

INFORMATION SHEET ON THE
RWANDA FOUNDATION



**FOUNDATION – RWANDA DEVELOPMENT BOARD Law No 059/2021 OF 14/10/2021 GOVERNING FOUNDATIONS
Official Gazette n° 41 Bis of 01/11/2021 GENERAL PROVISIONS**

Characteristics of a foundation

A foundation has the following characteristics:

- be a separate legal entity from its founder;
- have one or more objectives which may be charitable or noncharitable;
- make its property legally independent from the founder's;
- identify in its charter the beneficiary or beneficiaries.

Types of foundations

Foundations are classified into the following types:

- A private-benefit foundation is a foundation which, according to the charter, is entirely intended to serve private or personal purposes that include estate planning and other investment in commercial activities in order to grow its property.
- A common-benefit foundation is a foundation whose activity, according to the charter, serves exclusively or predominantly common benefit purposes, which includes:
 - a) promotion of social services aiming at: i. relief of poverty; ii. promotion of education; iii. promotion of health.
 - b) promotion of religion based social services;
 - c) protection of the environment;
 - d) promotion of human rights and freedoms;
 - e) any other purpose beneficial to the general public which is provided in the charter and which may be approved by the Registrar.
- A mixed-benefit foundation is a foundation which, according to the charter, is intended to do investment in commercial activities in order to serve private or personal purposes and partly invest its revenues in social impact projects.

Foundation Charter

- Obligation to have a foundation charter A foundation must have a charter regulating its life and which complies with the provisions of this Law.
- Contents of the charter:-

The foundation charter includes at least the following:

1. the name of the foundation;
2. the type of the foundation;
3. particulars of the founder of a foundation, namely: a) his or her name and address, when the founder is an individual; b) name and registered address of the entity when the founder is a legal entity, particulars

- of its managers, members of the board of directors and members of a governing body of such a legal entity;
- c) his or her name and registered address in Rwanda when the founder is not resident in Rwanda;
4. the purpose and objectives of the foundation;
 5. indication of the endowment of the property which shall be the initial assets of the foundation;
 6. the beneficiary of the foundation or the procedure by which a beneficiary may be appointed, removed and provisions for appointment of additional beneficiaries after establishing the foundation;
 7. the term for which the foundation is established;
 8. the name and address of the Executive Secretary of the foundation;
 9. the address of the registered office of the foundation in Rwanda;
 10. the procedure for appointment of the foundation council and of a guardian of a foundation, their removal and term of office as well as their powers and duties;
 11. provisions relating to the foundation financial and property audit;
 12. provisions relating to the winding up of the foundation including provisions specifying the fate of any assets of the foundation that is wound up voluntarily.

- Modification of charter:

The foundation charter may be modified by the foundation council and in compliance with the provisions of this Law. The modifications made are notified to the Registrar within fifteen (15) working days as of the date such modifications are made and they take effect when the Registrar makes their entry in the register.

Requirements for the name:

The foundation charter must specify the name of the foundation, which ends with the word “Foundation”. The name of a foundation must not be misleading and must not be against good morals. A foundation cannot be registered if its name contains the following:

- the word “limited” or any abbreviation or any other form of the word “limited”;
- the word “company” or an abbreviation or any other form of the word “company”;
- the word “partnership” or “société” or an abbreviation or any other form of the word “partnership” or “société”
- A foundation cannot be registered under a name which is identical to the name of an existing foundation, an existing company registered with the Registrar or any other organisation carrying out business in Rwanda. Except with the consent of the Registrar, a foundation cannot be registered under a name which, in the Registrar’s opinion, suggests or is likely to suggest that it enjoys the patronage of the Government or that the foundation works in partnership with the Government, a statutory corporation, Government of any other State or any other private organisation.

Use of name

When dealing with third parties, a foundation ensures that its name is clearly stated, particularly for the following: -

- a written communication sent by the foundation or on its behalf;
- a document issued or signed by the foundation or on its behalf;
- a document evidencing or creating a legal obligation of the foundation.

Change of a name - A foundation may change its name upon authorization by the Registrar.

Purpose of the Foundation

- Subject to the provisions of Article 5 of this Law, the foundation purpose is provided in its charter. The purpose and objectives of a foundation must not be contrary to the laws of Rwanda.

