

Rwanda

Ministerial Order determining Modalities for Sub-Leasing of Agriculture, Livestock and Forest Land

Ministerial Order 1 of 2014

Legislation as at 21 April 2014

FRBR URI: /akn/rw/act/mo/minister-of-natural-resources/2014/1/eng@2014-04-21

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PDF created on 21 February 2024 at 13:13.

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Published in Official Gazette 16 on 21 April 2014

Assented to on 14 April 2014

Commenced on 21 April 2014

[This is the version of this document from 21 April 2014.]

The Minister of Natural Resources;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially in Articles 120 and 201;

Pursuant to Law n° 43/2013 of 16/6/2013 governing land in Rwanda, especially in Article 25;

After consideration and adoption by the Cabinet, in its session of 28/03/2014;

ORDERS:

Chapter One General provisions

Article One – Purpose of this Order

This Order determines modalities for sub-leasing of agriculture, livestock and forest land.

Article 2 – Categories of land concerned with this Order

This Order concerns only land designated for agriculture, livestock and forest activities.

Article 3 – Definitions of terms

For the purpose of this order, the following terms shall be defined as follows:

- 1° **Sub-leasor:** the lease holder of the sub-leased land;
- 2° **Sub-leasee:** any person who has an agreement with a land lease holder allowing him/her to utilise operate the land in return for payment of an agreed fee.

Chapter II Modalities for land sub-leasing

Article 4 – Sub-lease contract

The sub-leasor and sub-leasee conclude a contract determining activities that would be conducted on the land, the duration of the contract, the rent fee agreed and any other matter that relates to management and use of the land during the duration of the contract.

Article 5 – Registration of sub-lease

A sub-leasing for a period of five (5) years or more shall be registered for a land title in the authentic form. If the sub-leasing period is less than five (5) years, its registration shall be optional based on agreement between the both parties.

However, any sub-leasing concluded by a guardian on behalf of a minor or other person not legally capable shall not exceed a period of five (5) years.

Article 6 – Sub-leasing period

The sub-leasing period for land designated for agriculture, livestock and forestry depends on the contract between contracting parties.

At any time during the sub-leasing period, one of the contracting parties can terminate the contract upon notification to the other party as provided for in the contract.

However, in case that period of notification is reached without harvest of sub-lessee crops, the sub-lessor will allow him/her necessary time to harvest all his/her crops. In contrary case, the sub-lessor shall give fair compensation to the sub-lessee according to the legislation.

Article 7 – Correction of size for sub-leased land

In case during the sub-leasing of land the size was below or above the correct size of the land, the sub-leasing fee will be increased or decreased upon agreement of both contracting parties, based on the correct size and that fee take effect from the time the issue of size was noticed. In that case, the sub-leasee has right to request for the contract termination.

The issue of correction of size can be received any time during the contract period.

Article 8 – Prohibition form re-sub-leasing

The sub-leasee shall not have the right to sublease the land again or to donate his/her rights to other leasee without a written consent of the sub-leasor.

Article 9 – Right for sub-leasee of mortgaging activities on sub-leased land

The sub-leasee can mortgage activities on subleased land after agreement with the sub-leasor who consent to be his/her guarantor.

Article 10 – Dispute from third parties

The sub-leasor does not guaranty disputes that are from third parties to the sub-leasee, in case they don't have right to the sub-leased land. In that case, the sub-leasee shall submit those disputes to competent authorities.

However, the sub-leasee shall be required to inform the sub-leasor of any act related to land repossession or encroachment, in case the dispute is submitted to courts. In case of failure to do so, the sub-leasee shall be liable for damages.

Article 11 – Selling sub-leased land

In case the sub-leasor sells his/her land, the new sub-leasor cannot evict the sub-leasee before the sub-leasing contract period expires, unless it was expressly indicated in the sub-leasing contract that the buyer will get such right.

In case the sub-leasing contract clearly stipulates that the buyer of the sub-leased land can evict the sub-leasee, the buyer shall be requested to give a notification period as it was provided in the sub-leasing contract. In case that period is not provided, the buyer shall give the sub-leasee a period of at least three (3) months.

In addition the buyer shall respect land obligations as provided by the Law governing land in Rwanda.

Article 12 – Modalities of compensating the contract of the sub-leasee in case of sell of sub-leased land

In case the sub-leasing contract provides that the buyer of the sub-leased land would have the right to terminate the sub-leasing contract, but there is no provision on compensation, the sublessor shall be required to give compensation as provided for in Article 6 of this order.

Article 13 – Inheritance of sub-leased land

In case of death of the sub-leasee, the sub-leasing contract shall be respected by his/her heirs or other successors.

However, heirs or other successors of the of the deceased sub-leasee can, in period of one (1) year from the date of death, terminate the sub-leasing contract after giving a notification of at least three (3) months.

The sub-lessor shall not evict heirs or successors of the deceased sub-leasee before the end of the contract period, unless that right was provided expressly directly in the sub-leasing contract.

Article 14 – Good exploitation of sub-leased land

The sub-leasee or his/her heirs shall use the land in accordance with their designation and carry out activities to protect the sub-leased land.

In case of violation of Paragraph One of this Article recorded in the reported by the sector authority where the land is located, the sublessor shall carry out, him/herself, activities to protect the land on behalf of the sub-leasee.

However, the sub-leasee must refund the amount used for the activities done.

Article 15 – Dispute resolution

All disputes related to sub-leased land shall be amicably resolved by contracting parties. In case they failure, the disputes shall be submitted to the competent court.

Chapter IV Final provisions

Article 16 – Repealing provision

All prior provisions contrary to this Order are hereby repealed.

Article 17 – Commencement

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