

ORGANIC LAW N° 04/2005 OF 08/04/2005 DETERMINING THE MODALITIES OF PROTECTION, CONSERVATION AND PROMOTION OF ENVIRONMENT IN RWANDA

We, KAGAME Paul,
President of the Republic;

THE PARLIAMENT HAS ADOPTED, AND WE SANCTION, PROMULGATE THE FOLLOWING ORGANIC LAW, AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA.

THE PARLIAMENT:

The Chamber of Deputies, in its session of 23 December 2004;

The Senate, in its session of 15 February 2005;

Given the Constitution of the Republic of Rwanda of June 4, 2003 as amended to date, especially in its Articles 29, 30, 49, 62, 88, 90, 93, 108, 118, 190, 191 and 201;

Recalling the International Convention on Biological Diversity and its Habitat signed in RIO DE JANEIRO in BRAZIL on 5 June 1992, as approved by Presidential Order n° 017/01 of 18 March 1995;

Recalling the United Nations Framework Convention on Climate Change, signed in RIO DE JANEIRO in BRAZIL on 5 June 1992, as approved by Presidential Order n° 021/01 of 30 May 1995;

Recalling the STOCKHOLM Convention on persistent organic pollutants, signed in STOCKHOLM on 22 May 2001, as approved by Presidential Order n° 78/01 of 8 July 2002;

Recalling the ROTTERDAM International Convention on the establishment of international procedures agreed by states on commercial transactions of agricultural pesticides and other poisonous products, signed in ROTTERDAM on 11 September 1998 and in New York from 12 November 1998 to 10 September 1999 as approved by Presidential Order n° 28/01 of 24 August 2003 approving the membership of Rwanda;

Recalling the BASEL Convention on the Control of Transboundary Movements of Hazardous wastes and their disposal as adopted at BASEL on 22 March 1989, and approved by Presidential Order n° 29/01 of 24 August 2003 approving the membership of Rwanda;

Recalling the MONTREAL International Convention on Substances that Deplete the Ozone Layer, signed in LONDON (1990), COPENHAGEN (1992), MONTREAL (1997), BEIJING (1999), especially in its Article 2 of LONDON amendments, and Article 3 of COPENHAGEN, MONTREAL and BEIJING amendments as approved by Presidential Order n° 30/01 of 24 August 2003 related to the membership of Rwanda

Recalling the CARTAGENA protocol on Biosafety to the Convention of Biological Biodiversity signed in NAIROBI from May 15, to 26, 2000 and in NEW YORK from June 5, 2000 to June 4, 2001 as authorised to be ratified by Law n° 38/2003 of 29 December 2003;

Recalling the KYOTO Protocol to the Framework Convention on Climate Change adopted at KYOTO on March 6, 1998 as authorised to be ratified by Law n° 36/ 2003 of 29 December 2003;

Recalling the RAMSAR International Convention of February 2, 1971 on Wetlands of International importance, especially as waterfowl habitats as authorised to be ratified by Law n° 37/2003 of 29 December 2003;

Recalling the BONN Convention opened for signature on June 23, 1979 on conservation of migratory species of wild animals as authorised to be ratified by Law n° 35/2003 of 29 December 2003 ;

Recalling the Washington Agreement of March 3, 1973 on International Trade in endangered species of Wild Flora and Fauna as authorised to be ratified by Presidential Order n° 211 of 25 June 1980;

ADOPTS :

TITLE ONE : GENERAL PROVISIONS, DEFINITIONS OF SOME TERMS APPLIED, FUNDAMENTAL PRINCIPLES AND THE SCOPE OF THIS ORGANIC LAW

CHAPTER ONE : GENERAL PROVISIONS

Article One :

This organic law determines the modalities of protecting, conserving and promoting the environment in Rwanda:

This Organic law aims at:

- 1° conserving the environment, people and their habitats;
- 2° setting up fundamental principles related to protection of environment, any means that may degrade the environment with the intention of promoting the natural resources, to discourage any hazardous and destructive means;
- 3° promoting the social welfare of the population considering equal distribution of the existing wealth;
- 4° considering the durability of the resources with an emphasis especially on equal rights on present and future generations;
- 5° guarantee to all Rwandans sustainable development which does not harm the environment and the social welfare of the population;
- 6° setting up strategies of protecting and reducing negative effects on the environment and replacing the degraded environment.

Article 2 :

The environment in Rwanda constitutes a common national heritage. It is also an integral part of universal heritage.

Article 3 :

Every person has the duty to protect, conserve and promote environment. The State has a responsibility of protecting, conserving and promoting the environment.

CHAPTER II : DEFINITIONS OF SOME TERMS APPLIED IN THIS ORGANIC LAW

Article 4 :

In this Organic law:

Environment is a diversity of things made up of natural and artificial environment. It includes chemical substances, biodiversity as well as socio-economic activities, cultural, aesthetic, and scientific factors likely to have direct or indirect, immediate or long term effects on the development of an area, biodiversity and on human activities.

A. The natural environment

The natural environment is composed of soil and subsoil, water, air, biodiversity, mountains and landscapes, tourist sites and monuments.

1° **Soil** is the surface land that hosts living things like plants, animals and people, any type of buildings as well as all things that exist underground. **Underground** means beneath the soil.

2° **Water** is one of the natural resources of the earth. As it forms, some will be trapped making pools of water, flowing and underground water. Depending on where it is and how it forms, it may change its name in the following manner:

- a. stagnant water is that of the oceans, lakes, ponds, pools and swamps;
- b. flowing rain water;
- c. flowing river and stream water;
- d. water that penetrates the soil;
- e. underground water.