Change of the purpose of a Foundation

- A foundation may change its purpose upon authorization by the Registrar. - Establishment of a foundation

Methods of establishment and registration of a foundation

A foundation is established through the following methods:

- by a written declaration of establishment;
- by a will;
- by registration.

Content of a written declaration of establishment of a foundation

A foundation is established by a written declaration of establishment indicating the following:

- the purpose of the foundation;
- main activities;
- property of the foundation. Instructions by the Registrar may determine additional indications to be contained in a declaration of establishment of the foundation.

Establishment of the foundation by a will

A foundation may be established by a will in accordance with relevant laws. Where a foundation is established by a will, such a will have the same value as the charter and the testator is the only founder. Where two (2) or more testators have made concurrent wills establishing a foundation and those wills take effect simultaneously, the testators are considered to be one founder. Entry into force of a foundation or the deposition of a notification of formation of a foundation formed by a will cannot be undertaken before the death of the founder or in the case of a contract of inheritance, except when the founder stipulates otherwise or the foundation is supposed to take effect after the death of one of the founders. The executor of a will appoints a foundation council in accordance with the will and periodically keeps the foundation. The council informed of the progress of the registration of the foundation. If the registration of the foundation has not been effected after twelve (12) months from the death of the founder, an application is made by the executor to the court for the appointment of an administrator to ensure that the foundation is registered and that the endowment of the property to be the initial assets of the foundation be made as per the will.

Legal personality of the Foundation

A foundation acquires the legal personality after it is registered in accordance with this Law.

Application for registration of a foundation

A founder or an executor, in the case of a foundation established by a will, submits his or her application for registration of the foundation to the Registrar by filling the form designated for that matter, attaching the required documents and paying the prescribed fee. When the Registrar is satisfied that the applications meet all the requirements under this Law, he or she performs the following:

- record the application in the register;
- record the particulars of the foundation;
- deliver to the foundation a certificate of registration.

Organisation of a Foundation

A. the Founder:

Characteristics of a founder:

A founder may be one or more natural persons or a legal entity. If a foundation has more than one founder, the rights to which a founder is entitled or which are reserved to the founder may only be exercised jointly by all founders unless the foundation charter provides otherwise. A founder may be also beneficiary of a foundation of which he or she is the founder.

Rights of a founder:

A founder has rights in respect of the foundation and its property as provided in the foundation charter and regulations. Any rights that a founder may have in respect of a foundation and its property may be assigned to some other person or entity if the charter or regulations of the foundation so provide.

Effects of the death of a founder:

In the event of the death of the founder or if any other person or entity to whom founder rights in respect of property have been transferred ceases to exist, those rights are vested in the guardian of the foundation, unless the foundation charter provides otherwise.

Revocation or amendment of the declaration of establishment of a foundation:

A founder may revoke or request to amend the declaration of establishment of a foundation in the following circumstances: -

- when a founder has reserved rights for himself or herself for that purpose in the declaration of establishment and in the charter of the foundation;
- in case the foundation has been formed by more than one founder, the right may be exercised by each individual founder who has reserved for himself or herself that right. If the founder is a legal entity, the right for revocation or amending the declaration of establishment cannot be reserved. A representative of the founder may exercise the right for revocation or amending the declaration of establishment only by way of power of attorney and the legal consequences return directly to the founder. If a founder who has reserved his or her rights to revoke the foundation or amending the

declaration of establishment is also remaining beneficiary under the foundation, the other beneficiaries are not entitled to the information and disclosure rights under this Law

B. The guardian of a foundation

Appointment of a guardian of the foundation

A foundation charter provides for appointment of a guardian of the foundation and determines at least the following:

- identification of an initial guardian of the foundation;
- modalities of resignation or dismissal of a guardian of the foundation, of retirement and appointment of a new guardian of the foundation;
- foundation guardian's remuneration, if any.

A founder of the foundation may be its guardian. However, a member of the foundation council cannot be appointed as a guardian.

Requirements to be a guardian of the foundation

For being appointed as a guardian of the foundation, a person must not be a member of the foundation council and must fulfil at least the following:

if it is a natural person, he or she must:

- be of the majority age;
- have no mental disability certified by a medical doctor;
- have not been definitively convicted in Rwanda or elsewhere of any of the following offences: fraud or breach of trust; money laundering, terrorism financing and financing of proliferation of weapons of mass destruction; terrorism; economic crimes; crimes against humanity; genocide, genocide ideology or other related crimes.

if it is a legal entity, it must:

- C. have not been declared bankrupt;
- D. not be under liquidation

The foundation charter determines other requirements for a person to be appointed as its guardian.

