

# LAND LAW

No. 19/97 of 1 October

## CHAPTER I

*General Provisions*

### ARTICLE 1

*Definitions*

For the purpose of the present Law, the following shall mean:

- 1. Local community:* a grouping of families and individuals, living in a territorial area that is at the level of a locality or smaller, which seeks to safeguard their common interests through the protection of areas for habitation or agriculture, whether cultivated or lying fallow, forests, places of cultural importance, pastures, water sources and areas for expansion.
- 2. Right of land use and benefit:* the right that individual or corporate persons and local communities acquire over the land in terms of the requirements and limitations of this Law.
- 3. Public domain:* areas that are destined for the satisfaction of the public interest.
- 4. Family use:* use of land for the purpose of meeting the needs of the household, using predominantly the labour capacity of the household.
- 5. Special licence:* a document that authorises the carrying out of any economic activity within total or partial protection zones.
- 6. Land use map:* a diagram that shows all occupation of the land, including the location of human activity and natural resources existing within a determined area.
- 7. Occupancy:* form of acquisition of the right of use and benefit of land by national individual persons who have been using the land in good faith for at least ten years, or by local communities.

- 8. National corporate persons:** any corporation or institution constituted and registered in terms of Mozambican legislation, with its head office in the Republic of Mozambique, in which at least fifty percent of its share capital belongs to national citizens, Mozambican corporations or institutions be they private or public.
- 9. Foreign corporate persons:** any corporation or institution constituted in terms of Mozambican or foreign legislation, in which more than fifty percent of its share capital belongs to foreign citizens, corporations or institutions.
- 10. National individual person:** any citizen of Mozambican nationality.
- 11. Foreign individual person:** any individual person whose nationality is not Mozambican.
- 12. Exploitation plan:** document presented by an applicant for the use and benefit of land describing activities, works and building which the applicant undertakes to realise in accordance with a determined schedule.
- 13. Land use plan:** document which is approved by the Council of Ministers, with the purpose of providing in an integrated manner, the general and sectoral development guidelines for a specific geographical area.
- 14. Urbanisation plan:** document which establishes the organisation, design, concept and boundaries of urban perimeters, as well as occupancy parameters and building plans, properties to be protected, areas destined for installation of equipment, open spaces and schematic diagrams for road networks and principal infrastructure.
- 15. Ownership of land:** exclusive right of the state, established by the constitution of the Republic of Mozambique incorporating all rights of ownership, as well as the power and the ability to determine the conditions of its use and benefit by individual or corporate persons.
- 16. Applicant:** individual or corporate person who requests in writing, authorisation for land use and benefit under the terms of this Law.
- 17. Title-holder:** individual or corporate person who holds the right of land use and benefit under an authorisation or through occupancy.

**18. Title:** document issued by the general or urban Public Cadastre Services, proving right of land use and benefit.

**19. Nature protection zone:** property of public domain, intended for the conservation of certain animal or plant species, biodiversity, historical, scenic or natural monuments, within a system of management that preferably involves local community participation and is the subject of specific legislation.

## ARTICLE 2

### *Scope*

This Law establishes the terms under which the creation, exercise, modification, transfer and termination of the right of land use and benefit operates.

## CHAPTER II

### *Ownership of the land and public domain*

## ARTICLE 3

### *General principle*

The land is the property of the State and cannot be sold or otherwise alienated, mortgaged or encumbered.

## ARTICLE 4

### *State land fund*

In the Republic of Mozambique, all land makes up the State Land Fund.

## ARTICLE 5

### *National Land Cadastre*

1. The National Land Cadastre shall consist of all necessary data to:
- Know the economic and legal status of the land;
  - Know the type of occupancy, use and benefit as well as an evaluation of soil fertility, forestry areas, water, fauna and flora reserves, mining exploration areas and areas for tourism.
  - Organise efficiently land utilisation, protection and conservation.
  - Determine the appropriate regions for specialised production.

2. The National Land Cadastre shall determine the economic qualification of the data defined in the previous paragraph, in order to provide a basis for the planning and distribution of the country's resources.

#### ARTICLE 6

*Public domain*

The total and partial protection zones are part of the public domain.

#### ARTICLE 7

*Total protection zones*

Areas that are intended for nature conservation or preservation activities and areas for State security and defence are considered total protection zones.

#### ARTICLE 8

*Partial protection zones*

The following are considered partial protection zones:

- a) The bed of interior water, the territorial sea and the exclusive economic zone;
- b) The continental platform;
- c) The strip of maritime coastline, including that around islands, bays and estuaries, which is measured from the high tide line to a mark 100 meters inland;
- d) The land strip of up to 100 meters surrounding water sources;
- e) The land strip of up to 250 meters along the edge of dams and reservoirs;
- f) The land occupied by public interest railway lines and their respective stations with a bordering strip of 50 meters on each side of the line;
- g) The land occupied by motorways and four lane highways, aerial, surface, underground and underwater installations and conduits for electricity, telecommunications, petroleum, gas and water, including a bordering strip of 50 meters on each side, as well as the land occupied by roads including a bordering strip of 30 meters for primary roads and 15 meters for secondary and tertiary roads;
- h) The two kilometre strip of land along the terrestrial border;
- i) The land occupied by airports and aerodromes with a surrounding strip of land of 100 metres;
- j) The 100 metre strip of land surrounding military or other defence and security installations of the State.