3° **Air** is a mixture of gaseous fluid in the atmosphere and which is breathed by biodiversity but which can create effects on their existence and the environment in general. In gases, we find air that we breath or natural gas like methane gas;

4° **Biodiversity** is the variability of the living organisms of all types including man, animals of all species, plants of all types, be it on land or underground, in water as well as in the atmosphere and the interactions among them. Biodiversity means all things that breath.

- a. Ecosystem is a particular place on land or in water where biodiversity is found and complement each other;
- b. A biotope is a geographical area where all the environment's physical and chemical factors remain more or less constant;
- c. Ecology is a study of the different kinds of environment where biodiversity live, reproduce and die, as well as the relationship among them.

5° **Landscape** is a general outlook of an area made of mountains, forests, plainlands, valleys, swamps, lakes, rivers and streams.

- a. a mountain is an elevated part of the earth higher than the plainlands and swamps;
- b. plain land is a flat area with little water and less biodiversity;
- c. a valley is an area between two mountains characterised by a source of water above the ground or underground;
- d. a swamp is a flat area between mountains with much stagnant water and biodiversity, with papyrus, cypress or other vegetation of the same family;
- e. a wetland is a place made up of valleys, plainlands and swamps.

6° **Site** is a place selected because of its natural beauty or its special history.

7° **Natural monument** is a place characterised by natural elements.

B. Human environment:

Human environment is the organisation of an area relating to his or her social welfare. It is made up of those that are destructive and those that are not.

B.1. Those that are destructive:

It is made up of pollutants, waste, hazardous waste, installations and pollution.

1° **pollutants** are any waste disposal whether solid, liquid or gaseous, all wastes, smell, heat, excessive automobile noise, unbearable music noise, echo, radiation or combination of all that are likely to be destructive.

2° **Waste** is any substance whether solid, liquid or gaseous resulting from household activities, from manufacturing plants or any abandoned movable or immovable property, and which may be harmful.

3° **Hazardous wastes** are any substances whether solid, liquid or gaseous that cause a serious harm to human health, security and other biodiversity together with the quality of the environment.

4° **Installation** is any building that is fixed to a certain place or its replacement may cause disruption of the environment regardless of the owner and its value.

5° **Pollution** is the contamination caused by waste, harmful biochemical products derived from human activities that may alter man's habitat and cause adverse effects on the environment like man's social well being, animals, flora and fauna and the world he or she lives in. Pollution may be:

- a. **Marine pollution** which is caused by contamination of water by any substance that may change its physical, chemical or biological characteristics which may cause disease to human and animals that use it, aquatic life, plants or which may change the beauty of tourist sites, adjacent valleys and swamps;
- b. **Atmospheric pollution** is a voluntary or accidental contamination of the atmosphere and the surrounding air, gas, smoke, any particles or substances that may endanger biodiversity, human health and their security or disrupt agricultural activities, disrupt installations or the nature of tourist sites and mountains;
- c. **Transboundary pollution** is the contamination originating from one country to another.

B. 2. Those that are not destructive:

Activities that are aimed at enriching and reducing the adverse effects on the environment like afforestation, preparing entertainment places and applying technology geared at reducing human effects on environment.

C. Other terms used

1° **Sustainable development** is an effective method of using the environment with an aim of exploiting it to support the present and plan for future generations in consideration of conserving biodiversity, play a role in what constitutes biodiversity and equal distribution of benefits derived from their use and the technology applied on them.

2° **Environment impact assessment** is an evaluation which identifies effects that may be caused by planned human activities or a project.

3° **Evaluation on the environment** is a procedure of assessing and controlling the activities of conserving the environment.

4° **The Environment Impact Assessment Bureau** is a service instituted by competent authority with the responsibility of following up the environment impact assessment.

5° **The Competent authority** is a service or several services with competence provided for by law.

CHAPTER III : FUNDAMENTAL PRINCIPLES

Article 5 :

The establishment of national policy of protection, conservation and promotion of the environment is the responsibility of the Government of Rwanda. It develops strategies, plans and national program aiming at ensuring the conservation and effective use of environment resources.

Article 6 :

Every person in Rwanda has a fundamental right to live in a healthy and balanced environment. He or she also has the obligation to contribute individually or collectively to the conservation of natural heritage, historical and socio-cultural activities.

Article 7 :

Conservation and rational use of environment and natural resources are dependent upon the following principles:

1° The protection principle

The precaution principle is important so as to protect or reduce the disastrous consequences on environment. Precaution or preventive measures result from an environmental evaluation of policies, plans, projects, developmental activities and the social welfare of the population and are aimed at identifying the consequences of certain activities and hinders their commencement in case there arise consequences identified by an environmental impact assessment

Protection discourages extravagant financial expenses as well as environmental degradation that may cause severe and irreversible problems. The activities considered or suspected to have negative impacts on environment shall not be implemented even if such impacts have not yet been scientifically proved. Scientific uncertainty must not be taken into consideration for the benefit of the destroyers of environment instead it may be used in conservation of the environment.

2° The principle of sustainability of environment and equal opportunities among generations

Human beings are central to sustainable development. They are entitled to the right of a healthy and productive life in harmony with nature. However, the right to development must be achieved in consideration of the needs of present and future generations.