Duties of the guardian of a foundation

A guardian of the foundation has the following duties:

- to take reasonable steps in all circumstances to ensure that the foundation council carries out its functions
- to request the foundation council to provide justification on the administration of the foundation's property and the way the council is carrying out the foundation's objectives
- to approve or disapprove any action of the foundation council, if such powers have been conferred to the guardian of a foundation under the charter of the foundation;
- to sanction or authorize any action taken or to be taken by the foundation council that would not otherwise be permitted by the foundation charter or regulations, unless the foundation charter provides otherwise;

- to exercise its powers conferred under the foundation charter and this Law in the best interest of the foundation and in good faith.

C. The foundation council

Membership of the foundation council

- The foundation council is composed of at least three (3) members, and one of them must be resident in Rwanda.
- Members of the foundation council are appointed as per the provisions of the foundation charter that also determines their organisation and functioning.
- Members of the foundation council can perform their activities with or without remuneration. If members of the foundation council perform their activities without remuneration, the declaration of establishment may provide some exemptions concerning liability.
- Where an appointment is made before registration of a foundation, members of the council may be appointed by the founder or where the foundation charter is a will, by the executor or administrator.
- A legal entity may be member of the foundation council. The provisions governing members of the foundation council apply also to their possible representatives.
- Members of the foundation council sign in such manner that they append their signature to the name of the foundation.

Responsibilities of the foundation council

The main responsibility of the foundation council is to administer the foundation's property and carry out its objectives in accordance with this Law, the foundation's charter and its regulations. In particular, responsibilities of the foundation council are as follows:

1. to manage the business of the foundation and represent it before the law;
2. to monitor the fulfilment of the purpose and objectives of the foundation in compliance with the provisions of this Law and the charter of the foundation;
3. to take appropriate steps to ensure that the foundation's records are prepared and kept properly and accurately and that, in particular, they contain entries of all sums of money received and spent by the foundation, the matters in respect of which the receipt and expenditure takes place and a record of the assets and liabilities of the foundation, including shares, interests and units held by the foundation in any other legal entities or arrangement.
4. to inspect the accounting records required to be kept as per item 3 upon giving a two (2) working days' notice in writing to the executive secretary of the foundation. The foundation council must deliver its duties and exercise its powers in good faith with diligence and in the interest of the foundation.

Requirements for membership to the foundation council

For being appointed a member of the foundation council, a person must at least:

1. be of the majority age;

2. have no mental disability certified by a medical doctor;
3. have not been definitively convicted in Rwanda or elsewhere of any of the following offences:
 - a) fraud or breach of trust;
 - b) money laundering, terrorism financing and financing of proliferation of weapons of mass destruction;
 - c) terrorism
 - d) economic crimes;
 - e) crimes against humanity;
 - f) genocide, genocide ideology or other related crimes
4. he or she or any other legal entity has not been declared bankrupt by the court;
5. be a legal entity which is not under the liquidation process;
6. have signed and delivered to a person making the appointment his or her written consent to be appointed as member of a foundation council, prior to his or her appointment.

Cessation of office of a member to the foundation council

A member of the council of a foundation cease to hold office as a member when:

1. he or she no longer satisfies the conditions for being a member of the foundation council provided for in Article 33 of this Law;
2. he or she gives one (1) month notice to the foundation council of his or her intention to cease to hold office as a member of the council;
3. he or she is dismissed from the foundation council following the modalities provided for by the charter;
4. he or she dies, in case of a natural person;
5. it is dissolved, in case of a legal entity;
6. a foundation is removed from the register;
7. a foundation is put under an insolvency regime and faces liquidation or winding-up. Any liability incurred by a member of the foundation council, in his or her capacity, continues to be a liability enforceable against him or her by the foundation even after cessation of his or her duties.

Notification of change in membership

The foundation council notifies, in writing, the Registrar of any change in membership of the council of a foundation within seven (7) working days from the occurrence of that change.

D. The executive secretary of the foundation

Appointment of the executive secretary of the foundation

A foundation has the executive secretary appointed by the foundation council and who is in charge of the daily activities of the foundation. The executive secretary may be a natural person or a legal entity and has to reside in Rwanda.