#### ARTICLE 9

*Special licences for activities in total or partial protection zones*

No rights of land use and benefit can be acquired in total and partial protection zones, although special licences may be issued for specific activities.

### CHAPTER III

*The right of use and benefit of land*

#### ARTICLE 10

*National persons*

1. National individual and corporate persons, men and women, as well as local communities may be holders of the right of land use and benefit.
2. National individual and corporate persons may obtain the right of land use and benefit individually or jointly with other individual and corporate persons by way of joint title holding.
3. The right of land use and benefit of local communities adheres to the principles of joint title holding for all the purposes of this Law.

#### ARTICLE 11

*Foreign persons*

Foreign individual and corporate persons may be holders of the right of land use and benefit, provided that they have an investment project that is duly approved and the following conditions are observed:

- a) in the case of individual persons, provided that they have been resident in the Republic of Mozambique for at least five years;
- b) in the case of corporate persons, provided that they are established or registered in the Republic of Mozambique.

**ARTICLE 12***Acquisition*

The right of land use and benefit is acquired by:

- a) occupancy by individual persons and by local communities, in accordance with customary norms and practices which do not contradict the Constitution;
- b) occupancy by individual national persons who have been using the land in good faith for at least ten years;
- c) authorisation of an application submitted by an individual or corporate person in the manner established by this Law.

**ARTICLE 13***Titling*

1. A title shall be issued by the general or urban Public Cadastre Services.
2. The absence of title shall not prejudice the right of land use and benefit acquired through occupancy in terms of sub-paragraphs a) and b) of the previous article.
3. The application for a title for the right of land use and benefit shall include a statement by the local administrative authorities, preceded by consultation with the respective communities, for the purpose of confirming that the area is free and has no occupants.
4. The title issued to local communities shall be issued in the name of the community, which name shall be decided upon by the community.
5. Individual men and women who are members of a local community may request individual titles, after the particular plot of land has been partitioned from the relevant community land.

**ARTICLE 14***Registration*

1. The constitution, modification, transfer and termination of the right of land use and benefit are subject to registration.
2. The absence of registration does not prejudice the right of land use and benefit acquired through occupancy in terms of sub-paragraphs a) and b) of article 12, provided that it has been duly proved in terms of this Law.

**ARTICLE 15***Proof*

The right of land use and benefit can be proved by means of:

- a) Presentation of the respective title;
- b) Testimonial proof presented by members, men and women of local communities;
- c) Expert evidence and other means permitted by law.

**ARTICLE 16***Transfer*

1. The right of land use and benefit may be transferred by inheritance, without distinction by gender;
2. The titleholders of the right of land use and benefit may transfer, inter vivos, infrastructures, structures and improvements existing on the land by means of a public notarial deed, preceded by authorisation from the competent state entity.
3. In the cases referred to in the preceding paragraph, the transfer shall be recorded on the respective title.
4. In the case of urban tenements, the transfer of the immovable property includes the transfer of the right of land use and benefit of the respective plot.
5. The titleholder of the right of land use and benefit may mortgage the immovable assets and improvements which he/she has duly been authorised to make on the land or which he/she has legally acquired a right of ownership over.

**ARTICLE 17***Term*

1. The right of land use and benefit for purposes of economic activities is subject to a maximum term of 50 years, which is renewable for an equal period upon application by an interested party. After the renewal period, a new application must be presented.

2. In the following circumstances, the right of land use and benefit is not subject to a time limit:

- a) Where the right was acquired by local communities through occupancy;
- b) Where it is intended for personal residential purposes;
- c) Where national individual persons intend it for family use.

#### ARTICLE 18

*Termination of the right of land use and benefit*

1. The right of land use and benefit shall be extinguished:
  - a) By failure to fulfil the exploitation plan or investment project without justifiable reasons within the time limits established in the application approval, even if tax obligations are being complied with;
  - b) By revocation of the right of land use and benefit for reasons of public interest, preceded by payment of fair indemnification and/or compensation;
  - c) Upon the expiry of its term or a renewal thereof;
  - d) By renunciation by the titleholder.
2. Upon termination of the right of land use and benefit, the non-removable improvements shall revert to the State.

### CHAPTER IV

*Exercising of economic activities*

#### ARTICLE 19

*Exploitation plan*

The applicant for land use and benefit shall present an exploitation plan.

#### ARTICLE 20

*Licensing and the right of land use and benefit*

The approval of an application for the right of land use and benefit does not dispense with the need for licences or other authorisations that are required by:

- a) The legislation applicable to the exercise of the intended economic activities, namely agriculture and livestock, agro-industrial, industrial, tourism, commercial, fishery and mining and environmental protection;
- b) Directives of land use plans.