3° The polluter pays principle

Every person who demonstrates behaviour or activities that cause or may cause adverse effects on environment is punished or is ordered to make restitution . He or she is also ordered to rehabilitate it where possible.

4° The Principle of Information dissemination and Community sensitisation in conservator and protection of the environment

Every person has the right to be informed of the state of environment and to take part in the decision taking strategies aimed at protecting the environment.

5° The Principle of cooperation

Authorities, international institutions, associations and private individuals are required to protect the environment at all possible levels. In its policy of protecting the environment, the Government of Rwanda always aims at promoting international cooperation.

CHAPTER IV : THE SCOPE OF THIS ORGANIC LAW**Article 8 :**

This organic law is particularly concerned with the following :

- 1° classified installations as stated in their nomenclature;
- 2° factories, warehouses, mines, building sites, quarries, underground or above the ground stock pilings;
- 3° shops and workshops;
- 4° installations used or which are in responsibility of any natural or legal person or private association, public institution which may cause a danger or accidents either on a commodity, health, as well as security;
- 5° dumping, discharging and storing substances that may provoke or increase the degradation of the area of placement;
- 6° substances, chemical products, a combination of manufactured or natural substances may, depending on their hazardous nature, be dangerous to human health, soil conservation and sub soils, water, flora and fauna, environment in general when they are used or dumped in the natural surroundings.

Installations mentioned in this article can not be opened and the substances mentioned in the same article shall not be used without authorisation issued in accordance with the law upon request by the user.

Those installations shall be declared, even if they do not cause difficulties or accidents, and must comply with the general principles provided for by competent authorities. The installations which are subject to authorization and which may cause major risks (outbreak of fire, explosions, toxic emanations, etc.) are subject to specific regulations.

Article 9:

Acts relating to fishing, hunting and capture of animals, mining of valuable minerals and quarry as well as activities carried out in a critical ecosystems are subject to permission or a licence granted by the Minister having them in his or her attributions.

Article 10 :

State Security installations are subjected to specific rules.

TITLE II : NATURAL ENVIRONMENT AND HUMAN ACTIVITIES

CHAPTER ONE : NATURAL ENVIRONMENT

Section one : Soil and subsoil

Article 11 :

The soil and subsoil constitute the natural resources to be preserved from all kinds of degradation and they shall be used in a sustainable manner.

In that regard, the exploitation of the soil and subsoil shall take into account the public interest related to their conservation.

Article 12 :

The soil must be used while considering its nature. The use of a place which discourages rotation shall be prevented; and where considered necessary, such a place shall be used as rational as possible.

Article 13 :

Any soil development and exploitation project for industrial, urban organisation as well as any research project or the one of exploitation of subsoil raw materials is subject to authorisation issued through procedures determined by the order of the Minister concerned.

Article 14 :

Issuance of authorisation mentioned in article 13 of this organic law is subject to :

- 1° urgency and effectiveness of measures to prevent environmental degradation due to research activities, land use and planned extractions ;
- 2° taking into consideration the interests of the local community by the promoter;
- 3° the obligation to rehabilitate in any possible way in order to restore the beauty of the landscape or the natural systems modified by human activity, in accordance with a pre-established rehabilitation plan approved by the competent authority.

Section 2 : Water resources

Article 15 :

Rivers, artificial lakes, underground water, springs, natural lakes are part of the public domain. Their use is at disposal of every individual in accordance with law.

Article 16 :

Places where water is drawn for human consumption must be surrounded by a protective fence, as provided for by article 51 of this organic law.

Article 17 :

The use, management of water and its resources shall not in any way use unfair methods of exploitation that may lead to natural disasters such as floods or drought.

Any acts concerned with water resources like watering plants, the use of swamps and wetlands and others, shall always be subject to prior environmental impact assessment.

Article 18 :

Water from the sewage system as well as any liquid waste must be collected in a treatment plant for purification before being released into a river, a stream, a lake or a pond.

Article 19 :

Swamps with permanent water shall be given special protection. Such protection shall consider their role and importance in the preservation of the biodiversity.

Section 3 : Biodiversity

Article 20 :

The introduction, importation and exportation of any animal or any plant of any specie in Rwanda are governed by special rules.

Article 21 :

With exception of provisions of laws that govern National Parks in regard to self defence or in case of necessity, any poaching shall be carried out by an authorised individual.

Article 22 :

Keeping of wild animals or products from wild animals is subject to permission granted by competent authorities.

Article 23 :

Hawking, sale, exchange, trading of wild animals require special permission issued by competent authorities.

Article 24 :

Importation, exportation of wild animals or products of wild animals and wild plants are governed by permission issued by competent authorities in accordance with the provisions of the Convention on International Trade in endangered species of wild fauna and flora.

Section 4 : The atmospheric pressure

Article 25 :

Classified buildings, vehicles and engine driven machines, commercial, craft or agricultural activities, owned by any individual or an association shall be used in accordance with technical principles established by competent authorities in order to preserve the atmospheric pressure.

Article 26 :

Any activities that may pollute the atmospheric pressure are governed by an order of the Minister having environment in his or her attributions. Burning of garbage, waste or any other object (tyres, plastics, polythene bags and others) shall respect regulations of competent authorities.

Article 27 :

The use of substances that pollute the atmospheric pressure that deplete the Ozone Layer or that may cause climatic changes is governed by an order of the Minister having environment in his or her attributions.

CHAPTER II : HUMAN ACTIVITIES

Article 28 :

National land organisational surveys, urban planning or plans to set up grouped housing, master plans and other documents related to national land organisational plans, must take into account environmental conservation in selecting their sitting as well as the location of economic, industrial, residential areas and leisure activities.

