

LAW N°45/2011 OF 25/11/2011 GOVERNING CONTRACTS

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING 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 22 September 2011;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially
in Articles 62, 66, 67, 90, 92, 93, 108 and 201;

Having reviewed the Decree of 30/07/1888 relating to contracts or conventional obligations, especially
its Title One;

ADOPTS:

Chapter 1: General Provisions

Article 1: Definitions

For the purposes of this Law, the following terms shall have the meanings specified:

- “contract” means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law;

- “party” means a person or legal entity that has entered into a contract;
- “debtor” means a party who owes an obligation to another party;
- “creditor” means a party to whom an obligation is owed;
- “obligation” means a legal duty to perform or to refrain from performing an act;
- “performance” means the fulfillment of an obligation in accordance with its terms;
- “breach” means the failure to perform an obligation in accordance with its terms;
- “rescission” means the termination of a contract by mutual agreement of the parties;
- “restitution” means the return of benefits received under a contract;
- “damages” means monetary compensation for loss or injury resulting from a breach of contract.

Article 2: Application

This Law applies to all contracts unless otherwise provided by law.

Article 3: Principles of Contract Law

The following principles apply to the interpretation and enforcement of contracts:

- freedom of contract;
- good faith and fair dealing;
- reasonableness;
- equity.

Article 4: Freedom of Contract

Parties are free to enter into contracts and to determine their terms, subject to the requirements of law and public policy.

Article 5: Good Faith and Fair Dealing

Parties must act in good faith and deal fairly in the performance and enforcement of contracts.

Article 6: Reasonableness

The reasonableness of a party's actions or omissions is determined by the standards of a reasonable person in the same circumstances.

Article 7: Equity

Equity principles apply to the interpretation and enforcement of contracts to ensure fairness and justice.

Article 8: Capacity to Contract

A party must have the legal capacity to enter into a contract.

Article 9: Consent

A contract is valid only if all parties have given their consent.

Article 10: Form

A contract may be oral or written, unless a specific form is required by law.

Article 11: Interpretation

Contracts must be interpreted according to the common intention of the parties.

Article 12: Implied Terms

Terms that are not expressly stated in a contract may be implied by law, custom, or the circumstances of the case.

Article 13: Entire Agreement

A contract constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, and agreements.

Article 14: Severability

If any provision of a contract is found to be invalid or unenforceable, the remaining provisions shall remain in effect.

Article 15: Amendment

A contract may be amended only by mutual agreement of the parties.

Article 16: Assignment

A party may assign its rights or obligations under a contract, unless the contract prohibits assignment.

Article 17: Third-Party Beneficiaries

A contract may confer rights or obligations on a third party only if the contract expressly provides for this.

Article 18: Conditions

A contract may be subject to conditions precedent or subsequent.

Article 19: Warranties

A warranty is a promise that a fact or condition is true or will occur.

Article 20: Representations

A representation is a statement of fact made to induce another party to enter into a contract.

Article 21: Performance

A party must perform its obligations under a contract in accordance with its terms.

Article 22: Breach

A breach of contract occurs when a party fails to perform its obligations in accordance with its terms.

Article 23: Remedies

The remedies for breach of contract include specific performance, damages, and rescission.

Article 24: Specific Performance

Specific performance is an order requiring a party to perform its obligations under a contract.

Article 25: Damages

Damages are monetary compensation for loss or injury resulting from a breach of contract.

Article 26: Rescission

Rescission is the termination of a contract by mutual agreement of the parties.

Article 27: Restitution

Restitution is the return of benefits received under a contract.

Article 28: Limitation of Actions

An action for breach of contract must be brought within a specified period of time.

Article 29: Waiver

A party may waive its rights under a contract only if the waiver is made in writing and signed by the party waiving the rights.

Article 30: Governing Law

The law governing a contract is determined by the terms of the contract and the principles of private international law.