#### ARTICLE 21

*License Period*

License periods shall be defined in accordance with the applicable legislation, independently of the authorised period for the right of land use and benefit.

### CHAPTER V

*Powers and responsibilities*

#### ARTICLE 22

*Areas not covered by urbanisation plans*

In areas that are not covered by urbanisation plans:

1. The Provincial Governors have the competence to:
  - a) Authorise applications for land use and benefit for areas that do not exceed 1 000 hectares;
  - b) Authorise special licences in partial protection zones;
  - c) Issue opinions regarding applications for land use and benefit in areas that fall within the competence of the Minister of Agriculture and Fisheries.
2. The Minister of Agriculture and Fisheries has the competence to:
  - a) Authorise applications for land use and benefit for areas that are between 1 000 and 10 000 hectares;
  - b) Authorise special licences in total protection zones;
  - c) Issue opinions regarding applications for land use and benefit regarding applications that exceed his competence for approval.
3. The Council of Ministers has the competence to:
  - a) Authorise applications for land use and benefit in areas which exceed the competence of the Minister of Agriculture and Fisheries, provided they are within a land use plan or could be integrated in a land use map;
  - b) Create, modify or extinguish total or partial protection zones;
  - c) Decide on the use of the bed of territorial waters and the continental platform.

**ARTICLE 23***Municipal Councils, Settlement Councils and District Administrators*

Presidents of Municipal Councils and Settlement Councils and, where there are no municipal structures, District Administrators, have the competence to authorise applications for land use and benefit in areas that are covered by urbanisation plans, provided they have public cadastre services.

**ARTICLE 24***Local communities*

1. In rural areas the local communities shall participate in:
  - a) The management of natural resources;
  - b) The resolution of conflicts;
  - c) The process of titling, as established in paragraph 3 of article 13 of this Law;
  - d) The identification and definition of boundaries of the land that the communities occupy.
2. In exercising the competences listed in a) and b) in paragraph 1 of the present article, the local communities shall use, among others, customary norms and practices.

**CHAPTER VI***Authorisation process of applications for land use and benefit***ARTICLE 25***Provisional authorisation*

1. After submission of an application for land use and benefit, a provisional authorisation is issued.
2. The provisional authorisation shall be valid for a maximum of five years for national persons and two years for foreign persons.

**ARTICLE 26***Final authorisation*

Final authorisation for land use and benefit shall be given and the relevant

title issued upon fulfilment of the exploitation plan within the period of the provisional authorisation.

**ARTICLE 27***Revocation of provisional authorisation*

On the expiry of the provisional authorisation, if it is verified that the exploitation plan has not been fulfilled without justifiable reasons, the provisional authorisation may be revoked without the right to compensation for non-removable investments that have been made.

**CHAPTER VII***Payments***ARTICLE 28***Fees*

1. Titleholders of the right of land use and benefit are subject to the payment of fees whose value is established taking into account the location of the land plots, their dimensions and the purpose of their use and benefit. The fees are:
  - a) The authorisation fee;
  - b) An annual fee, which may be progressive or regressive in accordance with the investments realized.
2. Preferential fees shall be established for national citizens.

**ARTICLE 29***Free use of land*

The use and benefit of land is free when it is intended for:

- a) The State and its institutions;
- b) Associations that are for public uses and are recognised by the Council of Ministers as such;
- c) Family uses, local communities and the individual persons who belong to them;
- d) National small-scale agricultural and livestock cooperatives and associations.

## CHAPTER VIII

### *Final and transitory provisions*

#### ARTICLE 30

##### *Representation and action of local communities*

The mechanisms for representation of, and action by, local communities, with regard to the rights of land use and benefit, shall be established by law.

#### ARTICLE 31

##### *Land use plans*

The principles for the development and approval of land use plans shall be defined by law.

#### ARTICLE 32

##### *Application of the law*

1. The rights of land use and benefit, whether acquired through occupancy or approval of an application, shall now be subject to the present Law, subject to any acquired rights.
2. Conflicts over land shall be resolved in a Mozambican forum.

#### ARTICLE 33

##### *Regulation*

The Council of Ministers shall have the competence to approve regulations of the present Law.

#### ARTICLE 34

##### *Previous legislation*

Law 6/79 of 3 of July and Law 1/86 of 16 April and all other previous legislation which contradict this present Law are repealed.

#### ARTICLE 35

##### *Commencement*

The present Law shall enter into force ninety days after its publication.

Approved by the Assembly of the Republic, on 31 of July 1997.

THE PRESIDENT OF THE ASSEMBLY OF THE REPUBLIC, IN OFFICE,

*Abdul Carimo Mahomed Issá*

Promulgated on 1st October of 1997

Let it be published.

THE PRESIDENT OF THE REPUBLIC,

*Joaquim Alberto Chissano*