Article 29 :

No competent authority, in accordance with existing laws, can issue permission for construction in cases where such constructions may degrade environment.

Article 30 :

Public or private construction works such as the construction of roads, dams are subject to environmental impact assessment.

Article 31 :

Every government project or private individual activities can not be permitted to operate if they are contrary to their plan and shall aim at considering the strategies of conservation of environment as provided for by law.

Article 32 :

No one is permitted to dispose waste in an inappropriate place, except where it is destroyed from or in a treatment plant and after being approved by competent authorities.

Article 33 :

Any waste, especially from hospitals, dispensaries and clinics, industries and any other dangerous waste, shall be collected, treated and changed in a manner that does not degrade the environment in order to prevent, eliminate or reduce their adverse effects on human health, natural resources, flora and fauna and on the nature of the environment.

Article 34:

Burying toxic waste is only done when there is an authorisation and in accordance with special regulations determined by an order of the Minister having environment in his or her attributions.

Article 35:

Removal of waste shall be done in accordance with existing rules and where possible it shall be carried out with an aim of enhancing productivity.

Article 36:

All automotive machines shall possess horns in accordance with regulations set by competent authorities and must not emit noise that may disrupt road users and residents.

Article 37 :

Competent authorities may take a decision aimed at stopping any emission of noise that is harmful to health of biodiversity, disrupts the neighbourhood or damages the property.

Article 38:

Burning of forests, National Parks as well as reserved areas is governed by law. Burning of mountains, swamps, grazing land, bushes with an aim of agriculture or organising grazing land is prohibited. Bush burning with an aim of solving particular problems is authorised by the Minister having environment in his or her attributions.

Article 39:

Any form of fishing is carried out in accordance with law and it is governed by competent authorities.

Traditional or modern fishing is carried out in accordance with authorisation issued by competent administrative authorities and it shall take into account conservation of the environment.

TITLE III : OBLIGATIONS OF THE STATE, THE DECENTRALISED ENTITIES AND THE POPULATION

CHAPTER ONE : GENERAL OBLIGATIONS

Article 40:

Public administration, private institutions, international organisations, associations and individuals are obliged to conserve the environment at all possible levels.

Article 41:

Laws and regulations in application shall guarantee the right to everyone to a healthy environment and shall ensure equal opportunities within ecosystems and between the urban and rural areas.

Article 42:

All public administrative organs, private institutions and individuals are obliged, in their capacity, to sensitise the population on environmental problems and to incorporate environmental educational programmes into their activity plan.

Article 43:

Public institutions and projects or those of private individuals which have in their attributions training, research and information are obliged, through concrete sensitisation programmes to publicise environmental problems and integrate in their activity plan environmental campaign programs.

Article 44:

Every person has the right to be informed of the effects human health and the environment may encounter, due to damaged activities or destructive ones as well as the measures taken for protective purposes or restitution of the damaged.

Article 45:

The State, the population as well as land developers are obliged to sustainably exploit natural resources in respect of laws relating to environmental conservation.

Article 46:

The State and the population are obliged to establish, maintain and manage parklands and green spaces.

Article 47:

The treatment of liquid waste is the obligation of the State, the population and all other parties that may perform activities that degrade the environment. Concession regarding treatment of such liquid waste may be granted to any other competent person.

Article 48:

Central Government administration and decentralised entities are obliged to prepare a plan of action and to draft emergency plans in all domains in order to protect the environment.

CHAPTER II : SPECIFIC OBLIGATIONS

Section one : Obligations of the State

Article 49:

The State undertakes to :

- 1° design a general and integrated policy on the environment and its protection;
- 2° take necessary measures to protect and respect the obligations stipulated in international agreements and conventions which it ratified;
- 3° prohibit any activity carried out on its behalf or in its capacity that may degrade the environment in another country or in regions beyond its national jurisdiction;
- 4° co-operate with other States in taking decisions to control transboundary pollution;
- 5° put in place through concrete policies, sanitary establishments and hygiene management in buildings and public places, on roadsides and in homes.

Article 50:

The State is also obliged to:

- 1° initiate a national policy on environment and ensures its implementation;
- 2° protect, conserve and manage properly the environment using appropriate measures;
- 3° establish regulations governing water dams, waste pipe lines, dumping places, and the treatment plants.

Article 51:

The State shall establish:

- 1° measures to control soil erosion;
- 2° measures to control soil pollution by chemical substances, fertilisers, medicines and others which are allowed to be used;
- 3° measures to prevent diffusion of soil pollution as well as concrete measures to rehabilitate degraded soils;
- 4° measures to protect and reserve catchment areas around wells from where drinking water is drawn.

Article 52:

The State shall identify reserved areas for protection, conservation or rehabilitation of:

- 1° ecosystems;
- 2° forests, woodlands, species of biodiversity and protected zones;
- 3° monuments, historical sites and landscapes;
- 4° water systems and its quality;
- 5° banks and shores, rivers, streams, lakes, plains, valleys and swamps.

Article 53:

The competent authorities may, in respect of provisions of article 52 of this organic law:

- 1° prohibit, limit activities or set up regulations that govern incompatibilities with responsibilities assigned thereto;
- 2° set up programs for the rehabilitation of natural sites and monuments;
- 3° approve organisational plans or procedures to facilitate the achievement of the responsibilities assigned to such a zone.