Requirements for a person to become an executive secretary of the foundation

For being appointed as an executive secretary of the foundation, a person must not be a member to the foundation council and fulfil at least the following requirements:

if it is a natural person, he or she must:

1. be of the majority age;
2. have no mental disability certified by a medical doctor;
3. have not been definitively convicted in Rwanda or elsewhere of any of the following offences:
 - fraud or breach of trust;
 - money laundering, terrorism financing and financing of proliferation of weapons of mass destruction;
 - terrorism;
 - economic crimes;
 - crimes against humanity;
 - genocide, genocide ideology or other related crimes;

if it is a legal entity, it must:

1. have not been declared bankrupt;
2. not be under liquidation.

The charter of the foundation determines other requirements for a person to be appointed as its executive secretary.

Duties of the executive secretary of a foundation

The executive secretary of a foundation has the following duties:

1. to perform the daily activities of the foundation;
2. to receive on behalf of the foundation all the correspondences relating the foundation;
3. to perform any other activity related to the objective of the foundation as may be assigned by its council.

Cessation of office of the executive secretary

The executive secretary of the foundation ceases to hold office when:

1. he or she no longer satisfies the conditions for being an executive secretary; in that case, the foundation council gives a written notice of thirty (30) days as of the date it is realised that he or she no longer satisfies the conditions;
2. he or she voluntarily resigns and gives a notice of thirty (30) days from the date such a notice is served to the foundation council and reserves a copy to the registrar;
3. the foundation is removed from the register in accordance with this Law, is dissolved or is put under insolvency regime and faces liquidation or winding-up;
4. any other reason which is provided for by the charter of the foundation which entails incompatibility with the duties for such an office;
5. he or she is dismissed;
6. he or she dies, in case of a natural person;
7. is dissolved, in case of a legal entity Cessation of being the executive secretary of a foundation does not exonerate him or her from the liability of faults or any other act incurred in his or her capacity as executive secretary of a foundation and his or her acts are valid irrespective of a defect in his or her appointment or qualification.

E. Beneficiary

Characteristics of a beneficiary

A beneficiary may be a natural person or a legal entity characterized by the following:

1. when his or her name and particulars have been entered in the charter of the foundation and identified as beneficiary;
2. when he or she is entitled to benefit under the foundation;
3. when the power to distribute any foundation property may be exercised in his or her favour;
4. when he or she may derive an economic benefit from the foundation at dissolution or winding up as remaining beneficiary.

Rights of a beneficiary under a foundation

A beneficiary has no right to the foundation's property which belongs to the foundation as a separate legal person and he or she is not owed by the foundation or by a person appointed under the charter and regulations of the foundation. However, a beneficiary may seek an order from a court if he or she becomes entitled to a benefit under the foundation and in accordance with the charter or the regulations of the foundation and the benefit is not provided. A beneficiary may seek a court order within a period of three (3) years from the time he or she becomes aware of his or her entitlement to the benefit. If a beneficiary has not attained the majority age and becomes aware of his or her entitlement to the benefit, the period begins to run from the date the beneficiary attains that age.

Rights of a beneficiary to information

A beneficiary is entitled to inspect and request from a foundation the following copies:

- a copy of the foundation charter;
- amendments of the foundation charter;
- any regulation passed by the foundation;
- business records and accounts, including audited accounts of the foundation;
- any report on the financial status of the foundation and its annual accounts;
- minutes of proceedings of the meeting of the foundation council.

Refusal of a beneficiary's right to information and disclosure

The foundation council may refuse to provide a beneficiary with information and may refuse to disclose any other information if the request is made with dishonest intent, in an abusive manner or in a manner in conflict with the interests of the foundation or other beneficiaries, and for important reasons to protect the beneficiary.

F. Supervisory Authority

Supervisory authority Private-benefit and mixed-benefit foundations are supervised by the national organ in charge of development in relation to their activities. Common-benefit foundation is subject to the supervision of the national organ in charge of governance in relation to its activities.

Responsibilities of the supervisory authority

The supervisory authority, has the following responsibilities: -

1. to request information from the foundation through audit;
2. to inspect the books and documents of the foundation;
3. to collect information from other administrative authorities or from any other person. For a common-benefit foundation, the supervisory authority has, in addition to the responsibilities to perform the following:
 - to ensure that the foundation's property is managed and used in accordance with the purpose and objectives of the common-benefit foundation;
 - to carry out a special inspection and proceed with the dismissal of the executive bodies or cancel the resolutions of executive bodies where necessary basing upon its report.