Article 31: Jurisdiction

The courts of Rwanda have jurisdiction over disputes arising under this Law.

Article 32: Transitional Provisions

Contracts entered into before the effective date of this Law are governed by the law in effect at the time the contract was made.

Article 33: Repeal

All prior laws inconsistent with this Law are repealed.

Article 34: Effective Date

This Law takes effect on the date of its publication in the Official Gazette.

Chapter II: Formation and Evidence of Contracts

Section 1: Formation of Contracts

Article 31: Reasonable Means of Acceptance

Acceptance of a contract may be communicated by any reasonable means under the circumstances, unless the offer specifies a particular method.

Article 32: Acceptance by Silence

Silence or inaction does not constitute acceptance of an offer, except where the parties have established a course of dealing or a legal duty obliges the party to respond.

Section 2: Consideration in the Formation of the Contract

Article 33: Requirement of Consideration

A contract is valid only if it is supported by consideration, which is a benefit to the promisor or a detriment to the promisee.

Article 34: Performance of Legal Obligation

Performance of a pre-existing legal obligation does not constitute valid consideration.

Article 35: Fair Consideration

Consideration must be of fair and reasonable value, but courts will not inquire into the adequacy of consideration unless there is evidence of fraud, duress, or undue influence.

Section 3: Contracts without Consideration

Article 36: Promise to Pay a Debt Extinguished by Prescription

A promise to pay a debt that has been barred by prescription is enforceable without new consideration if it is in writing and signed by the debtor.

Article 37: Promise to Pay a Debt Extinguished Due to Bankruptcy

A promise to pay a debt that has been discharged in bankruptcy is enforceable without new consideration if it is in writing and signed by the debtor.

Article 38: Promise to Perform an Obligation Liable to Annulment

A promise to perform an obligation that is liable to annulment is enforceable without new consideration if it is in writing and signed by the promisor.

Article 39: Promise for Benefit Received

A promise to pay for a benefit received is enforceable even if no consideration was originally given, provided that the benefit was not conferred gratuitously.

Article 40: Modification of a Contract Not Yet Fully Performed

A modification of a contract that has not yet been fully performed on either side is enforceable without new consideration if it is in writing and signed by both parties.

Article 41: Validity Requirements for Contracts Without Consideration

Contracts without consideration are valid only if they meet specific legal requirements and are evidenced in writing.

Section 4: Contracts Evidenced in Writing

Article 42: Types of Contracts Evidenced in Writing

Certain types of contracts must be in writing to be enforceable, including those involving the sale of land and contracts not to be performed within one year.

Article 43: Writing Evidencing a Contract

The writing evidencing a contract must contain the essential terms and be signed by the party to be charged.

Article 44: Validity of a Contract to the Signatories

A contract is binding only on the parties who have signed it, unless otherwise provided by law or the terms of the contract.

Article 45: Time of Drawing Up the Writing Evidencing a Contract

The writing evidencing a contract may be drawn up at any time before or after the contract is made.

Chapter III: Factors Which May Invalidate a Contract

Section One: Mistake

Article 46: Mistake of Both Parties

A contract is voidable if both parties are mistaken about a basic assumption on which the contract was made, and the mistake has a material effect on the agreed exchange of performances.

Article 47: Mistake of One Party

A contract is voidable if one party is mistaken about a basic assumption on which the contract was made, and the mistake has

Article 48: Bearing the risk of a mistake Article 49: Effects of fault of a party seeking relief Section 2: Misrepresentation of facts Article 50: Types of misrepresentation of facts Article 51: Fraudulent or material

Mistakes and Their Impact on Contracts

1. Voidability Due to Mistakes:

- A contract may be deemed voidable if one party is mistaken about a basic assumption on which the contract was made and the mistake has a material effect on the agreed exchange. This is outlined in Article 48, which addresses the bearing of the risk of a mistake.
- The mistaken party may seek relief if the other party knew or had reason to know of the mistake, or if enforcing the contract would be unconscionable.