Article 54:

The State shall establish the list of following:

- 1° species of animals and plants that shall be protected depending on their role in ecosystems, their scarcity, their aesthetic value, their extinction as well as their *economic, cultural and scientific* role. The list shall be established by an order of the Minister having environment in his or her attributions;
- 2° historical sites and protected installations and the strategies that may be taken for the protection of national architectural, historical and cultural heritage. Such a list is established by an order of the Minister having tourism in his or her attributions.

Article 55:

The State is obliged to establish concrete measures for the better management of water resources, which considers the quality of its sources, and *determines means of raising the volume of water and avoiding its wastage.*

Article 56:

The State establishes appropriate standards for treatment of waste in order to produce more productivity. In that regard, the *responsible organs* are obliged to:

- 1° promote and disseminate modern technical knowledge ;
- 2° establish means of properly recycling the wastes;
- 3° establish appropriate methods of manufacturing and using certain materials in order to facilitate the recovery of elements in their composition.

Article 57:

The State is obliged to:

- 1° promote the use of renewable energy;
- 2° to discourage wastage of sources of energy in general and particularly that derived from wood.

Article 58:

The State shall take adequate measures to promote environmental education, training and sensitisation in schools curricula at all levels. It may approve the creation of associations for the conservation of the environment.

Article 59 :

Competent authorities shall coordinate national activities and monitor the implementation of international conventions and agreements relating to environment.

Section 2 : Obligations of decentralised entities

Article 60:

Generally, decentralised entities are responsible for the implementation of laws, policies, strategies, objectives and programmes relating to protection, conservation and promotion of the environment in Rwanda.

Article 61:

In the framework of conservation and protection of the environment, decentralised entities are particularly responsible for:

- 1° ensuring activities related to better management of land, especially controlling soil erosion and tap rain water;
- 2° afforestation, protection and proper management of forests;
- 3° efficient management of rivers, lakes, sources of water and underground water;
- 4° efficient management and effective use of swamps;
- 5° protection and proper management of reserved areas, historical sites, endangered animal and plant species.

Article 62:

Decentralised entities shall have the responsibility of designing plans of collecting and treatment of domestic waste.

Decentralised entities are also responsible for collecting and piling domestic waste. This is carried out in collaboration with institutions, Districts, Towns and Municipalities or associations and authorised competent individuals.

Decentralised entities shall also put much emphasis on the removal of any other waste in any possible way depending on its nature and quantity, supervision and its treatment.

Upon the advise of the committees responsible for the protection of environment referred to in article 66 of this organic law, consultative committees of Districts, Towns and Municipalities, shall determine a hygiene and sanitation service fee.

Section 3: Rights and obligations of the population

Article 63:

In environmental management, the population has the right to:

- 1° a free access to sufficient information on the environment;
- 2° be given time to express their views on the environment;
- 3° representation in decision making organs on environmental issues;
- 4° training, sensitisation and access to findings of the research on the environment.

Article 64 :

The population has the obligation to conserve the environment by individual action or through collective activities, associations of the environment, in preparing green spaces and reserved areas and other activities that promote environment.

CHAPTER III : ESTABLISHMENT OF INSTITUTIONS

Article 65:

In the framework of implementation of this organic law, there is hereby established:

- 1° the Rwanda Environment Management Authority abbreviated in English as "REMA", a public establishment with legal personality and shall enjoy financial and administrative autonomy ;
- 2° the National Fund for Environment in Rwanda, abbreviated as "FONERWA" in French, which is responsible for soliciting and managing financial resources.

The organisation, functioning and their responsibilities shall be determined by specific laws.

Article 66:

There is hereby established committees responsible for conservation and protecting the environment at the Provincial, City of Kigali, District, Town, Municipality, Sector and the Cell levels.

The organisation, functioning and their responsibilities are determined by Prime Minister's Order.

CHAPTER IV : ENVIRONMENTAL IMPACT ASSESSMENT

Article 67:

Every project shall be subjected to environmental impact assessment, before obtaining authorisation for its implementation. This applies to programmes and policies that may affect the environment. An order of the Minister having environment in his or her attributions shall determine the list of projects mentioned in this organic law.

Article 68:

The environmental impact assessment shall at least indicate the following:

- 1° a brief description of the project and its variants;
- 2° a study of direct or indirect projected effects on a place;
- 3° analysis relating to the initial state of a place;
- 4° measures envisaged to reduce, prevent or compensate for the damage;
- 5° reasons based on in selecting such a place;
- 6° a brief description of points from 1° to 5° of this article;

7° an explanation of the methods that will be used in monitoring and evaluating the state of the environment before, during the activities of the project, in using the installation but particularly after completion of the project;
8° an estimation of the cost of the measures recommended to prevent, reduce or compensate for the negative effects the project may cause on the environment as well as the measures for examining and controlling the status of the environment.

An order of the Minister having environment in his or her attributions shall specify the details of the provisions of this article.

Article 69:

The environmental impact assessment shall be examined and approved by the Rwanda Environmental Management Authority or any other person given a written authorisation by the Authority. The promoter pays a levy reduced from the operating cost of his or her project excluding the working capital. This tax is determined by the law establishing the National Fund for the Environment. The environment impact assessment shall be carried out at the expense of the promoter.

Article 70:

An order of the Minister having environment in his or her attributions establishes and revises the list of planned works, activities and projects, and of which the public administration shall not warrant the certificate, approve or authorise without an environmental impact assessment of the project. The environmental impact assessment shall describe direct and indirect consequences on the environment.