G. Property of a Foundation

Initial capital: -

The foundation's initial capital is indicated in its charter. There is no minimum capital contribution required to establish a foundation. If there is a contribution of property to the foundation after its legally valid formation, it is treated as a subsequent endowment. If a foundation does not become effective until the death of the founder or after the termination of a legal entity, with regard to the contributions of the founder, a foundation is considered to have come into force before his or her death or before the termination of the legal entity. The functional currency of a foundation established under this Law may be the Rwandan francs or any other currency approved by the National Bank of Rwanda upon request by the Registrar.

Donation

The donation offered to a lawfully registered foundation is accepted. A donor cannot acquire or assume the status or function of a founder. It is prohibited for foundations to accept donations from individuals or organizations characterized by acts of money laundering and terrorism financing.

Recording of donations

Any donation made to a foundation, being in cash or other property, is recorded in a separate and updated foundation book.

Keeping the accounting records of the foundation

The foundation council must keep the accounting records of the foundation for a period of ten (10) years as of their production.

H. Register

Register of foundations

The Registrar of foundations establishes and maintains a register of foundations including information and documents of every foundation registered under this Law, comprising of the following:

- a charter of each foundation;
- a declaration of establishment of the foundation or the will;
- particulars of the members of the foundation;

- accounting records of the foundation;
- audit records of the foundation;
- financial statements of the foundation;
- records of the assets endowed to the foundation. Instructions by the Registrar may specify other information and documents to be recorded in the register of foundations.

Access to information contained in the register of foundations

A person duly authorised by a guardian of a foundation and upon payment of a prescribed fee is granted by the Registrar, the right to access the information contained in the register. When the person who intends to get information wants to obtain a copy from the register of foundations, he or she request the same to Registrar in writing.

Register of members of the foundation and the guardian

Every foundation established in Rwanda or elsewhere with a registered office in Rwanda establishes and keeps an internal register which contains the names and particulars of the foundation council members, the guardian and other information required by the charter of the foundation. The register is kept at the registered office;

it is maintained by the foundation council and open to inspection by the founder, any member of the council or any beneficiary.

Register of beneficial owner

The Registrar of the foundations establishes and permanently keeps the register of beneficial owner.

Management of internal register of beneficial owner

Every foundation established in Rwanda or elsewhere but with a registered office in Rwanda must:

1. establish the internal register of beneficial owner;
2. take appropriate measures to obtain, verify and hold adequate, accurate and up-to-date information in respect of its beneficial owner;
3. record the information in the internal register of beneficial owner;
4. update the information in respect of the beneficial owner in the register whenever there is a change, which is done within seven (7) days of the date the beneficial owner has notified the change;
5. store the information for the period of time during which an individual is beneficial owner, and for a period of 10 years after the individual ceases to be beneficial owner;
6. keep the internal register of beneficial owner and supporting documents at its registered office in Rwanda
7. provide the data to the competent organs, upon request;
8. file with the Registrar, a copy of the internal register of beneficial owner and notify the latter of any changes within fourteen (14) days of the occurrence of such changes. Instructions of the Registrar determine modalities for keeping the internal register of the beneficial owner.

Particulars to be contained in the internal register of beneficial owner

The internal register of beneficial owner of a foundation must contain at least the following information in respect of each beneficial owner:

1. the identity of the beneficial owner and which includes:

- the full names;
 - date of birth;
 - place of domicile or residence;
 - national identity card number or passport number;
 - tax identification number;
 - nationality;
 - postal address,
 - business address;
 - email address and telephone number.
2. the nature, modalities and extent of the benefit, or the nature and extent of the control exercised over the foundation by each beneficial owner;
 3. the date on which the person became, or ceased to be a beneficial owner of the foundation.

Access to the internal register of beneficial owner kept by Registrar

The competent organs are granted, upon request, the right to access information on beneficial owner held by the Registrar.

