Rwanda

Regulations of the Chief Executive Officer determining Potential Mining Areas, Criteria for Categorisation of Mines, Modalities and Requirements for Mineral Licence Application for Tenders

Regulation 5 of 2019

Legislation as at 29 July 2019

FRBR URI: /akn/rw/act/reg/2019/5/eng@2019-07-29

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PDF created on 21 February 2024 at 16:41.

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Regulations of the Chief Executive Officer determining Potential Mining Areas, Criteria for Categorisation of Mines, Modalities and Requirements for Mineral Licence Application for Tenders

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Regulation 5 of 2019

Published in Official Gazette 29 bis on 29 July 2019

Assented to on 18 July 2019

Commenced on 29 July 2019

[This is the version of this document from 29 July 2019.]

The Chief Executive Officer;

Pursuant to Law nº 58/2018 of 13/08/2018 on mining and quarry operations, especially in Articles 6, 8, 10 and 11;

After consideration and approval by the Cabinet, in its session of 07/06/2019;

ISSUES THE FOLLOWING REGULATIONS:

Chapter One
General provisions

Article One – Purpose of these Regulations

These Regulations determine:

1° demarcation of potential mining areas, their geographic coordinates and conditions for mineral exploration and exploitation in those areas;

2° criteria for categorisation of mines;

3° modalities and requirements for application and renewal of a mineral licence;

4° modalities and requirements for acquisition of a mineral licence through tender.

Article 2 – Definitions

In these Regulations the following terms have the following meanings:

1° bid: document submitted in response to an invitation to tender;

2° bidder: a company, a cooperative or an entity which submits a bid in response to an invitation to tender;

3° Chief Executive Officer: Head of a public entity in charge of mines and quarries;

4° committee: the committee in charge of assessment of applications for licences and advising the competent authority;

5° invitation to tender: document containing information required for the preparation, submission of bids and the process of evaluation;

6° local shareholders: Rwandan citizens who hold shares in a company;
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7° mineral processing: scientific operations for adding value to minerals;
8° Organ: public organ in charge of mines and quarries.

Chapter II
Demarcation of potential mining areas and conditions for mineral exploration and exploitation

Article 3 – Demarcation of a potential mining area

If a location is proven to have minerals, the Chief Executive Officer designates the area as a potential mining area.

Geographic coordinates and other information of the areas designated by the Chief Executive Officer as potential mining area are preserved in a designated system maintained by the Government.

Article 4 – Publication of a list of potential mining areas

The Chief Executive Officer publishes annually on the website of the Organ a list of the potential mining areas, geographic coordinates of minerals, how mineral licences are granted and any conditions for carrying out mineral exploration or exploitation.

A list of potential mining areas and conditions for mineral operations are revised at any time where new areas are designated for mining.

Article 5 – Conditions for exploration of a potential mining area

General conditions for exploration of a potential mining area are:

1° geological and geo-physical analysis;
2° geochemical or mineral resource.

The Chief Executive Officer, basing on mining standards, determines the conditions that mineral exploration reports must fulfil.

An exploration agreement between the competent authority and the company that carries out the exploration determines specific conditions for exploration in a potential mining area.

Article 6 – General conditions for exploitation of a potential mining area

General conditions for exploitation of a potential mining area include:

1° economic value of mineral resources in the mining area;
2° mine design and mine development program;
3° mineral processing;
4° social and environment management plan prepared after the approval of environmental and social impact assessment;
5° infrastructure development plan;
6° health and safety plan for employees;
7° employment, skills and technology transfer plan;
8° compensation and resettlement plan.

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The Chief Executive Officer, basing on mining standards, determines the conditions for submission of the mineral exploitation report.

Mining agreement between the licence holder and the competent authority determines specific conditions for exploitation in a potential mining area.