TITLE IV: INCENTIVES TO PERSONS THAT CONSERVE THE ENVIRONMENT

Article 71:

Any activity aiming at controlling soil erosion and drought, one that aims at afforestation and forestry, using renewable energy in a sustainable manner, using modern cooking stoves and any other means that can be used to protect forestry, may receive support from the National Fund for Environment.

Article 72:

The National Fund for Environment may grant support to public services, associations and individuals in case they invest or put in place campaigns or carry out activities intended to fight against causes of pollution or support existing installations so as to match with the environmental quality standards, in accordance with instructions of competent authorities.

Article 73:

Industries that import equipment which assist in eliminating or reduce gases like carbon dioxide and chlorofluorocarbons which intoxicate the atmosphere and those which manufacture equipment that reduce the pollution of the environment, are subject to reduction of customs duty on the equipment and for a period to be determined depending on the needs, and it shall be governed by the law concerning taxes and revenues.

Individuals and moral persons that undertake activities that promote environment are subject to reduction on taxable profits in accordance with the law concerning taxes and revenues.

TITLE V : CONTROL, MONITORING AND INSPECTION

Article 74 :

Without prejudice to other provisions, competent authorities to investigate and prosecute crimes provided for by this organic law and other related laws, are the judicial police officers, employees responsible for hunting, fishing, water, forestry, national parks, protected areas, inspectors of work, customs inspectors, employees of Rwanda Environment Management Authority and other concerned employees determined by an order of the Minister having Justice in his or her attributions.

Article 75:

Without prejudice to other provisions, competent persons mentioned in article 74 of this Organic law determined by an order of the Minister having justice in his or her attributions may:

- 1° enter residences and industrial or agricultural installations, depots, warehouses, stores and retail outlets,
- 2° inspect installations, construction, houses, machines, vehicles, devices and products;
- 3° have the right to inspect records relating to the operations of the enterprise;
- 4° have a sample, measure, take and conduct a required research;
- 5° suspend activities that appear to degrade the environment for a period not exceeding (30) days.

Article 76.

In respect of article 75 of this organic law, the competent persons shall refrain from objecting to and hindering the general investigation, impede any activity that is under inspection when it is not necessary for them to fulfil their obligations. They are also required to adhere to professional secrecy.

Article 77:

In case persons mentioned in Article 74 discover an infringement, they shall prepare minutes of proceedings describing what they saw or seized and indicate where the seized objects were taken. Competent administrative authorities conduct prosecution without prejudice to the functioning of the Prosecution Service.

Article 78:

Appropriate measures for the conservation of the environment shall be taken and standardisation and management services for the environment shall ensure strict compliance.

Article 79:

Enterprises or operations that excessively pollute environment are subject to inspection by competent experts. The owner of the enterprise or operations meets expenses of such an inspection. The procedure through which such an inspection is conducted is specified by the order of the Minister having environment in his or her attributions. Findings of such an inspection are transmitted to the competent authorities.

TITTLE VI : PREVENTIVE AND PUNITIVE PROVISIONS

CHAPTER ONE : PREVENTIVE PROVISIONS

Article 80:

Buildings, agricultural, industrial, commercial or artisan establishments, motor vehicles and other movable properties, that are productive owned either by a person or by a public or a private association, shall be constructed, exploited and used in conformity with existing technical standards approved or indicated by implementation of this organic law.

Article 81:

The following are prohibited:

- 1° dumping or disposal of any solid, liquid waste or hazardous gaseous substances in a stream, river, lake and in their surroundings;
- 2° damaging the quality of air and of the surface or underground water;
- 3° non authorised bush burning;
- 4° smoking in public and in any other place where many people meet;
- 5° defecating or urinating in inappropriate place;
- 6° spitting, discarding mucus and other human waste in any place.

Article 82:

It is prohibited to dump any substances, in any place, which may:

- 1° destroy sites and buildings of scientific, cultural, tourist or historic interest;
- 2° kill and destroy flora and fauna;
- 3° endanger the health of biodiversity;
- 4° damage the historical sites and touristic beauty at the lakes, rivers and streams.

Article 83:

It is prohibited to dump in wetlands:

- 1° waste water, except after treatment in accordance with instructions that govern it;
- 2° any hazardous waste before its treatment.

Any activity that may damage the quality of water is prohibited.

Article 84:

It is prohibited to keep or dump waste in a place where it may:

- 1° encourage the breeding of disease carriers;
- 2° disrupt the people and the property.

Article 85:

With exception of activities related to protection and conservation of streams, rivers and lakes, agricultural activities shall respect a distance of ten (10) metres away from the banks of streams and rivers and fifty (50) metres away from the banks of lakes. In such distances there shall be no agricultural activities permitted to be carried out.

The order of the Minister having environment in his or her attributions determines a list of rivers mentioned in this article, and specifies other limits to be respected regarding streams.

Article 86:

No pastoral activities that require agricultural activities in swamps that shall be carried out without respecting a distance of ten (10) metres away from the banks of rivers and fifty (50) metres away from the lake banks. Cattle kraals shall be built in a distance of sixty (60) metres away from the banks of streams and rivers and two hundred (200) metres away from the lake banks. The location of fish ponds as well as species of fish to be used in fish farming shall require authorisation from the Minister having environment in his or her attributions or any other person the Minister shall delegate.