Request for information on the beneficial owner

The foundation may, through a written request, seek from any person it knows well that he or she is a beneficial owner or it has reasonable grounds to so believe information including:

1. confirming whether or not the person is a beneficial owner;
2. confirm whether the information on him or her as indicated in the request are accurate or make corrections thereof and provide the missing details in case the person is the beneficial owner. Any person from whom information on the beneficial owner is sought must comply with the terms of the request within thirty (30) days of the request receipt. The foundation keeps the document containing:
 - a full identity of the person to whom the foundation requested to provide information about the rights to property;
 - the benefits of a member of the foundation;
 - the date on which a request to provide information was made;
 - the date on which the requested information was provided;
 - the date of rights restrictions, if any, following refusal to provide the requested information; 6° the date of rights restriction waiver following the provision of requested information. The foundation sends a copy of such a record to the Registrar and updates the latter within fourteen (14) days on every change made on the record.

Duty of beneficial owner to notify changes

A beneficial owner has the obligation to notify the foundation all the changes occurred with regard ceasing to be a beneficial owner. When the beneficial owner has died, the changes are notified by the successors. The said changes are notified to the foundation within fourteen (14) days as of their occurrence.

Inspection by the Registrar

The Registrar may, at any time and without notice, enter premises occupied by a foundation, including a foreign foundation, registered under this Law in order to conduct an inspection. During inspection, the Registrar may also require and get a copy of any other document of the foundation.

I. Removal of the Foundation from the register, dissolution and winding up

Removal of the foundation from the register

When the Registrar has reasonable cause to believe that a foundation no longer satisfies the requirements of this Law, he or she gives to the foundation a written notice informing that the foundation no longer satisfies the requirements and asks it to correct the situation. If the foundation does not make corrections within thirty (30) days, the Registrar removes it from the register. A foundation removed from the register under the provisions of this Article, remains liable for all claims, debts, liabilities and obligations of the foundation. The removal of the foundation from the register does not affect the liability of a member of the council or a staff of a foundation. The decision of the Registrar to remove a foundation from the register can be appealed against before the court.

Request for removal of a foundation from the register

A founder or beneficiary may request from the Registrar to remove a foundation from the register. The request to remove a foundation from the register is accompanied by an order of the court, in case it is made by a beneficiary. A foundation which has been removed from a register remains liable for all claims, debts, liabilities and obligations of the foundation. The removal of a foundation from the register does not affect the liability of a member of the foundation council or its officer.

Dissolution of a foundation

A foundation is dissolved: -

1. in case of bankruptcy proceedings initiated in respect of a foundation assets;
2. in case a court has ordered dissolution;
3. in case the foundation council has adopted a valid resolution of dissolution in compliance with the charter.

Resolution for dissolution by the foundation council

Unless otherwise provided, the foundation council may unanimously adopt a resolution on dissolution of a foundation if:

1. it receives a legally admissible revocation by the founder;
2. the purpose of the foundation has been achieved or is no longer achievable;
3. the duration envisaged in the foundation charter has expired;
4. there are other grounds for dissolution stated in the foundation charter.

The foundation council notifies the Registrar of the resolution on dissolution.

Publication of the decision for liquidation and removal of a foundation from the register

The Publication of the decision for liquidation of a foundation is done when such a statement bearing the signatures of members of the foundation council is submitted to the Registrar and is published through at least

one of the largest written or audio media or any other electronic means. Thirty (30) days after the statement for the liquidation of a foundation is submitted to the Registrar, the latter removes the foundation from the register.

Maintaining the books and records of a dissolved foundation

The foundation council submits all the records of a dissolved foundation to the Registrar who keeps them for a period often (10) years from the date of dissolution of the foundation.

Application for dissolution of a foundation by a court

The dissolution of a foundation by a court is made upon application by:

1. the foundation council;
2. a beneficiary;
3. the founder;
4. a creditor of the foundation;
5. the Registrar.

Reasons of application for dissolution of a foundation by a court

An application to the court for dissolution of a foundation is made for the following reasons:

1. the foundation is unable to pay its debts
2. members of the foundation council have acted in the affairs of a foundation in their own interests, rather than in the interests of beneficiaries as a whole or in any other manner which is unfair or unjust to a beneficiary;
3. the court is of the opinion that it is just and equitable for dissolution of the foundation;
4. the foundation has carried out business in contravention to the laws. Where a court order for dissolution of a foundation is rendered in accordance with the provisions of Article the court may make such other order as it thinks fit, in relation to the winding-up the activities of a foundation, including an order for the appointment of a liquidator. The property of a foundation which remains after completion of its dissolution is the property of any remaining beneficiary, and that property is transferred to that beneficiary unless the charter provides otherwise. If there are more than one remaining beneficiaries, the remaining property is divided equally among the remaining beneficiaries unless the charter provides otherwise. However, in case of dissolution of a common interest foundation, the remaining property is transferred to another foundation with same purpose or to the State if there is no such foundation.