Chapter III
Criteria for categorisation of mines

Article 7 – Large scale mine

A large-scale mine must:

1° have a size of mining block exceeding hundred hectares (100 ha) but not exceeding four hundred hectares (400 ha);
2° have a licence of a maximum term of fifteen (15) years renewable;
3° use appropriate modern and efficient equipment and technologies in mining operations, mineral processing, metallurgy and environmental management;
4° have high degree of mineral processing up to export grades as may be stipulated by the Chief Executive Officer;
5° employ qualified mining staff, including a mine manager, professionals in charge of mining engineering, mineral processing, environmental management, health and safety and community relations.

Article 8 – Medium scale mine

A medium-scale mine must:

1° have a maximum size of mining block of more than fifty hectares (50 ha) but not exceeding hundred hectares (100 ha);
2° have a mineral license of a term of ten (10) years renewable;
3° use appropriate modern and efficient equipment and technologies in mining operations, mineral processing, metallurgy, and environmental management;
4° have high degree of mineral processing up to export grades as may be stipulated by the Chief Executive Officer;
5° be able to employ qualified staff;
6° have at least forty percent (40%) of local shareholders.

Article 9 – Small scale mine

A small scale mine must:

1° have a maximum size of mining block of fifty hectares (50 ha);
2° have a mineral licence of five (5) years renewable;
3° use appropriate modern and efficient mining equipment;
4° employ qualified mining professionals;
5° be owned by Rwandan nationals.
Chapter IV
Modalities and requirements for acquisition and renewal of a mineral licence

Article 10 – Application for a mineral licence
The applicant of a mineral licence in respect of a potential mining area must submit his or her request in writing to the Chief Executive Officer.

Application for an exploration licence is made in the form prescribed in Annex I of these Regulations.

Application for a large scale mining licence, a medium scale mining licence or a small scale mining licence is made in the form prescribed in Annex II of these Regulations.

Article 11 – Review of the application for the mineral licence
If the applicant for mineral licence submits a complete application file to the Chief Executive Officer, the latter submits it to the Committee for assessment. The Committee assesses the application file and gives advice to the Chief Executive Officer.

Article 12 – Notification of a decision on the application
The Chief Executive Officer notifies the applicant of a decision on the application for a mineral licence within ninety (90) days from the date a complete application file was received.

Article 13 – Issuance of a mineral licence
If an application for a mineral licence is approved, the Chief Executive Officer issues the licence to the applicant in accordance with the regulations determining the format and content of the mineral licence and mining agreement.

If the application for a mineral licence is rejected, the applicant may, within fifteen (15) days from the date of notification of the rejection, request the Board of Directors of the Organ in writing to review the decision.

Article 14 – Application for renewal of a mineral licence
A person who wants to apply for renewal of his or her mineral licence applies in writing in at least ninety (90) days before the expiration of the licence.

Application for renewal of an exploration licence is made in the form prescribed in Annex III of these Regulations.

Application for renewal of a large scale mining licence, renewal of a medium scale mining licence or for renewal of a small scale mining licence is made in the form prescribed in Annex IV of these Regulations.

Article 15 – Relinquishment of part of exploration area
In case a holder of an exploration licence relinquishes at least a half of the licenced area upon renewal of the licence, he or she pays the amount of fees equivalent to annual licence fees paid in the previous year when obtaining the licence.
Chapter V
Modalities and requirements for acquisition of a mineral licence through tender

Article 16 – Tender principles

Issuance of a mineral licence through tender is governed by the following principles:

1° transparency;
2° competition;
3° efficiency;
4° economic optimisation;
5° fairness;
6° accountability;
7° sustainable development.

Article 17 – Invitation to tender for a mineral licence

The Chief Executive Officer publishes an invitation to tender for a mineral licence on the official website of the Organ and in any media with wide circulation in Rwanda or abroad.

The invitation to tender for a mineral licence provides at least the following information:

1° name and address of the Organ;
2° reference number of the tender to be used in the tender;
3° blocks called for competition and their geographical coordinates, location and name of the area;
4° summary of the information on mining or activities related to that area;
5° conditions to be fulfilled by bidders;
6° cost of the bid;
7° deadline for submission of bids.

