sublease that land for investment purposes, in respect of the remaining duration of the sublease.

Article 10 – Rights of a sub-lessor

A sub-lessor is entitled to, at least, the following rights:

- 1° to maintain, as the land owner, rights on the subleased land;
- 2° to receive the rent fee;
- 3° to mortgage the subleased land;
- 4° to alienate his or her rights over the subleased land;
- 5° to terminate the sublease in accordance with this Order.

Article 11 – Obligations of a sub-lessee

A sub-lessee has at least the following obligations:

- 1° to pay the rent fee;
- 2° to pay taxes inherent to activities carried out on the subleased land;
- 3° to use the subleased land in accordance with land use consolidation;
- 4° to inform the sub-lessor of a person who commits an act that encroaches on the sub-lessor's rights on the subleased land;
- 5° to prevent the land degradation;
- 6° to address, under no compulsion, detriments on the subleased land.

Article 12 – Obligations of a sub-lessor

A sub-lessor has at least the following obligations:

- 1° to allow the sub-lessee to freely use the land;
- 2° to prevent the sub-lessee's rights from infringement;
- 3° to pay the property tax in accordance with relevant laws.

Article 13 – Termination of sublease

The sublease may be terminated on at least the following grounds:

- 1° if the sub-lessee—
 - a. has not paid the rent fee;
 - b. does not prevent the subleased land from degradation;
 - c. carries out on the subleased land other activities than those specified in the sublease;
- 2° if the sub-lessor usurps the sub-lessee's rights as specified in the sublease;
- 3° if the destruction of the activities carried out on the subleased land, by fortuitous event, prevents the sub-lessee from gaining sufficient produce;

- 4° in case of a ground that is independent from parties, which compromises the implementation of terms of the sublease or interests of a party.

Article 14 – Procedures of dispute settlement

Disputes on the sublease are amicably settled by parties, or referred to the competent court, in case of failure of amicable settlement.

Chapter III Sublease management

Article 15 – Rectification of the surface area of the subleased land

During the rectification of the surface area of the subleased land, the sub-lessee does not prejudice the rectification as long as it does not jeopardize his or her rights as stipulated in the sublease.

However—

- 1° if the rectification of the surface area violates the sub-lessee's rights, parties agree on compensation to be paid by the sub-lessor to the sub-lessee based on the remaining duration of the sublease, the value of activities carried out thereon, and the approximate produce expected on the land;
- 2° if the surface area of the subleased land is reduced in the rectification process, the value of the rent fee may vary according to the terms agreed upon by parties.

Article 16 – Concerning the rent fee

The sub-lessee cannot—

- 1° refrain from paying the rent fee due to failure to use the subleased land;
- 2° claim any refund of the rent fee due to partial loss of the subleased land, land sterility, deprivation of any harvest following fortuitous events, or unproductivity of activities carried out on the land.

Article 17 – Obligations of parties in settlement of disputes on subleased land

The following are obligations for dispute settlement on subleased land:

- 1° the sub-lessor guarantees to settle disputes related to the rights on the subleased land;
- 2° the sub-lessee guarantees to settle disputes related to the activities carried out on the subleased land.

Article 18 – Transfer of rights over subleased land

In case the sub-lessor transfers rights over the subleased land, the new sub-lessor complies with terms of the sublease.

However, in case the sublease stipulates that the new sub-lessor may terminate the sublease, he or she pays to the sub-lessee a compensation in accordance with the remaining duration of the sublease, the value of activities carried out on the land and approximate produce expected thereon.

Article 19 – Prevention of subleased land degradation

If the sub-lessee fails to prevent the subleased land from degradation, and upon report by the Cell authority, the sub-lessor undertakes works to prevent the subleased land from degradation, on behalf of the sub-lessee. In that case, the sub-lessee refunds the sub-lessor the real amount incurred for the works.

Article 20 – Criteria for sublease termination

The following applies for sublease termination:

- 1° if the sub-lessor intends to terminate the sublease, he or she gives to the sub-lessee at least ninety (90) days notice of termination of the sublease, and the duration of the sublease has to reach at least three-fourths ($\frac{3}{4}$) of its validity;
- 2° if the notice period ends while the sub-lessee has not harvested yet, the sub-lessor grants him or her time for harvesting, or fair compensation computed on basis of the remaining duration of the sublease and value of activities carried out on the subleased land;
- 3° if the sub-lessee intends to terminate the sublease, he or she gives to the sub-lessor at least fifteen (15) days notice of termination of the sublease, and refunds to the sub-lessor five percent (5%) of the rent fee for the remaining duration.

Chapter IV Final provisions

Article 21 – Commencement

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