Article 87:

It is prohibited to construct houses in wetlands (rivers, lakes, big or small swamps), in urban or rural areas, to build markets there, a sewage plant, a cemetery and any other buildings that may damage such a place in various ways. All buildings shall be constructed in a distance of at least twenty (20) metres away from the bank of the swamp. If it is considered necessary, construction of buildings intended for the promotion of tourism may be authorised by the Minister having environment in his or her attributions.

It is also prohibited to carry out any activities, except those related to research and science, in reserved swamps.

The order of the Minister having environment in his or her attributions determines the list of plains in which construction is not permitted and the swamps that are reserved according to assessments of the experts.

Article 88:

It is prohibited :

- 1° to dump, make flow, dispose of and store any substance in a place where it may cause or facilitate water pollution on the national territory;
- 2° to use natural resources in a degrading and illegal manner ;
- 3° release into the atmosphere poisonous gases, smoke, waste, soot, dust and any other chemical substances in an illegal manner.

Article 89:

In accordance with regulations provided for by International Conventions signed and ratified by Rwanda, it is prohibited to dump, eliminate, immerse any chemical substance in water and in any other place where it may:

- 1° threaten general public health and biological resources;
- 2° harm navigation, fishing and others;
- 3° deteriorate the beauty of a place which is potential for its aquatic tourist interest.

Article 90:

It is prohibited:

- 1° to pile waste on unauthorised public places including public lands defined by law;
- 2° to import waste in the country;
- 3° to immerse, burn or eliminate waste in wetlands by any process without respecting rules applied in Rwanda.

Article 91:

Acts related to purchase, sale, import, export, transit, store and pile chemicals, diversity of chemicals and other polluting or dangerous substances are prohibited in the whole country. An order of the Prime Minister determines a list of chemicals and other polluting substances that are not permitted.

Article 92:

It is prohibited to sell, import, export, store ordinary drugs or chemical substances with intention to sell or distribute even if it is free of charge except authorisation or temporary permission is issued by competent authorities.

An order of Prime Minister shall determine a list of prohibited drugs mentioned in this article.

Article 93:

It is prohibited:

- 1° to use explosives, drugs, poisonous chemicals and baits in water that may intoxicate or even kill fish;
- 2° to use drugs, poisonous chemical substances and baits that may kill wild animals and which may render them unfit for consumption.

Article 94:

It is prohibited:

- 1° to kill, injure and capture animals of the endangered species;
- 2° to destroy or damage habitats, larvae, pupae and the young animals of the endangered species;
- 3° to cause death, destroy protected plants, harvest and tear them a part ;

4° to transport or sale the remains of a whole or part of an animal as well as plants of the protected species;

5° to fell trees in forests and protected areas and in national parks.

CHAPTER II : PUNITIVE SANCTIONS

Article 95:

Any one or association that does not carry out environmental impact assessment prior to launching any project that may have harmful effects on the environment is punished by suspension of his or her activities and closure of his or her association and without prejudice to be ordered to rehabilitate the damaged property, the environment, people and the property.

Falsification and alteration of documents of environmental impact assessment is punished in the same manner as what is provided for in paragraph one of this article.

Article 96:

Any one who, in a manner that is not provided for by the law that governs it, burns, cuts trees or who causes others to do so or kills animals in protected forests and other protected areas and in national parks, is punished by an imprisonment of two (2) months to two (2) years and a fine ranging from three hundred thousand (300,000) to two million (2,000,000) Rwandan francs or one of the two penalties. Accomplices are also liable for the same penalties.

Article 97:

Any one who destroys a protected monument or damages a historical site is punished by a fine of one million (1,000,000) to five million (5,000,000) Rwandan francs and an imprisonment ranging from six (6) months to two (2) years or one of the two penalties.

Article 98:

Any one who has an establishment that obstructs the functioning of the agents responsible for inspecting protected buildings is punished by an imprisonment ranging from one (1) month to six (6) months and a fine ranging from one million (1,000,000) to five million (5,000,000) Rwandan francs or one of these two penalties. In case of recidivism, the building may be temporarily closed.

Article 99:

Any one who uses any protected building without respecting technical instructions determined by the order of the Minister having such a building in his or her attributions, is punished by an imprisonment ranging from one (1) month to one (1) year and a fine ranging from two hundred thousand (200,000) to two million (2,000,000) Rwandan francs or one of these penalties.

Article 100:

Any one who persistently use an officially closed protected building, suspended or prohibited is punished by an imprisonment ranging from two (2) months to two (2) years and a fine ranging from five million (5,000,000) to ten million (10,000,000) Rwandan francs or one of these two penalties.

Article 101:

Any one who undertakes illegal research or commercial activities of valuable minerals, is punished by a fine ranging from one million (1,000,000) to two million and five hundred thousand (2,500,000) Rwandan francs and an imprisonment ranging from six (6) months to two (2) years or one of these penalties.

Article 102:

Any one who dumps in unaccepted manner or without authorisation any waste that is subject to prior authorisation provided for by this organic law is punished by a fine ranging from one million Rwandan francs (1,000,000) to five million (5,000,000) Rwandan francs and an imprisonment ranging from six (6) months to two (2) years or one of these two penalties.

Article 103:

Any one who pollutes inland water masses by dumping, spilling or depositing chemicals of any nature that may cause or increase water pollution is punished by a fine ranging from two million (2,000,000) to five million (5,000,000) Rwandan francs and an imprisonment ranging from two (2) months to two (2) years or one of these penalties.

In case of recidivism, such a penalty is doubled. The offender may be required to rehabilitate the polluted place.