Article 18 – Content of the invitation to tender

The invitation to tender must contain the following:

1° instructions to bidders;
2° criteria for bid evaluation;
3° information relating to:
   a. proof of registration of the bidder;
   b. proof of technical capacity and experience in the mining industry;
   c. bank statements and audited financial reports as a proof of financial capacity to carry out the mineral operations;
   d. work and investment commitment plan consisting of schedule of activities to be carried out under the licence, timelines, costs, and the methodology of carrying out the activities;
e. value addition plan indicating the competitor’s plan for processing, beneficiation or adding value to the minerals extracted, including a schedule of the proposed activities, timelines and technologies to be used;

f. community development plan, consisting of the objectives of the plan and details of the contributions to the development of the community in accordance with the Government and the community’s development plan;

g. environmental management and rehabilitation plan which provides a baseline study of key environmental impacts, and how these will be improved, and an initial outline of the rehabilitation processes to be conducted on mine closure;

h. infrastructure development plan, including details of utilisation of existing infrastructure and provision of new infrastructure in respect of the operations and in the community;

i. training and employment plan, consisting of details of training programmes, technology transfer programmes, and employment of Rwandans in respect of the mining operations, including in senior management positions;

j. occupational safety and health plan which provides for management commitment through organisation policy development, hazard identification, risk assessment, hazards prevention and risk control as well as monitoring and evaluation measures;

k. local procurement plan, consisting of the bidder’s plan for sourcing and using goods and services produced in Rwanda or for development of local supplier capacity to provide goods and services required by the mining industry;

4° declaration that the information provided is true.

**Article 19 – Submission of bids**

On submission of bids, a bidder diligently ensures that:

1° the bid complies with the requirements of the invitation to tender;

2° bids are signed and sealed in an envelope addressed to the Chief Executive Officer and indicate a tender reference number;

3° bids are submitted not later than the deadline advertised for submission.

Upon receipt of the bids, the Organ ensures that:

1° date and time of submission of bid are recorded and confirmed by the bidder;

2° the bid submitted after the advertised deadline is not received;

3° the bids received are kept safely.

The Chief Executive Officer may decide that bids are submitted through electronic means.

**Article 20 – Evaluation of bids**

The Organ evaluates all bids received to ensure that they are responsive to the invitation to tender.

Where any information or documents required are not submitted by a bidder, the bid is rejected.

**Article 21 – Disqualification of a bidder**

The Committee disqualifies a bidder if:

1° he or she is debarred from participating in public tenders;
Article 22 – Selection of a successful bidder

The Committee selects a successful bidder in accordance with the bid evaluation criteria provided for in the invitation to bid.

Article 23 – Evaluation report

After bid evaluation, the Committee submits a report to the Chief Executive Officer. The evaluation report of the Committee is signed by its members.

Article 24 – Approval of the evaluation report and issuance of a mineral licence

If the Chief Executive Officer is satisfied that the requirements of these Regulations are complied with, he or she approves the evaluation report of the Committee. Upon approval of the evaluation report of the Committee, the Chief Executive Officer enters into negotiations with the successful bidder for issuance of a mineral licence.

Article 25 – Notification of bidders

The Chief Executive Officer, upon approval of the evaluation report of the Committee, informs all bidders of the evaluation results. A copy of the evaluation report of the Committee is posted on the website of the Organ.

Article 26 – Rejection of the evaluation report and recommendations

If the Chief Executive Officer finds that the Committee does not comply with these Regulations, he or she rejects its report. If the Chief Executive Officer rejects the evaluation report of the Committee, he or she may order that the tender process be complied with, and that bidders be notified. In case the Chief Executive Officer finds serious omissions or non-compliance, may cancel the tender and order re-evaluation.

Article 27 – Cancellation of procurement proceedings

The Chief Executive Officer may at any time cancel or suspend the tender process for any of the following reasons:

1° if it is established that there was fraud in tender proceedings;
2° if it is established that the tender proceedings does not contribute to the development of the mining industry;
3° where any unforeseen circumstances make it impossible to continue the tender proceedings.