2. Effects of Fault in Seeking Relief:

- Article 49 discusses the implications of a party's fault when seeking relief from a mistake. If the party seeking relief has contributed to the mistake, this may impact their ability to void the contract or seek compensation.

Misrepresentation and Its Consequences

1. Types and Nature of Misrepresentation:

- Article 50 classifies misrepresentation into fraudulent, negligent, or innocent misrepresentation. The type of misrepresentation affects the remedies available and the ability to annul the contract.
- Fraudulent or material misrepresentation can lead to significant remedies including contract annulment, as detailed in Article 51.

2. Inducing Consent and Non-Formation of Contracts:

- Article 52 specifies that a contract is voidable if misrepresentation induced the other party to consent. The party affected by the misrepresentation can annul the contract.
- Article 53 covers misrepresentations that prevent the formation of the contract, suggesting that such contracts may be considered void from the outset.

3. Liability for Annulment Due to Misrepresentation:

- Under Article 54, contracts affected by misrepresentation can be annulled, and the party responsible for the misrepresentation may be liable for damages or restitution.

Contracts under Duress or Undue Influence

1. Contracts Made Under Duress:

- Article 55 deals with contracts made under duress, where one party's consent was obtained through threats or coercion. Such contracts are typically voidable.
- Article 56 outlines the criteria for determining whether a party's consent was given under threat.

2. Undue Influence:

- Article 57 covers contracts that may be annulled due to undue influence, where one party has abused a position of power over the other to obtain consent.

Non-Performance and Public Order

1. Non-Performance on Grounds of Public Order:

- Articles 58-61 cover the criteria and effects of non-performance of a contract clause due to public order issues, including new regulations or public interest considerations that may prevent contract performance.

2. Effects of Non-Compliance with Licensing:

- Article 62 discusses the impact of non-compliance with licensing or similar regulatory requirements on the performance of a contract.

3. Impossibility of Performance:

- Articles 92-97 detail the extinguishing of obligations due to the impossibility of performance, including partial impossibility and changes in circumstances that render performance impracticable.

Contractual Obligations and Performance

1. Performance and Remedies for Breach:

- Articles 77-90 discuss the conditions and obligations related to the performance of contracts, including remedies for breach, factors determining non-performance, and the effects of repudiation.
- Article 81 outlines remedies for breach, including specific performance and damages.

2. Impossibility and Modification of Performance:

- Article 92-106 address issues such as the impossibility of performance due to unforeseen events, the mutual assent required for modification or rescinding of contracts, and the effects of a party's incapacity or the disappearance of a necessary object.

Third Parties and Assignment of Rights

1. Third Party Beneficiaries:

- Articles 113-119 discuss the rights of third-party beneficiaries and the conditions under which their rights can be modified or revoked.

2. Assignment of Rights and Obligations:

- Articles 120-134 cover the transfer of contractual rights and obligations to third parties, including the requirements for the assignment and the protection of debtor and creditor rights in such transfers.

Remedies and Limitations

1. Judicial and Monetary Remedies:

- Articles 135-144 outline judicial remedies and criteria for calculating damages, including reliance damages, punitive damages, and considerations for moral loss.

2. Specific Performance and Restitution:

- Articles 147-156 cover orders for specific performance, restitution of benefits, and limitations on remedies available for breach of contract.

3. Limitations on Remedies:

- Articles 157-161 discuss the limitations on the power to annul contracts due to delay and the criteria for determining reasonable time frames for seeking remedies.

Final and Transitional Provisions

1. Transitional Provisions:

- Articles 162-165 address the application of the law to ongoing contracts and the transitional arrangements for contracts made before the law's enactment.

By carefully considering these provisions, parties can better understand their rights and obligations under Rwandan contract law and the potential remedies available in cases of mistakes, misrepresentation, duress, and non-performance.