Competent authorities may, in case of negligence, refusal or resistance, proceed to rehabilitate it but at the expense of the offending party.

Article 104:

any one who:

- 1° imports waste on national territory without authorisation;
- 2° immerses, burns or who employees any other means that may lead to fermentation of waste in wetlands,

is punished with an imprisonment ranging from one (1) to five (5) years and a fine of five million (5,000,000) to fifty million (50,000,000) Rwandan francs.

Article 105:

Any treatment plant which is authorised to treat waste products but which dumps it in inappropriate place is punished by a fine ranging from one million (1,000,000) to ten million (10,000,000) Rwandan francs.

Any permission for collection of waste products in the country may be suspended at any time in case of non respect of contractual obligations.

Article 106:

Any one who buys, sells, imports, carries in transit, stores, buries or dumps toxic wastes on national territory, or who signs an agreement authorising him or her for such activities mentioned from article 92 to article 94 of this organic law, is punished by an imprisonment ranging from ten (10) to twenty (20) years and a fine ranging from fifty million (50,000,000) to two hundred million (200,000,000) Rwandan francs.

The court that pronounces such a sentence may also:

- 1° seize all equipment which was used in that activity;
- 2° order the seizure and removal of the waste products at the expense of the owner of the waste.

Article 107:

Any person who deposits, abandons or dumps waste, materials, or who pours sewage in a public or private place, is punished by a fine ranging from ten thousand (10,000) to one hundred thousand (100,000) Rwandan francs except if such a place has been designated by competent authorities.

The person is punished by a fine of ten thousand (10,000) Rwandan francs or he or she may be compelled to clean the place where persons have polluted public or private property with human and domestic waste, except if such a place has been designated by the competent authorities.

Article 108

Any one who:

- 1° uses car horns and bicycle bells in highly populated areas, residential areas, around hospitals and schools; without any case of prevention of immediate danger;
- 2° uses excessively and unnecessarily car horns and bicycle bells in city outskirts;
- 3° uses unnecessarily car hootings and bicycle bells at night;
- 4° makes or facilitates in causing noise that may disturb road users and the neighbourhood;
- 5° uses engine driven machines with hootings that are not in compliance with instructions determined by competent authorities ;
- 6° causes noise that may be harmful to the health of biodiversity and who excessively and in an intolerable manner disrupts the neighbourhood and damages property;

is punished by a fine ranging from ten thousand (10,000) to one hundred thousand (100,000) Rwandan francs.

Article 109:

Anyone who :

- 1° burns domestic waste, rubbish, wheels and tyres and plastic materials;
- 2° owns a car that emits smoke and noxious gases;
- 3° smokes in public and in any other place where many people meet;

is punished by a fine ranging from ten thousand (10,000) to fifty thousand (50,000) Rwandan francs and in accordance with instructions determined by competent authorities.

Article 110:

Any one who contravenes provisions of article 85, 86 and 87 of this organic law is punished by demolition of his or her building and a punishment ranging from an imprisonment of six (6) months to two (2) years and a fine ranging from two hundred thousand (200,000) to five million (5,000,000) Rwandan francs or one of those penalties.

In case of recidivism, such a penalty is doubled.

The offender may also be required to remove the waste and rehabilitate the damaged area.

Article 111:

Mitigating circumstances and adjournment do not apply to offences provided for by this organic law relating to waste and poisonous chemicals.

Article 112:

Attempt to commit an offence and complicity provided for by this organic law are subject to the same penalties as the offence itself.

Article 113:

In case penalties provided for by this organic law coincide with penalties provided for by other laws, the heavier penalty shall apply.

Article 114:

Without prejudice to stipulations of article 111 of this organic law, the organs responsible for environment may compromise with the offender mentioned in this organic law at anytime before the court renders a decision. Request for a negotiated settlement is submitted to the competent authorities, which shall determine the appropriate amount in accordance with the penalties provided for by this organic law.

Article 115:

Investigations of infringements provided for by this organic law shall respect provisions of the law on the rules of criminal procedure.

TITLE VII : TRANSITIONAL AND FINAL PROVISIONS

Article 116:

Without prejudice to provisions of article 29 and 30 of the Constitution of the Republic of Rwanda of June 4, 2003, as amended to date, the owners of the existing activities that do not respect the requirements in this organic law are obliged to respect the requirements of this organic law in a period not exceeding two (2) years from the day it comes into force.

Article 117:

All previous legal provisions contrary to this organic law are hereby abrogated.

Article 118:

This law comes into force on the day of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 08/04/2005

The President of the Republic

KAGAME Paul

(sé)

The Prime Minister

MAKUZA Bernard

(sé)

The Minister of Land, Environment, Forestry, Water and Mines

MUGOREWERA Drocella

(sé)

Minister of Local Government, Good Governance, Community Development and Social Affairs

MUSONI Protais

(sé)

The Minister of Foreign Affairs and Cooperation

Dr. MURIGANDE Charles

(sé)

The Minister of Agriculture and Animal Resources

Dr HABAMENSHI Patrick

(sé)

The Minister of Infrastructure

BIZIMANA Evariste

(sé)

The Minister of Commerce, Industry, Investment Promotion, Tourism and Cooperatives

Prof. NSHUTI Manasseh

(sé)

The Minister of Justice

MUKABAGWIZA Edda

(sé)

Seen and sealed with the Seal of the Republic:

The Minister of Justice

MUKABAGWIZA Edda

(sé)