The Chief Executive Officer notifies all bidders in writing of the cancellation and the reasons for the cancellation of the procurement proceedings.

Article 28 – Standard bid form

The Chief Executive Officer may determine the standard bid form for use.
Article 29 – Keeping of bids
All proceedings of the Organ relating to tender process are kept in writing and conserved electronically and are kept confidential. However, they may be published if required by the law or by authorisation of the Chief Executive Officer.

Chapter VI
Mineral licence fees

Article 30 – Fees paid for a mineral exploration licence
Fees paid for a mineral exploration licence are as follows:

1° licence: nine hundred thousand Rwandan Francs (FRW 900,000);
2° renewal of licence: one million one hundred Rwandan Francs (FRW 1,100,000);
3° annual licence fee:
   a) year One:
      nine hundred thousand Rwandan Francs (FRW 900,000);
   b) year 2:
      one million eight hundred thousand Rwandan Francs (FRW 1,800,000);
   c) year 3:
      two million seven hundred thousand Rwandan Francs (2,700,000 FRW);
   d) year 4:
      three million six hundred thousand Rwandan Francs (FRW 3,600,000);
   e) from year 5 to year 8:
      three million six hundred thousand Rwandan Francs (FRW 3,600,000);
4° if a holder relinquishes at least half of the licence area, he or she pays nine hundred Rwandan Francs (FRW 900,000) Rwandan Francs;
5° transfer of licence of mineral exploration: nine hundred thousand Rwandan Francs (FRW 900,000).

Article 31 – Fees paid for a large scale mining licence
Fees paid for a large scale mining licence are as follows:

1° licence: four million five hundred Rwandan Francs (FRW 4,500,000);
2° renewal of licence: nine million Rwandan Francs (FRW 9,000,000);
3° annual licence fee: one million eight hundred thousand Rwandan Francs (FRW 1,800,000);
4° transfer of licence: four million five hundred Rwandan Francs (FRW 4,500,000);
5° annual surface rent: six thousand five hundred Rwandan Francs (FRW 6,500) per one hectare (1ha).
**Article 32 – Fees paid for a medium scale mining licence**

Fees paid for a medium scale mining licence are as follows:

1° licence: two million seven hundred thousand Rwandan Francs (FRW 2,700,000);

2° renewal of licence: five million four hundred Rwandan Francs (FRW 5,400,000);

3° annual Licence Fee: nine hundred thousand Rwandan Francs (FRW 900,000);

4° transfer of licence: two million seven hundred thousand Rwandan Francs (FRW 2,700,000);

5° annual surface rent: six thousand five hundred Rwandan Francs (FRW 6,500) per one hectare (1ha).

**Article 33 – Fees paid for small-scale mining licence**

Fees paid for a small scale mining licence are as follows:

1° licence: one million eight hundred thousand Rwanda francs (FRW 1,800,000);

2° renewal of licence: three million six hundred thousand Rwandan Francs (FRW 3,600,000);

3° annual licence fee: four hundred fifty thousand Rwandan Francs (FRW 450,000);

4° transfer of licence: one million eight hundred thousand Rwandan Francs (FRW 1,800,000);

5° annual surface rent: six thousand five hundred Rwandan Francs (FRW 6,500).

**Article 34 – Modalities for payment of fees**

Fees applicable under these regulations are paid to the special account of the Organ.

The annual licence fee and surface rent is paid before 31st December of following year.

**Chapter VI**

**Miscellaneous and final provisions**

**Article 35 – Reporting obligations**

A holder of an exploration licence or a mining licence must submit quarterly reports to the Chief Executive Officer in forms prescribed in Annexes V and VI of these Regulations.

**Article 36 – Repealing provision**

All prior provisions contrary to these Regulations are repealed.

**Article 37 – Commencement**

These Regulations come into force on the date of their publication in the Official Gazette of the Republic of Rwanda.

**Annex I - VI**

Forms

*Editorial note: The forms have not been reproduced.*