J. Faults and administrative sanctions, offences and penalties

Failure to register a foundation

A founder or an executor, for the case of a foundation established by will, who carries out the activities of a foundation without having it registered, commits a fault. He or she is liable to an administrative fine of not less than three million Rwandan francs (FRW 3,000,000) but not exceeding five million Rwandan francs (FRW 5,000,000).

The sanctions also apply to a foreign foundation which starts operating in Rwanda without being registered.

Failure to register a change of the purpose or to register any other change occurred

A foundation which changes the purpose or the content of the charter and fails to notify the Registrar, commits a fault. It is liable to an administrative fine of not less than three million Rwandan francs (FRW 3,000,000) but not exceeding five million Rwandan francs (FRW 5,000,000).

Failure to keep, improper keeping of books of accounts or inability to present them

A member of foundation who fails to:

- To keep or ensure the proper keeping of the books of accounts and other documents explaining the financial and property status of the foundation;
- To present the accounting records of the foundation for inspection; commits an administrative fault

He or she is liable to an administrative fine of not less than three million Rwandan francs (FRW 3,000,000) but not exceeding five million Rwandan francs (FRW 5,000,000).

Failure to maintain a register of beneficial owner or to enter the data in it

A foundation which fails to maintain the register of beneficial owner or to enter the data in the same as provided for by this Law commits a fault. It is liable to an administrative fine of not less than two million Rwandan francs (FRW 2,000,000) but not exceeding five million Rwandan francs (FRW 5,000,000).

Failure to provide information to the foundation

A beneficial owner who is required by a member of the foundation council to provide information to be included in the register of beneficial owner but fails to do so within thirty (30) days of the notice, commits an administrative fault. He or she is liable to the following sanctions:

1. be restricted from exercising his or her rights;
2. being stripped of any right to payment of beneficial owner's interests.

The sanctions referred to in item 1 and 2 above remain in force until the requested person submits details on beneficial ownership to a member of the foundation council.

Failure to notify the dissolution of a foundation

A foundation which fails to notify the Registrar of its dissolution commits a fault. It is liable to an administrative fine of not less than three million Rwandan francs (FRW 3,000,000) but not exceeding five million Rwandan francs (FRW 5,000,000).

Failure to submit to the Registrar all records of the dissolved foundation

A member of the foundation council or the liquidator who fails to lodge with the Registrar all the records of a dissolved foundation commits a fault. He or she is liable to an administrative fine of not less than five million Rwandan francs (FRW 5,000,000) but not exceeding seven million Rwandan francs (FRW 7,000,000).

Powers to apply administrative sanctions

The Registrar has the power to apply administrative sanctions. - Offences and penalties

Providing false or misleading information in application for incorporation

A person who provides false or misleading information to the Registrar in relation to an application for incorporation of a foundation under this Law, commits an offence. Upon conviction, he or she is liable to an imprisonment of not less than one (1) year but not exceeding two (2) years and a fine of not less than five hundred thousand Rwandan francs (FRW 500,000) but not exceeding one million Rwandan francs (FRW 1,000,000) or one of these penalties.

When the offence referred to in Paragraph One of this Article is committed by a legal entity, it is liable to a fine of not less than one million Rwandan francs (FRW 1,000,000) but not exceeding two million Rwandan francs (FRW 2,000,000) or a suspension of not less than six (6) months but not exceeding one (1) year or one of these penalties.

Receiving unlawful donations

Any foundation which receives unlawful donation from individuals or organizations involved in money laundering or terrorism financing commits an offence. Upon conviction, it is liable to dissolution and a fine not less than ten (10) but not exceeding twenty (20) times of the value of the laundered money or of the donations.

Failure to provide information

A person who fails to provide information when directed by the foundation supervisory authority under this Law, commits an offence. Upon conviction, he or she is liable to an imprisonment of not less than six (6) months but not exceeding one (1) year and a fine of not less than one hundred thousand Rwandan francs (FRW 100,000) but not exceeding one million Rwandan francs (FRW 1,000,000) or one of these penalties.

OUR CONTACT DETAILS

For more information, we invite you to contact Mrs. Lydie Nyombayire Murorunkwere by email at lnmurorunkwere@juristax.com or call her on (250) 7883 19928.



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